

## NINETEENTH DAY

Tuesday, February 13, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 12:16 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Deacon Walter Yoshimitsu of St. John Vianney Church, after which the Roll was called showing all members present with the exception of Representatives Garcia, Rath and Whalen, who were excused.

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

## GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 149) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 149, requesting immediate passage of H.B. No. 506, authorizing an emergency operating appropriation for the Department of Agriculture to operate and maintain the State's irrigation systems.

## DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com No. 10) was received by the Clerk and was placed on file:

Dept. Com. No. 10, from Ms. Marion Higa, State Auditor, transmitting a copy of the Audit of Workers' Compensation Payment Process in State Agencies report.

## INTRODUCTIONS

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

Representative Pendleton introduced students from the Hawaiian Mission Elementary School accompanied by Ms. Saralynn Chow, teacher; Ms. Aina Lane, parent; Mr. Wally Warner, parent; and Ms. Julia Uechi.

Representative Espero introduced students from the Iroquois Point Home School accompanied by Ms. Theresa Pennington, teacher; Ms. Barbara Anderson, teacher; and Ms. Theresa Watkins.

Representative Ontai introduced Ms. Lani Bartholemew, his student intern.

Representative McDermott introduced his constituent, Mr. Neece Buchar.

Representative Meyer introduced Ms. Carol Gabbard, member of the Board of Education.

## ORDER OF THE DAY

## COMMITTEE REASSIGNMENTS

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

H.B.Nos. Re-referred to:

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| 373  | Committee on Finance  |
| 607  | Committee on Education, then to the Committee on Finance  |
| 622  | Committee on Education and the Committee on Labor and Public Employment, then to the Committee on Finance   |
| 872  | Committee on Agriculture, then to the Committee on Finance  |
| 1356 | Committee on Health and the Committee on Consumer Protection and Commerce, then to the Committee on Finance |
| 1357 | Committee on Health, then to the Committee on Finance   |
| 1358 | Committee on Health, then to the Committee on Finance   |
| 1393 | Committee on Water and Land Use, then to the Committee on Finance   |

INTRODUCTION OF RESOLUTION  
(FLOOR PRESENTATION)

The following resolution (H.R. No. 24) was announced by the Clerk and the following action taken:

H.R. No. 24, entitled: "HOUSE RESOLUTION HONORING DR. KENNETH P. MORTIMER FOR HIS SERVICE AS THE ELEVENTH PRESIDENT OF THE UNIVERSITY OF HAWAII," was jointly offered by Representatives Case, Takumi, Garcia, Ito, Arakaki, Fox, Morita, Cabrerros, Moses, Takamine, Davis, Kanoho, Marumoto, Say, Takai, Schatz.

On motion by Representative Case, seconded by Representative Takai and carried, H.R. No. 24 was adopted, with Representatives Garcia, Rath and Whalen being excused.

Representative Case introduced the following honoree and guests:

Dr. Kenneth P. Mortimer, President of the University of Hawaii;

Ms. Lorraine Mortimer; President Mortimer's wife;

Ms. Lily Yao, Chairwoman, Board of Regents;

Dr. Dean Smith, Sr. Vice President and Executive Vice Chancellor;

Mr. Eugene Imai, Sr. Vice President for Administration;

Dr. Doris Ching, Vice President for Student Affairs;

Dr. Colleen Sathre, Vice President for Planning; and Policy; and

Dr. William Pearman, Chancellor, University of Hawaii West Oahu.

At 12:34 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:20 o'clock p.m.

### STANDING COMMITTEE REPORTS

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 232) recommending that H.B. No. 409, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that notwithstanding the report of the Committee, H.B. No. 409, HD 1, be recommitted to the Committee on Human Services and Housing, seconded by Representative Lee.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, notwithstanding the report of the Committee, H.B. No. 409, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOMELESS ASSISTANCE," was recommitted to the Committee on Human Services and Housing, with Representatives Stonebraker and Yoshinaga being excused.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, except for Stand. Com. Rep. No. 232, Stand. Com. Rep. Nos. 198 through 247 were adopted and their accompanying House Bills, as may be amended, passed Second Reading and were referred to their designated committees.

At 1:23 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 1:25 o'clock p.m.

The Chair addressed the body, stating:

"At this time the Chair would like to make a motion to retract the motion that was carried prior to the recess which was made by Representative M. Oshiro and Representative Lee and will allow for a democratic public discussion on the said bill from pages two to twelve."

At this time the Chair recognized Representative M. Oshiro.

Representative M. Oshiro rose and stated:

"Mr. Speaker I move to reconsider my previous motion regarding the Standing Committee Reports and House Bills."

The Chair then recognized Representative Lee.

Representative Lee rose and stated:

"Speaker I reconsider my previous second to the motion."

The Chair addressed the body, stating:

"Members, at this point we will be taking up each of the measures starting on page two.

"We initially took it on one swoop with the prior motion."

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 198)

recommending that H.B. No. 1216, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1216, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KOREAN CENTENNIAL CELEBRATION COMMISSION," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 199) recommending that H.B. No. 1278, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 1278, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I am voting no on this measure on Second Reading, mainly because the State Foundation of Culture and Arts was not really crazy about this measure since it removes some of the discretion from their budgetary decisions.

"Although it is a nice measure and it would be nice to help out the Maui Cultural Center, one dollar is not going to break us but if it ends up to millions of dollars it might.

"I would rather see the money spent for Medicaid reimbursements, textbooks or other higher priority items. 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. 1278, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE MAUI ARTS AND CULTURAL CENTER," passed Second Reading and was referred to the Committee on Finance, with Representative Marumoto voting no, and Representatives Stonebraker and Yoshinaga being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 200) recommending that H.B. No. 996, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 996, entitled: "A BILL FOR AN ACT RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 201) recommending that H.B. No. 757, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 757, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HURRICANE SHELTERS," passed Second Reading and was referred to the Committee on

Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 202) recommending that H.B. No. 963, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 963, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PAROLING AUTHORITY," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 203) recommending that H.B. No. 998, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 998, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 204) recommending that H.B. No. 444, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 444, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BURIAL SITES," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 205) recommending that H.B. No. 505, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 505, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 505, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Second Reading and was referred to the Committee on Finance, with Representative Thielen voting no, and Representatives Stonebraker and Yoshinaga being excused.

Representatives Kanoho and Ahu Isa, for the Committee on Water and Land Use and the Committee on Economic Development and Business Concerns presented a joint report (Stand. Com. Rep. No. 206) recommending that H.B. No. 1149, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1149, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SCIENCE TECHNOLOGY INNOVATIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 207) recommending that H.B. No. 831, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 831, entitled: "A BILL FOR AN ACT RELATING TO INTERISLAND VEHICLE TRANSFERS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Stonebraker and Yoshinaga being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 208) recommending that H.B. No. 830, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 830, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Stonebraker and Yoshinaga being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 209) recommending that H.B. No. 1107, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 1107, HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

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

"I would like to give my hats off to the introducer of the measure, Representative Espero, and to the House Transportation Chairman, Representative Souki, for passing a bill which would raise the prohibition of riding in pick-up trucks to under sixteen. 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. 1107, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Stonebraker and Yoshinaga being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 210) recommending that H.B. No. 867, pass Second Reading and be referred to the Committee on Transportation.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 867, pass Second

Reading and be referred to the Committee on Transportation, seconded by Representative Lee.

Representative Gomes rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 867, entitled: "A BILL FOR AN ACT RELATING TO THE TRAFFIC CODE," passed Second Reading and was referred to the Committee on Transportation, with Representatives Stonebraker and Yoshinaga being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 211) recommending that H.B. No. 1138, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1138, entitled: "A BILL FOR AN ACT RELATING TO SUBMISSION OF REPORTS TO THE LEGISLATURE," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 212) recommending that H.B. No. 226, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 226, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Gomes rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 226, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATURE," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 213) recommending that H.B. No. 139, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 139, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose and asked the Clerk to register a no vote for him, and the Chair "so ordered."

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered."

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 139, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE ALLOWANCE," passed Second Reading and was referred to the Committee on Finance, with Representatives Djou and Jaffe voting no and Representatives Stonebraker and Yoshinaga being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 214) recommending that H.B. No. 143, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 143, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose and asked the Clerk to register a no vote for him, and the Chair "so ordered."

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 143, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATURE," passed Second Reading and was referred to the Committee on Finance, with Representatives Djou and Jaffe voting no, and Representatives Stonebraker and Yoshinaga being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 215) recommending that H.B. No. 825, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 825, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Suzuki, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 216) recommending that H.B. No. 1567, as amended in HD 1, pass Second Reading and be referred to the Committee on Labor and Public Employment.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1567, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Labor and Public Employment, with Representatives Stonebraker and Yoshinaga being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 217) recommending that H.B. No. 492, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 492, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HONOLULU SYMPHONY," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 218) recommending that H.B. No. 557, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 557, HD 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE BERNICE PAUAAHI BISHOP MUSEUM, OAHU," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 219) recommending that H.B. No. 1091, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1091, entitled: "A BILL FOR AN ACT RELATING TO AQUACULTURE," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 220) recommending that H.B. No. 1378, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1378, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO MITIGATE HARMFUL EFFECTS OF THE ELEUTHERODACTYLUS FROG," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 221) recommending that H.B. No. 663, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 663, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE NEWBORN HEARING SCREENING PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 222) recommending that H.B. No. 787, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 787, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ENFORCEMENT OF PARKING FOR PERSONS WITH DISABILITIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 223) recommending that H.B. No. 1111, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1111, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR AN INTERGENERATIONAL CARE CENTER AT EWA VILLAGES," passed Second Reading and

was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 224) recommending that H.B. No. 649, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 649, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VITAL STATISTICS," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 225) recommending that H.B. No. 124, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 124, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TATTOOS," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 226) recommending that H.B. No. 638, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 638, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representatives Kahikina and Kanoho, for the Committee on Human Services and Housing and the Committee on Water and Land Use presented a joint report (Stand. Com. Rep. No. 227) recommending that H.B. No. 542, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 542, entitled: "A BILL FOR AN ACT RELATING TO THE FEE SIMPLE RESIDENTIAL REVOLVING FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 228) recommending that H.B. No. 429, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 429, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR BLINDNESS SKILL TRAINING," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep.

No. 229) recommending that H.B. No. 453, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 453, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 230) recommending that H.B. No. 543, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 543, entitled: "A BILL FOR AN ACT RELATING TO HOMELESS PROGRAMS," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 231) recommending that H.B. No. 634, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 634, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL ASSISTANCE RECOVERY," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 233) recommending that H.B. No. 106, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 106, entitled: "A BILL FOR AN ACT RELATING TO YOUTH," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 234) recommending that H.B. No. 630, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 630, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION ON THE NATURAL PARENTS OF THE ADOPTED MINOR CHILD," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Stonebraker and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 235) recommending that H.B. No. 635, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 635, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD CARE," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Stonebraker and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 236) recommending that H.B. No. 594, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 594, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTINUING EDUCATION COURSES AND COURSE PROVIDERS FOR INSURANCE LICENSEES," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 237) recommending that H.B. No. 603, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 603, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY PARTNERSHIPS," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 238) recommending that H.B. No. 644, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 644, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"While I have no problem with having electronic recording drug dispenser and electronic prescriptions from practitioners, I do have reservations on this measure, in that, it requires a prescription service to be subject to any applicable State and federal privacy laws.

"Our current State privacy law is very poorly designed, so that pharmacists would like to be exempt from the law. In fact, the Legislature had put it off in Special Session once before and is considering doing so again.

"The entire medical and insurance community seems to want to repair this measure, so I don't see any rationale for putting those functions under its purview. Thank you."

Representative Lee then rose and stated:

"I think the speaker is referring to another issue and should stay on track."

Representative Pendleton then rose on a point of order, stating:

"Representative Marumoto has not exceeded her time and the Representative of Mililani has not raised a point of order.

"Mr. Speaker, she is out of order."

The Chair responded, stating:

"Representative Pendleton, I believe the Majority Floor Leader did rise on a point of order, in questioning Representative Marumoto's context of the discussion she made.

"It is in reference to HSCR No. 238, H.B. No. 644, HD 1, relating to electronic prescriptions."

The Chair then recognized Representative Marumoto and asked her to proceed.

Representative Marumoto continued, stating:

"Mr. Speaker, thank you.

"I just wanted to reiterate the reasons why pharmacists wanted to be exempt from the privacy law. Though this may be a beneficial measure it will come under another blanket uniform law. I just wanted to point that out. Thank you."

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

"Mr. Speaker, this bill is designed to further protect and enhance the idea of electronic prescriptions. As you know Mr. Speaker, the age of the internet is here.

"Medical providers, pharmacists and physicians would like to create some kind of a uniform process for processing prescriptions by electronic means. What it does is, provide a cheaper alternative than what is currently being done and it also provides uniformity and accuracy in the way we fill our prescriptions.

"Of course those savings will be passed on to the consumers and healthcare providers. The only provision in there that relates to privacy, is a provision that says, whatever is transmitted electronically shall be under the State and/or federal privacy provisions. The reason for that of course, is with the age of the internet, could you imagine the situation where your prescriptions are broadcast to millions of users on the internet as far as what medications you take for what condition and dosages.

"That provision is just designed to provide some privacy protection for the consumer as well as the physician. 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. 644, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 239) recommending that H.B. No. 3, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 3, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 240) recommending that H.B. No. 178, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 178, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 241) recommending that H.B. No. 179, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 179, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"This bill would appropriate twenty-seven and a half million dollars for the purchase of computers for the schools with the intent of having more computers per student, 4 students per one computer. This would be an improvement of what we have now.

"My concern is the fact that the Governor's budget that he sent down to us, included this figure but had absolutely not one dollar in it for collective bargaining. It's going to be difficult to balance all the needs. The Department of Education did not have this as a priority, it wasn't in their budget.

"I think we should pay attention to the people who are managing the schools and know what they need. For those reasons I can't support this bill. Thank you Mr. Speaker."

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 179, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Halford and Meyer voting no, and Representatives Stonebraker and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 242) recommending that H.B. No. 180, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 180, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative McDermott offered the following amendment to H.B. No. 180, HD 1:

SECTION 1. House Bill No. 180, H.D. 1 is amended by amending section 2 to read as follows:

"SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,042,330, or so much thereof as may be necessary for fiscal year 2001-2002 to purchase textbooks; provided that the sum appropriated:

- (1) Shall be used to eliminate the shortage of textbooks only in secondary schools;
- (2) Shall be distributed only on the basis of a school's actual textbook shortage; and
- (3) May be used to purchase educational supplies directly related to a textbook being purchased."

Representative McDermott moved that the amendment be adopted, seconded by Representative Moses.

Representative McDermott rose to speak in support of the amendment, stating:

"Mr. Speaker, a lot of time when we come up here, both Majority and Minority, some times we take the opportunity to make political statements or put our finger in each others eyes.

"Mr. Speaker, with regard to fully funding for textbooks, I've tried to have it amended in the Committee and I was unsuccessful. So, this is part of the democratic process to bring it to the floor.

"I think this measure is so very important to ensure that every student has a textbook. These are not elementary students who can use workbooks, these are secondary students.

"Mr. Speaker, we have a shortage of a 134,000 textbooks. Now part of that is due to irresponsibility and lack of accountability which I don't believe this amendment is the proper vehicle to address that, it would probably be better addressed in a resolution.

"First, we need to get all the kids textbooks. Now I have real experience with this because when my son went to his intermediate school, I wasn't paying as much attention as I should have to his education. I went in to the parent-teacher conference and I found out that he didn't have a math book. I was a legislator at the time and I was ashamed. I was standing there and she said "we don't have any math books". Well who's responsible, well I'm responsible and said I wanted to do something about that, and today, whether I'm successful or not, I've kept my promise to myself and I've tried to do something about that.

"Now I realize sending this measure to Finance with \$1 is customary and usual practice, but I think this body could send a message to our Finance Chairman saying that we're really committed to this issue. We believe that every student should have a textbook. So much so, that Finance Chair, we respect your judgment, but on this one we want full funding. Every student has to have a textbook.

"Mr. Speaker, we got a lot of bills coming up with raises and everything and we want to spend money here and spend money there and they're all worthwhile and worthy projects and merit discussion, but there cannot be any issue that is more important than insuring that every student in intermediate and high school has a textbook. It's shameful if we do not fully fund textbooks.

"We can't send it down there with a one dollar and say, well Chairman of Finance figure it out. He has to juggle all of this other stuff. Let's take some of the heat off of him and say, Chairman you got to figure all of this other stuff out but one of the things we want to give you right away is direction from this body as a whole that we want textbooks fully funded.

"Now I think I've talked enough, Mr. Speaker, but I would just like to ask, at the appropriate time I would like to call a roll call vote, not this instant, but when debate is finished. Thank you sir."

Representative Ito rose to speak in opposition to the amendment, stating:

"Mr. Speaker, there is no question that we all agree on purchasing new textbooks for our students.

"Mr. Speaker, there is already \$4.5 million in the Executive Budget. Is this floor amendment asking for \$1.5 million over the \$4.5? Or an additional \$6 million, totaling over \$10.5 million for textbooks, I don't know.

"This and other questions is the job of the Finance Committee to consider. I urge my colleagues to vote this measure down. Thank you."

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

"Members this amendment is a very simple and clean one, it states the dollar figure that is required to purchase the needed and necessary textbooks.

"Members, it would be very interesting if we compare how we have dealt with this particular measure in comparison to the one just prior to it. I refer to the other one, not to speak to the other bill, but to use an analogy.

"In the previous Standing Committee Report, No. 241, we deal with a similar yet different subject. Not textbooks but computers.

"Mr. Speaker, in that prior instance we could have done the same thing, we could have taken out the appropriation dollar figure and just put in \$1 and say, send that on to Finance. But instead we left the appropriation in there specifying how much would be needed for these computers. So, you look at the rationale to find out why we should treat one differently from the other.

"Mr. Speaker, in that standing committee report it says: "your Committee has left the appropriation amount in this bill in tact to ensure that monies are designated specifically for purchasing computers".

"Mr. Speaker I think by my colleague's floor amendment, he is seeking to say the very same thing, to allow this specific six million dollar figure to be in there to ensure that the monies are designated specifically for purchasing textbooks. We're not trying to double count, we understand that the Governor has a budget bill. But what we want to do is make a strong statement that we don't want this to fall through the cracks. We don't want somehow during conference committee have something happen and we'll say, sorry we have a lot of other priorities and we have a lot of other things going on. We want to be able to say we need textbooks and our students deserve textbooks. Before we even get them computers maybe we should make sure they have the books for the classes that they are presently in.

"So, Mr. Speaker, for those reasons I stand strongly in support of this floor amendment."

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

"Mr. Speaker as the previous speakers have alluded to, this is highly extraordinary. During the normal course of this legislative body we have passed other measures out of the Finance Committee and those measures have been equally important to our constituents.

"But in this case Mr. Speaker, knowing all of this, they still move this measure forward. I am concerned that we may be double counting and over appropriating to the Department and thereby, locking up rare resources that we may want to place into the budget along the way.

"Mr. Speaker, I need to bring to the members' attention that this morning we just received an emergency appropriation request from the Governor's office. That's an issue that we need to address in the budget in this fiscal year.

"A third reason why I am against this amendment Mr. Speaker, is that the Chair of Education has pointed out, that additional monies on top of the monies that is already in the Department's budget as reflected in the Governor's proposal. If that is the case, Mr. Speaker, it would be unwise for us to make this amendment and over appropriate this money.

"For these reasons Mr. Speaker, and I would like to make mention that I do recognize the comments of the two previous speakers and we will watch this measure as it goes through and make sure that the interest that we are talking about today is reflected in our budget. Thank you."

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

"As we've already discussed, the previous motion dealt with a specific dollar amount for computers, I'm not speaking to that bill, but it's sending a message that we want funding for those computers. We did not feel in that measure that we should leave it to the discretion of the Finance Chair, who I respect, I may add.

"I don't think this is taking anything away from the Finance Committee or the Finance Chair, it is making his job a little easier. It shows that we do believe that textbooks are essential. Some could argue that computers may or may not be, but books are essential. Every student deserves them and we should demand a book for each and every student.

"So, I urge you, my colleagues, not to vote against textbooks for our young. Thank you Mr. Speaker."

Representative Kahikina rose to speak in opposition to the amendment, stating:

"I highly respect the amendment that is being placed on the table, but we're speaking of a procedure and, Mr. Speaker, I believe that by passing this measure out that we are confirming that we are holding textbooks as a priority.

"As it was noted, there is \$4.5 million in the budget in itself and it is not unusual for us to pass out a vehicle in case the Finance Committee finds resources. Then we will have a vehicle that we could fund over and above the \$4.5 million.

"This is just a procedure and it is nothing abnormal and the message that we are sending is that we do support textbooks. This is not about voting on whether we support textbooks or

not, we all support textbooks in the schools. This is a procedure. Thank you Mr. Speaker."

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

"First of all, let me just say that we are all in full support of education in Hawaii. If you take a look at our budget we spend almost seven hundred million dollars of our budget on education, not to mention the fact that there is another \$134 million dollars being requested by the Department to address the Felix Consent Decree.

"Statements were made by the other side of the aisle about doing something about the shortage of textbooks, and I can assure you, Mr. Speaker, that despite the fact that I am recommending a no vote on this amendment, we are doing something about the textbooks. It was alluded to, not only by the Chairman, but also the Majority Leader, that there is money already in the budget for textbooks, \$4.5 million and we're going to leave it up to Finance to see if in fact we have that money available after the session.

"I do agree that there's not any one issue more important than education. I think if we take a look at the full education budget and give the Finance Committee the discretion to make the wise choices, we will come out whole.

"This vote is not a vote against textbooks and I want to make that clear. This vote is to show our support for textbooks and give Finance the message that textbooks is important to the Committee on Education.

"I also wanted to point out that in the proposed amendment on page two, the author of this amendment is very specific as to what the sum should be appropriated for. First of all, it shall be used to eliminate the shortage of textbooks only in secondary schools. What about elementary schools? What about intermediate schools? Should it be distributed only on the basis of the schools actual textbook shortage? And may be used to purchase educational supplies directly related to textbooks being purchased?

"I think what we did in the Committee on Education was take a look at the textbook situation as a whole, to give discretion once again to the Committee on Finance and more importantly to give discretion to the Department of Education to decide where in fact, if appropriated and allocated, the shortages and money should go.

"So I urge my colleagues to vote against this amendment and this proposed house draft floor amendment, not because we're voting against textbooks. Thank you Mr. Speaker."

Representative McDermott then rose and stated:

"Secondary schools, that's intermediate and high schools. Also, I came up with the figure by getting the Legislative Reference Bureau get the Department of Education's study that they did on the textbooks shortage. A 134,000 books were short at \$45 a book and that's how we came up with the figure. That's the figure the Finance Chair needs to use because that's exactly what we don't have.

"I'm submitting this in lieu of the Department's budget. It is a vote on textbooks, Mr. Speaker. One of the previous speakers said, let's leave it up to Finance if there's any money left over. I'm saying, 'no'. We're telling Finance ahead of time that this is a priority, every student should have a complete set of textbooks. We can say that this isn't a part of the process and I don't really like doing this, but it is a part of the process.

The Constitution allows it and that's why we're standing here and debating the issue.

"It is part of the process and this will be a vote against fully funding textbooks. Thank you."

Representative Ontai rose to speak in support of the amendment, stating:

"Mr. Speaker as a former teacher in a private school, I must tell my colleagues that perhaps you might not have had direct experience with this.

"I will tell you that every time I turned over books by the way, this certain private school, budgeted and planned for replacement of textbooks every five years."

Representative Schatz rose on a point of order, stating:

"Mr. Speaker I believe the present speaker should be addressing the Speaker of the House."

The Chair responded, stating:

"Representative Ontai, please look at the rostrum."

Representative Ontai continued, stating:

"What I want to say is that these textbooks, actually we were actively looking, and it was not hard to find places where these textbooks would go.

"I would like to say that indeed this amendment is important because it's an innocuous message to say \$1. I think we have a very specific figure and I would like to support the measure."

Representative Gomes rose to speak in support of the amendment, stating:

"Mr. Speaker, I'll focus on the rostrum for you.

"Mr. Speaker, I think it's important that right now we put in a specific dollar amount on Second Reading and pass it out to Finance on Third Reading to let the public and the Senate know where we stand specifically on this measure.

"Mr. Speaker, I have here Resolution No. 20, relative to this issue and it's from the 2000 State Student Conference that was held not too long ago in these halls. It was a group of very, it seems to me, students from around the State at our public schools that came together on several issues. One of which was, "curriculum and learning material concerning a budget for classroom learning materials separate from the schools budget".

"With your indulgence Mr. Speaker, I wanted to review some of the comments that were in support of this amendment and the need for sticking in a specific amount at this point. Some of the comments that the students offer are, we need this appropriation and these textbooks because there are not enough textbooks, students have to share books in class and they must finish their school work during class and are not allowed to take their books home. If students were allowed to bring books home, they would be able to finish their homework and learn more." Many books at our schools are old and in need of repair. Because they are outdated there is information given that is wrong or disproved. Many of our legislators believe the future belongs in the hands of our children, If we lack learning material we will not be able to be successful students".

"Members, you have I'm sure, a copy of this in your offices and I just wanted to point out that this Resolution No. 20 was overwhelming approved by the student conference and so for those reasons members, I do think it is important right now that we amend this bill and we insert a specific dollar amount and we take off the burden from the Finance Chair and the Committee with having to wrestle with this issue. We pass the message to the public and the Senate that this is where we stand.

"For these reasons, Mr. Speaker and members, I ask you support for the amendment. Thank you."

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

"Mr. Speaker our public school students don't have textbooks, so what are we going to do about it?

"We're going to send a bill over to Finance with simply one dollar in it. I've served on numerous committees, and when the committee members felt that the issue was important enough, they would at least put in maybe a \$100, \$200 or maybe \$2. But the issue was that it was important, and they wanted that measure to be funded.

"I think it's absolutely reprehensible that we allow our school students to go to public school and not have adequate textbooks there. I think it's absolutely reprehensible. You take a look at the findings of H.B. No. 160, and where the federal government regularly rates the public schools in all 50 States, and it comes as no shock because we read the newspapers. We get the information that Hawaii's public schools are ranked at the bottom of the list.

"Mr. Speaker, many students have been using textbooks more than ten years old. I would imagine that those of us sitting in this room, at least those of us that were born before 1950, went to school, had adequate textbooks; and we were allowed to take them home. We took care of them, and if we didn't, we had to pay for the damage.

"But here we are faced with a real crisis in our schools. For someone to send their youngster off to school, like my colleague from Foster Village, and find out that the youngster doesn't have a textbook, is just ridiculous.

"The other thing I would like to say is, my colleague from Foster Village has been one of the strongest advocates for textbooks in our schools and for repair for our schools. I think he deserves a lot of credit. I'm proud to be a friend of his. I think we all should link arms on this, this isn't a partisan issue, this is getting textbooks to our youngsters. Let's send a bill over to Finance that says, don't fool with us, appropriate this money out of the budget so every child will have a textbook in our schools. Thank you."

Representative Lee rose to speak in opposition to the amendment, stating:

"Speaker, effective learning is a combination of good teaching, good textbooks and adequate supplies. It goes without saying that textbooks are important and needed in the classroom. We all know that and we all support that.

"This bill was amended to change the appropriation to \$1 to ensure that the Committee on Finance could incorporate all educational priorities into the Education budget. \$4.5 million dollars is already in the budget, \$6 million is actually an over appropriation. I think in this time of budget crisis we need to be very careful. There's no reason that the Finance Committee cannot increase the appropriation later on.

"I think this is just a good sign of financial management which needs to be done and I hope that everyone who is speaking up to support textbooks realize that all of us feel the same way about our students in our schools. There's no one here sitting in this House who is against textbooks for children. We want the best textbooks, computers and other supplies that the students need. Thank you."

Representative Arakaki rose to speak in opposition to the amendment, stating:

"With all due respect to the Representative from Foster Village, I agree that his commitment to education and to our young people is as big as his body.

"I think we are making a "mountain out of a mole hill". Except for our new legislators, I think we all know that in this game, it's not what we do in the first quarter that counts, it's what we do at the end of the game. Whether the victory is for our kids or if it's just rhetoric and right now it's just rhetoric.

"In terms of priorities, we all have priorities and speaking as the former Chair of Human Services and Housing and now the Chair of Health, we have many priorities. Just putting a dollar amount in the bill I think, may be an indication that we need to look at the big picture. Whether it be education, health or even human services we need to look at the big picture and where the needs are. We need to add balance and we need to make sure that as many needs as possible is taken cared of.

"I think in the end if we can do that, then that's what is really important and not how much we stick in the bill. At this point of the debate, if we can just reframe it, there's nobody against textbooks. We're just saying that there is a process to follow and I think everyone realizes that if we really feel these things are really important then we need to as a Committee and as Legislators lobby to make sure that the monies are provided at an adequate level. That goes for many other issues that we need to face.

"Mr. Speaker, this is my perspective. Thank you."

Representative Kanoho rose to speak in opposition to the amendment, stating:

"Your Majority in recognition of the importance of textbooks as it has already been expressed, has included in the budget, the amount of \$4.5 million.

"Now we all know that textbooks vary in cost, depending on what kind of textbooks we are talking about. To the best of my knowledge the textbooks might run from \$15 to \$45. If we were to take an average of \$30 per book, we would need about 150,000 books that the \$4.5 million would purchase.

"This bill with the \$1 states simply that if we need more books then we have the opportunity to provide the funds for it. Thank you Mr. Speaker."

Representative Moses then rose and stated:

"I just want to make sure this body realizes that we're not directing anything toward the Finance Chair or saying that he's not concerned. That's not what we're saying.

"What we're saying is that we want to send a message to Finance and to our colleagues and to the Senate that we really are concerned about this issue. One of my colleagues just said we should be lobbying. Well, that's what we're doing right now and for us to pass this amendment with a full dollar

amount, the six plus million dollars shows that we don't want to continue to have a shortage.

"The Governor's budget, the education budget right now, is about four million dollars and that's two million dollars short. We understand fully that the Finance Chair has at his discretion, with the Committees approval, to reduce the amount in any bill or include additional amounts in any bill. So he could raise this or he could lower it. If we send the amount that we think is necessary, according to LRB, we would then pull a figure from the air, then the Finance Committee and the Chair would have the right to reduce it at a later time. But lets at least send a message that we want books for every student. Thank you."

At this time, Representative McDermott requested a roll call vote.

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion that the amendment to H.B. No. 180, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION", be adopted was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 31: Abinsay, Ahu Isa, Arakaki, Cabrereros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi and Yonamine.

Ayes, 19: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Excused, 1: Representative Yoshinaga.

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

"I hope these aren't comic books."

Representative Schatz rose to speak in support of the measure and asked that his remarks be inserted into the Journal, and the Chair "so ordered".

Representative Schatz's remarks are as follows:

"This bill is vitally important to the people in my community. It will allocate up to 6 million dollars towards eliminating the textbook shortage in our schools. Of course, part of the responsibility lies with parents, teachers, and primarily student to hang on to their schoolbooks. But here, in this House, we are doing our part by making a serious financial commitment to classroom basics. I would like to thank the members of the House for their support for this important initiative."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 180, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 243) recommending that H.B. No. 1610, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1610, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 244) recommending that H.B. No. 575, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 575, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her and to have her remarks inserted into the Journal, and the Chair "so ordered".

Representative Meyer's remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 575 which establishes an emergency and budget reserve fund. This fund has also been referred to as a 'rainy day fund'.

"My primary objection is that the State government should not retain excess taxes - it is not our money. If our tax rates are too high, we should lower them. If we have too much money, it should be returned to the taxpayers. Many of our constituents think it is a rainy day right now. Rather than keeping their money for our rainy day, let's return to the rightful owners.

"Article VII, Section 6 of the Hawaii Constitution requires us to return excess funds to the taxpayers. Passing this bill ensures we will never, ever, return excess funds to the taxpayers. The ballot language proposed in this bill would give no hint to the voters that they are essentially doing away with Article VII, Section 6 if they approve this Constitutional amendment.

"I am also concerned that this fund is being created as a way to increase the general fund expenditure ceiling. The Governor's proposed budget already exceeds the ceiling, this bill will adjust the books to make it appear the ceiling has not been exceeded.

"I urge my colleagues to vote against this bill. As representatives of the people, we are obligated to manage their monies faithfully and honestly. This bill creates a hiding place for excess funds and authorizes us to play shell games with the budget."

Representative Leong then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Fox then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Whalen then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"The 'rainy day fund' concept is not particularly egregious, but the fact that the Governor has talked about dismantling the Hurricane Relief Fund and putting the proceeds into this measure causes me some concern. I'm not so sure we should dismantle it and other folks would like to receive the proceeds of the fund if it is dismantled.

"It will also lock it up with a two-thirds vote. But, we're talking about real money here, with the hurricane money and a few other funds, it will amount to \$220 million dollars and again I think the priorities are in order. I hate to see the money go for 3500 UH scholarships and not going for textbooks for our lower education students. Thank you."

Representative Gomes rose in opposition to the measure, stating:

"I think 'rainy day funds' are good and appropriate for working families, but not for our State. Thank you."

Representative Moses then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 575, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII OF THE HAWAII CONSTITUTION REGARDING AN EMERGENCY AND BUDGET RESERVE FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, Gomes, Halford, Leong, Meyer, Rath, Thielen and Whalen voting no, and Representatives Stonebraker and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 245) recommending that H.B. No. 1067, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1067, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR TAX LAW," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 246) recommending that H.B. No. 1281, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1281, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BIOFUEL," passed Second Reading and was referred to the Committee on Finance, with Representatives Stonebraker and Yoshinaga being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 247) recommending that H.B. No. 308, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 308, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 308, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION MEDICAL FEES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Stonebraker and Yoshinaga being excused.

At this time the Chair addressed the body, stating:

"Members for HSCR No. 248, the Chair notes that the accompanying House Bill number is erroneously reflected.

"It should read H.B. No. 698, not 1698. The House Bill number is accurately reflected on the committee report laying on your desks."

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 248), recommending that H.B. No. 698, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 698, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," was referred to the Committee on Finance with Representatives Hiraki and Yoshinaga being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 249) recommending that H.B. No. 1257, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1257, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LEI DAY," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 250) recommending that H.B. No. 1474, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1474, HD 1, entitled: "A BILL FOR AN ACT ADOPTING AN OFFICIAL STATE TARTAN," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 251) recommending that H.B. No. 660, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 660, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAZARDOUS WASTE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 252) recommending that H.B. No. 700, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 700, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF POISONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 253) recommending that H.B. No. 526, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 526, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 254) recommending that H.B. No. 587, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 587, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE BROKER LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 255) recommending that H.B. No. 588, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 588, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWAL REQUIREMENTS OF THE BOARD OF MEDICAL EXAMINERS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 256) recommending that H.B. No. 598, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 598, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTIONS FOR DEPOSITORY INSTITUTION SALES OF INSURANCE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 257) recommending that H.B. No. 1127, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1127, entitled: "A BILL FOR AN ACT RELATING TO STATEMENTS OF ASSETS AND LIABILITIES OF HAWAII FINANCIAL INSTITUTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 258) recommending that H.B. No. 148, as amended in HD 1, be recommitted to the Committee on Water and Land Use.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 148, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," was recommitted to the Committee on Water and Land Use, with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 259) recommending that H.B. No. 1356, as amended in HD 1, be recommitted to the Committee on Health.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1356, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health, with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 260) recommending that H.B. No. 1357, as amended in HD 1, be recommitted to the Committee on Health.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1357, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health, with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 261) recommending that H.B. No. 1358, as amended in HD 1, be recommitted to the Committee on Health.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 1358, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was recommitted to the Committee on Health, with Representatives Hiraki, Takai and Yoshinaga being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 262) recommending that H.B. No. 872, as amended in HD 1, be recommitted to the Committee on Agriculture.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 872, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," was recommitted to the Committee on Agriculture, with Representatives Hiraki, Takai and Yoshinaga being excused.

### SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Pendleton and carried, the rules were suspended for the purpose of considering certain bills for Third Reading on the basis of a modified consent calendar. (Representatives Hiraki, Takai and Yoshinaga were excused.)

### THIRD READING

#### H.B. No. 523:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 523, entitled: "A BILL FOR AN ACT RELATING TO THE UNAUTHORIZED PRACTICE OF LAW," passed Third Reading by a vote of 48 ayes, with Representatives Saiki, Takai and Yoshinaga being excused.

#### H.B. No. 1538:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1538, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT," passed Third Reading by a vote of 48 ayes, with Representatives Saiki, Takai and Yoshinaga being excused.

The Chair directed the Clerk to note that H.B. Nos. 523 and 1538 passed Third Reading at 2:10 o'clock p.m.

### RECALL

Representative Fox rose and stated:

"Mr. Speaker, I move to recall H.B. No. 236 from the Judiciary Committee and for it to pass Second Reading and be placed on the calendar for Third Reading."

The Chair responded:

"I believe the motion is not to pass Second Reading or Third Reading, but to recall it out to the floor of the House first. There is no second Representative Fox, so I think you made an error and can you retract what you stated earlier."

Representative Fox continued:

"Mr. Speaker, my motion is to both recall H.B. 236 and to pass it....."

The Chair interjected, stating:

"You can't do two motions in one."

At 2:12 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:14 o'clock p.m.

At this time, Representative Fox moved to recall H.B. No. 236 from the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Pendleton.

At 2:15 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 2:41 o'clock p.m. with the Chair stating:

"Members before us we have a motion and it has been moved and seconded, that H.B. No. 236 be recalled from the Committee on Judiciary. This is a procedural motion and the debate will be limited to the propriety of the action in the recalling of the bill. Comments on the merits of the bill will not be in order at this time. Any discussion on the recall motion?"

Representative Hamakawa rose to speak in opposition to the motion, stating:

"First of all Mr. Speaker, this motion is premature. The measure in question has a single Judiciary and Hawaiian Affairs referral. Right now, four days before the lateral deadline, we are trying to process those measures that need to be passed to the final committee. We still have two and a half weeks to consider this measure as well as the other almost 400 bills in committee that also have a strong constituency attached to them.

"I would ask my colleagues to allow me as Chair of the committee the opportunity to go through the measures that set the priorities for the Committee. Thank you, Mr. Speaker."

The Chair stated:

"Any further discussion on the motion for the recall?"

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

"Mr. Speaker, yesterday's agenda for the Judiciary there were a number of bills that had single referrals. We also communicated with the Chairman of Judiciary about wanting to have one of these bills heard and we had no response in the affirmative. This is a very important issue. The public expects this body to do something about it. We've had no assurance that this would be handled in a timely manner. That's why we have taken this step today to call this bill down onto the floor."

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

"Thank you, Mr. Speaker. The Chair of Judiciary mentioned in his statement that this is a matter of great public importance. So, he can concede that, we agree with him and therefore, we want to get this measure to the floor or at least get an assurance from the Judiciary Chair that it will be heard before his committee.

"We have gotten no such assurance."

Representative Luke rose to speak in opposition to the motion, stating:

"I rise to speak in opposition of the motion. Specifically on the motion to recall, the concern that I have is, if we were to recall this bill at this point and vote on the floor today on this bill, we're not going to be able to provide any public input or an opportunity to have public hearing on this measure. As the previous speakers have pointed out, this is a measure that is important to the public and that it is something that should be addressed. Perhaps for us to take steps and hear it on the floor today will be in contradiction to what we're here for. What we should be doing is having a full hearing on this measure and having public input and public participation in this legislative process."

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

"It is simply because of the importance of having a public airing of this issue that we are bringing it to the floor. All we ask for was some assurance that there would be a hearing. We could not get that assurance, that's why we are here today dealing with this issue. Thank you, Mr. Speaker."

Representative Pendleton then rose and stated:

"Mr. Speaker, the reason why I am in favor of the recall, Mr. Speaker, this measure is very important, relating to the age of consent..."

The Chair interjected, stating:

"I believe you are out of order, sir. Address the issue of the motion of the recall."

Representative Pendleton continued, stating:

"This measure relates to the raising of the age of consent and the recall, Mr. Speaker which is provided in the State Constitution also has support in House Rule 37, which provides for recall by a minority of this body. One-third, Mr. Speaker. The reason why the Constitution is written that way is because sometimes there are bills that die, not because they are voted down or because they are held, but because no hearing has been set. As one of the previous speakers has stated, Mr. Speaker, a number of single referral bills have already been heard. Furthermore, Mr. Speaker, the Constitution has no further requirements other than the 20-day referral period. So this is perfectly a legitimate and appropriate constitutionally and with respect to our House Rules to ask for a recall on this important measure on relating to raising the age of consent. Thank you very much, Mr. Speaker."

Representative Lee rose to speak in opposition to the motion, stating:

"There are actually ten or more bills on the same or related subject that have been introduced in this House. I'm not sure why this measure in particular has been chosen over others. Although I am the maker of the bill I would prefer that..."

Representative Whalen rose on a point of order, stating:

"I believe yourself has instructed us that we are not to go into the merits of the bill and certainly who is the author and how many other bills are of this nature, do not speak to the procedural aspect of pulling bills out of committee, but goes to the bill itself and the merits that are in the bill."

The Chair responded, stating:

"I believe Representative Lee has a point as far as addressing her statements which I allowed Representative Pendleton in making some comments to the title of the measure."

The Chair recognized Representative Lee who continued, stating:

"I would prefer that the makers of other bills also have a chance to have their voices heard in the future. Thank you."

At this time, the motion to recall H.B. No. 236, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT", was put to vote by the Chair, and upon a show of hands, the motion was carried, and H.B. No. 236 was recalled from the Committee on Judiciary and Hawaiian Affairs and was put before the House for action.

Representative Fox then moved that H.B. No. 236 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

Representative M. Oshiro subsequently moved that H.B. No. 236 be recommitted to the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

At 2:49 o'clock p.m., Representative Pendleton asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:10 o'clock p.m., with the Chair, stating:

"Members on the floor is the motion for a recommitment of H.B. 236 back to the Judiciary Committee. Any discussion on the recommitment of the measure?"

Representative Whalen rose on a point of order, stating:

"Under our rules we are to comply with Section 158-1. It says the motion properly before the House must be decided on before another matter can be taken up. I believe the record will show that the motion was made and seconded for the bill to pass Second Reading and be placed on the calendar for Third Reading. Therefore, the motion by our Majority Leader and whoever seconded is out of order and it should be disregarded."

The Chair responded, stating:

"I believe you are incorrect at this point and the motion before this House is the recommitment of H.B. 236 to the Judiciary Committee."

Representative Whalen continued, stating:

"Mr. Speaker I appeal your decision on that point of order."

The Chair responded, stating:

"State your point."

Representative Whalen continued, stating:

"I have stated the rule. I cited to it that our House is bound by. I believe that it is quite clear from our collective memory as to which motion was made first and I believe your ruling is out of order and would ask the issue be brought..."

At this time, Representative Souki asked for a recess.

Representative Whalen interjected, stating:

"Mr. Speaker I believe I stood on a point of order. I had the floor that time and the motion for a recess is inappropriate at this moment."

At 3:12 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:14 o'clock p.m., and the Chair stated:

"At this time there has been an appeal by one of our colleagues in regard to the Chair's ruling on the motion to recommit and the second."

The Chair recognized Representative Whalen, who continued stating:

"Thank you, Mr. Speaker. Regarding the matter, the point of order, I am not sure, this is a point of inquiry at this point, are you laying the matter of my appeal before the body?"

The Chair responded, stating:

"Yes I am, for a vote."

Representative Whalen continued, stating:

"Thank you, Mr. Speaker, I will let the body decide then."

"I'm sorry, Mr. Speaker, as a matter of formality on this part I haven't been able to get through the book far enough. I'm not sure if I get to present my cause to the body or if it is in a vacuum they decide whether or not they are going to vote on party lines or not or if they are going to follow the rules, I'm not sure how it goes here."

The Chair responded, stating:

"We will be voting by the rules of this House."

Representative Whalen continued, stating:

"So am I availed an opportunity to speak to that rules and to point out the rules of the House and..."

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

The House of Representatives reconvened at 3:17 o'clock p.m., and the Chair recognized Representative Whalen, who continued stating:

"Thank you, Mr. Speaker. I base my appeal on, as I mentioned previously, to Section 158-1 of the Manual of Legislative Procedures by Masons. Also of our House Rules 45.2 that say after a motion has been stated it shall be disposed of by a vote of the House. However, it can be withdrawn by the movant at any time before a decision or amendment. Based on those rules that we are bound by, I would ask this House to overrule the Speaker's decision."

The Chair responded, stating:

"Thank you, very much. The Representative wants to appeal the Speaker's rule in reference to 45.2 and the Speaker and the Chair at this point would like to share with the members of this House that on 45.3, whenever any question

whatsoever, shall be under discussion, the only permanent motions shall be:

1. To lay on the table;
2. To postpone to a certain time;
3. To recommit;
4. To amend; and..."

Representative Whalen then rose on a point of order, stating:

"I don't believe under that rule is says recommit. I believe what the rule says number three is to commit. There is a difference to recommitting and committing a matter. Thank you."

The Chair responded, stating:

"That's basically rhetoric at this point and let me continue on.

5. To postpone indefinitely.

"The Chair asks the members of this House to support the Chair in the decision that he has made. That the motion to recommit, which has been seconded, be recommitted on the bill relating to H.B. 236 to the Judiciary Committee. All those in favor signify by saying aye. Those opposed no."

Representative Whalen then rose on a point of inquiry, stating:

"Point of inquiry. Are we voting on the motion or are we voting on my appeal?"

The Chair responded, stating:

"Your appeal."

Representative Whalen continued, stating:

"Alright, thank you."

The Chair responded, stating:

"It is your appeal at this point that we are bringing up to the House. We had a vote on the appeal of questioning my decision."

Representative Whalen responded, stating:

"I understand that but the way the question was raised..."

Representative Schatz then rose on a point of order, stating:

"Point of order. I believe the present speaker needs to be recognized before he speaks before the House."

The Chair then recognized Representative Whalen and allowed him to continue his remarks.

Representative Whalen continued, stating:

"Thank you, Mr. Speaker. It was the way the question was phrased, that's why the point of inquiry was made as it was phrased as whether or not to commit the bill not whether or not that motion was properly before the House and I was inquiring as to what exactly we were voting on. Because the question was phrased in that manner."

The Chair responded, stating:

"The question we are voting on is your appeal in regard to the Chair's decision that the movement for H.B. 236 be recommitted to the Committee on Judiciary which was seconded. And you questioned the Chair in regard to now appealing that decision."

Representative Whalen continued, stating:

"Mr. Speaker, for clarity my point of order was that the prior motion should've been heard first before we moved on to the motion to recommit and you..."

The Chair interjected, stating:

"We are not at the motion to recommit. We were addressing what we have appealed to the Chair in his decision."

Representative Whalen responded, stating:

"I understand that Mr. Speaker. The question that the Speaker is phrasing for this body to vote on is whether we should recommit this bill and send it back to Judiciary and that is not the question before us at this time. The question before this body at this time as I understand it, is whether the body will sustain my appeal my to the Speaker's ruling and it has nothing to do with the actual recommitment itself."

The Chair continued, stating:

"Right and that is why I asked the members of this House: 'If the members of this House would support the Chair in the appeal of the Representative from Kona.'"

Representative Moses rose for a point of information, stating:

"Are we allowed to debate on this motion?"

The Chair responded, stating:

"On the appeal?"

Representative Moses continued, stating:

"Yes."

The Chair responded, stating:

"No."

Representative Moses then continued, stating:

"Thank you. Then I ask for a roll call."

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

"We've already had the vote on the appeal."

The Chair responded, stating:

"Right. By voice vote. The voice vote has already taken place. So the Representative from Kona has lost his appeal by this House on questioning the Chair. At this point, we are in the discussion on the motion to recommit H.B. 236 to the Judiciary Committee. Any discussion on the recommitment of this bill."

Representative Pendleton then rose on a point of order, stating:

"Point of order. Mr. Speaker, I don't believe that the present motion to recommit is in order because it is in direct violation of the constitutional provision regarding recall. Mr. Speaker, if we are not allowed to speak to the merits on recall nor are we allowed to bring a motion such as to pass Second Reading and be placed on the calendar for Third Reading we can never reach the merits of the measure. I don't believe that this provision in the Constitution was designed to hamper or stifle debate. Quite to the contrary, Mr. Speaker, this provision allows one-third to bring debate, bring public light, and bring to the surface various issues. Right now, we have only been allowed a very narrow procedural debate on the recall and to have it followed immediately by a motion to recommit really eviscerates and guts the whole Constitutional Provision, Mr. Speaker. I can't imagine the founders saying let's have a provision that one-third of the body can bring forth so that the very next motion is the motion to recommit and prevent all debate. I haven't even been able to mention the title of the bill, Mr. Speaker. For those reasons I rise on a point of order that this motion to recommit is unfound, is out of order and is unconstitutional because it has the effect, perhaps not the intent, but the effect of viscerating this important constitutional provision, namely the provision to recall."

Representative McDermott then rose and stated:

"At the appropriate time, on the motion to recommit, I'm not saying this is the appropriate time that's your call, I'd like to have a roll call vote. Thank you."

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

"I rise to speak in support of the motion to recommit to take from this House floor H.B. 236 and have it considered by your Committee on Judiciary and Hawaiian Affairs."

"I support this motion for several reasons. First, Mr. Speaker, to have a vote on this measure where the Third Reading or Final Reading by this body is grossly premature. It locks out the community for debate and discussion and basically undermines..."

Representative Gomes then rose on a point of order, stating:

"Point of order, Mr. Speaker, we are basically dealing with the constitutional provision, not with the merits of the bill, not when the bill is going to be heard or should be heard. It's whether or not the Constitution allows a recall or prevents for that matter, whether the Constitution allows..."

The Chair interjected, stating:

"Representative Gomes, you are out of order. The motion before us at this point is not a recall motion. It is the motion to recommit the bill back to the Committee on Judiciary and this is where the Majority Leader is alluding his debate on the recommitment. There is no constitutional matter as far as the recommitment at this point."

Representative Gomes continued, stating:

"Excuse me, Mr. Speaker, he was diverting from the topic of his motion and I thought he was out of order."

Representative Lee then rose on a point of order, stating:

"I believe the speaker is out of order."

The Chair responded, stating:

"I have already stated that. Thank you."

Chair then recognized Representative M. Oshiro to allow him to continue with his remarks and instructed him keep to the recommitment motion.

Representative M. Oshiro continued, stating:

"Again, this measure will be recommitted to the Committee on Judiciary and Hawaiian Affairs for a proper hearing and to allow the community to come in and testify in support and give us suggestions on how we can improve this legislation. Thank you, Mr. Speaker."

Representative Schatz rose to speak in favor of the motion for recommitment, stating:

"Mr. Speaker, this is such an important issue affecting young women in particular and one that requires serious and thoughtful deliberation. It is so horrifying and frankly, I am surprised that this new found recall power was being used to prematurely lock us into a position. By trying to act on this bill before it even gets a public hearing is speeding up the process of decision by 2 or 3 weeks but we are ignoring the testimony, potentially, of non-profit organizations who might work in the field of child protection, the Chief Prosecutor, women's groups, the Hawaii..."

Representative Moses then rose on a point of order, stating:

"Is the present the speaker speaking to the merits of the bill?"

The Chair responded, stating:

"On the recommitment back to the Committee on Judiciary for public debate."

Representative Moses continued, stating:

"I thought he could not speak on the merits of the bill."

The Chair continued, stating:

"He is not speaking on the merits of the bill."

Representative Schatz then rose and continued, stating:

"I believe I am speaking to the procedural question I had..."

The Chair interjected, stating:

"Of allowing the public to come to the Legislature to the Judiciary Committee for a public hearing."

The Chair then recognized Representative Schatz and allowed him to proceed with his remarks.

Representative Schatz, continued:

"Any number of groups of professionals and individuals and citizens who want to testify on this measure, and part of the legislative process is that we hear them and that we listen to them. And we need to listen to their testimony, we need to find out what they think and perhaps we need to amend the bill, perhaps we need to pass it out as is, but we cannot act on this measure without..."

Representative Fox then rose and stated:

"Pardon, me but a point of information. Is the motion to recommit a guarantee that we are in fact going to have a hearing on the bill?"

The Chair responded, stating:

"I cannot say yes or not at this time."

Representative Fox continued, stating:

"The speaker who I am unfortunately interrupting is suggesting such."

Representative Moses then rose and stated:

"Speaker."

The Chair responded, stating:

"For what purpose do you rise?"

Representative Moses continued, stating:

"Point of information. I thought clearly heard the Minority Floor Leader or Minority Leader state that this bill was going to be heard. If I didn't say the Majority Floor Leader I apologize. May I ask the Clerk to re-read the Majority Leader's statement because I thought he clearly stated that this bill would be heard now before Judiciary."

The Chair continued, stating:

"At this point you will find it in the Journal. May we proceed on with the debate or discussion on the recommitment."

Representative Schatz then rose and continued, stating:

"My point, Mr. Speaker, before I was interrupted....."

The Chair addressed Representative Schatz, stating:

"Can you please confine your remarks."

Representative Schatz continued, stating:

"Sure. Of course and I believe I have been, Mr. Speaker. On the issue of recommitment, I don't know whether the bill is going to be heard or not. So to answer the Representative from Waikiki's question is not necessarily my jurisdiction, but, I do believe if we were to act on this without recommitting it that we would be stifling public testimony, we would not be listening to the public and I think that would be contrary to the will of the people. Thank you Mr. Speaker."

Representative Pendleton then rose, stating:

"Point of inquiry. Mr. Speaker, in listening to the speeches in favor of the recommitment motion, I hear the suggestion that if you are in favor of a public debate and moving this bill along, vote in favor of the recommitment. But the assumption there is that the Chair of Judiciary will be holding a hearing. Now I place a question Mr. Speaker, to the Chair of the Judiciary Committee as to whether he intends to hold a hearing for this measure?"

The Chair addressed Representative Hamakawa, stating:

"Representative Hamakawa will you yield to a question?"

The Chair recognized Representative Pendleton who then proceeded with the question, stating:

"I believe the question has been stated. Will the honorable Chair intend to hold a hearing, a public hearing on this measure?"

Representative Hamakawa then rose and stated:

"At this time the Chair would just like to consider all measures in the Committee and set the priorities for the Committee. I will not commit at this time to hear this or any other bill that has not already been scheduled."

The Chair addressed Representative Pendleton, stating:

"Representative Pendleton is the response fine?"

Representative Pendleton responded, stating:

"I heard him loud and clear, Mr. Speaker."

Representative Rath then rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. Let me see if I got this right now. It wasn't heard and probably wouldn't be heard, the age of consent bill, in Judiciary so we've taken the normal, well any other state is normal, the normal legislative procedure to bring this bill which is been trapped in committee to the floor and now we are recommitting it back to Judiciary where it wasn't moving before and now can get no guarantee to ever be heard again and we are doing this, if I understand it, to help public debate. I'm just trying to see if I have this concept of democracy clear in my mind, because very honestly, Mr. Speaker, it is confusing the hell out of me. I just don't understand how we can, I'm speaking against the motion to send it back because it seems to me that this is likely the only debate we are going to have on this bill. Considering the remarks and the answer from the Representative from Hilo. So, that confusion of we're somehow recommitting this bill for public hearing which doesn't seem to be the case here. So, for that reason I stand in opposition to the recommitment because recommitting it almost guarantees it's going to die. Thank you very much Mr. Speaker."

At this time Representative Souki moved to call for the previous question, seconded by Representative Kahikina.

Representative McDermott requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion was put to vote by the Chair and carried and H.B. No. 236, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT, was recommitment to the Committee on Judiciary and Hawaiian Affairs, on the following show of Noes and Ayes.

Noes, 19: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Ayes, 32: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

At 3:34 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 3:35 o'clock p.m.

#### ANNOUNCEMENTS

Representative Moses: "Thank you, Mr. Speaker it's not an announcement it is a question for the Speaker and the body. Would it be improper now to move to recall H.B. 236 to the floor?"

The Chair: "My answer to you would be No. It's going to be another 20 days sir."

Representative Moses: "Okay the 20 days starts again? Thank you Mr. Speaker."

The Chair: "You're very welcome."

Representative Yoshinaga: "Your Committee on Labor and Public Employment is going to reconvene for decision making on prior heard bills in Room 309 immediately following the adjournment of Session."

Representative Souki: "Your Committee on Transportation requests a waiver of the 48-hour hearing notice requirement for the purpose of decision making only on H.B. No. 1507 which will be held on Wednesday, at 9:00 a.m."

Representative Abinsay: "Your Committee on Agriculture requests a waiver of the 48-hour hearing notice requirement for the purpose of hearing H.B. No. 872, HD 1, which will be heard on Wednesday, 9:00 a.m., in Room 325."

Representative Kanoho: "Your Committee on Water and Land Use requests a waiver of the 48-hour hearing notice requirement for the purpose of hearing H.B. No. 1363, which will be heard on Wednesday, 9:30 a.m., in Room 312."

Representative Halford then rose on a point of information, stating:

"The Constitution of the State of Hawaii has been suppressed today."

#### ADJOURNMENT

At 3:38 o'clock p.m., on motion by Representative Lee, seconded by Representative Pendleton and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, February 14, 2001.

## TWENTIETH DAY

Wednesday, February 14, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 12:10 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Reverend William R. Mattimore of the St. George Church in Waimanalo, after which the Roll was called showing all members present with the exception of Representatives Ito, McDermott, Whalen and Yoshinaga, who were excused.

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

## GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 150 through 152) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 150, transmitting copies of the Hawaii Health Systems Corporation's Critical Access Hospitals Report.

Gov. Msg. No. 151, transmitting copies of the Report to the Twenty-First Legislature, State of Hawaii, 2001, on Senate Concurrent Resolution 151, SD 1 of 1999, Requesting the Department of Health to Develop and Implement a Five-year Statewide, Comprehensive Strategic Plan for Services and Supports for Individuals with Developmental Disabilities or Mental Retardation.

Gov. Msg. No. 152, transmitting copies of the Annual Report to the Twenty-First Legislature, State of Hawaii, 2001, in compliance with Act 41, Session Laws of Hawaii, 1992, Establishing the Primary Health Care Incentive Program and the Primary Care Roundtable.

## INTRODUCTIONS

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

Representative Chang introduced a group of student boxers and their leaders, coaches and family members from Teikyo University, Senshu University; Heisei Kokusai University, the Japanese Self-Defense Force Physical Education School, and Hanasaki Tokuharu High School. They were accompanied by Mr. Ben Villaflor, Senate Sergeant-at-Arms and World Boxing Champion, and Dr. Seiji Naya, Director of the Department of Business and Economic Development and former U.S. Amateur Boxing Champion from the University of Hawaii.

Representative Espero introduced his ARC legislative "shadow," Ms. Dawn Duncan and her assistant Ms. June Pililao.

Representative Espero also introduced Mr. Ken Berg who was visiting from Minneapolis, Minnesota.

At 12:18 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:51 o'clock p.m. with Vice Speaker Luke presiding.

## ORDER OF THE DAY

## COMMITTEE ASSIGNMENTS

The following Senate bill was referred to committee by the Speaker:

<u>S.B.</u> <u>No.</u>	<u>Referred to:</u>
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274	Committee on Tourism and Culture, then to the Committee on Finance
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The following House Concurrent Resolutions were referred to committee by the Speaker:

<u>H.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
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17	Jointly to the Committee on Human Services and Housing and the Committee on Health, then to the Committee on Labor and Public Employment, then to the Committee on Finance
18	Committee on Education, then to the Committee on Finance

## COMMITTEE REASSIGNMENTS

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

<u>H.B.</u> <u>Nos.</u>	<u>Re-referred to:</u>
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132	Committee on Health, then to the Committee on Labor and Public Employment, then to the Committee on Finance
953	Committee on Consumer Protection and Commerce, then to the Committee on Finance
961	Committee on Education, then to the Committee on Finance
1040	Committee on Education, then to the Committee on Finance
1361	Committee on Judiciary and Hawaiian Affairs, then to the Committee on Finance
1601	Committee on Finance

## STANDING COMMITTEE REPORTS

Representative Takumi, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 263), recommending that H.B. No. 100, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 100, entitled: "A BILL FOR AN ACT RELATING TO AUTISM," was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representative Takumi, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 264), recommending that H.B. No. 628, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 628, entitled: "A BILL FOR AN ACT RELATING TO FOSTER BOARD ALLOWANCES FOR STUDENTS," was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representatives Takumi and Ito, for the Committee on Higher Education and the Committee on Education presented a joint report (Stand. Com. Rep. No. 265) recommending that H.B. No. 1667, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1667, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENT LOANS FOR TEACHERS," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representatives Takumi and Hamakawa, for the Committee on Higher Education and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 266) recommending that H.B. No. 1544, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1544, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN LANGUAGE COLLEGE," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representatives Takumi and Hamakawa, for the Committee on Higher Education and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 267) recommending that H.B. No. 1214, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1214, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 268) recommending that H.B. No. 1494, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1494, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"This bill deals with a very serious problem of an alien macroalgae. We have all heard of myconia, ivy gourd and the

brown tree snake. These introduced alien species threaten our unique native plants and animals with extinction.

"It should surprise no one that invasive alien species have been introduced into our marine environment as well. On every island alien macroalgae, better known as seaweed, have been accidentally or even intentionally released into the ocean.

"On Maui huge quantities of introduced seaweed float up onto the beach and decay. I understand it is hard to describe the offensive odor, at least in polite company.

"On this island, alien macroalgae threatens Waikiki, Diamond Head and Kaneohe Bay. Kaneohe Bay has several species of corals that are unique and found nowhere else in Hawaii or else where in the World.

"Introduced alien seaweed are growing on these endemic corals. Seaweed are cutting off the sunlight from the coral which will eventually kill it. We need to determine as soon as possible how best to control or remove these invasive seaweed. In some cases they can simply be removed by hand but in other situations, hand removal breaks off small pieces that float and readily establish themselves in new areas.

"This bill provides funding for both a workshop of experts to be brought from all around the world to determine how to control invasive species of macroalgae and for a demonstration project to make sure their advice works in real world terms. This demonstration project in Kaneohe Bay will be the basis for further removal projects throughout the Hawaiian Islands.

"This is such a serious problem. We certainly must start to do something. So, I would encourage those folks in the Finance Committee to take a hard look at this and to fund this bill. As originally written, it asks for \$125,000 for money well spent. Thank you Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1494, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES OF MACROALGAE," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 269) recommending that H.B. No. 1335, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1335, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Fox, McDermott and Say being excused.

Representatives Ahu Isa and Chang, for the Committee on Economic Development and Business Concerns and the Committee on Tourism and Culture presented a joint report (Stand. Com. Rep. No. 270) recommending that H.B. No. 938, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 938, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on

Finance, with Representatives Fox, McDermott and Say being excused.

Representatives Ahu Isa and Kanoho, for the Committee on Economic Development and Business Concerns and the Committee on Water and Land Use presented a joint report (Stand. Com. Rep. No. 271) recommending that H.B. No. 1309, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1309, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representatives Ahu Isa and Kanoho, for the Committee on Economic Development and Business Concerns and the Committee on Water and Land Use presented a joint report (Stand. Com. Rep. No. 272) recommending that H.B. No. 1338, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1338, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"This measure is a bill for an act relating to planning and more specifically, the purpose of this bill is to establish a special advisor and smart growth council. One of the interesting things about this particular measure, Madame Speaker, is that the Committee is very clear that it is not the intent or the purpose of this Committee or bill to supplant county planning and growth.

"But, one of the points that we received when we have since contacted various counties, is that they are not strongly pushing for this bill. The counties aren't urging this bill. The counties haven't come here and asked for this bill and said that it is necessary. In fact, some county officials who have said that this is unnecessary and may have the effect of supplanting or usurping county planning even though that may not be the intent.

"Madame Speaker we feel, at least I do and a number of our colleagues, that its best to let the counties to continue working on this area and that it is unnecessary to have H.B. No. 1338.

"So, for those reasons I'd like a no vote registered for myself and for our Caucus Members present, except for Representatives Thielen and Whalen. Thank you."

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

"This measure merely describes the planning effort pretty much as it now exists and that this entire effort should be coordinated throughout the entire State. In so doing that, the Office of State Planning in its central location should assist the counties in providing that coordinated effort.

"Madame Speaker, this move towards smart growth has been generated throughout the entire nation and has produced some excellent results, perhaps it's more physiological, but it's still reflective of what we intend to do in so far as coordinating the entire effort. We also want to emphasize that this is not to

supplant but to reinforce, assist and to better exchange ideas that are working successfully in each of the counties and not to force anything upon them but a better coordinated means of serving ideas and working together. Thank you Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1338, entitled: "A BILL FOR AN ACT RELATING TO PLANNING," passed Second Reading and was referred to the Committee on Finance, with Representatives Auwae, Bukoski, Davis, Djou, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Rath and Stonebraker voting no and Representatives Fox, McDermott and Say being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 273) recommending that H.B. No. 1558, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1558, entitled: "A BILL FOR AN ACT RELATING TO DRIVER'S LICENSES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Fox, McDermott and Say being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 274) recommending that H.B. No. 1221, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1221, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CYBERSQUATTING," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Fox, McDermott and Say being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 275) recommending that H.B. No. 584, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 584, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 276) recommending that H.B. No. 533, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 533, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Thielen then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

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

"This will create a special fund, taking a \$150,000 out of the general funds that are appropriated for the Attorney General's Office. It sets that money aside and allows it grow to as much as \$2 million. This money is not to be used for anything else except antitrust type cases.

"I don't think it's appropriate. They should be able to have the flexibility and I think they should work with the general funds that are appropriated to that Department. Thank you."

Representative Hiraki rose for clarification and stated:

"The antitrust fund is set up not from general fund revenues but it's derived from settlement funds that is collected from litigation involving antitrust suits. So there's not a taking in a way from the general fund to this antitrust fund. So I just wanted to clarify that. Thank you."

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

"I'm really kind of torn over this because I see it as a real philosophical decision. As we've seen with the tobacco settlement and some of the other large litigation that's going on around the country, lawyers have gotten involved and are suing manufacturers or industries regarding various product liability issues. In the process of doing so, as we can speak for ourselves, the Legislators are kept in the dark as to the details of the commitments that are made. Lawyers are making their money, promises are being exchanged and in one sense we are giving up our right to regulate and legislate what can and cannot happen in terms of commerce in the State to a bunch of lawyers. Many times outside councils are hired and their bottom line is making as much money as they can as a person. Then the attorney-client privilege usually goes only to the executive branch, normally to the Attorney General, and again, I think it's an improper of balance of powers between various branches.

"For those reasons, I'm still flip flopping, but I can definitely see the danger in allowing the Attorney Generals Office to accumulate a large bank of money to begin their own antitrust actions outside the purview of coming to us to ask for the money. So for those reasons, strong reservations."

Representative Gomes then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Meyer rose and stated:

"I just wanted to clarify something I said.

"While the Chair of Consumer Protection made a point to say that this was not taking any money out of the general funds appropriated for the Attorney General's Office. The way I read it, it does because you have to set this fund up at the outset and that money must come from somewhere. So the initial \$150,000 will come out of the general funds appropriated to the Attorney General's Office. Monies that are added will be 10% of all antitrust judgements and settlements

will be added to this fund after it is created and it will be allowed to grow to a maximum of \$2 million. Thank you."

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

"Looking at the Committee Report, it says up to \$150,000 in start up funds in fiscal year 2000 to 2001 general fund appropriation for the Department of the Attorney General, ATG 100. So it's right on the Committee Report. Thank you Madame Chair."

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 533, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANTITRUST," passed Second Reading and was referred to the Committee on Finance, with Representatives Marumoto, Meyer and Thielen voting no and Representatives Fox, McDermott and Say being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 277) recommending that H.B. No. 611, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 611, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONCESSIONS AT PUBLIC LIBRARY FACILITIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 278) recommending that H.B. No. 1027, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1027, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 279) recommending that H.B. No. 160, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 160, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FRAUDULENT CLAIMS," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 280) recommending that H.B. No. 538, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 538, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Second Reading and was referred

to the Committee on Judiciary and Hawaiian Affairs, with Representatives Fox, McDermott and Say being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 281) recommending that H.B. No. 355, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 355, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Fox, McDermott and Say being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 282) recommending that H.B. No. 1568, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1568, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HUMAN SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representatives Fox, McDermott and Say being excused.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a joint report (Stand. Com. Rep. No. 283) recommending that H.B. No. 167, pass Second Reading and be referred to the Committee on Legislative Management.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 167, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE," passed Second Reading and was referred to the Committee on Legislative Management, with Representatives Fox, McDermott and Say being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 284) recommending that H.B. No. 1176, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1176, entitled: "A BILL FOR AN ACT RELATING TO INSPECTIONS BY THE COUNTY FIRE CHIEF OR THE CHIEF'S DESIGNEES," passed Second Reading and was placed on the calendar for Third Reading with Representative Fox, McDermott and Say being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 285) recommending that H.B. No. 692, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 692, entitled: "A BILL FOR AN ACT RELATING TO SECTION 13 OF ACT 380, SESSION LAWS OF HAWAII 1997," passed Second Reading and was placed on the calendar for Third Reading with Representatives Fox, McDermott and Say being excused.

## SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Pendleton and carried, the rules were suspended for the purpose of considering certain bills on Third Reading on the basis of a modified consent calendar. (Representatives Fox, McDermott and Say were excused.)

At 1:06 o'clock p.m., Representative Gomes requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:07 o'clock p.m.

At 1:07 o'clock p.m., Representative Whalen requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:08 o'clock p.m.

## THIRD READING

### H.B. No. 586, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 586, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONVERSION OF PROFESSIONAL AND VOCATIONAL LICENSES," passed Third Reading by a vote of 49 ayes, with Representatives Fox and Say being excused.

### H.B. No. 653, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 653, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE TREATMENT INSURANCE BENEFITS," passed Third Reading by a vote of 49 ayes, with Representatives Fox and Say being excused.

### H.B. No. 201, HD 1:

Representative M. Oshiro moved that H.B. No. 201, HD 1, pass Third Reading, seconded by Representative Lee.

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

"In this case Madame Speaker, half a loaf is better than a whole loaf. Thank you."

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

"Many of the testifiers were in favor of repeal rather than extending this but for the reasons that the Representative from Waialae has made, I will vote in favor but with reservations."

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

"My reasons are quite different from those previously stated.

"I basically rise in opposition to this measure because I do not agree with the extension of the effective date of this bill. I don't doubt the sincerity with which the Chairs and

Committees have approached trying to balance competing interests, but I think this is a situation where we should have come down on the side of the consumer. I don't think that we did that and I have these basic reasons for the bodies consideration as this bill moves through.

"I think the first thing we have to realize is what our starting point is. Usually our starting point when we're in this Chamber is to go back to what our Constitution says that we should be doing. We have once again, to remind the members, a very unique provision in our State Constitution which is one of the only two or three in the country which recognizes specifically the Constitutional right of individuals to privacy of personal information.

"So, we are starting from a much higher threshold than our other States, or for that matter, the federal government, the federal constitution contains no such provision. I think that there is a good reason for that constitutional provision because I think that in this State, for various cultural reasons, we have a much higher threshold of cultural sensitivity to the issue of privacy. So, I think that we should all strive to protect that privacy I whatever way we can.

"The second reason is, essentially, and following up on the Constitution, this is what people want. Now I'm not talking about the people who come down here and lobby us because the people who want privacy to be protected are not to be found in the Legislature. They're people that live in our individual districts, going about their business, going down to their doctor, going to their health care provider, sharing confidences with their doctor and health care provider under the assumption that what they share is going to be protected.

"This issue of privacy is a rapidly escalating issue with the public and I do not think that we are producing a result which is consistent with what the public wants when we repeal or suspend the effective date of this law.

"The third reason is, that we are in fact dealing with a real threat, a material threat, to the privacy of personal information. We do have a massive and growing information industry in this country where personal information, including medical information, is in fact gathered, collated and sold for profit. Now, that's okay with a lot of information, I would concede, but when we're talking about personal medical information we have to recognize that people that want this law suspended or repealed, in part, include an industry that is in it for a profit.

"Now I think there's a real consequence as well in the issue of medical privacy because I believe, and this is based on anecdotal evidence and it's easy to understand, that when we do not strive to protect medical privacy, we essentially cause people going to their doctor to be concerned about what they do in fact share with their doctor or their medical provider. If I have something that I am particularly worried about with myself medically, if I walk in to my doctor, I think the chances are that I'm going to start to self sensor if I believe that, that information is going to be distributed beyond the realm of what is needed to treat me medically. That is what this bill tried to do.

"The fourth reason is, contrary to the arguments put forward by others, there is in fact no reason to wait for the federal government. The federal government passed a law which sets a floor, a minimum standard for privacy. So the federal government basically said they were going to address this situation but they would allow the states to provide more stringent, more expansive protections of privacy than what is in the federal law. That is not unusual, that happens all the time.

"We in fact did pass a law which I think is in fact under that floor. In other words, we are protecting a privacy at a level which is not the same level the federal government is doing. So, do not risk running afoul with the federal law, we're already there, we're already in compliance I don't think there's any reason to wait for regulations to tell us whether that's true or not.

"I think my final reason is, I simply do not trust the federal government in Washington DC, under the current situation, to be protecting information privacy. I think we can realize that all of the things I talked about earlier, in terms of who is actually in the legislature lobbying us towards an extension or repeal, is true in spades in the federal government. In fact you don't need to go further then to look at the New York Times yesterday which ran an article entitled: "Medical industry lobbies to reign in new patients privacy rules". This is going to be happening repeatedly over the next couple of years, and I have no doubt whatsoever that the regulations that are now scheduled to go into effect in 2003 will be weakened and or extended by the time 2003 arrives. I would predict that the first time that the federal government comes up with any privacy protection by regulation, which is anywhere close to what we are talking about in this law, maybe somewhere around 2008 or 2010 because that's how long it's going to take.

"We have again a cultural imperative written into our Constitution that we move a little faster in Hawaii. So I believe this original law which we passed which had an effective date of July 1, 2000, and which came about as a result of what I saw at the time as a model effort among the industry, the medical industry, the consumers and others to come up with a workable law which could in fact meet the medical industries needs to be able to exchange this information while protecting the information from the consumer perspective, I think that was an incredibly good effort.

"Now, we came in at Special Session last year at the behest of many members of the industry who asked for an extension, but they didn't ask for a repeal. They didn't ask for a repeal, they asked for an extension and what they said was, there's two things that we need to work on still, the first thing is, we don't exactly know what the definition of an insurer is."

Representative M. Oshiro rose to yield his time.

Representative Case continued, stating:

"The second thing is, we're concerned about the criminal penalties. The Medical Records Task Force went back to the drawing boards and they saw those problems and they came and presented us this year with amendments to that effect. But the industry again, those that oppose the protection of privacy, came in and essentially started to argue the repeal based on the federal laws.

"The bottom line here is, we really have and had and hope we still have the chance to lead the nation and we really have a chance to do here what the people want. But I feel it's slipping away because people are not yet willing to accept or understand that people want their privacy protected and it is not going to happen as a matter of a voluntary action by the industry that benefits from not having the regulations in place. Thank you."

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

"Sometime in the future we will find it necessary to repeal, amend or maybe even keep intact Act 87 as suggested by the speaker from Manoa.

"However, at this point in time the prudent course of action should be to delay Act 87 to the year 2004, which is over a year past the effective date of the HIPA regulations. To determine if Act 87 in whole or in part would be necessary would be preempted or become redundant with the implementation of federal law. We just have to join what all the other States are doing and that is to just wait and see. Thank you very much."

Representative Souki rose to speak in support of the measure with very strong reservations, stating:

"Basically for the opposing reasons from the good Representative from Manoa.

"I remember being a delegate of the Con-Con and in the discussions of previous Acts and previous amendments that particular amendment and the 'spirit of the Constitution' delegates that it be held to such extremes as this particular bill provides.

"I believe that we've seen some of the repercussions that have come out of this bill. One is that you couldn't have any payments out of workers' compensation they didn't know what to do with it. Medical payments, businesses, hospitals, yes they can be improvements to this measure and there should be improvements. But I would think it would be more prudent to repeal this and await the federal legislation and there we can go up, down or sideways as we need, to make it conform more to the will of the State Constitution, its delegates and the 'spirit of its delegates'.

"I think we have enough time to wait for the federal government and it should be repealed at this point. Thank you very much Madame Speaker."

Representative Kahikina rose and asked the Clerk to register and aye vote with reservations and that the remarks of Representative Case and Representative Souki be entered into the Journal as his own, and the Chair "so ordered". (By reference only.)

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

"I agree with the Chairman of the Consumer Protection that we take a wait and see approach on this. However, I suggest that our 'wait and see' approach go well beyond the year 2004, and in fact let the federal rules take place and let them take effect to see exactly how they bear on our consumers and businesses and what holes and 'pukas,' if any, need to be filled by a state statute.

"Also, Madame Speaker, I'm not sure with regard to the fine words from the Representative from Manoa, the reference to the hype in cultural sensitivity implied intended in our right to privacy in our Constitution. I'm not sure what that means. I don't see those words in the Constitution. I also don't see any reference to any Constitutional right in regard to medial records in our Constitution.

"So for those reasons, Madame Speaker, please register a with reservations vote. Thank you."

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

"First of all I'd like to point out that I'm probably the only person in this room that's had thirty years of experience in health care, and actually I can remember back thirty years when medical information was actually shared by only the doctor, the nurse and the patient, and the medical records were stored in a file cabinet.

"Since then the umbrella that has grown to encompass medical information has become too small and its really the patient that we are hoping to protect in the long run.

"So, I'd just like to say a few words in support of this. As the speaker from Manoa so eloquently said, the Hawaii Constitution does give citizens an important right which is the right to privacy and that right does not have a price tag. It's a precious commodity which may not be fully appreciated.

"Act 87 was intended to implement the right to privacy of medical information by regulating the use and disclosure of identifiable health information, ensuring that the information is kept in a confidential manner.

"The community and the Legislature spent many, many hours to create legislation which we felt was needed to enforce our Constitutional right. Unfortunately the bill was not perfect and some confusion resulted. Some members of the community felt unable to comply in a timely manner. This does not mean their efforts in this area were in vain.

"This bill delays the date of implementation of Act 87. This is a reasonable action which will allow us time to evaluate pending federal action and allow those in the community who don't understand the bill to study the federal action taken. If the federal government adopts strong and reasonable rules then perhaps our law is not needed.

"However, we should be proud to say we were the first state to recognize the need for regulation in this area, and also the first to organize a community wide task force to study the problem. As a result, all of us have become a bit more aware of the issue.

"The consumer groups that supported this legislation both nationally and locally will be disappointed with our action today. However, we don't want this law to disrupt health care or produce more unwelcome costs.

"However, this bill did take into consideration the needs and wants of consumer and that really is the bottom line. We can take credit for that.

"In closing, let's recognize the progress we have made and the community education this bill has generated. We hope the federal government will improve this forward thinking legislation. 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. 201, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRIVACY OF HEALTH CARE INFORMATION ACT," passed Third Reading by a vote of 48 ayes, and 1 no, with Representative Case voting no and Representatives Fox and Say being excused.

#### **H.B. No. 1004, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1004, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ORIGINAL JURISDICTION OF THE HAWAII SUPREME

COURT," passed Third Reading by a vote of 49 ayes, with Representatives Fox and Say being excused.

**H.B. No. 1127:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1127, entitled: "A BILL FOR AN ACT RELATING TO STATEMENTS OF ASSETS AND LIABILITIES OF HAWAII FINANCIAL INSTITUTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Fox and Say being excused.

At 1:22 o'clock p.m., Representative M. Oshiro requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:23 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 586, HD 1; 653, HD 1; 201, HD 1; 1004, HD 1; and 1127, had passed Third Reading at 1:24 o'clock p.m.

**ANNOUNCEMENTS**

Representative Stonebraker: "Members usually we have our legislative fellowship on Tuesday, however it was postponed yesterday due some proceedings we had on the floor here. But, that will be resumed today in Room 423."

Representative Meyer: "I just wanted to announce to the body that a tour of Kaneohe Bay has been arranged for February 23<sup>rd</sup>, it's a Friday and it's a recess day, for any Legislators who would like to take a look first hand at some of this invasive macroalgae. There will be two boats at Heeia Kea, we will meet individuals from the DLNR at 9:00 a.m., and we will be out for about two and a half hours. Please call my office if you are able to attend."

Representative Morita: "Your Committee on Energy and Environmental Protection requests a waiver of the 48-hour hearing notice requirement for the purpose of hearing H.B. No. 1533 to be heard Thursday, February 15<sup>th</sup>, 8:30 a.m., in Room 312."

Representative Arakaki: "Your Committee on Health requests a waiver of the 48-hour hearing notice requirement for the purpose of hearing H.B. Nos. 1356; 1357; 1358; and 1587 which will be heard on Thursday, February 15<sup>th</sup>, in Room 329."

Representative Kanoho: "Your Committee on Water and Land Use requests a waiver of the 48-hour hearing notice requirement for the purpose of hearing H.B. No. 1363, which will be heard on Friday at 8:30 a.m., in Room 312."

Representative Yoshinaga: "Your Committee on Labor and Public Employment requests a waiver of the 48-hour hearing notice requirement for the purpose of hearing with decision making to follow on H.B. Nos. 1567; 132; 671; and 672, which will be heard Thursday, February 15<sup>th</sup>, at 11:15 a.m., in Room 309."

The Chair made the following announcement: "On behalf of the Speaker I want to wish everyone a Happy Valentine's Day. So, go spread your love."

**ADJOURNMENT**

At 1:27 o'clock p.m., on motion by Representative Lee, seconded by Representative Pendleton and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Thursday February 15, 2001. (Representatives Bukoski, Fox, Halford, Rath and Say were excused.)

## TWENTY-FIRST DAY

Thursday, February 15, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 12:23 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Deacon Terry Bosgra of Faith Baptist Church, after which the Roll was called showing all members present with the exception of Representatives Kahikina, McDermott, Meyer and Yoshinaga, who were excused.

On motion by Representative Lee, seconded by Representative Pendleton and carried, reading of the Journal was dispensed with and the Journal of the Eleventh Day was subsequently approved. (Representatives McDermott, Meyer and Yoshinaga was excused.)

## GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 153) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 153, transmitting copies of the report of the Mental Health Task Force pursuant to Act 243, Session Laws of Hawaii (2000).

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 7 through 10) were received and announced by the Clerk and was placed on file:

Sen. Com. No. 7, transmitting S.B. No. 65, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE," which passed Third Reading in the Senate on February 14, 2001.

Sen. Com. No. 8, transmitting S.B. No. 66, SD 1, entitled: "A BILL FOR AN ACT RELATING TO AWARDING CUSTODY AND VISITATION," which passed Third Reading in the Senate on February 14, 2001.

Sen. Com. No. 9, transmitting S.B. No. 67, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS," which passed Third Reading in the Senate on February 14, 2001.

Sen. Com. No. 10, transmitting S.B. No. 69, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PROTECTIVE ORDER," which passed Third Reading in the Senate on February 14, 2001.

On motion by Representative Lee, seconded by Representative Pendleton and carried, S.B. Nos. 65; 66, SD 1; 67, SD 1; and 69, SD 1, passed First Reading by title and further action was deferred, with Representatives McDermott, Meyer and Yoshinaga being excused.

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

The House of Representatives reconvened at 12:31 o'clock p.m.

## INTRODUCTION

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

Representative Takamine introduced students from various Big Island schools and their advisors, Ms. Maury Nakamura; Ms. Joy Reyes; and Ms. Paula Cook.

At 12:32 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:25 o'clock p.m.

## RECALL

Representative Fox moved to recall H.B. No. 257, from the Committee on Economic Development and Business Concerns, and be placed on the calendar, seconded by Representative Pendleton.

At 1:26 o'clock p.m., Representative M. Oshiro asked for a recess and the Chair declared a recess, subject to call.

The House of Representatives reconvened at 8:16 p.m.

Upon reconvening the Chair addressed the body, stating:

"Members prior to this afternoons recess dealing with the Order of the Day, after introductions of guests, a motion was made and was seconded to recall H.B. No. 257, correct me if I am wrong, Representative Fox, from the Committee on Economic Development and Business Concerns.

"Once again, this is a procedural motion and the debate will be limited to the propriety of the action in the recalling of the bill."

Representative Fox then rose on a point of order, stating:

"The motion itself was to recall and place on the calendar."

The Chair continued, stating:

"It is on the calendar.

"All I am stating for the record is to do a review on what transpired. So at this point, I will say to all of you that we will limit our discussion on the recall motion.

"So, Representative Fox on the motion that you have already moved and seconded, I will allow you to speak on now."

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

"Mr. Speaker, thank you for the opportunity to speak in favor of the motion which brings to the floor a bill that was deferred in the Economic Development Committee that would allow all of the people of Hawaii to be exempt from any tax on manufacture, packaging and sale of food from the general excise tax liability.

"We appreciate the opportunity to debate this bill on the

floor of the House and it will bring a spirit of cooperation from this side of the aisle that you are permitting this action. So, I want to thank you, Mr. Speaker."

The Chair stated:

"Is there any further debate on the request for recall?"

Representative Pendleton rose to speak in favor of the motion, stating:

"Mr. Speaker, as we mentioned it is H.B. No. 257, relating to exclusion of proceeds of the manufacture, packaging and sale of food from the general excise tax liability.

"Mr. Speaker, the reason why the Constitution provided for the extraordinary procedure of recall, and again to remind our members the Constitution provides that one-third of this body can pull a bill or recall a bill, to which it has been referred after 20 days.

"Those 20 days have lapsed and now we are exercising this constitutional right per this provision.

"In terms of the debate, we understand that this provision is in the Constitution to allow for debate on measures we feel require some public discussion. This measure is an important one, and we would very much like to speak on the merits of this important bill relating to the general excise tax and groceries. We understand the debate is limited.

"We are happy and delighted that this particular section of Article III allows us to bring to the floor a measure that would otherwise be bottled up or as the members and delegates of the 1950 Convention said, "iceboxed", because it allows for us to bring to the floor these kinds of measures, Mr. Speaker.

"I do hope that following this very narrow conversation on recall and the procedures that the respective chairs will consider moving this idea along. Or allowing further wide ranging debate to take place. I can't imagine that the founders or the people who were around during the early Con-Con in 1950, imagine that the debate would be so narrowly construed to only allow us to speak to the constitutional procedure and not to the merits of the bill.

"After all, Mr. Speaker, we are here to exercise judgement and determine whether we should move the bill forward. Move it to another committee, have it pass Second or have it recommitted. How can we make that judgement without actually talking about the bill, Mr. Speaker.

"So, for those reasons I stand in support of said motion, thank you."

Representative Ahu Isa rose to speak in opposition to the motion, stating:

"I don't feel that the recall is necessary at this time because the bill is deferred after public hearing was held on it.

"There was debate on the issue. I don't think the previous speaker was at the hearing. I even gave the chance for the introducer of the recall to speak at the hearing. I then called for a vote after we heard all of the testimonies, I called for a vote and my committee voted with me to defer on it.

"So, I don't feel that there is a reason for the recall. The bill is not dead it is just deferred. Thank you Speaker."

Representative Meyer rose to speak in support of the

motion, stating:

"According to the Honolulu Advertiser survey, 41 members of the House answered to the affirmative to eliminate GET tax on food. I believe the Representative from Liliha was one of those..."

Representative Lee rose on a point of order, stating:

"I believe the rules call for the speaker to stay to the issue of the recall itself."

The Chair responded:

"Representative Meyer could you confine your remarks to the motion of the recall?"

"I have allowed your Minority Leader and Floor Leader some latitude and I would like you to confine your remarks to the motion of the recall."

Representative Meyer continued, stating:

"Well I just wanted to show my enthusiastic support for recalling because I wanted to bring up the point that there was so much support in this body, 41 out of 51 is no small number. Thank you, Mr. Speaker."

Representative Bukoski rose to speak in support of the motion, stating:

"In reference to the Chair of the Economic Development Committee, I was unclear that there was a vote taken on a deferral.

"If I could get some clarification on that?"

The Chair recognized Representative Ahu Isa.

Representative Ahu Isa then rose and stated:

"Mr. Speaker, I stand corrected I did not call for a vote. But I did have another bill that did pass on what they want and I just have stick to the recall issue. Thank you, Mr. Speaker."

Representative Rath rose to speak in support of the motion, stating:

"I rise in support for some very pragmatic reasons.

"The very first one is, a third of this body represent 37% of the people in Hawaii. We shouldn't stifle the voices that represent over the third of our State. This recall allows those voices not to be silenced and stifled and that's one of the reasons we should allow the recall.

"But there is a pragmatic reason, Mr. Speaker. That is if this bill is brought to the floor and thereafter debated, it will probably be debated very shortly, with possibly only two speakers speaking for less than seven minutes. As opposed to possible lengthy debates that could follow long into the night day after day.

"So, for a very pragmatic reason it would probably be very good to call this bill back, have a short debate, have a vote and get on with the business of the State, Mr. Speaker.

"I would suggest as a responsible Legislature, Majority and Minority, that we would take that very bipartisan tack of acting, not as an adolescent Legislature, but as a mature, reasonable, gentlemanly and adult Legislature. That's my

point, Mr. Speaker.”

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

“I am rising in support of the bill, not as a gentlemen but as a woman.

“Mr. Speaker, there are I think about 10 or 11 of us here in this body that remember the days when we didn’t vote in public in committees and we remember the days when we didn’t debate bills on Second Reading and then we remember when bills passed in the night. Remember that one, with the cartoon in the paper of me in a nightgown looking for these bills in the night and we weren’t even here. We would leave the Journal open, go home and it was assumed that everyone voted in favor of those bills.

“We didn’t debate with the exception that Henry Peters occasionally would, but other than that people just gave speeches. We’ve moved a long way from that point. We have a couple of undemocratic procedures still in place, very few, and I do give a great deal of credit to you and many of the new members that came in joining with those of us that were the feisty ones pushing for more openness in our procedures.

“One of these problems faces us tonight. The ability to pull a bill from committee. We now have over one-third of us in the House of Representatives and we are able to do that. It happens to be this time. It is our Caucus. I think in the future it may be bipartisan groups that will be doing the very same thing.

“We have that ability to do it. But the ability is completely not operable if there is no ability coupled with that to discuss the actual bill that is being pulled from the committee.

“I was given the 1950 journal and I appreciated the efforts from behalf of the house attorney to point Out, wait a minute you don’t really get to put the bill on the calendar for Second Reading. But I’ve gone through that as looking at it with my legal background, and looking at it from a common sense approach.

“Mr. Speaker, there is a distinction between being able to discuss the bill that we are bringing from the committee versus them putting it right smack on the calendar of the House for action that evening.

“There was never an intention by those framers of the Constitution to allow an item taken Out of the “ice box” and bring it out in to daylight. There was never an intention to bring it out, it’s here on the floor, boom, it’s back in the committee.

“I can’t believe that in those days the minority were the Democrats and the Republicans were the ones being a little bit feisty about, whoops, do we want all of this open government.

“So it’s really a switch situation that we have right now. I can’t believe that the people like Heen, Trask, Mau, Tavares, all of them. The whole point was that the debate would occur and it was on the bill itself and then it was what would happen after that. Would it automatically go on the calendar on here for us to pass in on Second Reading? No. That would have been up to the entire body do decide that. But the body couldn’t reach that point without discussing the merits of that bill.

“I feel so strongly about this, Mr. Speaker, and it’s more than putting on a nightgown at night and having a flashlight

going and finding those bills that were passing with no one here to even vote on them.

“I feel so incredibly strong about this because it is democracy and yes you have the majority votes, just as the Republicans did in the 1950’s. The Republicans caved, and in fact I believe it was a Mrs. Kellerman, who was I think one of the leading Republicans, saying “we want fairness”. The Republicans caved and said yes, with the requisite number of people you can pull a bill from the committee, discuss it or debate it, then the majority decides, does it go back to that committee, does it go back to another committee, does it go on to the calendar that we have here in front of us.

“But you cannot, in good conscious stand there and say, that this process was intended to allow the one-third of the members to bring a bill out of committee and the majority goes in and with its aocratic power and bops it right back into the committee. That just absolutely makes no sense and I don’t believe that Mr. Heen, Mr. Tavares, Mr. Trask or Mrs. Kellerman ever intended that outcome. And I don’t believe that the plain language of the journal nor the constitutional provision carried that meaning. Otherwise there is no right to bring a bill from a committee because the only result is that it goes right smack back with the majority’s power and that is not democratic.

“The whole provision was made to be able to pull a bill to the floor, so there would not be a tyranny of the majority. I would just ask the rest of the members here to take a look at that. You’re in power now. You have to gain...”

Representative Whalen rose to yield his time.

Representative Thielen continued, stating:

“you have to be very cautious how you exercise that power or else you become tyrannical. Certainly not democratic. It was worked out there and it wasn’t until I really began to look at this and look at the common sense. If I were to believe the way the journal was presented to me, that the proponents of this out of the committee, boom, back into the committee, like a ping pong ball in a Russian or Chinese contest. If I were to believe that, and I took a look at it, there’s absolutely no sense to that.

“Sure if you want to be tyrannical and undemocratic. I feel so strongly about it where before I was staying somewhat quiet. Now I am fighting mad because I do not believe that you should be able to run roughshod over our ability bring a bill out. We are very willing to say, okay, we’re not all going to stand up and debate the bill. We’re not all going to stand up and try to persuade you to vote the way you should, to actually place it on the calendar to pass second reading, but we want to be able to have very limited debate about the merits of the bill. One or two members who are skilled in that area to be able to stand up and speak for three or four minutes.

“If you prevent us from doing that, I myself will do everything I can to make life, to make things...”

Representative Souki rose and requested a recess.

Representative Rath rose on a point of order, stating:

“You can’t call a recess while somebody is talking.”

The Chair clarified the point of order, stating:

“A recess may be called at anytime.”

Representative Meyer then rose, stating:

"I don't believe any member can call a recess, only the Speaker."

The Chair responded:

"Only the Chair can call a recess, I realize that."

At 8:33 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 8:35 o'clock p.m. the Chair recognized Representative Thielen.

Representative Thielen continued, stating:

"On page 225 of the journal from the July 7, 1950, discussion. Delegate Chuck Mau was questioning the procedure of the amendment and he offered a particular amendment specifically calling for the recall bill to be placed on the calendar after the recall. Remember, I'm telling you there are two different issues. One is to discuss the bill and the other is to place it on the calendar for action.

"Delegate Tavares, a Democrat, in the minority, didn't want the additional language included. He stated, 'I am opposed to this suggestion of Delegate Mau, and I believe that as long as the bill is brought to the floor and the members have a chance to decide whether they want to pass it now or send it back to committee it has served its purpose. I agree with Delegate Heen that I don't see too much harm in that. I realize that it may be a nuisance but I think there are other deterring influences'."

"The members won't have a chance whether they decide to pass now or not unless the members debate the bill itself. If we are limited to a very narrow procedural motion which is nearly pulling the bill from committee we are not fulfilling what was the intention of the delegates who voted to adopt this constitutional provision.

"It just makes no sense, Mr. Speaker. You can sit there or you can try to defer it by saying, go to court, but the point is we have the democratic responsibility to make this a reality that we can debate the bill on its merits. That we can discuss it. It may be a nuisance because you don't want to hear us talk about eliminating the GET tax on food. But a democracy allows for this to be done.

"I was startled when I first came in ten years ago and found out that votes weren't taken in public in committee. Here I thought this was a democracy. I'm startled again today, that you sit there, the tyranny of the Majority and are so afraid of our being able to discuss a bill that we now have the number of people to pull from a committee. You're panicked about it. That makes no sense, you're just plain scared about it. So I think it is terribly..."

Representative Lee rose on a point of order, stating:

"I believe the speaker is straying from the point of the discussion, she should be addressing the recall itself."

Representative Thielen continued, stating:

"As part of the recall, Mr. Speaker, recalling the bill to be able to discuss it rather than having this, we're moving to recall a bill will have to call it by number because they're going to be afraid if we say the title of the bill. If we say GET tax on food, they're going to jump up like jumping jacks and

try to silence us.

"You still have the majority vote. Mr. Speaker."

Representative Saiki rose on a point of order, stating:

"Mr. Speaker, I believe the speaker has exceeded her time limit."

Representative Leong then rose and yielded her time.

Representative Thielen continued, stating:

"You still have the majority vote and you know that. You still can go ahead and vote us down but to claim that you are Democrats and believe in democracy when you won't even let us talk about the bill itself, even when we're willing to say, we're not going to make a nuisance of ourselves, as they were saying in this debate on this amendment. We're not going to make a nuisance of ourselves, we're going to limit it to very narrow, three or four minutes, per two members. I cannot see why you are all so afraid about that. It boggles my mind. We have the authority to pull a bill..."

Representative Lee rose on a point of order, stating:

"The speaker is addressing other members of the house and not the speaker."

The Chair stated:

"Address the Speaker's rostrum."

Representative Thielen continued, stating:

"Okay, Mr. Speaker, I will try not to look over to my right.

"You have the majority vote to be able to control the outcome, provided that all of your members are in agreement. That may not always be the case. There may be some of your members feel that what others are trying to do, that they will agree with that. None of that can occur unless we have a democracy in this House.

"Mr. Speaker, we don't now. To me it's more than sad, it's wrong. We weren't elected to do these kinds of things. We weren't elected to try to stifle debate because you're afraid of the words that might be said.

"GET tax off of food, are those dirty words? No. But they deserve to be heard and said here on this floor. Then you go ahead and call the vote. Should it be put on the calendar for Second Reading, should it be referred back to committee. But not until that fair discussion is had. Thank you Mr. Speaker."

Representative McDermott rose to speak in support of the motion, stating:

"Mr. Speaker, my commentary is not on the underlying measure at all, either tonight or what we had the other night.

"My comments are on what the Constitution provides. It says in that document, we can pull the bill to the floor. Certainly based on what my fine friend from Kailua cited, these folks didn't do this 40 years ago, 20 years ago, it was affirmed just to participate in some sort of circle jerk, they did this as a real measure for one-third of the majority, one-third of the body, excuse me, to be able to pull a bill to the floor.

"For me, it's not a particular reflection on this measure or any other measure.

"Mr. Speaker, your Minority feels so very strongly about this, so very strongly. There are so many good bills, both Republican and Democrat that just because of a matter of time we're going to languish in committee. Some of them we really think are high priority and we want an opportunity to comment on some of those.

"The purpose of pulling a bill to the floor is obviously to have a debate. It's not have the debate shut down as soon as we get it to that floor.

"If by some chance we can find it in Masons' Rules or parliamentary procedures that we are in the right, and we are abiding by the house rules then the majority just over rules the house rules anyway. And we're left standing here feeling like a hobo that a freight train just passed by, what the heck is that,

"We want to cooperate. I know the leadership has reached out to you and said look, we want to pull these to the floor but we will do it in a measured and reasonable way. Not everybody is going to speak. They may not even let me speak, Mr. Speaker and that could be considered a bonus.

"But, in immortal words of Rodney King, I want to reiterate this thought, in the spirit of the law, the spirit of the Constitution, not just the way of the law, but the doggoned spirit, why did they put it there. The spirit of this law as Rodney King would say, "can't we all just get along."

Representative Djou rose to speak in support of the motion, stating:

"On the Opening Day of the Twenty-First Legislature all of the speakers including the distinguished Minority Leader and the distinguished Majority Leader, spoke about the wonder and diversity of our great State.

"The spirit of aloha has carried through in our Constitution. The diversity of openness and willingness to consider ideas. The ability to recall a bill to the floor is in the same vain of that 'spirit of aloha' that we see in our society here in our State and in our Constitution.

"I ask for the support of all of the members in that same vain and in that same spirit to bring this bill to allow us to debate the merits of this bill. Thank you, Mr. Speaker."

Representative Moses rose and stated:

"Mr. Speaker, I may not be as eloquent as the previous speaker so I'm going to read right from a book here. It says, debate is the essential feature of a legislative body. It is the means by which the opinions of members are exchanged, questions deliberated and conclusions reached before the business before the body. It is a fundamental rule of parliamentary practice governing all deliberative assemblies the opportunity to deliberate, and if possible, convince their fellows, is the right of the minority, which right they cannot be deprived of by the arbitrary will of the majority. I'm quoting from Mason's Legislative Manual which this body had voted to approve and abide by."

The Chair inquired, stating:

"Representative Moses are you in support of the motion?"

Representative Moses stated:

"I am rising in support of recalling this bill to the floor."

The Chair continued, stating:

"Can you then confine your remarks to the motion of the recall and not talk about any debate?"

"We are discussing the motion of the recall. I have allowed your Minority Caucus to delve outside of the area of the recall motion.

"So, can you confine your remarks to the motion of the recall?"

Representative Moses continued, stating:

"Mr. Speaker, I rise again to urge this body to recall this measure, 'Relating to Exclusion of Proceeds of the Manufacture, Packaging and Sale of Food from General Excise Tax Liability.

"Further, Mr. Speaker, again quoting from the legislative manual, I'm urging a roll call vote on this measure when we reach that point. "When the method of voting upon roll call by ayes and nays appears to have originated in the country, and to have arisen from the practices of voting by states under the articles of confederation. This is the method used most often in legislative bodies. It is the most accurate voting system and most easily verified. It has the further advantage of recording the individual votes of members and since members are voting in a representative capacity, their constituents are entitled to know how their representatives voted." Thank you, Mr. Speaker."

Representative M. Oshiro rose to speak in opposition to the motion, stating:

"First of all, the parliamentary rules of the house is the Mason's Manual.

"On point regarding motions of withdrawing bills from committee, Mason's 491, Subsection 4, it states: "it is not in order to discuss the merits of a bill, upon a motion to discharge a committee or withdraw a bill from committee. Debate in such cases must be confined strictly to the purpose of the motion, for if this were not true the merits of any question could be forced upon discussion merely by such a motion to withdraw."

"Mr. Speaker, I would also like to point out that, July 7, 1950 afternoon session of the Constitutional Convention there was indeed a discussion between Delegates Mau, Heen, Trask and Rice, but in the long and short of it, although Delegate Mau did make an amendment to the constitutional question, giving us this particular Article III, Section 12, his amendment was defeated.

"So, I can't understand how the Minority member from Kailua, Kaneohe, can arrive at her conclusion. But it only reminds me Mr. Speaker, that when you deal with issues of law, especially constitutional law, that reasonable minds can disagree. Thank you."

Representative Thielen then rose on a point of personal privilege, stating:

"My point of personal privilege is to point out to the Majority Leader, that I made the distinction of debating or discussing the bill verses placing it on the calendar for Second Reading.

"Mau's motion was to place it on the calendar for Second Reading. Nothing was defeated as to the intent to discuss the

bill after it was pulled from the committee to the floor of the House. Thank you.”

The Chair addressed the body, stating:

“I believe members we have had a lot of discussion on the motion of this particular house bill for a recall motion.

“Members, at this time I will allow for a roll call vote that has been requested by one of our colleagues.

“All those in favor of a roll call vote will signify by raising your right hand.

The Chair ordered the Clerk to verify the count of hands raised.

The Clerk responded, stating:

“Mr. Speaker, there are a sufficient number of members voting in the affirmative for the roll call vote.

Representative Moses rose on a point of order, stating:

“I requested a roll call vote is that not a voice vote on the measure?”

The Chair responded, stating:

“I did request that those in favor of a roll call vote to signify by raising your right hand. If you raised your right hand, you voted in the affirmative to have a roll call vote.”

Representative Halford then rose on a point of order, stating:

“I believe a roll call vote is a record of each members votes.

“By raising our hands there is no record.”

The Chair responded, stating:

“There is a record.

“Representative Halford, there is a record by your raising your hand in support of the motion to recall the measure.”

“So, being that there is a sufficient number of votes for the roll call, Madame Clerk, please call the roll.

Roll call having been requested, the motion was put to vote by the Chair, and carried and H.B. No. 257, entitled: “A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE MANUFACTURE, PACKAGING, AND SALE OF FOOD FROM GENERAL EXCISE TAX LIABILITY,” was recalled from the Committee on Economic Development and Business Concern and brought to the floor for action on the following show of Noes and Ayes:

Noes, 30: Representatives Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi.

Ayes, 19: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Excused, 2: Representatives Yonamine and Yoshinaga.

At 8:55 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 8:56 o'clock p.m.

The Chair, stated to the Chief Clerk:

“Madame Clerk, have the 20 days passed since the referral of H.B. No. 257, to the Committee on Economic Development and Business Concerns?”

The Clerk responded, stating:

“Yes, Mr. Speaker 20 days have passed and for your information H.B. No. 257, was referred to the Committee on January 23rd of this year.”

The Chair recognized Representative Fox.

Representative Fox rose to speak in favor of the motion, stating:

“Mr. Speaker, the...”

At 8:57 o'clock p.m., Representative M. Oshiro asked for a recess and the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:00 o'clock p.m., the Chair recognized Representative Fox.

Representative Fox moved that H.B. No. 257, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

The Chair then recognized Representative M. Oshiro.

Representative Whalen then rose on a point of order, stating:

“Mr. Speaker, according to our rules, 91.3 of Mason's, it says the first person to rise and address the Speaker has the floor and I believe it was Representative Fox who stood up and said Mr. Speaker, before perhaps you even called on Representative M. Oshiro to stand up.

The Chair responded, stating:

“Representative Whalen he made the motion which was seconded by Representative Pendleton. Then I recognized Representative M. Oshiro after the second of the motion.”

Representative Whalen continued his point of order, stating:

“The point of order is, that according to Mason's Rules which we are all bound to follow, 91.3 says the order of recognition is as follows:

“The first one to rise and request recognition from the Speaker will have the floor.”

“Representative Oshiro was still sitting down without his microphone turned on at the point that Representative Fox stood up and addressed you, Mr. Speaker.”

The Chair responded, stating:

"I don't believe so Representative."

At 9:02 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:04 o'clock p.m., the Chair recognized Representative M. Oshiro.

Representative Whalen rose on a point of order, stating:

"My point of order was that on the order of recognition, Representative Fox or the Representative from Waikiki had the floor as the first person to stand and address the Speaker.

"In regard to that, as I referred to rule 91.3a of Mason's Legislative Manual it states that: 'the first member rising and requesting recognition is entitled to the floor over others'. That is a rule that I am pointing this body to as to who gets the floor."

The Chair addressed the body, stating:

"I would like to state for the record that the Chair has the prerogative of who gets recognized on the floor. Therefore, at this time I recognize Representative M. Oshiro."

Representative Whalen then rose on a point of inquiry, stating:

"Under which rule is the Speaker making that decision under?"

The Chair responded, stating:

"It is the custom and tradition of this House that it be the Speakers prerogative to do so.

Representative Whalen then rose on a point of order, stating:

"I would point this House to our rules.

"Rule 59 of our House Rules says: 'Rules of parliamentary practice as set forth in Mason's Manual of Legislative Procedure, 1989 Edition, shall govern the House where not inconsistent with these Rules'. I don't see anything on point regarding as to who has the right to be recognized first or that the Speaker has the right or prerogative to recognize whom he will.

"So therefore, I return to Mason's Manual. Mason's Manual in my reading in it is quite clear, Section 91.3a, the first member rising and requesting recognition is entitled to the floor over others."

Representative Schatz then rose on a point of order, stating:

"Is the present speaker still making his point of order or is he repeating it? What is he doing right now?"

The Chair responded, stating:

"He is justifying his position that the Chair may be out of order and he is making references to those particular sections of Mason's.

"But at this time the Chair has the prerogative, which has been the tradition and custom of this House."

Representative Whalen interjected, stating:

"In that case Mr. Speaker, I hate to do it but, once again I would appeal to the body that if we are going to function and create laws that we expect other people to follow, the laws and rules that we set for ourselves, we must follow and if the Speaker or another members of this body cannot point to a particular rule the Speaker has the prerogative..."

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

"Mr. Speaker, maybe I can help out this discussion.

"In the same Section 91 of the Mason's Manual, it does state very clearly that when two or more members rise at the same time the one first addressing the presiding officer is entitled to be first recognized. The presiding officer has the authority..."

Representative Moses then rose on a point of information, stating:

"There was no dual rising of the members of this House. Representative Fox clearly rose first."

The Chair interjected, stating:

"The Majority Leader is addressing the concerns of the Minority Whip and he is making references to Mason's. Please allow him to continue on with the..."

Representative Moses interjected and rose on a point of information, stating:

"I made my point. Thank you, Mr. Speaker."

Representative Whalen rose on a point of order, stating:

"I hate to do it but it sounds as though the Majority Leader is trying to get into a debate with me over what is happening. His point is not that I am out of order. He is standing up to debate me and I believe that at this point I still have the floor, so he is out of order.

"Again, Mr. Speaker I make my appeal to the House and would ask the Speaker to point to a particular rule that gives the Speaker the authority to, or the prerogative as it was phrased, to choose whom he wishes in the order of the designated speaker who has the floor."

At 9:08 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:13 o'clock p.m., the Chair recognized Representative Whalen.

Representative Whalen rose and stated:

"I appreciate the Majority's lawyer pointing me to Rule 4 of Mason's. However, I don't find it dispositive because for those who weren't in on the discussion, they pointed, well I don't know how detailed I need to get Mr. Speaker

"I still believe that the rules as we adopted them in Mason's clearly indicates who has the priority in the matter and who gets acknowledged to speak. It is not the total discretion of the Speaker and since we have a rule on point, a general vague reference to customary usage does not override that and I still lay before the body, like I said it's an exercise in futility because a vote will be down party lines.

"So, again I make my request to this body that if we don't

follow the rules, what are we even here for.”

The Chair addressed the body, stating:

“Members of this House, an appeal of the Chair’s decision has been raised regarding the Chair’s prerogative to recognize speakers on the floor of the House.

“All those in favor to support the Chair’s decision...”

Representative Djou interjected, stating:

“Mr. Speaker can I ask for a roll call vote on this appeal?”

At 9:15 o’clock p.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 9:16 o’clock p.m.

The Chair addressed the body, stating:

“The Representative from Kona tried and did correct me but I am going to use the phrase that I stated earlier.

“An appeal of the Chair decision has been raised regarding the Chair’s prerogative to recognize speakers on the floor.

Representative Thielen then rose on a point of inquiry, stating:

“I don’t believe that his challenge was simply for your ability to recognize people on the floor. I think it was the order of preference and I would request if the Speaker wouldn’t mind if the Representative from Kona would please restate the question because I think it is not exactly correct the way you are stating it. Thank you.”

The Chair responded, stating:

“That is correct. But I am now clarifying for the members of the House that I hope you will understand the Chair’s recommendation on this particular appeal by starting off with this phrase.

“An appeal of the Chair’s decision has been raised regarding the Chair’s prerogative to recognize speakers on the floor of the House.”

Representative Thielen then rose on a point of inquiry, stating:

“I do not believe it was simply to recognize speakers on the floor of the House, I believe the question was in reference to Mason’s Rules which govern this body, what is the order of which speakers will be recognized by the Speaker.”

The Chair responded, stating:

“We recognize that and that is why there is an appeal by the Representative from Kona.

“He made the statement for an appeal and I am reading it thoroughly for all of you once more. An appeal of the Speaker’s decision has been raised regarding the Chair’s prerogative to recognize speakers on the floor of this House.”

Representative Thielen then rose on a point of clarification, stating:

“That is not what the issue is before us now. That is not what the Representative from Kona is questioning and I think it would be better if he were able to state that question in its clarity so this membership could vote.”

The Chair then recognized Representative Whalen.

Representative Whalen rose and stated:

“Thank you, Mr. Speaker for allowing me to clarify it for the members.

“My appeal is whether the Speaker is bound by the rules, particularly Section 91.3 of Mason’s as to what is the proper order as to the speakers versus a general prerogative of the Speaker to recognize whom he will.”

At 9:20 o’clock p.m., Representative Saiki asked for a recess and the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 9:28 o’clock p.m., the Chair addressed the body, stating:

“Let me restate the question to all of you.

“An appeal of the Chair’s decision to recognize the Majority Leader has been raised. All those who...”

Representative Djou interjected on a point of inquiry, stating:

“Speaker, I asked for a roll call vote. Is there any reason why a roll call vote is not being taken?”

The Chair responded, stating:

“May I state my question first before I ask the Clerk to proceed with the roll call?”

“An appeal of the Chair’s decision to recognize the Majority Leader has been raised. All those who support the Chair’s decision will say aye, all those opposed will say no.”

Representative Thielen then rose on a point of inquiry, stating:

“Was a roll call vote called for?”

The Chair responded, stating:

“Let me finish the statement.

Representative Rath then asked to rise in opposition to the motion.

Representative Schatz, then rose on a point of order, stating:

“It’s time to vote now, it’s not time for debate.”

Representative Rath responded, stating:

“There is no debate?”

The Chair responded, stating:

“No. This is being based on an appeal.

“All those who support the Chair will vote aye, those who oppose the Chair will vote no.”

A request for roll call was made by Representative Djou.

The request for roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the question to affirm the Chair's decision was put to vote by the Chair and carried on the following Noes and Ayes:

Noes, 19: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Ayes, 30: Representatives Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takamine, Takumi, Yonamine and Yoshinaga.

Excused, 2: Representatives Kanohe and Takai.

Representative M. Oshiro moved that H.B. No. 257, be laid on the table, seconded by Representative Lee.

Representative Meyer rose on a point of order, stating:

"On that vote I thought there were two members that were not there on the Majority side.

The Clerk responded, stating:

"Mr. Speaker, I stand corrected the vote is 30 ayes; 19 noes; and 2 members are excused."

The Chair then addressed the body, stating:

"At this time there is no debate on the motion to table."

Representative Fox then rose on a point of order, stating:

"According to Attorney General ruling 76.5, when asked whether a motion to recall a bill from committee could be legally tabled the reply was in the negative.

"You are going against a ruling of the Attorney General."

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

"The motion before the body at this time is to lay this house bill on the table."

The Chair responded, stating:

"Thank you, therefore there is no debate on the motion."

Representative Fox interjected on a point of order, stating:

"According to the Attorney General's opinion that is out of order."

The Chair responded, stating:

"Representative Fox there is no debate on the motion to lay on the table.

"At this time, all those of..."

Representative Whalen interjected, stating:

"Mr. Speaker I make a motion that we go to the calendar and address the bill that was just put on the calendar the motion recall H.B. No. 257."

Representative Gomes then rose and stated:

"Mr. Speaker I second the motion,"

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

"Mr. Speaker the proper motion before the body at this time is to lay H.B. No. 257, on the table. It has been moved and seconded and it is a non-debatable motion.

"Mr. Speaker at this time I call for the previous question."

Representative Fox rose unrecognized by the Chair on a point of information.

The Chair then responded, stating:

"There is no point. All those in favor of the motion signify by saying aye, those opposed no. The motion has been carried.

At 9:34 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:48 o'clock p.m.

Representative Djou then rose and stated:

"Mr. Speaker, I call a division and request a roll call vote on the vote just taken."

The Chair responded, stating:

"Representative Djou I would like to make a statement to all of you and then we will go into the roll call at your request.

"Members, the Majority Leader's call for the question at this point was out of order.

"The reason being, when you have a motion to lay on the table there is no debate so therefore, there is no motion to call for the question."

"Therefore, I will put the motion to table to a vote again and recognize Representative Djou.

At this time Representative Djou requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to lay on the table H.B. No. 257, entitled: "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE MANUFACTURE, PACKAGING, AND SALE OF FOOD FROM GENERAL EXCISE TAX," was put to vote by the Chair and successfully carried on the following show of Noes and Ayes:

Noes, 19: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen,

Ayes, 31: Representatives Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanohe, Lee, Luke, Magaoay, Morita,

Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Excused, 1: Representatives Kawakami.

Representative Fox moved to recall H.B. No. 258, from the Committee on Health, and pass it on Second Reading and place it on the calendar for Third Reading, seconded by Representative Pendleton.

Representative Gomes rose and stated:

"Mr. Speaker, I call for the question."

Representative Schatz then rose on a point of order, stating:

"I believe that the motion that the Honorable Representative from Waikiki has made is actually two motions and therefore is not in order."

The Chair responded, stating:

"You are correct."

"Would you like to make the proper motion, Representative Fox.

"The first motion should just be to recall the measure out of the Committee on Health."

Representative Fox moved that H.B. No. 258, be recalled from the Committee on Health, seconded by Representative Pendleton.

Representative Fox rose in support of the motion, stating:

"Mr. Speaker I am puzzled at what part of the phrase debate and discussion is causing difficulty for the Majority.

"This was the subject of extensive debate at the 1950 Constitutional Convention. It was the essence of the motion to recall, which was to bring before the body the opportunity to debate and discuss issues, such as this one, which is something that will benefit all of the people of Hawaii eliminating the inclusion of the tax on medical services and products.

"We look forward to the opportunity to share with the Majority a discussion of this subject. We look forward to debating this matter and I would like to refer the members to a paper put out by the Majority called "How does recall work", And in that paper it says the bill comes before the whole House of Representatives, this bill has no greater or lesser status than any other bill before the House and is treated as any other piece of legislation.

"Mr. Speaker, what is it about the recall of these measures that causes them to be treated differently than any other piece of legislation which we would normally bring before us, we debate the merits of the issues. I'm totally puzzled as to why when we talk about eliminating the excise tax on food or eliminating the excise tax on medical services and products it suddenly becomes something that we can't debate or discuss."

Representative Souki rose on a point of order, stating:

"I believe the speaker across the hall, the Representative, is not speaking on recall but on the substance of the bill.

"Mr. Speaker, will you please limit the speaker to the substance of the recall and not of the bill."

The Chair responded, stating:

"Representative Fox could you please confine your remarks to the motion of the recall."

Representative Fox continued, stating:

"I'm puzzled as to what it is about, blankety blank, blankety blank, blank, blank, blank that makes us unable to discuss it before this body when it's brought before us. What is the big difference between blankety blank, blank, blank, blank, blank and any other bill that we debate here tonight. Thank you, Mr. Speaker."

Representative McDermott rose in support of the motion, stating:

"Article III, Section 13 of the State Constitution gives the Minority the right to recall these measures.

"Mr. Speaker, as I said earlier, what is the spirit of the Constitution? What is the spirit of Article III, Section 13? This recall motion what were these folks, fellas and I guess there was one or two women at that time. When they wrote this what were they thinking. What was the spirit of this? What was the spirit of this recall motion? Why did they put that in the Constitution? Did they put it there just to take up space? Like my physique? No, I don't think so. Why did they put it there? Well we know that 20 days after a bill has been referred to a committee this mechanism is available to us, it's available to either house quite frankly. The same may be recalled from the committee by the affirmative vote of one-third of the members to which such house is entitled. One-third of us. As you see we have more than one-third and we wanted to recall this measure.

"We didn't recall it just take up time on a Friday night. That's not the purpose. The purpose is democracy. We want to recall this measure, I think it's a good idea to recall this measure. The Constitution provides for us to recall this measure. A recall at this time seems very appropriate and I would love to sit and talk about recalls all night but I will yield the floor at this time. Thank you."

Representative Arakaki rose to speak in opposition to the motion, stating:

"In all seriousness Mr. Speaker, I guess I take a little bit of an affront by this motion to recall..."

Representative Rath rose on a point of order, stating:

"It is not 258 is it?"

The Chair responded, stating:

"It is 258."

Representative Arakaki continued, stating:

"Mr. Speaker, as I mentioned I take a little bit of affront from this motion as your Chair on the Health Committee.

"I think some people want to frame this as a "us against them" proposition but in my mind it's not, I think if you ask the Minority Members on my Committee I try to be as fair as possible and honor the process and honor each member as an individual.

"I also honored the Minority Leader's request to hear this bill and I scheduled the bill based on merit this past Monday.

In fact, I even have testimony from the Minority Leader as well as several other people.

"Mr. Speaker, all I'm asking everyone to consider is that we honor the process. We have a committee process and it is there for a reason. This is where the public has their input. I'm also asking for some deference to the chairs that they can make the decision and recommend the decision.

"I don't think I stifled debate on this matter during the hearing and again you can refer to the Minority Members who serve on the Health Committee. If I in any way did that then there's every reason to justify this recall.

"I also think we need to exercise some measure of self discipline as a body. I know this recall is like a new toy but I think it should be used with a lot of discernment."

Representative Whalen rose on a point of order, stating:

"I believe the current speaker is implying motives of reasons for our actions and that violates our code of responsibility and ethics that are set forth in our House Rules and would ask that he be put in order to not insinuate or inference motives or actions and merely direct his comments to the motion before us."

Representative Arakaki responded, stating:

"Mr. Speaker, I believe I am and unless the previous speaker's a mind reader I take it that he's judging what I am thinking or implying..."

Representative Whalen rose on a point of order, stating:

"Mr. Speaker, again I request the speaker to..."

The Chair interjected, stating:

"The Chair is requesting that Representative Arakaki confine his remarks to the motion before us."

Representative Whalen continued, stating:

"I understand that, Mr. Speaker, but at the same time immediately prior speaker, after being admonished by the Speaker to speak to the merits of the bill went in to my reasoning or my supernatural abilities which certainly doesn't direct any attention to the bill at all and continues to speak after you continue to do so.

"So what I would ask the Chair to follow the rules, in which case if he continues this outburst that you will direct him to sit down and end his speech."

The Chair responded, stating:

"Representative Whalen I will allow the speaker to continue on since the Chair was very generous with other Minority members this evening on the previous bill also, that was way out of context in regard to the motion to recall."

The Chair directed Representative Arakaki to proceed.

Representative Arakaki, continued, stating:

"In any point if I as a chair of a committee stifled debate or can be shown to stifle debate on this matter then I can see every reason for this recall.

"But I think there is a process that we have here and this is

where the public has a chance to participate. This is a chance for all committee members have a chance to voice their opinion and we can ask the Minority Members what their feelings were on this measure.

"In any event, I would again ask that at this point we honor the committee process and at least give some credit to the committee chairs to make the recommendations on these bills. And if the recommendations are unreasonable then I think they have every reason to ask for recall. But until then, Mr. Speaker, I think we should vote down this motion. Thank you Mr. Speaker."

Representative Djou rose to speak in support of the motion, stating:

"Mr. Speaker, when each and every one of us declared as candidates for public office before coming to this august body, each and every one of us took an oath of office to swear to uphold and defend not only the Constitution of the United States but also the Constitution of the State of Hawaii.

"I know we are familiar with the preamble to the Constitution of the United States which speaks, that we the people that form a perfect union seek to strive for liberty.

"However, Mr. Speaker, I know many of us are not quite familiar with the preamble for the Constitution of the State of Hawaii which speaks to the uniqueness and heritage of our island state. It also speaks that we should strive to nurture the integrity of our people, our culture and preserve our quality of life that we desire.

"I humbly submit to you, Mr. Speaker, that what the preamble to our own State's Constitution is speaking to the 'spirit of aloha'. That 'spirit of aloha' is integrated in with what we are trying to do in a motion to recall which is an openness to debate, to discuss the merits and to each share ideas within this body, not shut down debate.

"For those reasons I rise in support and ask that these members support this motion to recall. Thank you Mr. Speaker."

Representative Takamine rose to speak in opposition to the motion, stating:

"Mr. Speaker, I appreciate very much the comments made by the Chair of the Health Committee, I guess having had a number of years or the privilege of serving a number of years in this body, I think the points that were made were pertinent and important.

"But I'd like to address another point with respect to my reasons for being against this motion.

"I guess it was about 48 hours ago that I recall we went through a similar discussion and in looking back at the results of that discussion, I think there were a number of consequences that maybe we preferred not to have occurred.

"As I recall it because of the length of our session there were a number of hearings in the afternoon that could not occur, There were a number of bills scheduled for which decision making was to occur, that did not occur. There were many bills scheduled to be heard, testifiers were prepared and after all of their efforts had to wait until the session had been completed.

"I think these kinds of things raise concerns about our role, how we function and our responsibility. You know while I

recognize the mechanism of allowing a Minority of this body to be able to recall a bill as a legitimate process, you know I am concerned, because sometimes some of us may lose sight of our primary responsibility, which is truly to do the people's work.

"I've heard tonight many statements made, all in the name of democracy. And yet, when the point is pushed so that the ultimate result is obstructing the very work that we are charged to perform, I have grave concerns about this Mr. Speaker, and for those reasons I will be voting against the motion. Thank you."

Representative Rath rose to speak in support of the motion, stating:

"Mr. Speaker I'm going to take a circulous note to get to my point so I beg you indulgence and that of the Majority Leader so that he doesn't do his "jack-in-the-box" thing.

"Mr. Speaker, I just heard this comment about democracy and we've heard it form various members and this is the reason why recall is inculcated in our constitution.

"So lets take a look at true democracy for a second, Supposing you have five people and you have \$40 among them and they're trying to decide whether to go to Pizza Hut or Burger King. In a true democracy, three of them vote for Pizza Hut, 2 vote for Burger King. In a true democracy what happens is the 3 people that voted for Pizza Hut take the 40 bucks and go eat. The other 2 don't get to eat.

"Because in a true democracy the majority rules and to hell with the minority. We don't live in democracy we live in a republic as in "to the republic for which it stands". What happens in a republic is very different. That's what we're all very familiar with. The 3 people vote for Pizza Hut, the other 2 vote for Burger King and all 5 go to Pizza Hut and eat. The minority gets to eat.

"What happens in a republic, Mr. Speaker, is while the majority decide the rights of minority are protected under law. That is the difference between a true democracy and republic. What we want here in the minority is we want a place at the table and by God we want to eat. Thank you Mr. Speaker."

Representative Gomes rose to speak in support of the motion, stating:

"I just want to commend you on your demeanor and the way you are handling the proceedings.

"Mr. Speaker, I rise in support of the motion for several reasons. With regard to the issue really at hand here. We're testing lines of our constitutional law, that's what this discussion is about. It's a new Minority, something the Majority hasn't dealt with previously.

"This isn't a toy we're dealing with. This isn't a personal affront or an attempt to affront anybody or anybody's intentions. It shouldn't be seen that way and it's certainly not delivered in that manner, at least not by this speaker.

"Mr. Speaker, this with regard to the issue at hand and recalling this bill and going forward with this motion, whether or not it was heard previously in a hearing is irrelevant to the Constitution. That's not the constitutional question here. The constitutional question is, do we have a right to move forward beyond this motion and move to the substance of the debate,

"I believe if we do need to and if we go to a court of law on

this issue the court will rule in our favor. I'm also confident that in the court of public perception, we will win there as well.

"I just want to point out Mr. Speaker, one of the benefits of such a debate on the merits of a bill like this would be to hear from, for example, the Finance Committee Chair, someone who I would look to for the insight and depth of whatever he may have to offer on these particular subject.

"It's those kinds of insights and debates and issues that we as members should be debating on this floor. It strengthens, I think, not only is it constitutionally required by our constitution, Mr. Speaker, but I think healthy for this body. I think it strengthens this body. I think it shows a definite maturity of this body and I think the public benefits by a discussion of the merits on bills of the kind that we have attempted to bring forward.

"Mr. Speaker, I think there is some concern that there is some concern in the Majority that it's simply used as a political tactic or device to get votes on the record, etc."

"Mr. Speaker, nobody should be ashamed to stand on their thoughts and why they think a measure is appropriate or inappropriate, those are all reasonable discussions, they should be brought to the table and we should benefit by a vigorous exchange if need be of reasonable ideas by reasonable people and that 's what this is about and that's what the drafters of the Constitution had in mind when they put together this clause. It's not simply a measure to bypass an abstinent committee chair. It's so the Minority will have a chance to present their ideas to the floor. Once that's done the membership can dispense with it if they will. But that's all we're looking for. That's what the Constitution requires and again, Mr. Speaker, if we go that route I'm sure the court will affirm that as well.

"Mr. Speaker so for those reasons I rise in support of the motion. Thank you very much."

Representative M. Oshiro called for previous question to recall H.B. No. 258 from the Committee on Health, seconded by Representative Lee.

Representative Whalen rose on a point of inquiry, stating:

"What are we voting on at this moment?"

The Chair responded, stating:

"On the question."

Representative Whalen continued, stating:

"Yeah, but what is the question? The question before the body was to recall ... but I believe the last motion that was made was to call for the previous question, so that has to be voted on before we get to the recall question.

"This question is to basically end debate."

The Chair responded, stating:

"Yes, that's correct.

"The question before all of us is to call for the previous question to end debate."

At 10:14 o'clock p.m., Representative Abinsay asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:15 o'clock p.m.

The Chair addressed the body, stating:

"The motion before us is to call for the previous question in ending debate."

At 10:15 o'clock p.m., Representative Arakaki asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:19 o'clock p.m.

At this time, Representative Djou requested a roll call vote.

The request for roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to call for the previous question was put to vote by the Chair and successfully carried on the following show of Noes and Ayes:

Noes, 19: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Ayes, 32: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Representative M. Oshiro moved that H.B. No. 258, be laid on the table, seconded by Representative Lee.

Representative Fox rose and stated:

"This has got to be out of order, Mr. Speaker.

"That on absolutely defies the Attorney General's ruling. We haven't yet voted on the matter."

At 10:23 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:24 o'clock p.m.

Representative M. Oshiro reconsidered the previous motion to lay on the table H.B. No. 258, and Representative Lee reconsidered the second.

Representative Djou rose on a point of inquiry, stating:

"It's the recall of, not on the vote of the motion, correct?"

The Chair responded, stating:

"It's for a roll call vote on the motion of the recall."

Representative Djou continued, stating:

"Correct, Mr. Speaker, but if you'd like to vote on the actual bill itself we wouldn't mind."

The Chair responded, stating:

"That wasn't proper of you for stating that Representative Djou."

Representative Djou responded, stating:

"I apologize, Mr. Speaker."

A roll call vote was requested by Representative Djou.

The request for a roll call vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion was put to vote by the Chair, and carried and H.B. No. 258, entitled: "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE PROVISION OF MEDICAL SERVICES AND MEDICAL PRODUCTS FROM THE GENERAL EXCISE TAX," was recalled from the Committee on Health and brought to the floor for action on the following show of Noes and Ayes:

Noes, 31: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi and Yonamine.

Ayes, 19: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Excused, 1: Representative Yoshinaga.

At 10:26 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

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

The Chair stated to the Chief Clerk:

"Madame Clerk have the 20 days passed since the referral of H.B. No. 258, to the Committee on Health."

The Clerk responded, stating:

"Yes, Mr. Speaker, 20 days have lapsed and for your information said House Bill was referred to the Committee on Health on January 23<sup>rd</sup> of this year."

Representative Fox moved that H.B. No. 258 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

Representative M. Oshiro moved that H.B. No. 258, be laid on the table, seconded by Representative Lee,

The Chair addressed to body, stating:

"The motion to lay has no debate once more."

Representative Meyer rose on a point of inquiry, stating:

"I was looking at the debate on this issue in the constitutional convention in 1950 and Mr. Heen..."

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

"The motion before this body is to table without any debate."

Representative Meyer continued her point of inquiry, stating:

"I thought that as soon as we passed bringing the bill down, we recall the bill, it was on the calendar automatically. Is that incorrect?"

The Chair responded, stating:

"The Minority Leader and Floor Leader made the motion to pass Second Reading and place on the calendar for Third Reading and I recognized Representative M. Oshiro in regards to the motion to table. Yes."

Representative Meyer responded, stating:

"Thank you Mr. Speaker."

At this time, Representative Djou requested a roll call vote,

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

At 10:33 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:34 o'clock p.m.

Roll call having been requested, the motion to lay on the table H.B. No. 258, entitled: "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE PROVISION OF MEDICAL SERVICES AND MEDICAL PRODUCTS FROM THE GENERAL EXCISE TAX," was successfully carried on the following show of Noes and Ayes:

Noes, 19: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker Thielen and Whalen.

Ayes, 31: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi and Yonamine.

Excused, 1: Representative Yoshinaga.

Representative Fox moved to recall H.B. No. 259, from the Committee on Human Services and Housing, seconded by Representative Pendleton.

Representative Fox rose in support of the motion, stating:

"This bill unlike the other bills is a bill that has not been heard and will have to be acted on almost immediately in order to pass first lateral.

"I look forward to having this bill recalled and having a lively debate on the subject of whether or not we should do away with the excise tax on rent which seriously damages those among us who have the least amount of money. Thank you Mr. Speaker."

Representative Thielen rose in support of the motion, stating:

"I'm going back and refer to the afternoon session of July 7, 1950, where the members were debating the issue that is under

discussion right now and I quote from Mrs. Kellerman, who was in the majority of those supporting the amendment which resulted in the constitutional provision. And I quote: "it seems to me that it's a violation of the whole theory of democratic representative government that a committee, by virtue of its chairman, or even with the full consent of the majority of the committee which I presume would be a minority of the House from which it was appointed, shall be able to keep from consideration of the majority of that body any controversial measure which it sees fit to keep from consideration.

"I think it is only just and right that the members of the public who are by our own act of turning down initiative referendum and recall denying them the right of course to bring up a bill of their own accord. That we should at least provide that by a vote of one-third of the members of the House of referral any bill can be withdrawn from committee.

"Therefore, from any "iceboxing" by that committee and at least present it to the floor for full consideration and debate. She goes on, and remember she was in the majority of those that made their decision. She goes on to say: "the point is to get it considered ample discussion and debate so that the public who have elected those Representatives will know how they stand on controversial issues on which the public certainly has a right to be advised," Maybe that is the problem here Mr. Speaker, that opening up this process to democracy means that members will have to stand up and be counted on the actual issue not just on a preliminary motion to pull a bill which we are not allowed to discuss from a committee to be debated on this floor.

"That's not democracy and I feel that the members should take a deep look within themselves to find out why they are afraid of this. Why are they afraid of debate on the floor and why is all this time being spent fighting against being able to discuss whether we should eliminate GET tax on rent..."

Representative Souki rose on a point of order, stating:

"I believe the speaker across the hall is not speaking on the merits of the recall and I think she is getting away from the substance of the matter that is before us, Mr. Speaker."

The Chair addressed the body, stating:

"I believe the Representative from Kailua has some correlation to the motion of the recall tied to the 1950 constitutional convention. Representative Thielen you may proceed on but please limit your remarks as far as trying to address the motion of the recall."

Representative Thielen continued, stating:

"I will do so.

"Mr. Speaker, when the intent and the legislative history of this constitutional provision is so clear, it was meant to permit debate upon the floor. I find that it's more than puzzling but why the Majority Members are so afraid of that debate. We are now going to proceed to pull the bill from the committee..."

Representative Takumi rose on a point of order, stating:

"Mr. Speaker, the good Representative from the Windward side is implying that the Majority is somehow fearful and that has nothing to do with the motion on the floor. Thank you."

The Chair responded, stating:

"Representative Thielen, please confine your remarks because I did question one of our other colleagues in regard to that particular point the Representative from Pearl City brings up."

Representative Thielen continued, stating:

"We will now be pulling the bill from the committee to the floor because we have the requisite votes to do that. The question then becomes what happens with open and fair debate upon that measure and that's what I find lacking in this body. What I find lacking in the House of Representatives."

The Chair interjected, stating:

"Representative Thielen, I think at that point you may be Out of order because the motion is to address the recall from the committee."

Representative Thielen continued, stating:

"That puts me back up to the language of the constitutional convention which was putting together the constitutional amendment which would permit recall from a committee to the floor. If you go back and look at that again, they said the public the constitutional convention turned down the right of the public to have initiative, referendum and recall. Therefore, gave it to the minority in the House of Representatives to be able to have the power of recall and that is what we are discussing now, the motion that is before this body."

Representative Leong rose to yield her time.

Representative Thielen continued, stating:

"So we are sitting here with a one prong of the three prong right of the public to have initiative, referendum and recall. It became so watered down that all that was left was that little bit of recall which wasn't even available to the public. But in order to protect the minority in our state, the Minority of the representatives in the legislature were given that power. That is the power I am arguing in favor of with this motion to be able to recall.

"Mr. Speaker, it is an empty power if the Majority prevents the full discussion or a fair discussion of the actual substance of the bill to eliminate 4% tax on rent. Thank you."

Representative Luke rose to call for the previous question, seconded by Representative Lee.

The Chair addressed the body, stating:

"The call for the previous question is to end debate."

At this time, Representative Djou requested a roll call vote.

The request for a roll call vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to call for the previous question was put to vote by the Chair and successfully carried on the following show of Noes and Ayes:

Noes, 18: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Stonebraker, Rath, Thielen and Whalen.

Ayes, 32: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone,

B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Representative Pendleton rose on a point of inquiry stating:

"Mr. Speaker, I am on the floor at this time and may I vote at this time?"

The Chair responded, stating:

"The Chair will recognize you for your vote,"

Representative Pendleton responded, stating:

"I vote no."

At 10:49 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

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

At this time, Representative Djou requested a roll call vote,

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion was put to vote by the Chair and carried and H.B. No. 259, entitled: "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF RESIDENTIAL RENT FROM GENERAL EXCISE TAX LIABILITY," was recalled from the Committee on Human Services and Housing and was brought to the floor for action on the following show of Noes and Ayes:

Noes, 32: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker Thielen and Whalen.

Excused, 1: Representative Stonebraker.

At 10:54 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:57 o'clock p.m.

The Chair stated to the Chief Clerk:

"Madame Clerk have the 20 days passed since the referral of H.B. No. 259, to the Committee on Human Services and Housing?"

The Clerk responded, stating:

"Yes, Mr. Speaker 20 days have passed and for your information H.B. No. 259, was referred to the Committee on Human Services and Housing on January 23<sup>rd</sup> of this year."

Representative Fox moved that H.B. No. 259 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

Representative M. Oshiro moved that H.B. No. 259, be laid on the table, seconded by Representative Lee.

Representative Moses rose on a personal privilege, stating:

"This is getting quite absurd that we're not allowed to even speak on the measure before its called, recalled and then tabled. We should have the ability to speak on any motion before this body."

The Chair responded, stating:

"Representative Moses if you look at the Rules, after the motion to have the measure pass Second and be placed on the calendar for Third there are four or five other motions that supercedes that primary motion.

"The motion that the Majority Leader has made, which is to table the measure, supercedes the primary motion."

Representative Meyer rose on a point of inquiry, stating:

"Well it is the same one I had before.

"When we recall it, it is on the calendar. The calendar for today."

The Chair responded, stating:

"Yes, and it was seconded and placed on the calendar for Third Reading by the Minority Leader and seconded by the Minority Floor Leader. So that motion is on the floor at this time, whereby the motion to table supercedes the prior motion. That is the way the rules are set."

Representative Fox rose on a point of inquiry, stating:

"Mr. Speaker, according to rule 37.2, no parliamentary rule or procedure may supercede the constitutional right of recall of a bill from a committee..."

"Mr. Speaker, is not a motion to table a parliamentary rule or procedure?"

The Chair responded, stating:

"No. Because the motion of the recall was approved by this House thereby becoming the property of the House.

"That is the point I am trying to make.

"There was no parliamentary procedure to prevent the recall of the bill from the committee."

Representative Fox stated:

"Mr. Speaker, it is not a parliamentary procedure being used to viscerate debate on this issue?"

The Chair responded, stating:

"I don't believe so at this point."

Representative Fox responded, stating:

"That's the way it looks to me."

Representative Gomes rose on a point of inquiry, stating:

"Mr. Speaker, is then..."

The Chair addressed the body, stating:

"The Chair has been very generous to all of you this evening in regards to this type of parliamentary procedures, constitutional concerns that you may all may have.

"We've gone through a lot of debate on the issue of the recall motion. It states in the rules, where you have very educated members of your Minority Caucus who have done a very good job in analyzing the Mason's, the constitutional amendments, etc. and at this point I do not want to entertain any points of inquiries since there is no debate.

"If you would like to rise, I may recognize you and I may not recognize you. I have been more than supportive in recognizing all of the members of this House.

"So, Representative Gomes I will recognize you as the last member of this House on a point of inquiry. Because time is getting late and we need to move on with the Order of the Day."

Representative Gomes continued, stating:

"Mr. Speaker, my only question to the Speaker is, is it the Speaker's position then, that the Constitution does not require debate on the merits of a bill once its recalled by a minority of the membership?"

The Chair responded, stating:

"As the Chair and being very honest with all of you, my answer to you Representative is at this point, I really don't know."

At this time, Representative Gomes requested a roll call vote.

The request for a roll call vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to lay on the table H.B. No. 259, entitled; "A BILL FOR AN ACT RELATING TO EXCLUSION OF RESIDENTIAL RENT FROM GENERAL EXCISE TAX LIABILITY," was put to vote by the Chair and was successfully carried on the following show of Noes and Ayes:

Noes, 19: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Ayes, 31: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi and Yonamine,

Excused, 1: Representative Yoshinaga.

The Chair addressed the body, stating:

"Members, before we continue on this evening, I ask, are there any other measures to be recalled."

Representative Whalen moved to take H.B. No. 257 from the table and place it on the calendar for action, seconded by Representative Pendleton.

At 11:10 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 11:29 o'clock p.m., the Chair addressed the body, stating:

"At this time a motion has been made and seconded, to take HB. No. 257, from the table.

"At this time, for this particular motion to take the measure from the table, there is no debate on this motion which everybody recognizes."

At this time, Representative Djou requested a roll call vote.

The request for a roll call vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to take H.B. No. 257, entitled: "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE MANUFACTURE, PACKAGING, AND SALE OF FOOD FROM GENERAL EXCISE TAX LIABILITY," from the table and for placement on the calendar for passage on Second Reading, was put to vote by the Chair and failed to be carried on the following show of Noes and Ayes:

Noes, 30: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Suzuki, Takai, Takamine, Takumi and Yonamine.

Ayes, 19: Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Excused, 2: Representatives Souki and Yoshinaga.

## ORDER OF THE DAY

### COMMITTEE REASSIGNMENTS

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

#### H.B.

#### Nos.      Re-referred to:

1334      Committee on Finance

1356      Committee on Health, then to the Committee on Finance

## ADJOURNMENT

At 11:35 o'clock a.m., Representative M. Oshiro moved that the House stand adjourned until 12:15 o'clock p.m., Friday, February 16, 2001, seconded by Representative Lee.

Representative Djou rose on a point of inquiry, stating:

"Is it 12:15 a.m., so in forty-five minutes."

The Chair responded, stating:

"Yes."

The motion was put to vote by the Chair and carried and the House adjourned until 12:15 o'clock p.m., tomorrow, Friday, February 16, 2001.

# **TWENTY-SECOND DAY**

**Friday, February 16, 2001**

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 12:36 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 Leong and Yoshinaga, who were excused.

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

## **ORDER OF THE DAY**

### **COMMITTEE REASSIGNMENTS**

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

<u><b>H.B.</b></u> <u><b>Nos.</b></u>	<u><b>Re-referred to:</b></u>
167	Committee on Human Services and Housing and the Committee on Health, then to the Committee on Finance
216	Committee on Transportation, then to the Committee on Finance
635	Committee on Human Services and Housing, then to the Committee on Judiciary and Hawaiian Affairs, then to the Committee on Finance
761	Committee on Consumer Protection and Commerce
777	Committee on Finance
864	Committee on Tourism and Culture, then to the Committee on Finance
1256	Committee on Energy and Environmental Protection, and the Committee on Economic Development and Business Concerns, then to the Committee on Finance
1277	Committee on Finance
1288	Committee on Finance
1302	Committee on Education, then to the Committee on Finance
1303	Committee on Education, then to the Committee on Finance
1323	Committee on Agriculture, then to the Committee on Finance

The following bills were referred to committee by the Speaker:

**S.B.**  
**Nos.**    **Referred to:**

65	Committee on Judiciary and Hawaiian Affairs
66	Committee on Judiciary and Hawaiian Affairs
67	Committee on Judiciary and Hawaiian Affairs
69	Committee on Judiciary and Hawaiian Affairs

## **UNFINISHED BUSINESS**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, Stand. Com. Rep. Nos. 286 through 320 were adopted, and the accompanying House Bills, as many be amended, passed Second Reading and were referred to their designated committees.

Representative Fox rose to speak in opposition to Stand. Com Rep. No. 286 and its accompanying measure, H.B. No. 547, stating:

"I speak against the bill, but only in a tentative way. This seems to be a special bill designed to help a single person. I do not, standing on this floor today, have any knowledge of why this bill is here. DBEDT wants it. HGEA opposes it. I don't know who the individual is who is being helped out by this special bill.

"I don't think special bills are not really in order and we ought to vote this bill down."

Representative Halford rose in opposition to Stand. Com Rep. No. 286 and its accompanying measure, H.B. No. 547, and asked that the Clerk register a no vote for him, and the Chair "so ordered."

At 12:41 o'clock a.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 12:46 o'clock a.m.

Representative M. Oshiro moved to reconsider the action previously taken in adopting Stand. Com. Rep. Nos. 286 through 320, and passing their accompanying House Bills, as may be amended, seconded by Representative Lee.

The motion was put to vote by the Chair and carried, and the action previously taken in adopting Stand. Com. Rep. Nos. 286 through 320, and passing their accompanying House Bills, as may be amended, was reconsidered.

Representative M. Oshiro then moved that Stand. Com Rep. Nos. 286 through 320 be adopted, and that their accompanying House Bills, as may be amended, pass Second Reading and be referred to their designated committees seconded by Representative Lee.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 286) recommending that H.B. No. 547, pass Second Reading and be referred to the Committee on Finance.

The Chair then recognized Representative Fox.

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

"Yes Mr. Speaker. And I did beg for enlightenment from anyone in the room who could tell me who this special bill was for."

The Chair then turned to Representative Halford to confirm his prior no vote on this measure.

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

"This bill will establish a new position – an administrative position, within DBEDT. I believe we are going to have a very difficult time balancing the budget this year. The general fund budget that was sent down has already exceeded the ceiling.

"He [the Governor] also sent a budget down that doesn't have \$1 in it for collective bargaining. This is not the time for government to grow, to start adding new positions. I don't think it's prudent to pass this bill."

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

"I stand in support of this measure, and perhaps I can enlighten my Minority colleagues. The purpose of this bill is to establish an administrative assistant position for the Department of Business, Economic Development, and Tourism, commonly known as DBEDT, which would be exempt from the civil service laws.

"DBEDT testified in support of this measure. The HGEA, Hawaii Government Employees opposed this bill.

"Your Committee found that this bill would provide additional high level assistance for the director or DBEDT in planning and administering, and surely this would improve operations and efficiency of operations of the department and would enable the director to manage and coordinate programs and resources more effectively and efficiently.

"As affirmed by the record of votes of this Committee on Economic Development and Business Concerns that is attached to this report, your Committee was on record with the intent and purpose of H.B. No. 547, and recommends that it pass Second Reading and be referred to Finance.

"So I think my Minority colleagues should take that into consideration. They weren't quite up to speed on this and I just wanted to enlighten them. You will note too that there were many 'ayes' on here. There was only one 'with reservations', and two members were excused. I'm sure they were doing other business. And this vote took place on February 12th.

"Mr. Speaker, I stand in strong support of this measure."

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

"Mr. Speaker, I thank the Representative from Foster Village, and I speak in support. This is the Committee on Economic Development.

"This does not establish a new position. He [Dr. Naya] already has a vacant position. He needs to fill it. The Asian Development Bank is coming. We have an upturn in our economy. Dr. Naya needs help. He wanted an exempt position which I thought is what our Minority colleagues always want."

The Chair asked Representative Ahu Isa to confine her remarks to the merits of the bill.

Representative Ahu Isa continued: "I'm just taking a point of personal privilege here that my other colleagues took and I could not speak to.

"So as the Economic Development Chair, that is what I look at. The Finance Committee can look at it from the other budget position."

At this time, Representative Fox moved that H.B. No 547 be laid on the table, seconded by Representative Pendleton.

At 12:51 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:52 o'clock a.m.

At this time, Representative M. Oshiro requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion that H.B. No. 547 be laid on the table was put to vote by the Chair and failed to carry on the following show of Noes, Ayes and Excused:

Noes, 36: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Davis, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, McDermott, Morita, Nakasone, B. Oshiro, M. Oshiro, Rath, Saiki, Say, Schatz, Souki, Stonebraker, Suzuki, Takai, Takamine, Takumi, Whalen and Yonamine.

Ayes, 14: Auwae, Bukoski, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Excused, 1: Yoshinaga.

Representative McDermott moved to reconsider action previously taken, seconded by Representative Rath.

At 12:53 o'clock a.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 12:54 o'clock a.m.

Upon reconvening, the Chair directed the Clerk to note that Representative McDermott had reconsidered his action previously taken on the motion that H.B. No. 547 be laid on the table, at which time Representative Whalen intervened.

Representative Whalen rose to a point of order, stating:

"I believe the motion was for reconsideration, which, since he voted with the prevailing side and it was seconded, I believe, to tell the truth, I'm not sure if it is debatable or not, but it would call for another vote on the matter of the motion to table the bill."

The Chair responded: "Your point is well taken," and subsequently called for a recess.

At 12:59 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:00 a.m.

Upon reconvening, the Chair announced:

"At this point there is a motion for reconsideration before this House. The motion before this House to be reconsidered is in regards to HB 547, to be laid on the table."

The motion was put to vote by the Chair and carried.

Representative Djou rose to call for a division of the house and requested a roll call vote.

The Chair noted that the vote had already been taken.

Representative Whalen rose to a point of order, stating:

"According to our rules, so long as one-fifth of the members of the House request a roll call vote, and it shall be given at any time. That is rule number 51.3 [52.3].

"At any time one-fifth of the members request it, we'll have a roll call vote on the question."

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

"There is rule number 51.2 [52.1]. In case of a voice vote, if one-fifth of the members doubt the results, they may ask for a show of hands. I don't think there is any doubt of the vote."

Representative Halford rose to comment:

"Mr. Speaker, I clearly doubt the vote," which was acknowledged by the Chair.

At 1:03 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:10 o'clock a.m.

Upon reconvening the Chair announced:

"At this time, the Chair has been deliberating with the attorneys, and we would like to take a roll call vote on the motion to reconsider action previously taken on the motion to table. Does everyone understand this roll call vote? It is to reconsider action previously taken on the motion to table.

"If you support the reconsideration, for this measure to be taken on the table, you will vote 'yes.' If you do not support the reconsideration, 'no.'

Roll call having been requested, the motion to reconsider action previously taken on the motion that H.B. No. 547 be laid on the table was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 32: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, Pendleton, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, and Yonamine.

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen and Whalen.

Excused, 1: Yoshinaga.

At this time, Representative Fox moved to postpone consideration of HB 547 until Tuesday, [Wednesday] February 21st, 2001, seconded by Representative Pendleton.

At 1:15 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:19 o'clock a.m.

Upon reconvening, the Chair announced:

"Members, this is a motion that is a non-debatable motion."

At this time, Representative Gomes requested a roll call vote on the motion to postpone.

The request for a roll call vote was put to vote by the Chair, and upon a show of hands, the request was granted.

Roll call having been requested, the motion to postpone consideration of HB 547 until Wednesday, February 21, 2001 was put to vote by the Chair and failed to carry on the following show of Noes, Ayes, and Excused:

Noes, 35: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Davis, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, McDermott, Morita, Nakasone, B. Oshiro, M. Oshiro, Rath, Saiki, Say, Schatz, Souki, Stonebraker, Takai, Takamine, Takumi, Whalen and Yonamine.

Ayes, 14: Auwae, Bukoski, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Excused, 2: Suzuki and Yoshinaga.

At this time, Representative McDermott moved to reconsider the motion to postpone consideration of HB 547, seconded by Representative Rath.

At 1:23 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened later that afternoon at 12:39 o'clock p.m.

Upon reconvening, the Chair made the following statement:

"Members, we are presently on the Order of the Day, Stand. Com. Rep. No. 286, H.B. No. 547. There is motion pending before us.

"But before we move on that motion, with the permission of the Minority Leader, I would like ask Representative Lee to make a few introductions."

## LATE INTRODUCTION

Representative Lee recognized the interns participating in this year's ARC Legislative Intern Program and their legislative sponsors:

Mr. Allen Higa, Representative Ahu Isa;  
Mr. Peter Tengan, Representative Arakaki;  
Mr. Jace Flores, Representative Auwae;  
Ms. June Arakaki, Representative Cabrerros;  
Ms. Sarah Kalani, Representative Davis;  
Ms. Dawn Duncan, Representative Espero;  
Mr. John Mendiola, Representative Garcia;  
Ms. Lynn Hayashi, Representative Ito;  
Ms. Kauai Kalima, Representative Kahikina;  
Mr. Dean Paracuelles, Representative Lee;  
Mr. Darrell Eguchi, Representative McDermott;  
Ms. Kristen Kekoa, Representative Meyer;  
Mrs. Marian Kapanui, Representative Morita;  
Ms. Lani Bartholomew, Representative Ontai;  
Ms. Melita Lani, Representative B. Oshiro;  
Ms. Donna Stephens, Representative M. Oshiro;  
Ms. Tracy Swift, Representative Pendleton;

Ms. Christine Faria, Representative Suzuki;  
Ms. Cheryl Derby, Representative Takai; and  
Mr. Marvin Anderson, Representative Yoshinaga.

Representative Lee further recognized Ms. Kauī Kalima as the niece of Representative Auwae.

#### UNFINISHED BUSINESS

Upon returning to the Order of the Day, the Chair announced that the motion before the House was to reconsider action previously taken on the motion to postpone.”

At this time, Representative Djou requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to reconsider action previously taken on the motion to postpone HB 547 was put to vote by the Chair and failed to carry by the following Noes and Ayes:

Noes, 34: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Davis, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Stonebraker, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 16: Auwae, Bukoski, Djou, Fox, Gomes, Halford, Jaffe, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Thielen, and Whalen.

Excused, 1: Leong.

At 12:50 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.

## TWENTY-THIRD DAY

**Tuesday, February 20, 2001**

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 2:37 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Willie C. Espero, after which the Roll was called showing all members present with the exception of Representatives Case, Garcia, Halford and Whalen, who were excused.

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

### GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 154 and 155) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 154, transmitting copies of the Independent Accountings' Report and Funds Report for fiscal year ending June 30, 1999, for the Housing and Community Development Corporation of Hawaii pursuant to Section 201G-21, Hawaii Revised Statutes.

Gov. Msg. No. 155, transmitting copies of the report on goals, objectives and policies, and action for the Office of the Governor in accordance with Act 1000, SLH 1999.

Before proceeding to the Order of the Day, the Chair addressed the body, and made the following announcements:

"During the recess this morning we made an informal presentation of certificates and leis to our honorees.

"With all the discussion during the past three days, I would like to call to your attention to House Rule 27.5. It states that:

Any member who wishes to speak shall rise from his or her seat and address the Speaker...When recognized, the member shall face the Speaker, and address the question under debate.

"The purpose and reason for this is to preserve the decorum on the floor of this Chamber, and to ensure the accuracy and the integrity of the record for this day's proceedings. At this time I am hereby ordering the Clerk to only transcribe and include in the Journal, comments from members who have been recognized by the Chair. This is in reference to House Rule 27.5.

"Moving on to the Unfinished Business. Members when we last met on Friday afternoon, the discussion was on Stand. Com. Rep. Nos. 286 through 320 and their respective measures. Representative M. Oshiro's main motion which was seconded by Representative Lee, proposed the adoption of Stand. Com. Rep. Nos. 286 through 320 and that their accompanying House Bills be passed on Second Reading and be referred to their designated committees. The Chair at this time will now entertain the discussion on the aforementioned measures starting on page 1."

### ORDER OF THE DAY

#### UNFINISHED BUSINESS

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 286) recommending that H.B. No. 547, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 547, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Meyer rose on a point of inquiry, stating:

"Perhaps I'm not following you, Mr. Speaker. My recollection was that we did discuss Stand. Com. Rep. No. 286 and I just wanted to make sure that it was already on the record because I don't want to repeat that again today."

The Chair responded, stating: "Yes it is on the record. But we are starting all over again so that the members know the train of thought."

Representative Halford rose to confirm his previous no vote and stated:

"Mr. Speaker, please let me know if I'm not quite on track here. I had intended over the last few days to vote no on this measure and I wanted to indicate that if it's appropriate at this time."

Representative McDermott rose on a point of inquiry, stating:

"When we left off last, I believe we had a motion on the floor to reconsider. I had put forth that motion and Representative Rath had seconded it. I believe that is where we ended. If it's appropriate at this time I will make a motion to withdraw that motion."

The Chair responded, stating: "No, the motion was defeated this past Friday. The motion was taken up last week Friday and was defeated."

At 2:45 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:46 o'clock p.m.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 547, entitled: "A BILL FOR AN ACT RELATING TO AN ADMINISTRATIVE ASSISTANT POSITION FOR THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 287) recommending that H.B. No. 430, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 430, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"DBEDT is supposed to develop the program and they testified that they didn't feel it was appropriate to put the program and the position in the Community-Based Economic Development Program. It didn't seem like they had the support so I don't think it is something we should pursue."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 430, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO RECRUIT INVESTMENT FROM PACIFIC RIM COUNTRIES IN SUPPORT OF COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance, with Representative Meyer voting no, and Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 288) recommending that H.B. No. 950, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 950, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL GOODS EXCISE TAX CREDIT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 289) recommending that H.B. No. 366, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 366, entitled: "A BILL FOR AN ACT RELATING TO MACADAMIA NUT RESEARCH," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Takumi, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 290) recommending that H.B. No. 782, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 782, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE FUTURE FLIGHT SPACE CAMP PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 291) recommending that H.B. No. 513, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 513, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN

PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," passed Second Reading and was referred to Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representatives Kanoho and Souki, for the Committee on Water and Land Use and the Committee on Transportation presented a joint report (Stand. Com. Rep. No. 292) recommending that H.B. No. 552, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 552, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Kahikina's remarks are as follows:

"My reservations to HB 552 HD 1 are that it does not define a Hawaiian cultural resource specialist and I'm afraid that the Ewa Neighborhood Board nor the Makakilo/Kapolei/Honokai Hale Neighborhood Board have the expertise to nominate a candidate. I also have reservations that a Native Hawaiian Community within 10 miles of Kalaheo is not permitted participation. This community is the Nanakuli Hawaiian Homestead Community Association whose chairman is a bonifide Hawaiian cultural resource specialist and this community has many knowledgeable native Hawaiians practicing the culture. As this measure moves forward I urge these issues be considered. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 552, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY DEVELOPMENT DISTRICTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 293) recommending that H.B. No. 1235, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1235, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representatives Kahikina and Arakaki for the Committee on Human Services and Housing and the Committee on Health presented a joint report (Stand. Com. Rep. No. 294) recommending that H.B. No. 249, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 249, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 295) recommending that H.B. No. 1473, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1473, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 296) recommending that H.B. No. 1546, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1546, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL NUMBER PLATES FOR DISABLED VETERANS," passed Second Reading and was referred to the Committee on Finance.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 297) recommending that H.B. No. 1640, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1640, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked that the Clerk register and aye vote with reservations for him, and the Chair "so ordered."

Representative Djou then rose and asked that the Clerk register and aye vote with reservations for him, and the Chair "so ordered."

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 in support of Standing Committee Report 297, House Bill 1640, House Draft 1, but with some serious reservations.

"This bill seeks State funding to establish and implement a permanent intra-island water ferry transportation system for the Island of Oahu.

"We have tried at least three times that I can remember to establish a ferry commuter system on Oahu. Each time the operation was not economically viable and ridership fell far below what was projected.

"Insanity has been defined as trying the same thing over and over and hoping for a different result.

"My fear is that we are trying the same water ferry on Oahu over and over again and for some crazy reason think the outcome this time will be positive.

"Why should this ferry project be any different from last year's experiment or the ones 2 or 3 years before that?

"I am aware that these projects are highly financed with federal funds but do require 5 to 10% state funding. These are just some of my concerns."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1640, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 298) recommending that H.B. No. 1686, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1686, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered."

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered."

Representative Moses rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered."

Representative Meyer rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1686, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF REVENUE BONDS FOR INTER-ISLAND MARITIME TRANSPORTATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 299) recommending that H.B. No. 1685, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1685, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Fox offered the following amendment to H.B. No. 1685:

SECTION 1. One of the greatest obstacles facing Hawaii's drive toward excellence in the new millenium is our burdensome and regressive tax system. The Legislature finds that many residents of Hawaii face great difficulty affording the high cost of food. Part of the reason for the high cost of food in Hawaii is attributable to the general excise tax, which is passed on to the consumer or intermediary. Although the legislature passed a law reducing the effect of the pyramiding of the general excise tax, this approach does not deal with the true heart of the matter.

We all need food to survive; it is a basic human need. The disenfranchised – the elderly, the disabled, and our children –

need food even more. Yet most live on fixed incomes, making the tax bite and cost even more insidious.

The cost of basic human needs should not be a roadblock in our drive towards excellence. As a community, we cannot afford the impact of our regressive general excise tax system. The purpose of this bill is to remove food from the purview of the general excise tax.

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- (a) Exemption for food. There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds or income arising from the manufacture, production, packaging, and sale of food items within the State.

(1) As used in this section, "food items" means any food or food product for home consumption except alcoholic beverages, tobacco, and food products prepared at the place of sale or at another location and sold primarily for immediate or nearly immediate consumption, and:

(A) In the case of those persons who are sixty years of age or over or who receive supplemental security income benefits under Title XVI of the Social Security Act (42 U.S.C. §1381 et seq.), and their spouses, includes meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by senior citizens, private nonprofit establishments (eating or otherwise) that feed senior citizens, private establishments that contract with the appropriate agency of the State to offer meals for senior citizens at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly;

(B) In the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable to adequately prepare all of their meals, includes meals prepared for and delivered to them and their spouses at their home by a public or private nonprofit organization or by a private establishment that contracts with the appropriate state agency to perform meal services at concessional prices;

(C) In the case of narcotics addicts or alcoholics served by drug addiction or alcoholic treatment and rehabilitation programs, includes meals prepared and served under rehabilitation programs;

(D) In the case of disabled or blind recipients of benefits under Title II or title XVI of the Social Security Act (42 U.S.C. §§401 et seq., 1381 et seq.) who are residents in a public or private nonprofit group living arrangement that serves not more than sixteen residents and is certified by the appropriate state agency or agencies under regulations issued under section 1616(e) of the Social Security Act (42 U.S.C. §1382(e)(1), includes meals prepared and served under the arrangement; and

(E) In the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, includes meals prepared and served by the residential shelters.

The phrase "food items" may be further defined by the department of taxation through the enumeration of items in rules or informational releases, provided that the department shall consult with the federal Food and Nutrition Service of the United States Department of Agriculture in further defining the phrase "food items" for food stamp purposes.

SECTION 3. New statutory material is underscored.

Representative Fox moved that the amendment be adopted, seconded by Representative Pendleton.

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

"Mr. Speaker, what is happening across the country today is that serious consideration is being given to the downturn in the economy. It's affecting the mainland and it's bound to affect Hawaii as well.

"The recommended solution to this economic downturn is a tax cut. This has been recommended by Alan Greenspan, the Chairman of the Federal Reserve Board. The "guru". The man who gives us all of our cues as to what to do with the economy. The man that we want to stuff if he dies and to keep alive forever.

"This is also been recommended by the Senate Minority Leader, Tom Daschle, and by the House Minority Leader, Dick Gephardt; both Democrats, both calling for serious and significant tax reductions in the neighborhood of \$900 billion.

"So if this is the prescription nationally, we should be considering the same prescription locally. We need to cut taxes to boost the economy here. If we're going to cut taxes, the way to cut them is the way that helps put money into circulation the quickest. Helping people who most need to spend their money. That's people who are dealing with a heavy percentage of their income going out for food, medical services, and rent.

"The first of the three floor amendments that I am introducing this afternoon, is to eliminate the excise tax on food. It's a heavy burden on the poor, the working-class people, the working people. It's also a heavy burden on retirees. All of them have a large percentage of their income going for food.

"We, as a collective body are interested in helping the people of Hawaii deal with difficult times. We, who are interested in helping stimulate the economy of Hawaii at a time when things are going poorly on the mainland, and it's going to definitely affect Hawaii sooner rather than later, need to summon the courage at this point to eliminate the general excise tax on food.

"The first-year cost of this elimination is roughly \$60 million because the bill begins in January of 2002 and we believe that that's probably the earliest we can start this cut because it's going to be quite a process to go into the supermarkets and regulate the change.

"Briefly, the elimination on the tax on food affects only stores. It does not affect restaurants and therefore affects local people and not tourists. Very few tourists buy their food in stores. So it's definitely designed to help the local people deal with the economic difficulty of living in Hawaii, put money in their pockets and stimulate the economy.

"I very much encourage the members to do the right thing and vote for this floor amendment at this time. Thank you very much, Mr. Speaker."

Representative Djou rose to speak in support of the amendment, stating:

"Mr. Speaker, this an important amendment. First, the State of Hawaii needs tax relief. Second, the type of relief we need is a reduction in the general excise tax. And third, we can afford it.

"First off, Mr. Speaker, as the distinguished Minority Leader has already alluded to, is that the national economy is not doing well. In 1991, the last time the national economy went into recession, the Hawaii economy went into a nearly decade-long recession. Once again, here in 2001, ten years

later, we see on the national economic scene that unemployment is up and consumer confidence is down.

"In the past six weeks, we have seen a number of major corporations such as Dell, Xerox and Chrysler all laying off thousands or even tens of thousands of employees. We are in a precarious situation. What we need to avoid a repeat of the 1990s is an immediate tax relief so our State does not once again enter the economic malaise that we had in the 1990s. We cannot afford to stay on the sidelines. The State must be pro-active and must take tax relief now.

"The appropriate tax relief our State should address and take on is a reduction and elimination of the general excise tax. This amendment proposes to eliminate the general excise tax on food. It is one of the most regressive taxes in our Tax Code right now. Those in the lower income tax brackets pay a greater percent of their income for general excise taxes than those in the higher income tax brackets.

"Furthermore, it makes more sense for us to cut through the general excise tax than other forms of taxation. The reason is, other forms of taxation, such as the income tax, are deductible on our federal income tax forms whereas the general income tax is not.

"Furthermore, Mr. Speaker, the general excise tax cut here would bring and introduce revenues into our state economy immediately; quicker, faster and more effectively than tax credits or increasing in the deduction.

"Finally, Mr. Speaker, I'd like to emphasize here that the most important thing for us as lawmakers here in this august chamber is to maintain an economic growth rate which can help us afford these tax cuts and avoid the pain of what we had in the 1990s. I think it is very apt, Mr. Speaker, that what we are seeking to amend is H.B. 1685, which is a good bill, but is a bill that proposes exempting the general excise tax on the leasing of jet aircraft engines. It is primarily going to help a couple of multi-million dollar corporations. This amendment, I think, is a better alternative. It offers elimination on the general excise tax on food which will help the average working person here in the state of Hawaii. When faced with the choice of exempting the general excise tax on multi-million dollar aircraft engines or on food, I think the choice is quite obvious. We should be exempting the general excise tax on groceries, food.

"For all these reasons, Mr. Speaker, I rise in support of this amendment. Thank you."

Representative Ahu Isa rose to speak in opposition to the amendment, stating:

"Mr. Speaker, I would like to read part of a newspaper article from the January 24<sup>th</sup> issue of the *Honolulu Advertiser* which will explain why I did what I did in Committee.

"Proposal to eliminate the 4% general excise tax on food, rent and medical services is likely to one of the biggest issues at the Legislature this year. But already the plan appears to have little chance of passing and facing a certain veto if it does. Governor Ben Cayetano said yesterday that even if the excise tax cut were approved by the House and Senate he would veto the measure because it was too expensive and unrealistic. The excise cut is a favorite proposal of the Republicans at the Legislature. Cayetano said the excise tax cut would cost the State about \$230

million a year in lost revenue and would give a tax break to tourist as well at residents".

"Mr. Speaker, I speak today for all citizens, senior citizens, in the State of Hawaii, being aware of the Governor's intended veto of this exemption of the food tax for the 1.2 million people in our State. This is a bill which I felt was really needed. The exemption was really needed by those who need it most which are our senior citizens. They are the ones on a fixed income, Mr. Speaker.

"Although the Minority Leader stated in the *Advertiser* in the same article that the State would lose \$180 million, because he was talking only about home consumption and groceries, he said that it was comparable to a personal income tax cut. He continued to say that all residents would enjoy it. I'm seeing that the senior citizens are the ones who need it the most at this point and time.

"Our economy is just starting to pick up. Please give these senior citizens, my colleagues, I plead with you today, this much needed tax break. And do not ask for this total GET exemption on food for the 1.2 million residents as the Governor will surely veto this bill. Thank you, Mr. Speaker."

Representative Halford rose to speak in support of the amendment, stating:

"This is a point of rebuttal to start off with. This wasn't a part of my main message. It's a concern to this Legislature in other issues besides this, that we would not override vetoes. The Hawaii Legislature, I believe, needs to have the courage to make history by overriding vetoes."

Representative Ahu Isa rose to a point of order, stating:

"I think he needs to speak to the bill and not to overriding vetoes. Thank you."

The Chair responded: "Representative Ahu Isa, I think Representative Halford has a point in addressing the veto of this particular measure as was stated in your remarks to the members of the House," and asked Representative Halford to "please proceed."

Representative Halford continued, stating:

"Our legislative agenda is too often driven by the Governor through his threat of veto and we have not yet ever come up with a response to that.

"To speak to the point, the tax on food is a regressive tax in that the fewer resources that someone has or a family has, the greater percentage of income goes toward paying that tax. It's a tax that hurts the most fragile members of our community.

"We are choosing, and frankly, Mr. Speaker, since 1995 when we took away tax credits on food, we have chosen to balance our budget on the backs on Hawaii's working poor and the most fragile members of our community. Thank you."

Representative Gomes rose to speak in support of the amendment, stating:

"Mr. Speaker, I do think that this type of approach to removing the tax on our food is appropriate. I commend the Chair of the Economic Development Committee for her efforts with regard to our senior citizens. However, Mr. Speaker, I think that we need to go farther with that effort and I think that this would incorporate our senior citizens, of

course. But again, we need to extend it to all people; all of our residents.

"As I understand it, the amendment here is also quite narrow in its focus and it's just for purchases at the store. It doesn't include service purchases at restaurants which would take out a large section of our revenue through the tourist revenue. I think that is important to remember. It would provide immediate relief for our citizens.

"I understand, Mr. Speaker that there is an initiative out there that we are considering here in the Legislature to provide for tax credits in lieu of removing the excise tax, and that's a worthy proposal as well. However, that's too narrow. It's something that would not provide immediate relief.

"There's also questions with regards to: 1) the cost of implementing that program; 2) whether or not anybody would in fact take advantage of such a tax credit; and 3) that tax credit was also tried a few years ago and it was revoked by this Legislature.

"Removing the excise tax on food would keep our feet to the fire. We would not be able to tack it back on, and for many of those reasons I support the amendment.

"One final word, Mr. Speaker, with regard to the veto potential that the Governor has suggested. I do think if we could pass this out quickly enough that we could indeed override the veto and do what is right. Thank you, Mr. Speaker."

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

"I wish to make mention to this body and to the State as a whole, that as a Democrat I find no fault in providing a tax exemption for food. It's a worthy cause. However, as responsible legislators I believe we need to look at the resources that we have as to whether, at this point and time, whether we can afford to provide the exemption or not to provide the exemption.

"I believe it's premature at this point to look at any major tax cut. Inasmuch as we have the Council on Revenues report coming in March. We have the Felix v. Waihee [Cayetano]. We have the pending pay raises, increases in education which we need to provide for -- both lower and higher education. So, to look at cutting the overall budget at this point is premature.

"Let me just also add that the good Representative from the Windward area made mention that we needed tax cuts to spur the economy. That is correct, we do need that. We had a tax cut a few years ago, amounting to the largest tax cut in the nation -- anywhere from \$1.8 to \$2 billion. I know the Minority Leader doesn't want us to mention \$2 billion so I might vote for his tax credit, so I will make mention, from \$1.8 to \$2 billion reduction in revenue for the deceleration of the pyramiding and the low end of the personal income tax.

"This all needs to take effect and it is moving along now and it is affecting the revenue picture and at the same time is putting more money in the people's pockets. So again, we might be premature in wanting a tax cut at this time when we are already in the midst of one and not quite complete. Let's complete this first.

"Some years ago we provided a tax cut exemption on the prescription drugs. As you know there is no excise tax on prescription drugs. The feeling and the theory then was that with the tax cut we would have a lesser cost in prescription

drugs. As you know, prescription drugs are extremely expensive and we have no way of knowing if the cut in the taxes have resulted in the lowering the price of prescription drugs. I suspect not, but this is only a guess at this point.

"So, Mr. Speaker, for these reasons and with the good intentions of the Minority who want to make the cut, I must ask that we vote against the amendment. Thank you very much, Mr. Speaker."

Representative Fox rose to speak in rebuttal, stating:

"First, I would like to add Governor Cayetano to the list of Democrats who appreciate the fact that a tax cut helps stimulate the economy and he's actually called for a significant tax cut to do that purpose.

"Second, just on the figures. The cost of this amendment is about \$60 million, not the \$230 million figure that was quoted, that's partly because it only affects half of the fiscal year and I think we can certainly afford it.

"Another point is, that if we get into the area of credits, let's remember that this tax cut is worth \$110 to every person in Hawaii, \$440 to a family of four. Thank you very much, Mr. Speaker."

Representative Takamine rose to speak in opposition to the amendment, stating:

"Mr. Speaker, I would submit to you that this floor amendment, at worst, is unwise and at best, probably not the responsible thing to do.

"I would like to first of all point out where we are in the process. We are still moving bills to the final committee. We have yet to reach decking and crossover. Certainly that means consideration by the other body has to occur, and after that we still have conference. So, we are not at any point close to any final disposition on this matter. That having been said, Mr. Speaker, while we have the opportunity to focus in and take a closer look on this measure, I believe, as Speaker Emeritus has indicated earlier, that we also need to make sure that we don't lose sight of the big picture. Mr. Speaker, as popular as this tax break may be, as popular as any tax break may be, it's easy, as some may find, to justify this particular tax break. We also have to be responsible. We have to be fiscally responsible because our responsibility is to balance the budget. That is not an option to us. It's not a matter of whether we do it or not. It is a serious responsibility that we must live up to as we do the people's work.

"No matter how fair, desirable and popular this particular measure may be, as described by proponents, Mr. Speaker, we need to consider the fiscal impact. We heard numbers of up to \$180 million a year in less revenues. The Department of Taxation has indicated up to \$133 million in less revenues each year as the ultimate impact of a measure such as this. That's big impact, Mr. Speaker. While we can stand here today and argue economic theories, that's big impact when you consider the \$88 million in Felix emergency funding before us, without considering or even getting to the point where you consider the hundreds of millions of dollars in the biennium budget, to address Felix. It's big impact, Mr. Speaker, when we consider the hundreds of millions of dollars that are needed to meet the basic needs of our schools and to truly improve the public school system. It's big impact, Mr. Speaker, when you consider that some members from across the aisle have referenced the cost of collective bargaining.

"Mr. Speaker, it is easy to talk about popular tax breaks, but when we consider our responsibility of balancing the budget, I

must consider actions that lessen the financial resources that are available to us to the degree that this particular measure would do and thereby, lessen our ability to meet the many needs that face us today, as not a prudent action. Therefore, I will be voting against the amendment. Thank you, Mr. Speaker."

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

"I might be a little bit redundant here, but I have to say some of these things.

"First of all, seniors also eat food and will also be buying food in grocery stores and therefore our senior citizens will reap some benefit from this measure.

"Secondly, tourists usually don't buy food in grocery stores so it's only benefiting the people who reside here. I believe the reference to the Governor earlier said that he was opposed to giving breaks to tourists.

"Third, we've heard many times about the cost of this measure, \$133 million is what we heard, as our distinguished Minority Leader had pointed out, we are talking about half a year. So the cost is immediately is cut in half.

"Fourth, we heard we shouldn't vote for this because the Governor is going to veto this or may veto it. Well he may veto the pay raises that we've been talking about too. So therefore, are we saying we should not pass any pay raises because the Governor may veto it? I don't understand.

"With all of those things taken in mind, I think that this is a prudent measure for us to be taking. It will improve our economic stature in Hawaii. It will improve business. The people who get this benefit, as we heard, is a lot of money. That means a lot of money in a lot of people's pockets. They will not take that money to their grave with them. They will spend it and the State will bring in more revenue because they'll buy things with that money. Thank you, Mr. Speaker."

Representative Rath rose to speak in support of the amendment, stating:

"I would just like to make some points of rebuttal to the good Representative of Hamakua and I will try to keep this very brief so the hour doesn't get late.

"Tax breaks are not economic theory, they're economic fact. If you cut taxes you wind up with actually more revenue. This has been proven throughout the country and through other nations. This is not some kind of theory. What is a theory however, is an idea that you can tax your way out of recession.

"I think Hawaii has proven over the past 10 years that you cannot tax your way out of recession. You cannot raise taxes continually and expect it to have a good affect on the economy.

"Mr. Speaker, I think there is a direct correlation here as we look at giving, in the original bill, a general excise tax exemption to two major corporations. Make no mistake, Mr. Speaker, the reason I am for this amendment is because I am against the bill. Not because I disagree with tax breaks. Instead of the original bill benefiting all aircraft companies, it simply benefits two: Aloha and Hawaiian Airlines. It forgets about the helicopter tour operators, the air ambulances, and everyone else.

"So this is an excellent amendment to dump that bad bill and to replace it with good and wonderful language that helps

our people, and not two multi-million dollar corporations. I think it's a good use of our tax funds as opposed to basically the State helping out the major airlines. Thank you, Mr. Speaker."

At this time, the Chair addressed the body, stating: "With the members indulgence, we have had debate on this floor amendment number on for 35 minutes. With the agreement of the members, the Chair would like to call for the question and move on to amendment No. 2."

At this time, Representative Djou requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to adopt the amendment to H.B. No. 1685, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 31: Abinsay, Ahu Isa, Arakaki, Cabrerros, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Thielen.

Excused, 2: Case and Whalen.

Representative Fox offered the following amendment to H.B. No. 1685:

SECTION 1. One of the greatest obstacles facing Hawaii's drive toward excellence in the new millenium is our burdensome and regressive tax system. The Legislature finds that many residents of Hawaii face great difficulty affording the high cost of medical services and products. Part of the reason for the high cost of medical services and products in Hawaii is attributable to the general excise tax, which is passed on to the consumer or intermediary.

We all need medical services and products to survive and thrive. The disenfranchised – the elderly, the disabled, the sick, the poor, and our children – need medical services and products even more. Yet most live on fixed incomes, making the tax bite and final cost even more insidious.

The cost of basic human needs should not be a roadblock in our collective drive towards excellence. As a community, we cannot afford the impact of our regressive general excise tax system. The purpose of this bill is to remove medical services and products from the purview of the general excise tax.

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- Exemption for health care services and equipment.

(a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds or income arising from the provision of health care services or equipment.

(b) For purposes of this section, "health care services" means services involved in the diagnosis, cure, mitigation, treatment, or prevention of disease or the promotion of wellness of body when provided by one of the following types of facilities or people:

(1) nonprofit or for profit hospitals  
 (2) surgical outpatient facilities  
 (3) dialysis facilities  
 (4) infirmaries  
 (5) skilled nursing facilities  
 (6) intermediate care facilities  
 (7) adult residential care homes  
 (8) adult foster homes  
 (9) adult day care facilities  
 (10) assisted living facilities  
 (11) pharmacies  
 (12) sanitariums  
 (13) surface and air ambulances  
 (14) persons holding a valid license under  
chapters 442, 447, 448, 451A, 452, 453, 455, 457, 457A,  
457G, 458, 459, 460, 461, 461J, 463E, 465, 466J, and 468E.  
 (c) As used in this section, "medical equipment"  
means any device, instrument, appliance, apparatus or  
contrivance, electronic, mechanical, or otherwise that is  
intended for the use in the diagnosis, cure, mitigation,  
treatment, or prevention of disease or the promotion of  
wellness of body when provided by one of the entities or  
persons listed in subsection (b) above."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2002.

Representative Fox moved that the amendment be adopted, seconded by Representative Pendleton.

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

"Mr. Speaker, the cost of this amendment in the first year is roughly \$35 million. Again, a figure that results from the fact that reductions do not kick in until January 1, 2002.

"The first two proposals, food and medical services, add up to approximately \$95 million. It is appropriate to question, how do we pay for a tax cut of this magnitude? The answer is through attrition. The elimination of about 1700 positions in State government.

"It is unfortunate that we haven't been able to reduce the size of state government since 1995, and that year there was a substantial reduction in the payroll of the State. Since then, the payroll has actually grown and the best way to reduce the payroll so that we can pay for the tax cuts that will stimulate the economy, Mr. Speaker, is to not fill positions when they become vacant. About 3,500 positions become vacant in a year so let's leave about half of them vacant, fill the other half, certainly fill all of the positions that involve teachers, fill all of the ACO positions and leave many other positions vacant. Challenge the people that remain to work harder with better technology and pay them more. Give government workers the pay raises they deserve.

"Meanwhile, we can take care of our kupuna. We can take care of our population that has to pay so much for medical needs. We're the only state in the country that has a sales tax on medical services and this is something that we can do away with without affecting the excise tax base that collects from tourists. Very, very few tourists spend money on this tax.

"I would urge the body and yourself to move ahead with this amendment. Thank you, Mr. Speaker."

Representative M. Oshiro rose to speak in opposition to the amendment, stating:

"Mr. Speaker, first of all, there is no sales tax on medical services. The GET is applied to the businesses that provide these services.

"Secondly, Mr. Speaker, I question the amount of the vacancies in a year, but that's another matter.

"I stand in opposition to this floor amendment, Mr. Speaker. This floor amendment that would exclude the general excise tax from income received by hospitals and other healthcare facilities for providing healthcare services and equipment.

"The so-called purpose of this amendment is to help Hawaii's residents with the cost of medical services and products. However, Mr. Speaker, as you and I know, most of the benefits purported by this amendment are illusory.

"First of all, Mr. Speaker, the amendment eliminates tax burdens that don't really exist. For example, it excludes nonprofit hospitals, infirmaries and sanitariums from the GET. But, Mr. Speaker, these entities are already exempt from the GET under paragraph 6, Section 237-23, Hawaii Revised Statutes.

"Secondly, Mr. Speaker, it excludes the purchase of provisions and medical equipment from the GET. But, as you know, Mr. Speaker, the Tax Code already provides a 4% capitol goods excise tax credit that applies to medical equipment and offsets the GET.

"So, who will this amendment really benefit? For-profit, medical service providers. The proponents of this amendment say this will help consumers with the cost of medical services. However, the reality is that this amendment will put money into the pockets of for-profit medical service providers at the expense of other businesses, with little or no assurances the consumers who need help will receive it.

"The next thing, Mr. Speaker, the general excise tax is not a sales tax. It is a broad-based tax on the privilege of doing business and is collected from the person who sells goods or services. Hawaii's GET is relatively low because the tax is so broad based. The Department of Taxation estimated that if the tax on medical services were eliminated loss revenues would total \$83 million. Providing a GET exemption from medical service providers would reduce the tax base at the expense of all other businesses in the state.

"Mr. Speaker, nothing in this amendment says that the money from the GET exemption must be passed on to the consumers.

"Mr. Speaker, even assuming that a business actually decides to pass these savings on to the consumers, I cannot support this amendment because it will have much the same affect of a regressive tax. At the same time that it puts monies in the pockets of the wealthiest among us. It will be straining Government's existing resources, and placing additional burdens on average citizens and the very, very poor.

"Mr. Speaker, as you and I know, nothing comes free. There's no "free lunch". If the GET is increased to fund this exemption, then Hawaii's businesses will pass this increase to all other Hawaii consumers. If the exemption is funded by reduction in government programs, it will strain our government funded health insurance plans that are currently struggling to find the funds to provide medical coverage to the poor.

"This amendment, Mr. Speaker, will not achieve its purportedly altruistic objectives and will have many

unintended negative consequences for businesses and consumers.

"For the aforementioned reasons, Mr. Speaker, I stand in opposition to this amendment."

Representative Gomes rose to speak in support of the amendment, stating:

"Earlier the Chair of the Finance Committee correctly advised us to be careful and cautious and that we need to keep our focus on the big picture and to maintain fiscal responsibility and I agree with all of those statements. However, Mr. Speaker, one of the concerns was that we have some very large cost items that we have before us that we have to deal with.

"Mr. Speaker, I submit to that this Legislature will always have large cost items to deal with. There always have been and there always will be. But that is not a reason not to look at reducing a cost that we charge taxpayers to pay to live in Hawaii.

"Mr. Speaker, this is a simple issue that deals with what the people pay basically when they get sick and notwithstanding the comments of the previous speakers, this cost item is passed on to the consumer.

"Mr. Speaker, this issue is an issue of justice. It's a social justice issue what we charge people to get sick essentially. Again, that cost is passed on. It's a justice issue because we continually deal with what we like to refer to as the "price of paradise" and the high cost of living in Hawaii. State government plays a large role in that cost and what we charge each other to live here. I think if we are able to prevail and pass a tax cut with regard to medical services or any of the other initiatives we are putting forward, I'm not suggesting that it will be easy to decide which programs and projects we ought to fund, but that's our job, that's our task and that's what we have been elected to do.

"It is the responsible thing to look at the "big picture". The "big picture," Mr. Speaker, is what we charge ourselves to live here and the burdens that we place on our taxpayers and on our businesses.

"For those reasons, Mr. Speaker, I stand in support. Thank you."

Representative Djou rose to speak in support of the amendment, stating:

"Mr. Speaker, most of my comments made in regard to eliminating general excise tax on food also apply on this particular amendment. But I would like to highlight and emphasize just a few points.

"First, the distinguished Majority Leader is correct that the general excise tax is a tax on the privilege of doing business here in the State of Hawaii. This particular portion of the tax is taxing people of the privilege of getting sick and as a matter of principle it is my belief this Legislature should not tax individuals for the privilege of getting sick.

"But more importantly, what I would like to emphasize, Mr. Speaker, is once again, the 1990s was a lost decade for this State. We ran through the longest economic downturn in our State's history. It was not until we passed some significant tax cuts in 1998 that Hawaii's economy slowly began to turn around. Today as a national economy is again petering, we face risk of once again going in to another prolonged economic recession and that is why it is so important to pass

tax relief now. That is why we should support this amendment, because this amendment will help inject a financial vaccine into the body of the Hawaii economy. That is what we need and this is why I support this amendment. Thank you Mr. Speaker."

Representative Arakaki rose to speak in opposition to the amendment, stating:

"I'd like to start by pointing out to the Minority, in deference to the Minority Leader, this measure, as H.B. 258 was given a full and fair hearing on February 13<sup>th</sup>, and in fact the Minority Leader was one of the testifiers. Three of his Minority members had the opportunity to participate in discussion and as I recall, this Chair was the only one that asked a question about this bill to the Tax Department.

"But if you will allow me, I want to challenge some of the things that are being said in the amendment. "It says on page 1, section 1, that part of the reason for high cost in medical services and products in Hawaii is attributable to the general excise tax which is passed on to the consumer or intermediary.

"I want to quote from the Legislative Tax Bill Service, which is a fairly conservative organization and, I think, more in line philosophically and fiscally with the Minority. Their comment is:

"The proposed measure would grant a general excise tax exemption for medical service or equipment. While the cost of the general excise tax is an element in the cost of medical care, it is not by any means a major cost which contributes to the rising cost of healthcare. For example, costly government regulations and malpractice insurance have often been cited for the rising cost of medical care. Thus while medical care in total is expensive, the 4 % tax on the amounts received by such facilities is not one of the primary factors behind these costs.

"What the proposal does do is to grant a preference to businesses that happen to sell such devices or provide such care at the expense of all other businesses in the State. So it gives preferences to a certain sector of the business community. If the intent is to alleviate the cost of the tax for being disabled or being ill, then the tax relief should be focused on the patient and his or her ability to afford the additional impose of the tax on such services or devices.

"That brings me to the next point. The amendment proposes to help the disenfranchised, the elderly, the disabled, the sick, the poor and our children who need medical services and products even more. That's a true statement, except it's not because of the excise tax that they don't have these services. The key is accessibility to services. The fact is for a lot of providers they will not or prefer not to provide services to poor, children, to immigrants all these are not being served because they would prefer serving the paying customer or the more compliant clients. That's the key.

"So, if we really want to address the needs of these populations we have to look at how we are going to provide more services to the immigrants, especially when they were precluded from a lot of services by Congress. We have to look at how we are going to provide more services in long term care for the elderly. We haven't done that yet. We have to look at what we are going to do to help people who suffer catastrophic illnesses. We know these things happen because we see a lot of these people having to raise monies on their own with fundraisers to pay for these catastrophic illnesses, such as cancer and transplants.

"So, let's get to the core of these issues and not just look at what may be popular in terms of the public. Let's look at where the real needs are. The needs are out there in our communities, in our rural areas, in our neighbor islands. They're not being served. We have to find the solution by other means.

"So, I speak against this amendment. I know it was offered in all sincerity and I would like to ask the Minority to work with us and see if we can come up with real solutions and get to the core of the issues. Thank you, Mr. Speaker."

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

"When people come to Hawaii, they are surprised to learn that our citizens are taxed for healthcare services, a basic human need. Hawaii is the only State to tax medical services. Emergency medical situations should not be an opportunity to put money into the coffers of the State, but rather a time to show compassion and sympathy. We should not profit from someone else's misfortune.

"Eighty-three million dollars is quite a lot of money, even if it came in 4 cent increments, it adds up to \$83 million.

"Take the example of the senior citizen that slips and falls, and breaks their hip. They require surgery, hip replacement, hospitalization, post-operative treatment, physical therapy. They get through with all of this, perhaps they have a bill of \$35,000. Four percent of that comes up to approximately \$1,400. Insurance companies do not pay for that. They must pay for that out of their pocket. I don't think it matters whether they are wealthy or poor, that tax has to be paid and we should stop that. Thank you, Mr. Speaker."

Representative Suzuki rose to speak in opposition to the amendment, stating:

"Mr. Speaker, part of our process is to allow some of these bills to move forward to the next committee so that more work can be done on it.

"What I'd like to do is shed some light on the tax policy that we tried to achieve. The major goal is equity and fairness. I'd like to go into a discussion, with the consent of the Speaker, relating to tax policy and relating to general tax exemption."

The Chair responded, stating: "On the floor amendment?"

Representative Suzuki continued, stating:

"I am speaking against the floor amendment, because of these other considerations that must be made.

"The major reason for exemption of food and medical services and purchases taxes is to reduce the regressiveness of the GET. Taxation of food and medical services and products is a most regressive component of the base.

"However, even accepting the tax as regressive, its elimination will not achieve the vertical tax equity that is the goal of our entire tax structure. The best approach to accomplishing vertical equity, is by adjusting a tax which is directly imposed on individuals such as the individual income tax. Not by allowing exemptions from an indirect tax such as the GET. Thus the income tax can be structured to offset any undesired equity effects of the GET.

"There are several large advantages to using the income tax to achieve equity goals.

"First, it permits a broader GET base which allows easier administration and compliance because decisions are minimized on what is taxable.

"Second, the broader based GET permits greater revenues to be collected by non-residents since both residents and non-residents receive the same benefits from GET exemptions. But, the income tax is paid mostly by residents.

"Finally, the income tax allows better targeting of tax relief to low income individuals because both low and high income individuals benefit from exemptions. But, the income tax benefits can be directed to those individuals who are targeted for assistance.

"For example, those with higher income often receive greater tax savings from exemptions than those that do with a lower income. This is true even when consumption is regressive. Because regressiveness is defined as a percent of income, not relative to the total tax liability. For example, it is estimated that a family of four in Honolulu with an income of \$20,000 would pay \$475 a year in sales taxes and a family with \$100,000 would pay \$1,087. That exemption on all sales would save the high income family more money.

"Also, the major disadvantage of using income tax, although there's a major disadvantage of using income tax, is that people must file in trying to obtain benefits. Equity can be enhanced with the income tax by making rates more steeply progressive so lower income people pay relatively less income tax than higher income people or by granting tax credits for food and medical.

"Each of these approaches have advantages relative to the other. For example, using tax rates to achieve equity is easier for people to comply with and using credits permit the assistance to be targeted more effectively to the individual. Further, people with no taxable income receive no tax assistance from restructured rates but they do from a refundable income tax.

"So, this all points to more consideration that should be made as the bill moves along on how to best achieve tax equity and structure relief and benefit where it's most needed. Equity of the entire system is probably best achieved with low administration and compliance cost by allowing a single refundable low income tax credit as proposed by our Chair on Economic Development. This method keeps the base broad for both the GET and the income tax and allows relative lower rates to raise a given amount of tax revenues required to balance our budget.

"Exemption for medical services is often allowed because to do otherwise is to tax misfortune. However, for many people these expenditures are not a result of severe misfortune and are substantially under their control. In these cases there is probably no need to allow general tax exemption or possibly even a low income credit to achieve equity. Still, there are extreme individual circumstances where expenditures are necessitated by misfortune. In these cases credit should be designed credit should be designed to give assistance to those most in need. For example, a credit equal to the GET incorporated into a medical bill could be allowed only for people who are able to itemize medical expenses on their federal return. This means that, that credit would be allowed for medical expenses above the threshold which is currently 7.5% of adjusted gross income."

Representative Luke rose and yielded her time.

Representative Suzuki continued, stating:

"This would be a relatively low cost to administer, would cost little revenue and would target the needy group.

"So, Mr. Speaker, there are many combined approaches relating to tax policy that must be used as we move along the bills in this process. We can use it in one with the other.

"Mr. Speaker, for all of these reasons, I believe simply creating a exemptions for GET is not the best approach for achieving tax equity, no matter how it is defined. Thank you Mr. Speaker."

At 3:45 o'clock p.m., Representative M. Oshiro requested a recess, and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:45 o'clock p.m.

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

"As a license massage therapist, I might be a beneficiary of this measure."

The Chair ruled, "No conflict."

At this time, Representative Djou requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to adopt the amendment to H.B. No. 1685, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 31: Abinsay, Ahu Isa, Arakaki, Cabrerros, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 17: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath and Thielen.

Excused, 3: Case, Stonebraker and Whalen.

Representative Fox offered the following amendment to H.B. No. 1685:

SECTION 1. One of the greatest obstacles facing Hawaii's drive toward excellence in the new millenium is our burdensome and regressive tax system. The Legislature finds that many residents of Hawaii face great difficulty affording the high cost of rent. Part of the reason for the high cost of rent in Hawaii is attributable to the general excise tax, which is passed on to the renter.

The disenfranchised – the elderly, the disabled, the sick, the poor, and our children – need shelter even more than most. Yet most live on fixed incomes, making the tax bite and final cost even more insidious.

The cost of basic human needs should not be a roadblock in our collective drive towards excellence. As a community, we cannot afford the impact of our regressive general excise tax system. The purpose of this bill is to remove residential rent from the purview of the general excise tax.

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- Exemption for residential rent. (a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds or income arising from residential rent."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2003.

Representative Fox moved that the amendment be adopted, seconded by Representative Pendleton.

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

"Mr. Speaker, there is a property tax on living in a residence in Hawaii. That tax is paid by people who own their own property, it is also paid by people who rent property. Part of your rent is your property tax.

"Given the fact that there is already a tax on living in Hawaii, and Hawaii is now the fourth most expensive place in the country to live. We can remember when it was the most expensive. Fourth is still high and we have many families struggling to live in Hawaii. That struggle is particularly severe for people who have to rent. To impose an additional tax on rent, the only State in the country that does this, seems a very disproportionate burden on our struggling poor and elderly in Hawaii and we should do away with this tax. Our bill calls for doing away with it in 2003, so there are no revenue consequences in the upcoming fiscal year. Thank you, Mr. Speaker."

Representative Rath rose to speak in support of the amendment, stating:

"Mr. Speaker, I think of all three amendments made today, this one probably has the most striking correlation to the original bill. In the original bill, Aloha and Hawaiian Airlines, two multi-million dollar corporations, seek to have the general excise tax removed from their lease."

The Chair interjected, and asked Representative Rath to confine his remarks to the floor amendment.

Representative Rath continued, stating:

"Of course. The correlation being here, Mr. Speaker, is that this amendment seeks to remove the general excise tax off of residential rent, not commercial or industrial. The argument put forth by the airlines was that if they bought their jets they wouldn't have to pay the tax and it's very true here."

Representative Souki rose to a point of order, stating:

"I believe the good Representative from Waimea is going off course and I think he should get a good navigator to help him get back on course again. Thank you very much."

Representative Rath continued, stating:

"Thank you, Mr. Speaker, and to the Speaker Emeritus. I am from Kona so I do have a navigator. Thank you.

"In any event, the argument is made and we can make this argument in residential rents that if you buy your house, if people in Hawaii could afford to buy homes, they wouldn't be paying rent and thus wouldn't be paying 4%.

"Mr. Speaker, you and I both know that for the average Hawaii family, those whose rent is the highest proportion of their income that they spend on any one given item. This is basically the biggest chunk, therefore, this is the biggest chunk of general excise tax they pay. However, if they could afford a mortgage, they could afford to pay it. So, you have a family very honestly paying a \$1000 a month, if they're paying a mortgage, they pay a \$1000, if they pay it in rent they pay the general excise tax on top of it.

"So, I hope you can see the correlation of the previous language of the bill and this amended language and the correlation between the idea of how you buy something. You still have it, it's how you own it. Thank you very much, Mr. Speaker."

Representative McDermott rose to speak in support of the amendment, stating:

"Mr. Speaker, speaking in a general sense, on lowering taxes, I believe Dr. Naya said it, when the government spends a dollar there's a multiplier effect of one. When the private sector spends it there's a multiplier effect of 1.9.

"The point had been made that if we take the money away from the government, we won't have as much money to spend on some of these services that we really need and things like textbooks. There are economic theories out there that put forth the proposition that when you do lower taxes you actually increase revenue. This is based on the Laffer curve. It reaches a point where at some point when rates are so high people stop working so when you lower rates people are more apt to work and the monies are going to come in.

"But, a very famous President, one of my heroes, being an Irish-Catholic growing up on the East Coast, is John F. Kennedy, and he said: 'A rising tide lifts all boats.' And if we lower the taxes for all, the tide rises and all boats are lifted. Thank you."

Representative Kahikina rose to speak in opposition to the amendment, stating:

"In all due respect to the Minority Leader I take full responsibility for not hearing the proposed bill that was the claim to this tax exemption.

"But in all fairness, Mr. Speaker, as your new Chairman of Human Services and Housing, and being under your leadership when I first came in on the Finance Committee, we are elected to balance the budget and that is what you have taught me. And as the Chairman of the Human Services and Housing I guess I fail to understand the goal of an across-the-board exemption for renters.

"You see, Mr. Speaker, I did the exercise of trying to cut 80% of my budget because when I ran I shared with the state workers that I was in favor of their pay raises. I did my own personal polling and I asked them if a tax credit something that they wanted verses their pay raise and they told me they told me they wanted their pay raise. We tried to look in that budget because in the six years in this House, I have seen some major cuts to human services, housing, health and all the needed programs and this year to see most of them restored made me very happy but yet saddened because of all the demands. The goal can't be to help the poor because many wealthy families rent homes. They're savings of 4% in many cases would be an insignificant amount in their budgets and would lessen the amount of any tax break that could be given to the poor where it would help the most.

"In fact, Mr. Speaker, we did more affordable housing in this State. The State already has a low-income renters' tax credit providing relief of approximately \$10 million dollars a year to resident tax payers. The goal can't be to ensure that renters will benefit because there is no guarantee that the savings provided to a business would necessarily be passed on to the renter. If this were a tax on the renter then perhaps the renter would be assured of the savings, but the general excise tax is a tax on the privilege of doing business. How many landlords will pass the savings on to their renters? Will a landlord renting a property for \$1,000 lower the rate to \$960? I doubt most would. The goal can't be to ensure fairness in the application in the general excise tax. Fairness of the tax can be judged by its equal application.

"Since the general excise tax is a tax on the business, then every business should be taxed at an equal rate. Why should anyone business be exempt from this tax. Why landlords? Why not business suppliers, tee-shirt manufacturers? If the answer is because the poor are impacted the most by rent, then why not increase the rent credit targeted to the poor? The goal can't be to ensure the efficient operation of government. This exemption will cost the government approximately \$67 million. This revenue either has to be replaced by some other source or services need to be cut. There is no indication what services will be cut. There is no plan. What is the trade-off? I don't see the list of services that we will be cutting to fulfill this rent. There's no plan.

"The bottom line is, that such an exemption will benefit the poorest of the landlords the most. Rarely will it ever benefit a renter. We'll erode the tax base. We'll favor one industry over another and will require a lost of government services for an additional tax.

"For all those reasons I oppose the floor amendment. Thank you, Mr. Speaker."

Representative Gomes rose to speak in support of the amendment, stating:

"Mr. Speaker, just briefly on the previous comments with regard to, there would be no guarantee that the tax would be passed on, the market may guarantee that.

"Mr. Speaker, there's no guarantee that we spend the money we collect in taxes wisely either. In fact there is lots of evidence that we don't know how we spend that money. Our own Auditor Marion Higa, has verified that time after time, department after department. So of course, there is no guarantee.

"With regard to the specifics, and I think it is an appropriate question with regard to what cuts or where we make up, that is a worthwhile discussion that we should be having it's not specific to this particular amendment but we can certainly come up with a list of items of what we can discuss and talk about and put on the table for reassessment in terms of priorities when we don't have as much to spend.

"So for those reasons, Mr. Speaker, I support the amendment. Thank you."

Representative Yoshinaga rose to speak in opposition to the amendment, stating:

"Just to summarize, I would like to state for the record that this debate may give the public the wrong impression, that the Majority is against exemptions, totally. I myself have been a proponent for tax reform and this is not a partisan issue but this is a tax review commission, as well as debate, in terms of the need for tax reform that needs to be studied. I myself have

learned things on the floor today. I introduced a similar proposal to exempt the excise tax on rent, food and medicine because I think it is important that we debate these issues. However this is a two-year process, I support this institution that by this reflection we will then make the right decision and that this is premature in light of the fact that we are just coming out of an economic recession and that this is an appropriate time to debate this, however, we need to then continue to look at other alternatives including tax credits.

"For these reasons, Mr. Speaker, I think that this motion is premature and I would like the record to reflect that we are reviewing all alternatives on both sides of the aisle. Thank you, Mr. Speaker."

Representative Arakaki rose to speak in opposition to the amendment, stating:

"Although my brother here apologized for not hearing the bill, sometimes it helps to have institutional memory because as your former Chair of Human Services and Housing, we also considered these proposals and at that time we thought it was a good idea. It does seem regressive to be taxing rents especially when renters are those in the lower income brackets.

"We did propose, on one track, to gather all of the deposits and put them in one big trust fund and use the interest from that for the Rental Housing Trust Fund. We also proposed to use the excise tax proceeds to also go to the Rental Housing Trust Fund, because I think the real key issue here is not the excise tax but the availability for affordable housing, rental and otherwise. This is the key, I think.

"What the hearings on those bills revealed was that most of the landlords, whether small landlords or large ones, most of them incorporate the excise tax into the rents and they said it would be very difficult to separate out what is paid for excise tax. They said a lot of the time they said they eat the excise tax because sometimes it's a bother to add it on to the actual rent.

"But going back to the point about whether the renters would feel or receive the benefits of the tax exemption. I really doubt it. Again, I want to return to the issue and challenge the intent of this amendment that if we really want to look at providing affordable housing to those who are on fixed incomes, the sick, the poor, our children, the elderly, the disfranchised, then we really need to look at policies for developing low income housing. The State hasn't done much, the federal government hasn't done much and all we need to do is point to the waiting list for Section 8. Point to the waiting list for public housing, they're over a thousand now, for each. You add to that Hawaiian Homes. We have a lot of people who want low income housing but we're not giving them the opportunity.

"So, if we really want to provide the assistance, let's get to the core of the issue and let's see how we can provide those affordable units to these people who need them. Thank you, Mr. Speaker."

Representative Djou rose in support of the amendment, stating:

"First, I'd just like to remind the members of this body that at the start of legislative session, an overriding majority of the members of this chambers stated they supported eliminating the general excise tax on food and rent. I'd like to encourage the members of this body that now is the time to cast your votes in favor of eliminating the general excise tax on residential rent.

"When faced with choice of exempting the general excise tax on multi-million dollar aircraft or residential rent, the choice is clear. We should be helping the people of our state and eliminate the general excise tax on residential rent. Thank you, Mr. Speaker."

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

"I'm amazed to sit here and hear repeatedly how the State should create more low income rental housing or some other body should do that. We're talking about we shouldn't eliminate the excise tax on rent so the people could afford to get into these government sponsored housing programs. Why don't we just give them their money back and let them make their own decisions and let them go where they want to go.

"I do not believe that we should force them to eat the general excise tax that we hear that the landlords are doing because they don't pay it themselves directly. I think if you look at anything you buy, after you pay the price, at the bottom you see this little thing called GET, 4.167%, it's enumerated everywhere so you know that you're paying the tax. If the tax isn't there and you don't see the benefits, you go elsewhere to find a place where the price has been reduced. Thank you, Mr. Speaker."

At this time, Representative Djou requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion to adopt the amendment to H.B. No. 1685, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 31: Abinsay, Ahu Isa, Arakaki, Cabrerros, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Thielen.

Excused, 2: Case and Whalen.

(Main Motion)

Representative Rath rose to speak in opposition to Stand. Com. Rep. No. 299, H.B. No. 1685, stating:

"Mr. Speaker, I rise in opposition, not because I don't favor tax exemptions. However, in this bill, the way it was written and constructed it still is, Mr. Speaker.

"It only affects the two major airlines, Aloha and Hawaiian. It does not give an exemption to say the helicopter tour companies, which also lease their jet engines and lease their aircraft. Additionally it doesn't do that for the air ambulance service which take outer island residents very often to Honolulu for treatment, especially crash victims.

"So, it's a very specific bill and I have to admit, Mr. Speaker, not very often am I swayed by the arguments by your Majority, however, I just listened to debate that says, specifically that if you take the general excise tax off, it doesn't really make any difference to the consumer because

we're just going to charge what the market will bear anyway. So this becomes not a tax exemption then to these major corporations but it becomes, by your Majority's own logic, simply a gift. I know this is using your own words against you but it seems fair.

"So, what we are doing is we're giving a major gift to Aloha and Hawaiian Airlines and excluding the other operators and the general aviation and inter island aircraft companies and we're, by your own words, giving these two major corporations in Hawaii a multi-million dollar gift. Thank you very much."

Representative Moses then rose asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1685, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Finance, with Representative Rath voting no, and Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 300) recommending that H.B. No. 868, pass Second Reading and be referred to the Committee on Public Safety and Military Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 868, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," passed Second Reading and was referred to the Committee on Public Safety and Military Affairs, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 301) recommending that H.B. No. 614, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 614, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 302) recommending that H.B. No. 11, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 11, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 303) recommending that H.B. No. 475, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 475, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO SALARIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 304) recommending that H.B. No. 1230, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1230, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CYBERSPACE ENTREPRENEURS ACADEMIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 305) recommending that H.B. No. 480, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 480, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR BUSINESS SPECIALIST POSITIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 306) recommending that H.B. No. 144, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 144, entitled: "A BILL FOR AN ACT RELATING TO KAHOLAWE ISLAND RESERVE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 307) recommending that H.B. No. 497, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 497, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DOMESTIC VIOLENCE WORKING GROUP," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 308) recommending that H.B. No. 1000, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1000, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 309) recommending that H.B. No. 1100, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1100, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 310) recommending that H.B. No. 774, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 774, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COURTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 311) recommending that H.B. No. 786, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 786, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative McDermott rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 786, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DONATED DENTAL SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representative McDermott voting no, and Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 312) recommending that H.B. No. 664, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 664, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BIRTH DEFECTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 313) recommending that H.B. No. 125, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 125, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BODY PIERCING," passed

Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 314) recommending that H.B. No. 1684, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1684, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Halford rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1684, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE AND LOCAL TAXATION OF MOBILE TELECOMMUNICATIONS SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representative Halford voting no, and Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

At 4:16 o'clock p.m., Representative Pendleton requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:17 o'clock p.m.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 315) recommending that H.B. No. 583, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 583, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CODE OF FINANCIAL INSTITUTIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 316) recommending that H.B. No. 516, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 516, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 317) recommending that H.B. No. 169, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 169, HD 1, pass

Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Moses rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Rath then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 169, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 318) recommending that H.B. No. 655, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 655, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"The increase in the fee is almost, according to the committee report, doubled from thirty-five cents to seventy-five cents and I believe it will be passed on to the users. Thank you."

Representative Moses then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Rath then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register and aye vote with reservations for her and to have her remarks inserted into the Journal, and the Chair "so ordered".

Representative Meyer's remarks are as follows:

Mr. Speaker, I vote in favor of House Bill 655, with reservations.

This bill more than doubles the fee surcharge for each ton of solid waste taken to the dump. No matter how much we try to convince ourselves otherwise, fees are taxes. This bill thus increases taxes.

The justification for this increase is that the Department of Health Solid Waste Regulatory Program has never been as large as was envisioned. I have some concerns about whether a State regulatory program is even necessary. The counties

run the dumps and charge a tipping fee to cover the cost of running the facility. Whatever role there may be for the State is a limited one. Doubling the fee surcharge to expand the size of the State regulatory program may not be necessary.

Our State government grows every year, position by position, program by program - usually supported by a fee or surcharge. We have to look closely at what is being done in our name before we increase fees that will be passed on to our constituents.

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Auwae then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Pendleton then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 655, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE MANAGEMENT DISPOSAL SURCHARGE," passed Second Reading and was referred to the Committee on Finance, with Representatives Gomes, Halford, Jaffe, McDermott, Moses and Rath voting no and Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 319) recommending that H.B. No. 1282, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1282, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONSERVATION TAX CREDITS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 320) recommending that H.B. No. 683, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 683, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS PENALTIES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case, Ontai, Souki, Whalen and Yoshinaga being excused.

## SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Pendleton and carried, the rules were suspended for the purpose of considering certain bills for Third Reading on the basis of a modified consent calendar. (Representatives Case, Ontai, Souki and Whalen were excused.)

### THIRD READING

#### H.B. No. 1257, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1257, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LEI DAY," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 1474, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1474, HD 1, entitled: "A BILL FOR AN ACT ADOPTING AN OFFICIAL STATE TARTAN," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 660, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 660, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAZARDOUS WASTE," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 700, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 700, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF POISONS," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 526, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 526, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 587, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 587, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE BROKER LICENSING," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 588, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 588, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWAL REQUIREMENTS OF THE BOARD OF MEDICAL EXAMINERS," passed Third Reading by a vote of 47 ayes,

with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 598, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 598, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTIONS FOR DEPOSITORY INSTITUTION SALES OF INSURANCE," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 1176:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1176, entitled: "A BILL FOR AN ACT RELATING TO INSPECTIONS BY THE COUNTY FIRE CHIEF OR THE CHIEF'S DESIGNEES," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

#### H.B. No. 692:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 692, entitled: "A BILL FOR AN ACT RELATING TO SECTION 13 OF ACT 380, SESSION LAWS OF HAWAII 1997," passed Third Reading by a vote of 47 ayes, with Representatives Case, Ontai, Souki and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 1257, HD 1; 1474, HD 1; 660, HD 1; 700, HD 1; 526, HD 1; 587, HD 1; 588, HD 1; 598, HD 1; 1176; and 692 passed Third Reading at 4:23 o'clock p.m.

### RECALL

At this time, Representative Fox moved to recall H.B. No. 261 from the Committee on Health, seconded by Representative Pendleton.

The Chair addressed the body, stating:

"This is a procedural motion and debate is limited to the propriety of the action of recalling the bill. Debate on the merits of the bill is not in order at this time. The discussion will be on the recall motion."

The motion to recall H.B. No. 261, entitled: "A BILL FOR AN ACT RELATING TO DRUG PREVENTION AND TREATMENT," was put to vote by the Chair, and upon a show of hands, the motion was carried, and H.B. No. 261 was recalled from the Committee on Health and was put before the House for action.

Representative Fox then moved that H.B. No. 261 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

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

"We face a real crisis in Hawaii in the area of drug use and we only spend two cents out of every State dollar relating to substance abuse on treatment and even less on prevention. Yet, the payoff of the expenditures on drug treatment and prevention are vastly greater than this sum of money.

"We have identified a source of funds to pay for drug treatment and prevention. It is the money coming out of the

Tobacco Fund, the 40% of the money that's coming out of the Tobacco Fund, that's being allocated to the Rainy Day Fund. The purpose of this bill is to take that money, roughly \$20 million, and put it into drug prevention and drug treatment programs. This will approximately double the amount of money that the state is currently spending on drug treatment and prevention and will enable us to support some badly needed drug treatment programs in the prison system. It will also support drug prevention and drug treatment relating to young children and adolescents and support private agencies that provide the treatment programs throughout our State and help us tackle a very serious problem.

"We have a real difficulty with this term 'Rainy Day Fund.' When it comes to drugs in Hawaii it's 'raining cats and dogs'. We've got to use the money now. Tobacco money is just the right place to go. It's money that comes from an addiction used to deal with a serious problem of drug addiction in Hawaii.

"We recommend that all of us on this floor seriously consider this bill and possibly pass it on for Third Reading. Thank you, Mr. Speaker."

Representative Arakaki rose to speak in opposition to the motion, stating:

"Again, I don't doubt the sincerity of the Minority Leader and he indeed correctly identifies one of the major problems facing Hawaii, especially our young people.

"I just need to remind everyone that again, this is one of those bills in the form of H.B. No. 261, that was given a full and fair hearing. In fact, the Minority Floor Leader was one of those who provided us with testimony as well as one of the Minority staff.

"I don't think there is anybody who would disagree that we need to face this problem head-on. But, when we talk about treatment and prevention and very often we are treating symptoms. When you look at why a child uses drugs, they want to relieve boredom. They want to forget their troubles. They want to feel grown up. They want to ease the pain that they may be suffering in their families. They want to belong to a group. They want to show their independence. The fact is, we can't get away that the core of any treatment or any prevention plan is our families. It has to be family centered.

"I think this is one of the flaws that the State has had in many of their drug prevention and treatment programs. They forget the families and the importance of families in preventing drugs. Even if the kids do get into drugs, the child has to have the family as the support if we want to truly treat and keep that child from relapsing.

"The question is whether we want to use this enormous sum of money that is available in the Rainy Day Fund for such a purpose. I'm not sure. We already have committed over \$8 million in federal funds over the next three years given to the Alcohol and Drug Abuse Division for the exact prevention programs that we are talking about. We also have several bills in the hopper to look at providing or mandating treatment for first time offenders -- a bill to fund school-based substance abuse treatment programs.

"I guess the question is, is this going to be a duplication of efforts? Do we have the infrastructure needed to care or to implement all of these programs? I think we also need to recognize that prevention and treatment are an ongoing effort. The Rainy Day Fund is limited and once we spend that money its going to be gone. What happens to the kids that are being treated? Do we say sorry, we spent all the money.

"So, if we're really going to make the commitment, we're going to have to look for a consistent source of funding. I did ask that the bill be deferred, it may be an idea that we have to turn to sometime in the future. But for now we need to look at the bigger picture on where are priorities are going to be and how we can most wisely spend the limited resources that we do have.

"For that reason I would ask the Minority to be patient and let's see what we can work on as a community to support our families in dealing with these problems. Thank you, Mr. Speaker."

Representative Gomes rose to speak in support of the motion, stating:

"Mr. Speaker, with regard to some of the comments of the previous speaker, I think it's worthwhile noting that it would be difficult to explain that story, that we spent the funds and there's none left, and no doubt it would be.

"But, I think it would be worse, Mr. Speaker, to have that pile of money sit in there and try to explain that we're just waiting for a rainy day and we're not going to put it to the task of helping that child and his family break his addiction to drugs.

"Mr. Speaker, this issue doesn't only affect children and it's unfortunate that it takes the toll that it does on children. But it affects many, many adults who struggle mightily to overcome the problem of drug addiction, of alcohol addiction. It's a serious problem. It shows up in all facets of our society, all races and all sexes. It has a tremendous cost in the business sector. It has a tremendous cost in our governmental sector. And most importantly, it takes a terrific toll on our families. Because it is moms and dads that have the problem. It is moms and dads that blow their money that would otherwise go to the betterment of their families and its these people that need our help. Certainly we could do more to coordinate the efforts that we have on-going, being school based or otherwise.

"Mr. Speaker, it seems to me that we should throw all our weight that we can into this issue because it does take the toll that it does. Not only the treatment of prevention, but also the enforcement against those who deal in these illicit drugs.

"With regard to the concept of the Rainy Day Fund, it just baffles me that we're struggling mightily, not just on this drug issue, but on several other issues on these big ticket items that we have been discussing, teachers raises, etc. We can still legitimately try to salt some money away for some 'rainy day' when as the Minority Leader said, it is raining. It's 'pouring cats and dogs' with regard to this drug issue.

"Mr. Speaker, rather than waiting until we have people addicted to drugs show up in the criminal justice system, if we can provide the services out there now, whether it's a private institution that we build or a fund or whatever it is, let's flow all of the resources that we can into this issue.

"So, for those reasons, Mr. Speaker, I rise in support. Thank you."

At this time, Representative Djou requested a roll call vote.

The request for a roll call vote was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion that H.B. No. 261, entitled: "A BILL FOR AN ACT RELATING TO DRUG

PREVENTION AND TREATMENT," pass Second Reading and be placed on the calendar for Third Reading was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 27: Ahu Isa, Arakaki, Cabrerros, Chang, Espero, Garcia, Hale, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Suzuki, Takai, Takumi, Yonamine and Yoshinaga.

Ayes, 17: Abinsay, Auwae, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Pendleton, Rath, Stonebraker and Thielen.

Excused, 7: Bukoski, Case, Hamakawa, Ontai, Souki, Takamine and Whalen.

At 4:39 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 4:56 o'clock p.m., the Vice Speaker assumed the rostrum.

### RECOMMITAL

The Vice Speaker directed the members' attention to Stand. Com. Rep. No. 532, which was taken out of order.

Representative M. Oshiro moved that, notwithstanding the report of the Committee (Stand. Com. Rep. No. 532), H.B. No. 426, HD 1, be recommitted to the Committee on Economic Development and Business Concerns, seconded by Representative Lee.

The motion was put to vote by the Chair and H.B. No. 426, HD 1 entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," was recommitted to the Committee on Economic Development and Business Concerns, with Representatives Case, Garcia, Kanoho, Nakasone, Rath, Souki, Takamine and Whalen being excused.

### STANDING COMMITTEE REPORTS

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 321) recommending that H.B. No. 1043, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1043, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 322) recommending that H.B. No. 824, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 824, entitled: "A BILL FOR AN ACT RELATING TO MOTORCYCLE OPERATOR EDUCATION," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 323) recommending that H.B. No. 1108, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1108, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 324) recommending that H.B. No. 1679, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1679, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DILLINGHAM AIRFIELD," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 325) recommending that H.B. No. 1267, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1267, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"The only reason I speak at this time is because I think I am the only member, unless I'm mistaken, that served who in the Gulf War. I was in Saudi Arabia for about eight months during that time frame as a Lieutenant with the Third Battalion Ninth Marines.

"I am very grateful that this measure had passed and I thank you."

The motion was put to vote by the Chair and, the report of the Committee was adopted and H.B. No. 1267, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSE PLATES," passed Second Reading and was referred to the Committee on Finance, with Representative Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 326) recommending that H.B. No. 14, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 14, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR ADDITIONAL SCHOOL CLERICAL POSITIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 327) recommending

that H.B. No. 1049, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1049, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REPAIR AND MAINTENANCE OF SCHOOLS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 328) recommending that H.B. No. 1044, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1044, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALARY STRUCTURE OF EDUCATIONAL OFFICERS IN THE DEPARTMENT OF EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 329) recommending that H.B. No. 1668, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1668, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REHIRING RETIRED TEACHERS IN THE DEPARTMENT OF EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representative Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 330) recommending that H.B. No. 1671, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1671, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 331) recommending that H.B. No. 447, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 447, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 332) recommending that H.B. No. 662, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 662, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PENALTIES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representatives Morita and Ahu Isa, for the Committee on Energy and Environmental Protection and the Committee on Economic Development and Business Concerns presented a joint report (Stand. Com. Rep. No. 333) recommending that H.B. No. 659, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 659, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNDERGROUND STORAGE TANKS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 334) recommending that H.B. No. 279, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 279, entitled: "A BILL FOR AN ACT RELATING TO STATE AND COUNTY IMMUNITY FROM LIABILITY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 335) recommending that H.B. No. 691, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 691, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

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

"I rise with reservations just because of the very large fines. Thank you."

Representative Meyer then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 691, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES FOR THE STATEWIDE TRAIL AND ACCESS PROGRAM," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representatives Kanoho and Ahu Isa, for the Committee on Water and Land Use and the Committee on Economic Development and Business Concerns presented a joint report (Stand. Com. Rep. No. 336) recommending that H.B. No. 1150, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1150, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST ADTECH," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 337), recommending that H.B. No. 436, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 436, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 338), recommending that H.B. No. 1254, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1254, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 339) recommending that H.B. No. 596, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 596, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Pendleton rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Rath then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Leong then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Moses then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 596, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 340) recommending that H.B. No. 600, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 600, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"The committee report says the purpose of this bill is to update Hawaii's business registration statutes. In Committee, this was a housekeeping bill. It's a very large bill, 142 pages.

"The problem I have is on page 12 where a special handling fee for certification of documents is going to go from \$1 per page to \$25 a page which seems extremely excessive to me. There are also others that go from \$20 to \$25, \$10 to \$20 but these are increases in fees that will impact the people of Hawaii. Thank you."

Representative McDermott then rose in opposition to the measure and asked that Representative Meyer's remarks be entered into the Journal as his own, and the Chair "so ordered". (By reference only)

Representative Marumoto then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Moses then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Rath then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"Madame Speaker, this bill is a result of interim work that DCCA conducted with the regulated industry.

"At the hearing all the testimony was in support of this measure. Although the previous speaker talked about raising fees, what the previous speaker failed to note is a reduction of fees actually. Annual report filing fee from \$50 to \$25; limited partnership fee from \$1000 to \$100; certificate of correspondence of a statement amendment from \$100 to \$50; statement of qualification of limited liability partnership \$100 to \$50. Anyway you get my point. The bill is quite inclusive. In fact of some provisions were in consultation of the regulating industry.

"The regulated industries said we should raise the fees if it means more efficiency in the processing of these documents. However in other areas we believed that the fees should be reduced to facilitate the business. And so if you look at the bill in total, it's a very good 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. 600, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Gomes, Halford, Marumoto, McDermott, Meyer, Moses, Ontai and Rath voting no and Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 341), recommending that H.B. No. 281, as amended in HD 1, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 281, HD 1, be referred to the Committee on Finance, seconded by Representative Lee.

Representative Gomes rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 281, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NEUROTRAUMA," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 342) recommending that H.B. No. 1361, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1361, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A HAWAIIAN AFFAIRS TASK FORCE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep.

No. 343), recommending that H.B. No. 71, HD 1, as amended in , HD 2, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 71, HD 2, be referred to the Committee on Finance, seconded by Representative Lee.

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

"I think the Women's Caucus put together a pretty good bill here. One of the problems I have with it though, and I'd like them to look at it, is that it says that the Director of Public Safety shall provide model, gender responsive programs for female offenders. It goes on to say on the next page, to assist the female offenders to overcome their own extreme degree of dependency, learning strong and healthy relationships, without losing self esteem.

"I just don't understand how we can not let them lose self esteem when they're prisoners. They've committed some action that got them there. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 71, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 344) recommending that H.B. No. 336, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 336, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL DEVELOPMENT ACCOUNT CONTRIBUTION TAX CREDIT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 345) recommending that H.B. No. 539, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 539, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 346) recommending that H.B. No. 779, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 779, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 347) recommending that H.B. No. 949, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 949, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR LANAKILA MULTI-PURPOSE SENIOR CENTER," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 348) recommending that H.B. No. 1234, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1234, HD 1, entitled: "A BILL FOR AN ACT RELATING TO QUEST," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 349) recommending that H.B. No. 1367, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1367, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VOCATIONAL REHABILITATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a joint report (Stand. Com. Rep. No. 350) recommending that H.B. No. 285, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 285, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE FINANCING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a joint report (Stand. Com. Rep. No. 351) recommending that H.B. No. 942, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 942, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CHILDREN'S HEALTH INSURANCE PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 352)

recommending that H.B. No. 690, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 690, HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

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

"No. Just because of the large fines. 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. 690, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES FOR NATURAL RESOURCES," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representative Thielen voting no and Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 353) recommending that H.B. No. 1118, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs..

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1118, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 354) recommending that H.B. No. 183, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 183, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL SAVINGS ACCOUNTS IN THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 355) recommending that H.B. No. 562, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 562, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 562, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 356) recommending that H.B. No. 563, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 563, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 357) recommending that H.B. No. 565, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 565, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 358) recommending that H.B. No. 564, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 564, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 359) recommending that H.B. No. 576, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 576, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 360) recommending that H.B. No. 616, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 616, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF A CHIEF INFORMATION OFFICER FOR THE STATE OF HAWAII," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No.

361) recommending that H.B. No. 670, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 670, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 362) recommending that H.B. No. 1353, pass Second Reading and be referred jointly to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1353, pass Second Reading and be referred jointly to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"This bill raises the workers' compensation attorney fees, and from what I understand, that comes out from the workers' disability. So they have less money for themselves and more money for their attorneys. Thank you."

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative McDermott then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Marumoto then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1353, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred jointly to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs, with Representatives Djou, Halford, Jaffe, Marumoto, McDermott, Meyer, Moses and Rath voting no and Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 363) recommending that H.B. No. 650, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 650, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADVANCE DIRECTIVES FOR PSYCHIATRIC CARE," passed Second Reading and was referred jointly to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 364) recommending that H.B. No. 1503, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs.

Representative M. Oshiro moved that the joint report of the Committees be adopted and H.B. No. 1503, HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Lee.

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

"In the report here from the Committee it says that the purpose of this bill is to enable the chiropractic professional to serve the public better by amending the definition of chiropractic. They don't want to use 'doctor of chiropractic' but just use 'doctor.' I don't know how that better enables them to treat the public.

"In the law dealing with this matter it would change 'spinal column' to 'body' which will give chiropractors license to expand their practices into areas which they are not properly trained.

"I have a lot of concern about what seems to be a trend to elevate people from one specialty to something more than they are. Chiropractors go to school for two years. They study manipulation of the spine and they do not have anywhere near the training that a medical doctor has. I think by adding to the confusion, taking away the DC, and allowing them to use the prefix Dr., just adds to the confusion and some people would not get the kind of care that they deserve. Thank you."

Representative Stonebraker then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1503, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHIROPRACTIC," passed Second Reading and was jointly referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 365) recommending that H.B. No. 665, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 665, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative McDermott then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Hale then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Leong then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Kawakami then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Yonamine then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Davis then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Auwae then rose and asked the Clerk to register a no vote for her and that her remarks be inserted into the Journal, and the Chair "so ordered".

Representative Auwae's remarks are as follows:

"Mr. Speaker, I respectfully speak in opposition to H.B. No. 665.

"As outlined by HD 1, DOH, DHS, and the Board of Water Supply must submit a plan to the 2002 Legislature to indicate costs and environmental concerns. Further, information must be provided to assure that proper levels of fluoride will be maintained in the water levels. It is clear there is not enough information available at the present time to move forward with this implementation of fluoride into our waters. However, in the reading of HD 1 of HB 665, implementation is not halted.

"The amendments are good in that they address the concerns of the people. Yet, it is unclear what we as a Legislature plan to do with the information gathered concerning the community input, the possible intolerance's or allergies or people to fluoride, or the safety of fluoride in the water.

"While it is important to address issues facing Hawaii's keiki, there is no evidence that the fluoride must be introduced into the body system via the public water system. Supplements can be made available to those who need/want the fluoride intake. As a matter of fact, HB 1628 proposes to prescribe fluoride supplements to those who need them the most at no cost to the individual.

"Additionally, how much will it cost to defend lawsuits addressing freedom of choice or possible liability issues regarding over-exposure or reactions to fluoride? Nonetheless, HB 665, HD 1, allows for the implementation. If we seek further information and community input, we need to use that information. After the information is compiled, then, and only then, should we decide if implementation is in the best interest of the State.

"Many of Hawaii's citizens are opposed to such an implementation of fluoride in the water systems. It is a forced medicine that some individuals do not need and that some individuals can not handle in their systems. Some of our citizens do have sensitivities to chemicals, and their reaction to the introduction of fluoride in water is unknown.

"In summation, because of the unknown effects, the alternative means that are less intrusive, and the great amount of opposition from my constituents, I am in strong support of a study being conducted, and only then can we go forward with possible implementation. We need to listen to our constituents."

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

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

"I have received a tremendous amount of unsolicited calls and e-mails and faxes in this regard."

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

"We had more than six hours of testimony on this measure two weeks ago. There were over a hundred submissions of testimony on the issue of community water fluoridation.

"The overwhelming majority of the testimony was in support of water fluoridation with only about 25 of the submissions in opposition.

"Through it all I could see that this is a very emotional issue. Those testifying in support of water fluoridation were the Department of Health, the State Health Planning and Development Agency, the Hawaii Medical Association, the U.H. School of Nursing and Dental Hygiene, the Hawaii Public Health Association, HMSA, Hawaii Dental Association, Hawaii Dental Hygienists Association, the Hawaii Dental Service, and Dean Cadman of the U.H. Medical School.

"Madame Speaker, I could go on and on. Even the Chamber of Commerce supports fluoridation. Those in opposition to fluoride were primarily individual citizens. I note not one major health organization testified against water fluoridation.

"But emotions aside, we must not lose focus of the situation. The fact is, that we the people of this so-called Health State, are in a dental health crisis. Nothing short of immediate attention and prompt action are needed in this situation.

"Research shows that Hawaii's children suffer from a rate of tooth decay which is more than twice the national average. A rate identified by the U.S. Centers for Disease Control and Prevention as possibly the highest in the nation.

"Despite the claims made by some there is no scientific basis for concern over the safety and effectiveness of fluoride. The U.S. Centers for Disease Control and Prevention considers fluoridation to be among the top 10 most successful public health programs implemented during the twentieth century.

"In addition to the CDC, the American Dental Association, the American Medical Association, and the World Health Organization support water fluoridation. Major cities that you and I often visit fluoridate their water, among them

Washington, D.C. in 1952, New York in 1965, Philadelphia in 1954, Chicago in 1956, Los Angeles and also Las Vegas.

"The benefits of water fluoridation are huge. A 60% to 65% reduction in tooth decay, a lifetime benefit the benefits for all people of all ages, the cost effectiveness and the potential savings.

"According to Dr. Bruce Anderson, the Department of Health surveys have demonstrated that in Hawaii, children residing on Hawaii's fluoridated military bases have tooth decay rates which are less than have the rates of tooth decay found among the civilian population.

"Let me close by asking a few questions. Can the Centers for Disease Control and Prevention, the American Medical Association, the American Dental Association, the Hawaii Medical Association and the Hawaii Dental Association all be wrong about fluoridated water? Do you think the officials and people of all the major cities that I have cited are wrong about fluoridation? Is the American Cancer Society wrong when they say that there is no scientific study that connects cancer with fluoridated water?"

"There is no better way to resolve Hawaii's dental health crisis by passing this measure for community water fluoridation. Our actions will benefit our children and generations to come. I implore my fellow colleagues for their support. Thank you."

Representative Pendleton then rose and asked the Clerk to register a no vote for him and that his remarks be inserted into the Journal, and the Chair "so ordered".

Representative Pendleton's remarks are as follows:

"I strongly oppose the idea of forcing everyone to consume fluoride in their drinking water thereby taking away their freedom to drink pure water that was guaranteed to them by their county.

"For more than five decades, fluoride has been the cornerstone of preventive dentistry. My children have received fluoride treatments from their dentist. As infants, they took prescribed fluoride drops whose dosage was carefully regulated. In both cases, dentists stated the benefits of fluoride but carefully monitored its use. Following dentist's examples, practitioners should prescribe fluoride therapy based on an understanding of patients' total opportunity of individuals to make choices that affect their own well being.

"It is not debated that fluoride use is beneficial when the dosage is carefully regulated. Current research indicates that fluoride is more effective when a low dosage is carefully regulated. Current research indicates that fluoride is more effective when a low level is maintained in the oral cavity at all times. However, when fluoride consumption becomes too great, degenerative effects such as weakened bones and dental fluorosis, the staining or pitting of teeth, are likely.

"I am not opposed to fluoride treatments at the dentist's office, fluoride toothpaste or fluoride rinses. When administered properly, they are beneficial. Nevertheless, I oppose forcing people to ingest fluoride in their drinking water, thus robbing them of their freedom to drink pure water as guaranteed by their counties.

"Unlike fluoride drops prescribed by a pediatrician or dentist, there would be no appropriate dosage adjustments. Everyone would have to consume fluoride at the same concentration.

"Mr. Speaker, House Bill 665, HD 1, attempts to undermine this precaution. This bill calls for the fluoridation of the public water systems here in Hawaii. Although this bill is based on the fact that children ages five through nine have an average of 3.9 decayed teeth in Hawaii, 2.1 times that of the past published U.S. average, it does not point out the dangerous side effects fluoride can have if it is forced-fed to our residents.

"In Hawaii, many of us consume more water per day than our mainland counterparts due to the tropical climate. Thus we would also be ingesting more fluoride if fluoridation occurred.

"In the article entitled *Recommendations for Fluoride Use in Children*, Dr. Jayanth V. Kumar stated, "The amount of fluoride introduced into the mouth with each brushing ranges from 0.1 to 2.0 mg. And the amount swallowed varies from 10 percent to 100 percent depending on the age of the child. If these levels of fluoride are ingested in addition to consumption of fluoridated water during the formation of teeth, dental fluorosis can be expected to occur."

"Some people suggest that a water filter could take care of the concern. But why should Hawaii's families be forced to purchase such filtration systems for their homes after their tax dollars have placed fluoride in their drinking water? What about the concern of human error? Government has never claimed to be infallible. Given this fact, what if there is a mistake regarding fluoride concentration?

"The questions give rise to further debate regarding this issue. For example, what happens to those who have allergic reactions or are hypersensitive to fluoride?

"Hawaii's families should have the right to choose pure drinking water. Let's not use tax dollars to place an EPA categorized "contaminant" in our drinking water. Something has to be done, but forcing everyone to drink fluoride is not the solution.

"Mr. Speaker, an alternative solution relating to fluoridation is House Bill 1628, HD 1. While hoping to lower dental caries in Hawaii's youth, HB 1628 seeks a balanced position, which maintains the freedom of the individual to choose. This compromise includes improving availability of pharmaceutical grade fluoride to guardians of children less than twelve years of age. Specific targeting of those in need would greatly reduce the implementation cost of fluoridation, it would allow parents freedom of choice in the area of their child's dental care, and it would preserve the individual rights of Hawaii's citizens.

"Following a list of documented evidence as to the possible effects fluoridation can have on the community if it is indeed implemented.

"Mr. Speaker, according to John Colquhoun, a dentist and government official in New Zealand, fluoridation has harmful effects. After attempting to treat osteoporosis with fluoride, it was found that fluoride actually caused more hip fractures. That is, when fluoride accumulates in bones, it weakens them. Colquhoun stated, "We have always known that only around half of any fluoride we swallow is excreted in our urine; the rest accumulates in our bones. Researchers in Finland reported that people who lived 10 years or more in that country's one fluoridated city, Kuopio, had accumulated extremely high levels of fluoride in their bones — thousands of parts per million — especially osteoporosis sufferers and people with impaired kidney function." An association with hip fracture is not the only evidence of harm to bones from fluoridation. Five years ago, animal experiments were

reported of a fluoride related incidence of a rare bone cancer, called osteosarcoma, in young rats. Another study by the International Society for Fluoride Research has reported that fluoride at very low levels interfere with the male hormone testosterone. This hormone is involved in bone growth in males.

"Another report from John Colquhoun showed that there was a relationship between children with dental fluorosis and low intelligence scores. This finding is supported by a recently published animal experiment in America, which showed that fluoride also accumulated in certain neurological areas of the brain as well as brain tissues, which affected behavior and the ability to learn.

"One report from Professor Roger D. Masters of Dartmouth College identified a correlation between lead counts and water fluoridation. According to Master, chemicals widely used in treating public water supplies such as fluoride, can increase a child's absorption of lead. In the same study of 24 U.S. cities, it was found that silicofluorides will in fact increase the ratio of lead in the bloodstream. Communities using silicofluorides also report higher rates of learning disabilities. Communities using silicofluorides also report higher rates of learning disabilities, ADHD, violent crime, and criminals who were using cocaine at the time of arrest.

"Phyllis J. Mullenix, Ph.D. is a researcher who has investigated the neurotoxicity of fluoride since 1987. She was contracted by the U.S. Army Medical Command to study whether fluoridating the water supply at Fort Detrick, Maryland was a sound decision. The results from the first experiment were quite surprising. "Frankly, we expected to find nothing," Mullenix said. However, "like quicksand, every effort we made sent us further into the realization that brain function was impacted by fluoride. We reported that brain function was vulnerable to fluoride, that the effects on behavior depended on the age at exposure and that fluoride accumulated in brain tissues. Rats exposed as adults displayed behavior-specific changes typical of cognitive deficits, whereas rats exposed prenatally had dispersed behaviors typical of hyperactivity," Mullenix said. There have been criticisms of this study because the results in rats are not relevant to humans because the doses used were too high. However, these criticisms are without merit because the doses used in rats to produce a level of fluoride in the plasma is equivalent to that found in humans drinking 5-10 ppm fluoride in water.

"According to a 1999 American Journal of Epidemiology study, fluoride in drinking water increases the risk of hip fractures in women. This corroborates several studies revealing a positive fluoride/hip fracture association. Further studies from the American Journal showed that women ages 50 to 64 years of age who were exposed to water fluoride had a significantly greater chance of having a hip fracture. Dr. John R. Lee, physician, states, "the scientific evidence clearly shows that fluoride damages bone even at levels added to public drinking water."

"The federal Environmental Protection Agency sets a maximum contaminant level for fluoride of four parts per million to prevent crippling skeletal fluorosis. However, crippling skeletal fluorosis, common in India, has been reported even in areas naturally fluoridated at one ppm—the level a majority of Americans consume from their fluoridated water supply.

"Another damaging effect fluoridation can have is increasing a child's blood lead levels. According to the International Neurotoxicology Conference, the chemical most commonly used to fluoridate America's drinking water is

associated with an increase in children's blood lead levels. Many studies from the World Health Organization that declare fluoridation's safety and effectiveness in preventing cavities use the chemical sodium fluoride. However, most communities inject cheaper silicofluoride into their drinking water based on the theory that each chemical comes apart totally, so that freed fluoride can incorporate into tooth enamel. Nevertheless, the silicofluorides do not separate completely reports Professor Roger D. Masters Ph.D., of Dartmouth College. "As a result, water treatment with silicofluorides apparently functions to increase the cellular uptake of lead," said Masters.

"Further studies show that fluoride toxicity can have an effect on the reproductive system in human beings. According to the *Journal of Toxicology and Environmental Health*, exposure to high fluoride concentrations in drinking water is associated with decreased birth rates. A review of fluoride toxicity showed decreased fertility in most animal special studied. According to the *Reproductive Toxicology Report*, the altered lysosomal enzyme activity in human beings suggests that fluoridation can cause a significant decline in sperm mortality. Further, "fluoride toxicity may cause adverse effects in the reproductive system of males living in fluorosis endemic areas," states the *J Toxicol Clin Toxicol*.

"Recent studies taken in 1998 by the Board of Environmental Studies and the National Research Council showed that fluoride adversely affected diabetic patients. The study concluded that by injecting fluoride into diabetic patients, the disease did in fact become more severe. In the same study, it was found that allergic reactions to fluoride were also possible. According to the *Annals of Allergy*, by SM Gillespie, six children and one adult exhibited various allergic reactions after the use of toothpaste and vitamin preparations containing fluoride. "My series included a family of six and another of four," said Gillespie. "Every member was adversely affected by fluoride toothpaste. Several of the patients had gastro-intestinal disturbances. Others had ulcers in the mouth. All were cleared up promptly when non-fluoride toothpaste was substituted for the fluoride toothpaste," said Gillespie.

"According to the U.S. National Cancer Institute, thyroid cancer cells and all hormone-related cancer cells, such as breast, ovary, uterine, prostate, testis, thyroid and osteosarcoma can be activated by fluoride. "Everything causes cancer?" questions Dean Burk, Chief Chemist Emeritus at the U.S. Cancer Institute. "Perhaps. Conceivably even a single electron at the other side of the universe. The real question is how likely is any one particular cause? In point of fact, fluoride causes human cancer, and causes it faster, than any other chemical," said Burk.

"After doing extensive research in the field of skeletal fluorosis, the *International Society for Fluoride Research* stated, "Many reputations are at stake here, but the evidence is clear that the risks of fluoride far outweigh any minor benefits to teeth. Pride has to be swallowed and the precautionary principle applied. An increase in more severe skeletal fluorosis is due to erupt as older people enter the risk window. Water fluoridation should cease immediately and steps should be taken to reduce fluoride in food, drink, and dental products."

"The debate has long been fought as to whether fluoridation will in fact have a greater positive effect than a negative effect. According to the research article, *Fluoride*, the benefits are outweighed by the risks. It states, "North American children are today exposed to fluoride from many sources: drinking water, toothpaste, gels, rinses, and a considerable amount in foods and beverages. The additional cariostatic benefits that would accrue from supplement use is

marginal at best, while the risk of fluorosis is strong. There is evidence that the public is more aware of the milder forms of fluorosis than was previously thought, so dental policies should be aimed at reducing fluorosis. The risks of using fluoride supplements in young children outweigh the benefits."

"In a Newsweek article entitled, *The Fluoride Risk. Evidence of a link to Cancer*, it tells of a study done in eight different counties. Mark Disendorf, a member of the British Journal of Nature, said "24 studies from eight counties found that cavity rates had declined equally in fluoridated and nonfluoridated areas, suggesting that fluoridated water isn't that important."

"Despite some support for water fluoridation, many associations no longer sponsor the practice. The American Heart Association, the American Cancer Society, the American Diabetes Association, the National Kidney Foundation, the Society of Toxicology are just a few of the many associations that no longer endorse water fluoridation. "Fluoridation is the greatest case of scientific fraud of this century, if not all time, said Toxicologist, Robert Carton, Ph.D.

"What is amazing is that public health policy in this country has allowed water fluoridation to continue in the absence of solid, scientific evidence that its benefit is greater than its risk," Nicholas Regush, Medical Features Reporter of ABC News said. "When you commit to putting a powerful chemical to the water supply, you'd better have the best of evidence that it is both safe and effective. The required level of evidence is just not there," Regush said.

"For the forgoing reasons, Mr. Speaker, I rise in opposition to HB 665, HD 1."

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

"I'd like to say that the one thing I know is that I have traveled to many of those cities that my distinguished colleague from Pearl City mentioned. I think one of the key things is that generally, I buy bottled water in those cities.

"I will tell you that as a scientist, that I find it kind of repulsive that we put fluoride and chloride into the water. They are toxic. As a rule, I generally filter those chemicals out of my water.

"I think that it sounds impressive that it appears that we get some gain or at least a decrease in tooth decay. But, I think that some of the cost that we have are unacceptable. Thank you."

Representative Yoshinaga then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

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

"There are a couple of reasons why I am opposed to this bill. First of all it's unethical. Secondly, it's unstudied. Thirdly, it's unproductive.

"We did sit through six and a half hours in the Auditorium, and by the way it was freezing cold and I thought maybe that was the reason, they wanted to lower the testimony time. But I didn't find that there was overwhelming support for the bill, as a matter of fact, it was about even split in the middle, many for and many against.

"The bill proposes that fluoride be added to our drinking water in Hawaii under the assumption that our dental woes would be healed. But it's unethical. Hawaii's water is safe. There's nothing wrong with our water. The water is not to blame for our dental caries among our youth.

"Occasionally we do have to treat the water if it is unsafe. In this case it's not unsafe. However, this proposal provides that not the water be treated, but the population through the water and so, it proposes mandatory ingestion of a drug that is quite controversial.

"Speaking of the American Medical Association, Dr. Charles Gordon Hyde, the past president of the AMA, said, 'I am appalled at the prospect of using water as a vehicle for drugs. Fluoride is a corrosive poison that will produce serious affects on a long-range basis. Any attempt to use water this way is deplorable.'

"First of all, it is unethical. You know the reason why we have government is to protect people, not to mandate treatment. So I don't think it is ethical to do so.

"Secondly, is that it is unstudied. Of course those in favor of the bill say that there's overwhelming evidence for its benefits. However, I didn't hear any of that overwhelming evidence. I just kept hearing the term 'overwhelming evidence.' They didn't quote one doctor, one scientist, one study. On the other hand, those opposing the bill brought pages and pages of booklets and quotes and studies and scientific journals saying that this is unhealthy, it's a poison and it's a corrosive. As a matter of fact, the fluoride that they propose putting in the water is a byproduct of fertilizer production. It's a toxic chemical. It is unsafe. You can't dump it in the environment, lakes, streams, anything like that; it's against the law. The effects of it are debatable. They say that it prevents cavities, and that may be true, but they also say that it causes dental fluorosis, higher rates of bone fractures, hip fractures of the elderly. You see, when it hardens the teeth it also hardens the bones. Kids that play sports have a higher rate of bone fractures when on fluoride.

"Those that are favorable to fluoride simply dismissed those testifiers by simply calling them names, such as, whacko, uncredible, unscholarly, but I didn't see any of the scientific evidence after six and a half hours testimony, to the benefit, and if they do quote any they're 50 years old, and we know the state of science 50 years ago.

"What we do know is the DOH has not spent a single penny on educating the public as far the proper dental care, as far sugary snacks, Coke in the baby bottles, or baby bottle tooth decay. But they have spent a lot of money, I heard I didn't see, the television commercials for fluoride, so our tax money, Madame Speaker, is being spent to lobby ourselves. I didn't know I was paying taxes to lobby myself. But apparently I'm not sure if there is any legal action, I've heard rumors that there is a lawsuit on ourselves and the DOH in particular.

"In addition to being unethical and unstudied it is also unproductive, in particular to the environment. You see, the proposed fluoride additive as I've mentioned, is corrosive, toxic, is illegal to be dumped in rivers, lakes or streams. The testimony we heard mentioned that less than one percent of Hawaii's drinking water is actually used as drinking water, it mostly goes down the drain. Ninety-nine percent of drinking water goes down the drain whether it be for washing your dishes, your dog or your car. So it goes directly into the environment.

"The proposed benefits are for children between the ages of 12 and 0 or 0 to 3, at any rate, coupled with the fact that over 99% of the drinking water goes directly into the environment."

Representative Moses rose to yield his time.

Representative Stonebraker continued, stating:

"Coupled with the fact that most of the water goes directly into the environment, is the fact that only the small percentage of the population will actually drink the water. So, it's safe to say that 99.9% of the fluoride, which is illegal to dump into the environment, will go directly into the environment as well. Maybe we should send this bill to CPC or EEP being that it won't target the citizens, but it will target the environment.

"So for those reasons, that 's it's unethical, that it's unstudied and that it's unproductive, I am not willing to support this bill and watch our freedom, our health, our environment and our money go down the drain. Thank you."

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

"If the Chair will note that the spectrum of all these fears were raised to the point of paranoia. Conspiracies, we've heard all these and none of them have been proved. We've heard all these fourteen years ago when we heard about fluoride for the first time and even last year.

"However, the Chair is sensitive to some of those fears and especially for older people. I think we need to address these concerns, if they are concerns or doubts. As part of the bill it requires the Department of Health to address some of these concerns that were brought up in our hearing. Because implementation will not take place for another year and a half, at the earliest. It will also require a plan that needs to be worked out with the communities affected as well as the water delivery systems that are affected. It also has a sunset of ten years. Ten years may not be enough time, but I think we should have some indication if there was any kind of danger from the strategy or if we can show some benefits.

"I just want to get back to the main reason we are trying to do this. We're doing this for our children. I don't offer this as a panacea, because we do need to teach our children good oral hygiene. We do need to teach them the proper way of brushing. We do need to have them refrain from eating candies and drinking soft drinks that rot the teeth. But, the reality is that these things do go on and we have pockets, as I have mentioned earlier, we have pockets of the population that these strategies and educational measures will not occur. In our middle class families maybe they will. But, let's face it, when you look at the outcomes of dental care in our islands, you look at certain ethnic groups, they have higher incidences of cavities. We have places in our State, especially in our rural areas, the low income areas, these are the ones with the higher rates of cavities. I think of this as a public health measure, and I think that is something we all should look at, as a public health measure we need to look at what is the most cost effective way of doing it.

"As I mentioned earlier, sometimes a problem is not the affordability, it's the accessibility. The fact is that our dentists are overwhelmed by the number of children they have to deal with and their cavities. When they have a choice, they choose not to serve our low-income kids or the kids that out in the boonies. They're not going to go out to Ka'u, Lanai or Molokai to provide services. They rather stay in areas like Honolulu where the patients are. As a result, our children suffer.

"So, I'm saying let's be a little visionary. Let's look to the future. It's not going to happen right away, granted. It's not going to improve the dental health of our kids right away. The effects of fluoridation will take awhile, but for the sake of our children, the Japanese say "kodomo no tame ni", for the sake of our children, let's get past our fears. If anyone can show me that these studies have any foundation to them then let's have the Department of Health address them in their report to us next session, and I'll gladly introduce a bill to withdraw this mandate of fluoridation. But until you can show me that, I'll say let's put aside our fears and put what is most important in our lives, our children, and their health first. Thank you Madame Speaker."

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

"Whenever we make public decisions we try to do it based on the evidence before us. We try to do it based on what the experts say. Just to reiterate what the Chair on the Health Committee said, there is overwhelming evidence and if anybody can show me something from a credible source, not "no fluoride.com" or "save our teeth.com", but the Journal of the American Medical Association or the New England Journal of Medicine or some credible study that says that fluoride causes cancer, dental fluorosis or breaks your hip or anything else, then show it to me. I've actually issued that challenge to lots of people that are opposed to fluoride and they say, I'll get back to you, and then I never see any real data.

"So, I stand in strong support because I do think we should make public policy choices based on real information. Thank you, Madame Speaker."

Representative Thielen rose in opposition to the measure, stating:

"Madame Speaker, I found it rather offensive when the Representative from Kalihi called it "paranoia" and "putting aside people fears." I think the people that have taken the effort to send in very factually based testimony pointing out their reasons why they are opposed to adding fluoride to the water are not acting out of paranoia or fear. They are trying to give us the facts on which we can base a decision.

"I also find it very questionable that we give the Department, who is using tax dollars to hype fluoride, the authority on this bill to go do a study as to whether or not we should add fluoride to the water. That's pretty silly. That's like saying to the fox, go guard the hen house. You know what the result will be. The Department of Health is already out there spending money, our money, taxpayers' money to push fluoride through in Hawaii.

"I know that the Representative from Kalihi is very concerned about children and I certainly..."

Representative Kahikina rose on a point of order, stating:

"It's not the person we're debating, but the measure."

Representative Thielen continued, stating:

"I know he is very concerned about children and I deeply appreciate that concern. He's talking about remembering the children. I'd like to talk about the other age spectrum, the seniors in our community. A number of us represent our districts with a large number of seniors in the community. It has been shown that fluoride can cause negative impact upon those seniors by increasing hip fractures and other sorts of

medical problems. I don't think we want to help one end of the spectrum at the expense of the other end of the spectrum.

"You take a look at some of the things that were brought out on toxicological profiles on fluorides from the Department of Health and Human Services. They're talking about various problems especially with the kidneys. Because fluoride is excreted through the kidneys, people with renal insufficiency would have impaired renal clearance of fluoride. That's more likely to happen with the senior population than with youngsters or children. We're talking about the arsenic and lead content in fluoride. That's a problem too, Madame Speaker, and I wouldn't say that that's limited just to the seniors because we all know that lead has a very negative impact upon the development of mental capabilities of young children.

"I don't see the point in spending money and giving the Department of Health the authority to go out and look at this issue when there are so many questions that are unanswered. So many scientific concerns that have been raised. One of the speakers earlier mentioned about the military bases having children who have better dental health than out in the general public. Well, military bases have wonderful access to free dental and physician care, so of course they will be obtaining more of that help and they will be having better dental care.

"It's not an emotional issue. I don't think it is for many of us that are here that are opposed to it. It wasn't an emotional issue for many of the people who have called or sent in very knowledgeable testimony.. It's a health issue. It's also an issue as to whether we have the right as legislators to mandate that something be added to Hawaii's pure water that could cause very negative impacts, certainly for the seniors in our community. Thank you."

At 5:31 o'clock p.m., Representative Arakaki asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:32 o'clock p.m.

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

"Madame Speaker, may I be permitted to change my vote to a no?"

"I feel that for the record I should state no because I don't believe we have enough votes get it out of the second committee, nor can we get it on the floor.

"The other reason is that this was the number one issue for the adult population and especially for the older population of my district last year. The fact was, I found it disconcerting not for the lack of testimonies and interest by parents on behalf of their children.

"The reason is, the solution to this problem is for the DOE to really do a better job of educating our children. We have 10 dental hygienists covering close to 200 elementary schools and it's totally inadequate for them to go to every classroom and give support to the teachers so that our students can learn to better take care of their teeth.

"The other things is, the League of Women Voters came and testified before the Health Committee and this woman said that this is the third time that this matter has been brought up and they are still against it. The first time it was brought up was in 1972. Now if this is such an urgent and critical issue, then I think why didn't we put it into affect in the mid 80s

when we had \$350 million to \$650 million surplus funds in our budget. So when the time was appropriate and we had the money it wasn't an urgent matter. Suddenly now that we have tobacco settlement money as proposed last year. Now we want to get this program started. I don't think the urgency of this matter has ever been defined to us.

"Because of all of these reasons, I changed my mind on this vote and state no."

Representative Bukoski then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"Madame Speaker I would like to change my vote to no also.

"I led a petition in the 70s against a fluoridation bill that the Hawaii County Council passed. It went to the voters of our county and we voted it down 10 to 1. The people of my county did not want fluoridation and I don't think they still do.

"I object to this bill on two counts. First, I feel that it is a homerule issue. If a county wants to do it, do it. All of our counties have initiative, referendum, and recall, the State doesn't.

"The other objection I have is that children don't drink water. They drink soda pop. If you put the fluoride in the soda pop you might do some good.

"Furthermore, in my district most of our people do not have public water systems, they have catchment on the roof so it isn't going to do any good for the cavities in my district and I can assure you there are a lot of them. It's a question of proper diet and proper dental care and education of people. Thank you."

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

"Madame Speaker, community water fluoridation has been practices in the United States for 55 years. Some have called fluoridation one of the 'four horsemen' of public health. Former U.S. Surgeon General, Ruther Terry, was the first to use this term referring to chlorination, pasteurization, immunization and fluoridation.

"Foundation has also been called one of the ten most important public health measures in the last century, as Representative Takai mentioned. Present Surgeon General, David Stature, saw fluoridation to reduce disparities in health that exist and persist between socio-economic groups. He cited the vast scientific evidence supporting the use of community water fluoridation as well as its impressive effectiveness.

"For example, for every \$1 spent on fluoridation, \$80 may be saved in healthcare costs. One could call fluoridation preventive medicine because the body's oral health is intimately related to total wellness. The Council of State Governments has a wonderful publication and it's called a *State Official's Guide to Sound Science*, which I have with me here and it states: "this publication is a guide to elected officials who must decide issues of health related to scientific evidence". One section cautions elected officials to be aware of the following when considering issues such as fluoridation.

1. Be skeptical of dire warnings of dangers in a single product regiment;

2. Be skeptical of simplistic conclusions drawn from a complex study;

3. Be skeptical of recommendations based on a single study;

4. Be skeptical of dramatic statements refuted by reputable scientific organizations; and

5. Be skeptical of recommendations based on studies published without peer review.

"And I believe a lot of the publications which refute the effectiveness of fluoride are not peer reviewed.

"Public water supplies have been used as a vehicle of prevention of tooth decay since 1955, but the treatment of water for public consumption has been a tool used by public health agencies since the 1840s. Water treatment for disease prevention has long been considered the way to protect the public health and has been used to prevent such diseases as anemic dysentery, cholera, anthropathogenic diarrhea, gardiasis, hepatitis A, paratyphite, typhoid and others. We don't hear much about these diseases now because of the success of public water supply treatment.

"However, in Hawaii despite sometimes being called the Health State we have a dubious distinction. The greatest rate of childhood dental disease in the nation, despite the fact of having the best water in the world. We must get past the unscientific allegations of some and the misguided attitude that community water fluoridation somehow interferes with someone's freedom of choice.

"In closing I would like to quote Professor John Harris, who is the Director of the Center for Social Ethics and Policy at the University of Manchester, England:

In considering the ethics of fluoridation one might legitimately reverse the question and ask, if fellow citizens are entitled to impose, not only a disadvantage on the community at large, but impose actual deaths and the risk on deaths on children for the sake of a minor dimension and the ranges of choice available.

"We should ask not are we entitled to impose fluoridation on unwilling people but are unwilling people entitled to impose the risks and damaging cost of the failure to fluoridate on the community at large. When we compare the freedoms at stake, the most crucial is surely the one which involves liberation from pain and disease.

"It has been said that this bill before you is a start. It is just the beginning of a long and difficult journey towards better dental health for our people. We should do the right thing to truly advance the health status of our constituents and especially our children. Thank you very much, Madame Speaker."

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

"With all due respect to the Chair of the Health and our Majority Floor Leader, I will have to vote no on HSCR No. 365, as it reflects the vote of my district and constituents. Thank you."

Representative Kawakami then rose to speak in support with reservations, stating:

"Madame Chair, I wasn't sure if my vote with reservations was recorded.

"This issue was raging in 1987 when I entered this legislature and I want to say that the Department of Health has done nothing to comprehensively educate the people about this problem. I would also like to say that I believe the Department of Health should address the concerns that have been raised and they are the same concerns that were raging in 1987.

"First of all, some of the environmental concerns. What about the Food and Drug Administration, where are they on this? What about EPA approval? Also, the people who are very leery about the side effects and the sensitivities to their children and also to the Board of Water Supply who will be monitoring the system. We haven't heard anything concrete and this is where I am coming from.

"When I get that information, perhaps I would change my mind and go for it. But at this time please record a with reservations vote. Thank you."

Representative Kahikina then rose and asked the Clerk to register an aye vote with reservations, and the Chair "so ordered".

Representative Abinsay then rose and asked the Clerk to register an aye vote with reservations, and the Chair "so ordered".

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

"In 1965 when I was a legislative intern here it was a big controversy and it still is. 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. 665, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY ORAL HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representatives Ahu Isa, Bukoski, Gomes, Hale, Halford, Jaffe, Leong, McDermott, Ontai, Pendleton, Rath, Stonebraker, Thielen and Yonamine voting no and Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 366) recommending that H.B. No. 1628, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1628, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A FLUORIDE ALTERNATIVE SOLUTION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 367) recommending that H.B. No. 1507, pass Second Reading and be referred to the Committee on Energy and Environmental Protection.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1507, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Second Reading and was referred to the Committee on Energy and Environmental Protection, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 368) recommending that H.B. No. 1273, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1273, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Finance.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 369) recommending that H.B. No. 1554, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1554, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1554, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HYDROGEN RESEARCH AND DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 370) recommending that H.B. No. 514, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 514, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEPUTY ATTORNEYS GENERAL," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 371), recommending that H.B. No. 1411, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1411, entitled: "A BILL FOR AN ACT RELATING TO SECONDARY MARKET SERVICES CORP.--HAWAII," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 372) recommending that H.B. No. 1574, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1574, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE YOUTH LEGISLATURE PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 373) recommending that H.B. No. 1242, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1242, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT CONTRACTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 374) recommending that H.B. No. 1562, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1562, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR LAPTOPS FOR LEARNING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 375) recommending that H.B. No. 1563, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1563, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 376) recommending that H.B. No. 1046, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1046, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 377) recommending that H.B. No. 1666, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1666, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

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

"I'm not sure I understand exactly what's going on here. This looks like this is the first time that we're allowing somebody on the income tax form to designate a recipient for a sum of money. My understanding is that the current check-off system for the elections fund is a signal to the Tax Department that the designation is going to be awarded from public funds. But this is actually taking money out of your credit, this is your own money, and putting it in a repair fund. I just wonder if people thought how that is going to open up the process to a lot more checks for favorite causes. Thank you."

Representative Ontai then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1666, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REPAIR AND MAINTENANCE OF SCHOOLS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 378) recommending that H.B. No. 1050, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1050, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF EDUCATION FOR REGISTRAR POSITIONS AND NECESSARY CONSULTANT SERVICES AND GOODS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 379) recommending that H.B. No. 1028, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1028, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A MODEL UNITED NATIONS PROGRAM FOR HIGH SCHOOL STUDENTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 380) recommending that H.B. No. 1670, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1670, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ESTABLISHMENT AND CONTINUATION OF PROFESSIONAL DEVELOPMENT SCHOOLS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 381) recommending that H.B. No. 1675, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1675, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 382) recommending that H.B. No. 1016, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1016, entitled: "A BILL FOR AN ACT RELATING TO THE MEMBERS OF THE BOARD OF EDUCATION," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 383) recommending that H.B. No. 472, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 472, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Bukoski rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Rath then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Pendleton then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

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

Representative Ontai then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 472, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOLS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 384) recommending that H.B. No. 1047, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1047, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 385) recommending that H.B. No. 1637, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1637, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE PUBLIC LIBRARY SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 386) recommending that H.B. No. 613, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 613, entitled: "A BILL FOR AN ACT RELATING TO REALLOCATION OF VACANT LIBRARY POSITIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 387) recommending that H.B. No. 1561, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1561, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 388) recommending that H.B. No. 487, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 487, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 389), recommending that H.B. No. 740 HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 740, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," was referred

to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 390) recommending that H.B. No. 626, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 626, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 391) recommending that H.B. No. 1399, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1399, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL ATTORNEYS GENERAL," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 392) recommending that H.B. No. 171, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 171, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 393) recommending that H.B. No. 579, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 579, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 394) recommending that H.B. No. 1059, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1059, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 395) recommending that H.B. No. 1174, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1174, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 396) recommending that H.B. No. 1318, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1318, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 397) recommending that H.B. No. 1586, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1586, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1586, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 398) recommending that H.B. No. 1130, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1130, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 399) recommending that H.B. No. 1167, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1167, HD 1, entitled: "A BILL

FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 400) recommending that H.B. No. 617, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 617, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

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

"I think we should give the workers a raise before we give the boss a raise. Thank you."

Representative Moses then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Davis then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Leong then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

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

"This is not choosing between giving collective bargaining workers raises and the cabinet. Thank you."

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Thielen then rose on a point of inquiry, stating:

"My bill and my committee report for HSCR No. 400 on this raise for the bosses does not contain a vote record and I've checked with my colleague to the right of me and it doesn't contain a vote record and I was wondering if anyone's did contain a vote record.

At 5:51 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:55 o'clock p.m.

The Chair addressed the body, stating:

"Representative Thielen thank you for pointing that out. We checked with the Clerk's Office and they do have the recordation of votes. The error was in the printing, so right now the office is making the necessary copies for our members.

"Would it be okay if we proceed?"

Representative Thielen responded, stating:

"Yes, please proceed. Thank you very much."

Representative Auwae then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 617, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF PUBLIC OFFICERS," passed Second Reading and was referred to the Committee on Finance, with Representatives Auwae, Davis, Djou, Gomes, Halford, Jaffe, Leong, Marumoto, Meyer, Moses and Thielen voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 401) recommending that H.B. No. 357, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 357, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENSIONERS' SPECIAL COMPENSATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 402) recommending that H.B. No. 572, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 572, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"This bill started off very good. It was going to return money to the people who paid into the Hurricane Relief Fund, now it's gonna go instead to have a study and I think the money should go back to the people who paid it. Thank you."

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"Just briefly, because a comment was made. To set the record straight and lay a foundation, this measure is not against the beneficiaries, but it uses funding in different ways to promote the future stability and funding mechanism for all the beneficiaries in the future. It is in response to the Auditor's report. Thank you."

Representative Fox then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative McDermott then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Stonebraker then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 572, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Djou, Fox, Gomes, Halford, Jaffe, McDermott, Moses, Rath, Stonebraker and Thielen voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 403) recommending that H.B. No. 676, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 676, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OCCUPATIONAL AND CAREER INFORMATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 404), recommending that H.B. No. 699, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 699, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE TESTING," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 405), recommending that H.B. No. 705, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 705, entitled: "A BILL FOR AN

ACT RELATING TO THE CRIME VICTIM COMPENSATION SPECIAL FUND," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Hamakawa and Garcia, for the Committee on Judiciary and Hawaiian Affairs and the Committee on Public Safety and Military Affairs presented a joint report (Stand. Com. Rep. No. 406) recommending that H.B. No. 709, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 709, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COMPENSATION OF CRIME VICTIMS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 407), recommending that H.B. No. 637, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 637, entitled: "A BILL FOR AN ACT RELATING TO OHANA CONFERENCING," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 408), recommending that H.B. No. 1529, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1529, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WATER POLLUTION," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 409), recommending that H.B. No. 176, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 176, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 410), recommending that H.B. No. 632, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 632, HD 2, entitled: "A BILL FOR AN ACT RESOLUTION RELATING TO HUMAN SERVICES," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 411), recommending that H.B. No. 666, as amended in, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 666, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL WASTEWATER SYSTEMS," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 412), recommending that H.B. No. 733, as amended in, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 733, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 413), recommending that H.B. No. 1540, as amended in, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1540, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CRIME VICTIM COMPENSATION COMMISSION," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 414) recommending that H.B. No. 1351, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1351, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 415) recommending that H.B. No. 161, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 161, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 416) recommending that H.B. No. 301, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 301, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Gomes rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

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

"I really protest it.

"It would allow an importer, wholesaler, warehousemen or a retailer or anybody who stores fireworks and who is licensed to keep a larger supply rather than a six month or two years supply will increase the danger to public safety.

"This is hazardous material. I really don't have too much of a problem for the larger fireworks for public display because that is handled by few professionals. But this will allow the common consumer aerial fireworks to be stored in greater quantities. The result of this law that we had passed earlier is to allow the importation, storage, wholesaling and retailing of common consumer aerial fireworks. They've proven to be very dangerous and we have seen a couple of lives lost this past New Year's as a result. They're very apt to land, maybe not on your property, but on your neighbor's property and they really should be outlawed.

"Now the oddity about this State license to import, store, wholesale and retail these aerals is that they are illegal to posses and set off. But yet they find their way into the State because of the provision to license these commodities. They really are a tax upon our urban lifestyle and bad for our health. They are also very dangerous as one of our Representatives found out when his cousin was killed by an aerial. I think we should totally ban the importation of aerals and I hope you will hear my plea. Thank you very much."

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

"As a former fire official I find it hard to believe that we would allow for importers of fireworks to store it for a longer period. I think most fire chiefs in the State have a problem with the storage, and not so much the public display.

"So, for those reasons I am voting no."

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

"This bill is really for the professional pyrotechnics and those individuals who are licensed to put on public displays. The kind that we see at Fourth of July and the weekly displays that you see at the Hilton Hotel. This is not for me or anyone like us common people to go out and bring in or import aerial fireworks so we can shoot off at our leisure. This is really for the professionals who handle these kinds of explosive devices and know how to handle them and store them.

"We did change the storage requirement from six months to twenty-four months and at the request of the Mayor from the Big Island, we put in, in conformance with the county Building Code to make sure that the storage sites meet current county code and are safe to handle these kinds of fireworks.

"So, Madame Chair I stand in strong support and I urge my colleagues to support the bill. Thank you."

Representative Moses then rose to declare a possible conflict of interest, stating:

"My son was injured in the eye by an aerial and might have to undergo an operation and lose his status as a military pilot."

The Chair responded, stating:

"No conflict."

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

"My son was going to a party, had no idea arials were being used, turned the corner and was hit in the eye with an aerial. I think we should completely ban arials. Thank you Madame Chair."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 301, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC DISPLAY," passed Second Reading and was referred to the Committee on Finance, with Representatives Davis, Gomes, Marumoto and Moses voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 417) recommending that H.B. No. 1057, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1057, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 418) recommending that H.B. No. 860, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 860, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 419) recommending that H.B. No. 1689, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1689, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 420) recommending that H.B. No. 307, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 307, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed

Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 421) recommending that H.B. No. 643, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 643, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MERIT APPEALS BOARD," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 422) recommending that H.B. No. 671, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 671, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOISTING MACHINE OPERATORS ADVISORY BOARD," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 423) recommending that H.B. No. 850, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 850, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Ahu Isa then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Moses then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Rath then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Leong then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Kahikina then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 850, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SICK LEAVE," passed Second Reading and was referred to the Committee on Finance, with Representatives Ahu Isa, Djou, Kahikina, Leong, Meyer, Moses and Rath voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 424) recommending that H.B. No. 1077, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1077, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"Madame Chair, I would like to say in the words of Ronald Reagan "tear down this wall".

"Because when I look at 424, what is talking about is building a wall around Hawaii and not allowing any advertisement that is done from without the State, not within the State and that is not advertising if we're advertising in a different state. We can't go to a mainland printer and have anything printed regardless of the cost savings. We're mandating in this measure that all those advertisements be produced here, printed here, even though we don't get the paper and ink from here. But the labor and the printing have to be done here regardless of the price. I think the best way to do business is to reduce the price, make it affordable for businesses to succeed here through reduction of all kinds of taxes and other benefits to allow other business to proceed here then they would hire people here. This is supposed to be protecting local workers, but what it is doing is making the cost of business higher and therefore, we will have less employees. Thank you Madame Chair."

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her and for her remarks to be inserted into the Journal, and the Chair "so ordered".

Representative Meyer's remarks are as follows:

"Mr. Speaker, I rise in opposition to House Bill 1077.

"Our role as legislators is to ensure an efficient and effective State government that does what the people want at the lowest possible cost.

"To get the best price, the State government normally acquires goods and services from the lowest bidder. This bill, however, continues a policy of not seeking the best price for printing, binding, advertising or stationary work. I can think of no way to justify to my constituents why they, as taxpayers, should pay more for these particular services.

"We use the low bidder to build our highways, supply pens and pencils, and do numerous professional and technical studies. Competition between vendors is the best way to get the lowest price for the taxpayer. But for some reason we want to discourage competition in bidding for printing, binding, advertising and stationary. Competition stimulates innovation. This bill kills any incentive to do things cheaper, better and faster.

"Our State government seems to want to discourage competition and destroy a free market economy. I must oppose this bill since it increases the cost of running this State for no good reason."

Representative Leong then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

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

"Your Committee did receive support for this from the Department of Accounting and General Services that obviously as an agency is looking at performance based budgeting among other alternatives. The Committee did not have time to look at numbers and I don't know which numbers people are looking at and so frankly, this measure is worthy of discussion in order to promote opportunities for local businesses. Thank you Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1077, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Djou, Jaffe, Leong, Meyer, Moses and Rath voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 425) recommending that H.B. No. 1548, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1548, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Djou rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"If I'm not mistaken the Department of Finance opposed this measure and there was no testimony delivered in favor."

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

"This is another alternative because basically your Labor Committee is getting outside of the box to modernize government and to look at alternatives. I think that it is important to look at private sector alternatives which frankly, this bill proposes to provide an incentive for participation in a long term care program which is currently being offered by the Health Fund. But the participation has been very small.

"So, this..."

Representative Pendleton then rose on a point of inquiry, stating:

"Is the speaker speaking to HSCR 424 or 425?"

Representative Yoshinaga continued, stating:

"This body has given incentives to have voluntary participation in such historical programs such as moving State employees to Medicare Part B in order as a cost saving measure. Right now I think members should look at this as a point of discussion in terms of how to then provide for long term care which all of the members have stated in prior discussions is one of the top priorities for this State.

"So, your Committee stands behind this measure and believes that its worthy of keeping alive for discussion purposes. Thank you Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1548, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND LONG-TERM CARE BENEFITS PLAN," passed Second Reading and was referred to the Committee on Finance, with Representatives Rath and Moses voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 426) recommending that H.B. No. 568, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 568, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEE HEALTH BENEFITS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 427) recommending that H.B. No. 1058, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1058, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 428) recommending that H.B. No. 1062, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1062, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 429) recommending that H.B. No. 619, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 619, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on

Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 430) recommending that H.B. No. 577, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 577, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 577, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 431) recommending that H.B. No. 852, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 852, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Moses then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 852, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Djou and Rath voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 432) recommending that H.B. No. 642, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 642, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 642, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE

HAWAII PUBLIC EMPLOYEES HEALTH FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 433) recommending that H.B. No. 1113, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1113, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"Some of the discussion we had in committee was that even though this bill includes reciprocal beneficiaries we should be mindful of the children, and I don't understand what surviving minor children there would be in that type of relationship, so I would have to vote no, Madame Chair."

Representative Djou then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1113, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Moses and Rath voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 434) recommending that H.B. No. 1168, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1168, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Moses then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1168, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 435) recommending that H.B. No. 1595, as amended in HD 1,

pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1595 HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1595, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 436), recommending that H.B. No. 515, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 515, be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register an aye vote with reservations for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her and that her remarks be inserted into the Journal, and the Chair "so ordered".

Representative Meyer's remarks are as follows:

"Mr. Speaker, I rise in opposition to Standing Committee Report 436, House Bill 515, which establishes yet another special fund, the Tobacco Enforcement Special Fund.

"All the States entered into a settlement agreement with the tobacco companies; the money from which was to reimburse the states for the health care and other costs related to smoking, and to establish prevention programs.

"This bill siphons off a portion of the tobacco settlement monies to increase the size of State government. Again and again our agencies and departments seek to establish fees and special funds to evade oversight of the Legislature and grow the number of state employees. I object to creating new positions in the Department of the Attorney General with these funds.

"The money from the tobacco settlement should be applied exclusively to care for those affected by tobacco related ailments and to prevent young people from starting to smoke. Nicotine is addictive and creates a dependence on the use of tobacco. I would rather see some of this money used for drug treatment which would benefit so many of our families struggling with the negative consequences of drug addiction."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 515, entitled: "A BILL FOR AN ACT RELATING TO THE

ENFORCEMENT OF THE TOBACCO SETTLEMENT AGREEMENT," was referred to the Committee on Finance, with Representative Meyer voting no and Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 437) recommending that H.B. No. 627, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 627, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I believe when this measure was first introduced, before it was amended it had a double referral and I believe the new measure as amended the second referral which was to Finance has been deleted from the HD 1 version because it does not have any financial impact language and if possible perhaps we could waive this bill through Finance and put it on deck for Third Reading and keep the bill moving along. 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. 627, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 438) recommending that H.B. No. 1182, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1182, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE HONOLULU POLICE DEPARTMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 439) recommending that H.B. No. 641, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 641, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING AGREEMENTS, FINANCIAL ABILITY OF THE EMPLOYER IN IMPASSE PROCEEDINGS AND TRANSFER OF THE OFFICE OF COLLECTIVE BARGAINING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 440) recommending that H.B. No. 356, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 356, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Moses then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative McDermott then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Stonebraker then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Gomes then rose in opposition to the measure, stating:

"I think the intention is good but, misguided and I think what we should be doing is reducing the cost of our government. I think that would provide a better living wage and a better minimum wage for people out there, they would be paying less."

Representative Ahu Isa then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Pendleton then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Yoshinaga then rose to speak in support of the measure and asked that her additional remarks be inserted into the Journal, and the Chair "so ordered".

Representative Yoshinaga then stated:

"With regard to this bill, members, I think there is a misperception by the title indicated on the Order of the Day.

"Frankly, this measure supports small businesses. This measure provides for a tip credit for employees in the service industry with regard to an off-set for small businesses, restaurants and other employers that frankly testified before our Committee that they needed relief in terms of application of minimum wage.

"Therefore, Madame Speaker, this measure is not a living wage proposal but frankly, it sets the floor for application of the tip credit which is that we are supporting restaurant employees and other service industry employees to then not go below a living wage standard in the employers application of a tip credit.

"So, therefore, I believe this measure is worthy of support and it assists small businesses. Thank you Madame Speaker."

Representative Yoshinaga's additional remarks are as follows:

"Mr. Speaker, I rise to support this bill. This bill is an attempt to strike a balance between the interests of servers, waiters and waitresses who receive tips, and struggling business people who while trying to make a living themselves, also provide the jobs that allow the servers to receive tips.

"This bill would change the "tip credit" amount from twenty cents to a percentage to be determined later on as we move through the legislative process. The tip credit recognizes that servers receive a substantial amount of their income from gratuities. However if the restaurant cannot stay in business the servers will not have a job where they can get the tips.

"The combined wages section is a safeguard to assure that in the application of the "tip credit" provision, that no worker gets paid less than the legal minimum. Presently the combined wages section is fifty cents above the minimum, so in other words right now you can't even use the tip credit unless the wages and tips are fifty cents more than the minimum. This bill will change that to say that you can't even apply the tip credit unless the employee is making more than nine forty-three an hour. So what this bill would do is:

- 1) Change the tip credit to a percentage, to be determined later in the legislative process. and
- 2) Change the combined wages section to reflect the "living wage" which is now nine dollars and forty-three cents an hour.

"Mr. Speaker, this is an attempt to update the other parts of the minimum wage law besides the minimum wage number itself. It's fair and it's balanced with safeguards for the servers and hopefully it will also provide some equity to the struggling business person.

"The Labor Committee today has passed out other bills to help small business such as allowing workers' compensation claimants to self-refer to vocational rehabilitation services where there is any amount of permanent disability and providing flexibility for owner employees of corporations under unemployment insurance taxes."

Representative Halford then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Davis then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

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

"The study which the previous speaker referred to provides evidence that taxes are the first or second most expensive item for several of the categories in that survey.

"It's very important when we consider the high cost of living in Hawaii that we remember taxes are part of the picture. Thank you."

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

"The computed living wage would be less if didn't tax."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 356, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MINIMUM WAGES," passed Second Reading and was referred to the Committee on Finance, with Representatives Ahu Isa, Gomes, McDermott, Meyer, Ontai, Rath and Stonebraker voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 441) recommending that H.B. No. 166, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 166, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Moses then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

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

"I think the intention is good but, misguided and I think what we should be doing is reducing the cost of our government. I think that would provide a better living wage and a better minimum wage for people out there, they would be paying less."

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

"The proposed increased would be again taxed by the government leaving the worker with a lesser amount. A much better solution would be to increase the standard deduction and the personal exemption. It would really help our people and give back to the economy. Thank you."

Representative Thielen then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Pendleton then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Davis then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

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

Representative Yoshinaga's remarks are as follows:

"Mr. Speaker, I rise to support this measure.

"It has been seven years since the last time this Legislature has raised the minimum wage to help the working people of this State. In a survey during the 1999 election, 42 of us said that the minimum wage was something that needed to be addressed and this bill is doing that.

"On September 1, 1997 the federal minimum wage was raised to \$5.15 per hour. This is less than Hawaii's minimum wage of \$5.25, which has been in effect since January 1, 1993. This is the smallest difference since 1990 when Hawaii was only \$.05 more. When the State of Hawaii last increased the minimum wage in January 1993 it was a full \$1 above the federal minimum. In the last seven years inflation has continued to go up so that the current minimum would be like earning \$4.92 in '93. To adjust the minimum wage to reflect '93 earnings it should be raised to \$5.75 an hour (Hawaii State Department of Labor and Industrial Relations).

"This would not be unreasonable since it would reflect the higher costs of living in the West. Oregon and Washington State currently are at \$6.50, California is \$5.75 and Alaska is at \$5.65 (Division of External Affairs, Wage and hour Division, Employment Standards Administration).

"Since over 83% of workers who earn minimum wage are over 18 and should be able to earn a decent wage, \$5.75 is much less than the poverty level for a family of three which would need to earn \$7.68 to live at poverty level. It would also help the gender gap of earnings because 66% of minimum wage earners are female ("DLIR").

"Testimony by the Hawaii State Commission of the Status of Women, the Women's Legislative Coalition and the Hawaii Women's Political Caucus also made clear that twice as many women than men are being paid minimum wage and that teenagers only make up 18% of minimum wage earners. Furthermore, as people are coming off welfare we need to help them and their children by raising the wage for people who are entering the workforce.

"Whenever a minimum wage increase bill is brought before the Legislature, it is opposed on the grounds that it is bad for business because wages usually account for 60% of costs and the wages affect the profitability of businesses. This has not been proven during the other times that the wages have been raised. In a 1999 Levy Institute survey of small businesses more than three-quarters of the firms surveyed said their employment practices would not be affected by an increase in the minimum wage to \$6.00. The Minimum Wage Study Commission concluded that a 10% increase in the minimum wage would reduce teenage employment by as little as 1% and would have no serious impact on adult employment at all. Research by Bernstein and Schmitt (1998) has generally found the job loss effect to be either small or none listed-existent and that the benefits unequivocally show that the benefits of minimum wage increases to low-wage earners and their

families far outweigh the costs. Based on available statistics, approximately 3.5% of Hawaii's workforce are minimum wage workers who would be affected by a minimum wage increase ("DLIR").

"With the modest increase that we are proposing we will still be behind 10 other states in our minimum wage although we have a higher cost of living. As legislators we need to help the workers of this state and help provide incentives for entering into the job market. We changed the original language of the bill from being tied to the federal minimum wage because the Attorney General informed us that doing so effectively abdicates the Legislature's power to set Hawaii's minimum wage and is prohibited. Because we recognize that Hawaii has just started on the road to recovery this bill raises the minimum wage by twenty-five cents a year from July 1, 2002 and then fifty cents on July 1, 2003. This gives business more lead time to prepare for the increase.

"Other ways that the Labor Committee is helping workers is by another worker relief measure today extending the use of sick leave benefits for care of the illness of children, parents, spouses and reciprocal beneficiaries. This measure strengthens the institution of the family. It should also be noted that this measure does not require any employer to increase the amount of sick leave it must provide to any employee. It merely permits greater flexibility in the use of existing sick leave.

"This worker relief therefore gives an additional dimension to the use of existing sick leave benefits, while it permits employees to assist those in their immediate family who require special care.

"Another measure to provide help to workers is to change the Public Employees' Health Fund from a one size fits all policy for its members. This worker proposal allows different benefit options to retirees. A benefit such as drug coverage is essential to a retired person whereas the younger population may have other needs as a higher priority.

"The intent of this proposal is to promote making more options available for the people who have worked so hard to serve this state."

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

"Basically there is a report that I think we all got that is called: "Barely making it on your own in Hawaii" a report on the cost of living in thirteen Hawaii communities. I think we all recognize the high cost of living in Hawaii. But there was a detailed analysis done on individual communities and low and behold they found that some communities and families pay a higher price than others in terms of relative costs of things like transportation, childcare and housing. What they found and I quote: "the only household that could barely make it on its own on Hawaii's current minimum wage of \$5.25 an hour has to be two wage earners with no dependants living on the Island of Hawaii. Other no dependants two wage households in other island communities would each need to earn between \$5.60 and \$7.20 an hour to barely make it own their own".

"I think we should be especially concerned at a time when we're looking at reducing the number of people who are on welfare. What kind of jobs are these people going to have? If they are minimum wage earners and single moms who have to raise children, what kind of chance are they going to have if they have only a minimum wage to look at, at the current rate.

"So, I think we not only need to look at raising the minimum wage but also at providing a living wage for our families. Thank you Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 166, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MINIMUM WAGE," passed Second Reading and was referred to the Committee on Finance, with Representatives Ahu Isa, Gomes and Rath voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 442) recommending that H.B. No. 620, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 620, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"This used to be the privatization bill and it's now called the managed competition privatization bill.

"This is of course a result of the Konno decision. I was one of the people that Gary Rodrigues sued. It resulted in that from the privatization of the Puulana land fill.

"If there's one thing we need in this State is the right to be able to privatize different functions or those functions can be handled by the private sector then it could by public workers. Managed competition is an oxymoron and I noticed in many of our bills it says at the end of them this bill shall take effect upon approval, when this one I believe it says, this bill shall take affect upon approval of Gary Rodrigues. Thank you."

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

"While I recognize H.B. No. 620, HD 1, as better than nothing, my position is that H.B. No. 620, as originally drafted by the Governor is the superior bill and I would prefer to see that passed. Thank you Madame Speaker."

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

"HSCR 442 is much better than nothing but not as good as it could have been."

Representative Stonebraker then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Yoshinaga then rose to speak in support of the measure and asked to submit additional remarks into the Journal, and the Chair "so ordered".

Representative Yoshinaga stated:

"I ask for all of the members support on this measure. I would like to alert members that Gary Rodrigues, unlike our previous speaker commented, testified that he would sue us if we passed the contents of this measure.

"So, I don't think that he would be happy with the contents of this bill. But as we all know we need to move forward on resolving the Konno decision and this is a bold step. This is the task force recommendation that was made in the year 2000. They had set jurisdictional procedures and guidelines with regard to the implementation of managed process.

"To clarify for the record in Act 253, this Legislature took a bold move in terms of authorizing the office of collective bargaining to implement managed competition. However, due to time constraints they were unable to implement it within the time since the last session. Therefore, we are then taking a proactive step of immediacy to keep discussion alive and that we are serious in holding our managers accountable for performance. We want movement on managed competition and this bill provides for a time certain deadline within which this must be implemented. Thank you Madame Speaker."

Representative Yoshinaga's additional remarks are as follows:

"Mr. Speaker, I rise to speak in favor of this measure. HB 620 is an administrative bill intended to respond to the Hawaii Supreme Court's decision in Konno vs. County of Hawaii, 85 Haw. 61 (1997), and the fact that Act 230, Session Laws of Hawaii 1998, will sunset on June 30, 2001 without a managed competition process in place.

"There has been no longterm policy or process in place for allowing government to utilize the services of the private sector to secure or provide services which government needs or is required to provide.

"Although Act 230 (1998) created a Managed Competition Committee which developed and submitted a managed competition process to the Legislature during the 2000 regular session, the process was not implemented. Over a three-year interval during which government could have relied on contractors for services while that process was being developed, the State and counties failed to take advantage of the opportunity.

"HB 620 takes a direct approach to privatization by facilitating government's ability to secure or provide services it needs or is required to provide by giving State or county agencies the discretion to determine when it is or is not in the public's interest to rely on a private contractor, and whether it does or does not make government more efficient and economical. It also attempts to address the limitations of the civil service laws that the Konno decision identified.

"The Legislature passed Act 253 in the Session Laws of Hawaii 2000, which gave the Office of Collective Bargaining the authority to implement the Managed Competition process. This is consistent with the purpose of giving managers authority and flexibility to use their expertise and be held accountable for results. However, the Office of Collective Bargaining has stated that it has not yet implemented this process by developing the administrative rules and guidelines necessary to move the state and counties toward managed competition. Therefore, to expedite this process your committee has passed the guidelines and requirements set forth in the Managed Competition Committee's recommendation report.

"Your committee relied on the recommendations of the LRB's 1997 report on, "Privatization in Hawaii" in amending the original language of this bill. That study, which your Committee finds to have been comprehensive and thorough in its review, found that in addition to the need to resolve the issues raised in Konno, there was an equally pressing need to

ensure that certain criteria were met before a public agency entered into a contract with a private vendor. Examples of criteria to be reviewed are as follows:

"Is the service an appropriate candidate for privatization?"

"Can the service be delivered more cost effectively by the private sector at the same or better quality, as well as, include ways to ensure the long-term success of that contract?"

"The LRB report noted a performance audit of state services in Colorado that made specific reference to the Auditor's recommendation that a "privatization profile" be used in determining whether a particular service should be privatized.

"Your Committee is concerned that in the implementation of privatization as provided in this bill, an enormous degree of discretion is given to individual State and county officials, without providing sufficient safeguards to ensure that these contracts will be carried out successfully. The system proposed in this bill may likely result in a "spoils" system.

"Your Committee is equally concerned with the potential delays in the implementation of the managed competition process and the lack of a "hammer" or legal consequence in the bill if the State and county directors of finance, who are charged with the responsibility to establish a uniform system, fail to implement that system within a reasonable time.

"Your Committee has therefore taken a reasoned approach by allowing the State and county officials a final opportunity to develop and implement a managed competition process to be reviewed and approved by the Office of Collective Bargaining. This review and approval must be completed by December 31, 2002. The "hammer" that your Committee had imposed is that in the event this deadline is not met, the provisions of privatization established in this bill shall take effect on January 1, 2003.

"The vision of government modernization of which this bill is a step in the process relates to other measures that are being looked at today.

"The Public Employees' Health Fund is a great source of contention. The state and counties now see a crisis on the horizon. The unfunded liabilities for health benefits are currently projected in the billions and may be as high as \$24 billion by 2013.

"Currently, the system of providing health benefits to public employees operates by paying for certain statutory specified benefits, regardless of cost. In the past, health care costs were not major impacts in workers' compensation. Now as medical care leaps forward in advancement so do the costs. Health benefits are now considered an extremely important part of a workers' compensation because health care now costs so much.

"As people take advantage of advanced medicines they are now living longer and creating a greater demand on the health care system. The reality of this is that the state and counties will be unable to pay for this without seriously cutting other programs and/or raising taxes.

"One measure that also modernizes the health fund institutes a ceiling on public expenditures for health benefits. Given a definite budget within which to work, the public employees' health fund will be given flexibility to provide health benefits to public employees.

"If the Legislature should allow benefit levels and types of benefits to be subject to collective bargaining, the public

employees health fund would be subject to and limited by either legislative appropriations or collective bargaining, whichever is appropriate.

"We have looming costs in the Public Employees' Health Fund and the Legislature is not in a position to do the cost model analysis and benefits review that is normally done in the private sector. In the private sector professionals are hired to review the costs of the current benefit plans and do the projections and cost models for the future.

"Upon review and analysis, if funding levels need to be changed because of high costs then benefits may be reduced over time to minimize disruption of employee morale with this important part of the employment package.

"Therefore, another modernization measure allows the employee share to be used for such an analysis for the benefit of the employee beneficiaries. This analysis is a regular function in the private sector and allows an impartial observation of the benefits that puts in proper balance the employers and employees.

"This step provides that the Board could use any future rebates for the purposes of improvements to running the Board and doing audits of the plans.

"As the "baby boomers" are starting to reach retirement age we can see a looming crisis on the horizon. Already today people are being faced with the prospect of keeping their parents and loved ones in a longterm care program and wiping out life savings with the expenses. This is a problem that can be avoided with proper planning and there is another measure which serves as an incentive to get people to think about the need for long-term care insurance.

"The Public Employees' Health Fund is experiencing higher employer costs due to the method the health fund is using to determine employer contributions for union sponsored health coverage. The Health Fund uses the participating union with the "highest enrollment" as the basis for determining employer contributions. This determination is not in the statute and was decided by the Health Fund Board.

"Another measure would reduce employer costs to the Health Fund by using an amount based on the Fund's most cost-effective benefit plan. The measure also allows rate credits to be used to carry out financial audits and to improve the soundness of the plans.

"There are nine trustees from various sectors of the community and government. Another modernization measure changes this to an equal number of trustees that represent employee organizations and employers.

"This process is being improved so that one of the two appointees of the Governor must have health benefits design or benefits analysis experience. As the unfunded liability of the health fund grows it is clear that in order to have better controls for the future you need a professional member that knows how to handle a billion dollar budget.

"The membership of the Board of Trustees of the Employees' Retirement System (ERS) should also be modernized from eight to nine members by adding a fourth citizen trustee. The modernization measure also authorizes the Governor to appoint the Chair of the Board of Trustees.

"The Department of Budget and Finance's intent is to return the composition of the Board to the pre-1994 composition of an equal number of ERS members and 3 citizen members, in addition to the chairperson.

"The current eight-member board may be hampered by potential deadlock on important issues. It is clear that decisions need to be made by the Board, particularly in light of other pending legislation that proposes to formulate and modernize a total compensation package for employees, including a benefits package.

"Another modernization process for the Board of Trustees of the Health Fund is their fiduciary duty to administering monies contributed to that fund to pay for health care benefits for public employees. However, monies in the Health Fund consist of contributions from both public employees and public employers. Although public employees are the direct beneficiaries, monies in the Health Fund are derived from both employees as well as employers.

"If the board were to single-mindedly pursue actions that reflect a solitary fiduciary duty only to public employees without regard to rising employers' costs, the possibility arises that the entire health benefits system for public employees may break down. In order to fulfill its fiduciary duty to public employees, the Board must also adopt a fiduciary duty to public employers to insure that the overall Health Fund system continues to survive and provide benefits to public employees.

"The Attorney General concurs with the idea that the Board of Trustees of the Health Fund owes a dual fiduciary duty to both public employers and employees. In an unnumbered letter option dated January 6, 2000, in response to a question from Representative Nathan Suzuki, the Attorney General specifically found that both the statutory scheme and the legislative history of Chapter 87, HRS, evidenced the Legislature's intent that the Board owes duties to both public employees and employers in the conduct of its affairs.

"Other modernization measures deal with compensation issues. Under the present law, the annual compensation for department heads, deputies or assistants to department heads, and the administrative director of the State has not been increased for the past ten (10) years. The absence of a pay increase has resulted in the loss of these higher-level management positions to the private sector. Modernization also means better pay for the best managers.

"A compensation measure to modernize the process creates a salary commission to be appointed by the Governor to establish the salaries of all elected officials, delete the proposed salary increases for department heads, deputies and the CEO, clarify that the salary commission determines the salaries of these excluded individuals and approves their salaries-exclusive of any merit performance.

"We as legislators need to stop being firefighters and start being future planners."

Representative Ahu Isa then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Pendleton then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Halford then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Davis then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Fox then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 620, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Gomes and Rath voting no and Representatives Case and Whalen being excused.

Representatives Garcia and Yoshinaga, for the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 443) recommending that H.B. No. 177, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the joint report of the Committees be adopted and H.B. No. 177, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

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

"The respective conferees and committee members as this moves on should try to be a little bit more flexible on this bill if you are going to be insistent upon a private correction facility. You may not have any correction facility at all. The correction facilities that we currently have has failed and if we are not careful and resolve this problem soon, we could very well be under a consent decree.

"So. I'm asking the Chairman and the respective Finance Committee Chair to look at this item and to provide in there some flexibility and not to be totally restrictive to private facilities. Thank you very much."

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

"Speaker Emeritus spoke about not being "pigeon holed" in just a privately operated correctional facility and I want to note that the title does not allow for some flexibility so we may in the process of this thing take a look at other measures. Thank you."

Representative Takumi then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

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

Representative Yoshinaga's remarks are as follows:

"Mr. Speaker, I rise to speak in support of this measure.

"The purpose of this bill is to allow the governor to contract for the private sector operation of correctional facilities, and to establish criteria necessary for an acceptable contract for the privatized operation of a correctional facility.

"Your Labor Committee recognizes that the privatization of correctional facilities represents a new paradigm in Hawaii because of the scope and breadth of the project. Testimony in support of this measure was understandably divided between stakeholders representing state government and the Chamber of Commerce versus the UPW and HGEA employee union representatives, the Community Alliance on Prisons-a private non-profit group, and a concerned citizen. Stakeholders in support of this measure view this effort as a test area to explore cost effectiveness and possible cost savings, while stakeholders who are opposed expressed concern regarding standard of care and treatment at other privately run prisons, corruption, and compromising public safety. The unions also purport that provisions in the bill language hamper the unions' ability to compete with the private sector in the submission of RFPs to clearly show cost effectiveness measures. Comments from the Department of Public Safety (PSD) indicate support of the intent of the measure and its focus on treatment modality for rehabilitation and reintegration of the inmate population but, cite a pressing need for a medium security custody facility.

"Your Labor Committee finds that this measure, while evoking healthy controversy and discussion needs to be pursued further. The provisions of Act 230, Session Laws of 1998 established a managed competition process. Senate Bill 2433, SD 1, HD 2, CD 1, adopted by the Legislature in April 2000 contained language for a pilot managed competition process where government and the private sector could bid for the operation of a correctional facility. This bill was vetoed by the Governor. Your Committee is concerned that proper safeguards need to be built into any effort at privatization of the prison system if it is to be successful.

"The bill has been amended to add language to the purpose section to reflect your Labor Committee's concern over the need for additional safeguards before entering into a contract with a private entity. A new section has been added to allow the governor to enter into and contract with private entities, and requires the PSD to determine whether the operation of the facility can be implemented by the public sector as cost effectively while meeting an established criteria. If the public sector is unable to meet these objectives and standards as cost-effectively as the private sector, the Director of Human Resources Development (DHRD) is required to determine that certain conditions in the contract are met. A new section has also been added to specify the conditions that the Director of DHRD must determine are satisfied. They include criteria relating to cost savings, cost comparisons, quality of services, qualification of workers, nondiscrimination provisions, liability, termination for breach of contract, and other areas. The Director of DHRD in consultation with the Department of Public Safety must adopt rules to implement that section. Your Labor Committee believes this bill provides a balance in the implementation of privatization for a new correctional facility."

At 6:28 o'clock p.m., Representative Say asked for a recess and the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 6:29 o'clock p.m., the Speaker assumed the rostrum.

The Chair addressed the body, stating:

"Members, prior to the recess the problem that we were having is when we make reference to a particular Standing Committee Report or Bill, we should take it in order so that in the Journal will reflect your discussion and comments in order.

"What is happening now, is that when we make references to HSCR No. 442 and then go back up to 440, there will be no connection in regard to the debate that is on the floor, which will make it very difficult for the Clerk's Office to work on the transcription for the Journal.

"So, at this time we are at HSCR No. 442, any further discussion?"

Representative Garcia then rose to speak in support of the measure and asked that his additional remarks be inserted into the Journal, and the Chair "so ordered".

Representative Garcia stated:

"Perhaps because it is not reflected in the Committee Report, may I ask the members also now hear about what I would like to propose with respect to the facility under question.

"I understand that there are concerns with respect to some of the members as we proceed on whether or not we privatize this facility. It's been on the record Mr. Speaker, for many years past that I have been wrestling with the problem of trying to deal with prison over crowding. Although we have some 1200 inmates now presently incarcerated on the mainland we are still over-crowded in our facilities here in Hawaii, and so I proceeded to try to determine how we are going to correct the problem in our own backyard.

"I've always been on the record that we tried to develop some kind of a facility closer to home, and that we would be able to watch as the offenders hopefully go through some rehabilitation and treatment so that we stop the revolving door of crime.

"I'd like to introduce a new concept to the members because we seem to be stuck on the traditional stereotype of what a prison should be. I think in this approach if we are to read the bill there is ample discussion on how we should focus our efforts on rehabilitation and treatment. While we should still have this facility under the auspices of the Department of Public Safety, I would like to propose that this facility be treated as a secured treatment facility which is different from what we have been used to as a prison, where we have bars and guards and that we warehouse people. But in this instance as proposed in the Standing Committee Report we are trying to deal with a different kind of facility in our own backyard in that we would be focusing on treatment and rehabilitation as proposed.

"The facility under question also, for the members, it might be useful as we continue to discuss efforts of diversion which is being addressed in a separate measure. This facility might be useful as we move towards the efforts of diversion to deal with those inmates that if enacted, the diversion would be better effectuated if we were to have a facility of this type to deal with those inmates who otherwise may not be able to seek treatment of rehabilitation out in the general community.

"It is my contention as we move on a separate measure that we have not yet determined whether or not the civilian infrastructure is adequate to take care of those inmates,

especially those, who are going to be considered for diversion from the opposite spectrum. In this, I mean those inmates who are going to be going before the paroling authority and are going to be determined as to whether or not we will be sending them into the community for treatment or send them to a facility such as we are proposing in H.B. No. 177.

"So, this facility members, if I could beg your indulgence in supporting, might figure in to the continuum of treatment while it would be under the auspices of the Department of Public Safety it would still be a facility different from those that we have been contemplating in the past and that it would not be a prison.

"I ask for the members support for HSCR No. 443. Thank you."

Representative Garcia's additional remarks are as follows:

"This draft is very similar to the draft I brought to the floor from your Committee on Public Safety and Military Affairs last session. I am pleased to note that the Minority introduced a bill this session that borrowed the same language.

"As you know, Mr. Speaker, I have been trying for some time now to advance the concept of housing our inmates in a correctional facility that will excel at providing treatment for inmates with substance abuse and other problems. This bill continues that effort.

"Let me describe the facility that this bill provides for: it will be a facility where the main focus will be to provide needed treatment to the inmates. Our State will not be in the business of importing inmates from other jurisdictions, and the Director would have to approve of any federal inmates to be housed within this facility.

"There will be a strict contract required, and a contract compliance monitor will be employed to make sure the State receives the range and quality of programs contracted for.

"In light of the well-known problems that have arisen at other private correctional facilities, this bill makes a serious attempt to address many of those concerns: numerous safeguards for the safety of the public, the inmates, and the staff are included in the bill. Before any facility proceeds, it must adequately address concerns over insurance, the use of force, inmate movements, all aspects of facility design and construction, emergency planning, access for media and auditing purposes, the use of firearms and other force, and achieving accreditation by the recognized national bodies for corrections and corrections health care.

"Furthermore, a citizens oversight committee will be established, and the Ombudsman will be given new authority to investigate issues that may arise at the private facility.

"If at any time the contractor is falling short of the expectations laid out in the contract, the State has the authority to step in and demand changes, withhold payment, take over the facility, or any combination of those responses.

"Finally, this bill can serve as a model of how to hold a private contractor accountable for failure and to reward a private contractor for success. This 'outcome oriented' approach is crucial if we are to break the cycle of recidivism, because facilities without such a system offer no incentive for the contractor to quickly help inmates to prepare themselves for their eventual return to the community.

"For all these reasons, Mr. Speaker, I ask for my colleagues to join me in support of this measure. Thank you."

Representative Halford then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 177, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATELY-OPERATED CORRECTIONAL FACILITIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 444) recommending that H.B. No. 961, HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 961, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I would just like to point out the members that the School Safety Management Program is apparently a very, very successful program and I wholeheartedly support it. Except for one thing that I would like to point out to the member and members of the Finance Committee. In Central Oahu, where I come from, we have a program run by retired officers and a retired vice principal called the Safety Resource Officer Program. Right now it costs us \$0 per officer because it is funded by the federal government. Perhaps we can try to continue that or use the federal leverage to help us with the cost here.

"Another point is, even if we have to pay for the whole thing, apparently my understanding of that safety resource program is that it cost us \$33,000 per officer on the campus. This Standing Committee Report supports the safety manager program at \$42,000 per officer. I just want to make sure that we get a competitive bid and do something smart on this program and that we're not just continuing to support a program just because one is already in place. Thank you."

Representative Halford then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 961, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 445) recommending that H.B. No. 1048, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1048, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE LIBRARIAN," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 446) recommending that H.B. No. 469, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 469, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL PERSONNEL," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 447) recommending that H.B. No. 1669, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1669, entitled: "A BILL FOR AN ACT RELATING TO NATIONAL BOARD CERTIFICATION FOR DEPARTMENT OF EDUCATION TEACHERS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Arakaki, for the Committee on Education and the Committee on Health presented a joint report (Stand. Com. Rep. No. 448) recommending that H.B. No. 1678, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1678, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Arakaki, for the Committee on Education and the Committee on Health presented a joint report (Stand. Com. Rep. No. 449) recommending that H.B. No. 98, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 98, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Arakaki, for the Committee on Education and the Committee on Health presented a joint report (Stand. Com. Rep. No. 450) recommending that H.B. No. 490, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 490, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Kahikina, for the Committee on Education and the Committee on Human Services and Housing presented a joint report (Stand. Com. Rep. No. 451) recommending that H.B. No. 96, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 96, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD EDUCATION," passed Second Reading and was referred to the Committee on Finance, Finance, with Representatives Case and Whalen being excused.

Representatives Ito, Kahikina and Arakaki, for the Committee on Education and the Committee on Human Services and Housing and the Committee on Health presented a joint report (Stand. Com. Rep. No. 452) recommending that H.B. No. 97, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 97, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 453) recommending that H.B. No. 532, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 532, HD 1, entitled: "A BILL FOR AN ACT A BILL FOR AN ACT RELATING TO THE PREVENTION OF THE FILING OF FRIVOLOUS FINANCING STATEMENTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 454) recommending that H.B. No. 1164, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1164, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ALIEN AQUATIC ORGANISMS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Kanoho and Abinsay, for the Committee on Water and Land Use and the Committee on Agriculture presented a joint report (Stand. Com. Rep. No. 455) recommending that H.B. No. 503, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 503, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"The way that I read the bill is that the lease extension now will be 10 years rather than a longer period of time and I

believe I'm correct and if I can just get an indication from the Chair of Water and Land Use.

"I was concerned that we were going to allow a longer period of time and that might effectively leave the same family on the leasehold for generations. I don't think that was the intent of our laws affecting public land.

"The other thing I am concerned about is whether or not we have the Board of Agriculture making decisions that the Land Board is supposed to make. In other words, the Land Board is really the state entity that can lease and can approve extensions of lease.

"Third concern I have is, that the lease will be supposedly issued but will be subject to legislative disapproval the next year. This puts the farmer in a very bad situation if that farmer wants to make some modest improvements on the property, and they sit there in limbo for a whole year out of the 10 year lease extension. I think we should not be in the picture at that point if we're delegating this decision to the Department of Agriculture and ultimately to the Board of Land and Natural Resources. Thank you."

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

"I would just like give some clarification for the concern expressed.

"The 10 years, Mr. Speaker, is to provide for..."

At 6:39 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 6:40 o'clock p.m., the Chair recognized Representative Kanoho

Representative Kanoho continued, stating:

"The intent of the 10 year extension was to allow the Department of Land and Natural Resources or the Department of Agriculture to take a look at the lease after 10 year periods. In fact, those leases could then be extended for successive 10 year periods as provided for in this bill.

"The question of allowing tenants or farmers to continue indefinitely is a policy matter, because whether it is farmer A or farmer B on that parcel, it is intended to be used productively by farmers, so it really does not make any difference.

"I would also like to clarify that the bill contains provisions for review by both the Department of Agriculture as well as the Department of Land and Natural Resources. I think the concerns are being addressed for farmers who otherwise would lose the ability to continue farming. It makes no sense that we would cause a relocation or displacement of a farmer who has toiled the land for 35 to 50 years with all the investment and have him move to another location.

"So, Mr. Speaker, this is just by way of addressing the problem so that we can continue the discussion and try to solve this situation as it existed for many, many years. Thank you Speaker."

Representative Thielen rose and stated:

"Thank you, Mr. Speaker, the third point was the legislative disapproval. I think we shouldn't stay in the loop on that.

"Mr. Speaker, it is a thorny issue but a number of us know of families that have young people who are interested in farming. Unless they're going to have an opportunity to actually lease some State agricultural land, many of those young people won't ever get onto the land.

"The question we have to grapple with is, do we allow a family and its subsequent generations to stay on the land beyond the 65 year period of time? If we do, what does that mean for other young people coming up that want to have land and want to farm it if there is no comparable land available. It's a policy issue but it's one that we really aren't exactly solving with this bill and we certainly aren't solving it if we stay in the loop. I think we should get out of the loop and would hope that the next committee would do that. Thank you."

The motion was put to vote by the Chair and carried, and, the joint report of the Committees was adopted and H.B. No. 503, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE LEASES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 456), recommending that H.B. No. 1272, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1272, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ALTERNATE FUELED VEHICLES," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 457) recommending that H.B. No. 1344, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1344, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 458) recommending that H.B. No. 63, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 63, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONSERVATION," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 459) recommending that H.B. No. 739, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 739, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICAL COOPERATIVES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 460) recommending that H.B. No. 173, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 173, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY RESOURCES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce and Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 461), recommending that H.B. No. 1274, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1274, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PILOTS," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 462), recommending that H.B. No. 549, as amended in, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 549, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," was referred to the Committee on Finance, with Representatives Case and Whalen being excused

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 463), recommending that H.B. No. 954, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 954, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REGULATORY PROCESSES," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 464) recommending that H.B. No. 441, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 441, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LICENSE APPLICATIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 465), recommending that H.B. No. 697, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 697, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TELECOMMUNICATIONS AND INFORMATION INDUSTRIES ACT," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 466), recommending that H.B. No. 1268, be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 1268, be referred to the Committee on Finance, seconded by Representative Lee.

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

"DOT was not in favor of this measure and they said that rental and U-drive businesses benefit but people who have buses, trucks and taxis do not. HPD was also not in favor of this measure.

"Basically it just increases to 2 years the time until which these vehicles don't have to be inspected. Right now they're inspected after 1 year. This increases it to 2 years and I just think it might be unsafe for the public to have these vehicles go that long without inspections. 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 H.B. No. 1268, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE SAFETY INSPECTIONS," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 467), recommending that H.B. No. 118, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 118, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY CHILD CARE," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 468), recommending that H.B. No. 1386, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1386, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DISTRIBUTED ELECTRIC GENERATION," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 469) recommending that H.B. No. 1243, as amended

in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1243, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 470) recommending that H.B. No. 869, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 869, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 471) recommending that H.B. No. 212, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 212, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE WATER CODE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 472) recommending that H.B. No. 213, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 213, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 473) recommending that H.B. No. 861, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 861, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OPERATIONS AND MAINTENANCE OF CERTAIN AGRICULTURE-RELATED INFRASTRUCTURE ON KAUAI," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 474) recommending that H.B. No. 872, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 872, HD 2, entitled: "A BILL FOR

AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 475) recommending that H.B. No. 1089, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1089, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 476) recommending that H.B. No. 1253, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1253, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR BIG ISLAND PAPAYA INDUSTRY," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Abinsay and Garcia, for the Committee on Agriculture and the Committee on Public Safety and Military Affairs presented a joint report (Stand. Com. Rep. No. 477) recommending that H.B. No. 57, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 57, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 478) recommending that H.B. No. 719, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 719, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 479) recommending that H.B. No. 432, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 432, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE MILLENNIUM WORKFORCE DEVELOPMENT PROGRAM," passed Second Reading and was referred to the

Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 480) recommending that H.B. No. 459, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 459, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AN ANNUAL GENERAL EXCISE TAX HOLIDAY," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 481) recommending that H.B. No. 502, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 502, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Yoshinaga rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 502, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYMENT ORGANIZATIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 482) recommending that H.B. No. 857, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 857, HD 1, pass Second Reading be referred to the Committee on Finance, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 857, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Second Reading and was referred to the Committee on Finance, with Representative Marumoto voting no and Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 483) recommending that H.B. No. 1551, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1551, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE

PACIFIC BASIN ECONOMIC COUNCIL INTERNATIONAL GENERAL MEETING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 484) recommending that H.B. No. 1636, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1636, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance, Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 485) recommending that H.B. No. 1587, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1587, entitled: "A BILL FOR AN ACT RELATING TO ACQUISITION OF HOSPITALS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 486) recommending that H.B. No. 238, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 238, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

Representative Lee's remarks are as follows:

"H.B. 238 in its original form made a lot of sense. It was understood that amendments would be made to take into consideration physician comments regarding involvement in the formulary process.

"However, the current HD 1 places advanced practice totally under the Board of Medical Examiners. This was not agreed to in the passage of the bill in 1994. The Legislature was clear that the practice of APRNs needed to be regulated by the Board of Nursing. Written as it is, the bill will be a setback for APRNs who have never been supervised by the Board of Medical Examiners. This bill should go forward so the errors contained in the HD 1 can be corrected. 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. 238, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSES," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 487) recommending that H.B. No. 461, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 461, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE PARKING PERMIT PROGRAM FOR PERSONS WITH DISABILITIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 488) recommending that H.B. No. 1358, HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1358, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 489) recommending that H.B. No. 284, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 284, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 490) recommending that H.B. No. 809, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 809, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A HOSPITAL-BASED DEMONSTRATION PROJECT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 491) recommending that H.B. No. 810, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 810, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR OPERATING COSTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 492) recommending that H.B. No. 814, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 814, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR HOSPITAL-BASED COMMUNITY HEALTH PROGRAMS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 493), recommending that H.B. No. 1460, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1460, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNDERGROUND UTILITY LINES," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 494), recommending that H.B. No. 352, as amended in, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 352, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL COUNSELORS," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 495), recommending that H.B. No. 1385, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1385, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NET ENERGY METERING," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 496) recommending that H.B. No. 1156, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 1156, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Leong rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

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

"I'd like to apologize to this body, earlier tonight I spoke about a measure on page 27, which was HSCR No. 402 and I referred to it as using funds from the Hurricane Relief Fund and that we incorrect. I still maintain my no vote on that measure Mr. Speaker.

"This measure before us HSCR No. 496, is the Hurricane Relief Fund and for like reasons I vote no on this. I think the money should be returned to the people."

Representative Rath then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Pendleton then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"I am opposed to the transfer of the Hurricane Relief Fund to the "rainy day fund". I spoke earlier on the rainy day fund and my opposition to that.

"With regard to the Hurricane Relief Fund I think it should be reimbursed to the payers. Some of the concerns raised about a refund is that we don't have the records that go back far enough maybe only for three years and only for some pieces of the pie that were paid into that.

"Mr. Speaker, perhaps a way around that is to simply go as far as we can to identify the payers and then after that leave it to the payers to come forward and prove simply that they made a payment whether it was ten, nine or eight years ago or whatever that might have been. Whether that was through their mortgages or through their policy premiums, etc., and I think that would be a fair way for the public to once again reclaim the money that does belong to them."

Representative Fox then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Marumoto rose in opposition to the measure, stating:

"I hope none of this ends up a scholarship to our state schools. I just don't think there would be a nexus between these scholarships and the Hurricane Fund. Thank you."

Representative Halford then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative McDermott then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose to speak in opposition to the measure and asked that the remarks of Representative Gomes be inserted into the Journal as her own, and the Chair "so ordered". (By reference only.)

Representative Meyer stated:

"I also have a problem with this. At this point right now, even though the Fund is not operational the Bureau of Conveyances is still taking money out from the recording of all mortgages and some of it going into this same fund. I don't have the dollar amount of how much is in there now, but I think it is a big mistake to put it into the "rainy day fund" where if you read all the uses of the "rainy day fund" it could be just about anything that we decide is worthwhile to fund, and I think the money should go back to the people and at the very least if that seems to be too much of a daunting chore that it should be left alone for the next emergency which we're sure to have sometime in our lifetimes. Thank you very much, Mr. Speaker."

Representative Auwae then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

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

"This would place monies remaining in the HHRF into the Emergency Budget and Reserve Fund.

"Mr. Speaker, in 1993 the Legislature created the HHRF as a temporary means of making hurricane coverage available to Hawaii homeowners and businesses in the wake of Hurricane Iniki.

"When HHRF was first established the private insurance market could not handle all the problems created by Hurricane Iniki. Today, seven years later after HHRF issued its first policy it has succeeded in helping to stabilize the insurance market. It has stopped issuing commercial policies and will end its residential policy program on December 1<sup>st</sup> of this year.

"With the dissolution of HHRF, the State must decide the best use for the hundred seventy-five million remaining in this reserve trust fund. The money in the fund comes from insurance premiums, assessments on insurers and as the previous speaker mentioned, special mortgage recording fees.

"As we considered the many options open to us in the Consumer Protection and Commerce Committee deliberations, we decided that it would be impossible to return all the contributions made by policy holders in an equitable manner.

"For example, under our state law HHRF only requires a three year retention of policy records. So HHRF does not have records of many of those who paid premiums into this fund. Over tracking and separating the contributions of each property and casualty insurer would be an administrative nightmare. It would be even more difficult to allocate these monies among each insurers policy holders.

"Further, Mr. Speaker, we found that HHRF's relationship to the policy holders more closely resembles that of an insurance company to its customers then that of a mutual benefit society to its members. HHRF policy holders like private insurance customers retain no legal interest in the premiums they pay. If the premiums are not spent on expenses or to satisfy claims it remains the property of the insurance company as part of its profit and is retained to cover future disasters.

"Based on these reasons, Mr. Speaker, we are able to justify or find some mechanism for returning the money to HHRF policy holders. There is no question that another catastrophic hurricane like an Iniki will hit the islands in the future, when that happens Mr. Speaker, we must be prepared.

"This is why our Committee decided to amend H.B. No. 1156 to place the monies in the Emergency Budget and Reserve Fund which we affectionately like to call the "rainy day fund". Expenditures from this fund are expressly limited to the times of emergency, economic downturn or unforeseen reduction in revenues. These monies may also be used for related purposes which include, emergencies that occur when a catastrophic hurricane hits or tsunami or rain.

"Yes, Mr. Speaker, there are strict restrictions on these expenditures. Appropriations must be made before monies can be expended and must be separated from the general or supplemental appropriations bill. Any act appropriated from this Fund must include a declaration of finding and purpose, the reasons why the appropriation is necessary, and most importantly Mr. Speaker, requires a two-thirds vote of both the House and a two-thirds vote of the Senate to be approved.

"I believe that placing the hurricane monies in the "rainy day fund" will benefit the State by strengthening the State's financial position and increasing the State's ability to issue bonds to support public projects. However, the most important reason for placing monies into this "rainy day fund" is that we will be ready when another catastrophic hurricane hits like Iniki. Because on that day we will be in a better position then we were when Iniki struck in 1992.

"With sufficient funding available, Mr. Speaker, we will one day be prepared for another hurricane or another natural disaster. Thank you Mr. Speaker."

Representative Gomes then rose in rebuttal, stating:

"I certainly understand the rationale for the Emergency Budget and Reserve Fund and again it's all well and good. However, I just think at this time in our State under the financial conditions that we face locally and nationally and internationally, this is not the time to set aside a large sum of money that would otherwise be in the economy creating wealth, creating jobs.

"There are many other ways that we have at our disposal to address emergency situations, be that economic or a natural catastrophe, etc., and despite all the protections that are inlaid in the Emergency Budget and Reserve Fund in terms of how that is appropriated I think there are several other ways, if that's through emergency legislation to allow a tax holiday or break through various regulations that would otherwise be in place.

"So, for those reasons again, I oppose this measure."

Representative Ontai then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Stonebraker then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and, the report of the Committee was adopted and H.B. No. 1156, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Second Reading and was referred to the Committee on Finance, with Representatives Auwae, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Thielen voting no and Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 497) recommending that H.B. No. 944, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 944, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 498) recommending that H.B. No. 1233, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1233, HD 1, entitled: "A BILL FOR AN ACT RELATING TO YOUTH SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 499) recommending that H.B. No. 1363, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1363, entitled: "A BILL FOR AN ACT RELATING TO RECREATIONAL ACTIVITY LIABILITY," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Ito, for the Education presented a report (Stand. Com. Rep. No. 500), recommending that H.B. No. 9, HD 1, as amended in, HD 2, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 9, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 501) recommending that H.B. No. 783, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 783, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE COMPREHENSIVE SCHOOL SUPPORT PROGRAM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 502) recommending that H.B. No. 1227, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1227, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR INTERACTIVE LEARNING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 503) recommending that H.B. No. 1590, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1590, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on

Finance, with Representatives Case and Whalen being excused.

Representatives Garcia and Yoshinaga, for the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 504) recommending that H.B. No. 702, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 702, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL HEALTH CARE," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Garcia and Yoshinaga, for the Committee on Public Safety and Military Affairs and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 505) recommending that H.B. No. 711, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 711, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CRIME VICTIM COMPENSATION COMMISSION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a joint report (Stand. Com. Rep. No. 506) recommending that H.B. No. 780, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 780, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ELDERLY," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 507) recommending that H.B. No. 1502, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 1502, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Yoshinaga's remarks are as follows:

"Mr. Speaker, I rise in support of SCR 507.

"Small business operators have not been able to form an effective or cohesive alliance to present their concerns before the legislative bodies because what appears to be a good measure for one type of entity is not always favorable to another. Therefore, few issues have had universal appeal or

application. However, issues relating to taxation impact all small businesses to varying degrees.

"Small business owners seldom have time to do more than what is absolutely necessary to keep their daily lives in order. Few business people, especially those of closely held family concerns, have the luxury of monitoring what is happening at City Hall or at the State Capitol. Unfortunately, regulatory issues are often proposed and passed without any input from this segment of the working community.

"Due to legal considerations, many low-volume company owners have elected to set up corporations. While small businesses collectively make up the largest employment sector in Hawaii, they are relatively silent during the critical stages of lawmaking. Many of the corporate officers of moderate-sized concerns are not politically active because they cannot be in two or more places at the same time. They cannot be running their companies and lobbying for political favors all within the time frame of a mere 24-hour day. Therefore, most business owners concentrate on doing their best in the area that is more likely to be under their control; they put their greatest efforts into making money.

"So although their hard work is generally rewarded, there are times in which the business climate can be improved by government intervention. A number of business people may favor a laissez-faire attitude on the part of government; however, there are instances when businesses need the assistance of the governing body. Amending laws that are unfair is just such an instance.

"In Hawaii, the salaries/wages of owner-employees of corporations are subject to Unemployment Insurance Compensation (UIC) taxes, but if an owner-employee of 25% or greater elects to terminate his/her association with the employing entity, UIC benefits are not forthcoming. The law requires owners to contribute into a UIC trust fund, yet the law also disqualifies owners from collecting any compensation from the unemployment system. Clearly, such an injustice should be rectified.

"Under the section of the labor laws that requires owner-employees to pay UIC taxes, those individuals are treated as covered workers. Yet, the section that defines "covered worker" disqualifies owner-employees from collecting benefits. There appears to be a significant disparity between the two sections. Hence, in the interest of equity, those who contribute into the fund should also be able to receive benefits from that fund as well.

"The Department of Labor and Industrial Relations (DLIR)'s concern that the passage of HB 1502 will exclude the assessment of wages of owner-employees with 50% interest in the employing unit is a valid point in that the Department will not be able to collect the taxes on those wages. DLIR's total pool of Unemployment Insurance Compensation (UIC) contributions will be reduced by whatever amount that is currently being assessed against small business owners who have elected to create corporations because of tax and legal considerations.

"DLIR states that "this special class of individuals" will be unable to receive UIC during jobless periods. However, section 383-30, Hawaii Revised Statutes generally disqualifies an owner-employee of a corporation who brings about the owner-employee's unemployment by divesting ownership, leasing the business interest, terminating the business, or by other similar actions where the owner-employee is the party initiating termination of the employment relationship. Corporate officers owning 50% or more of their employing

entity are generally the operators as well as owners of their specific businesses.

"If economic or other considerations force these owner/operators to terminate their businesses, they are currently unable to receive UIC even though they have been paying the assessment on their portion of wages subject to UIC taxes. Therefore, small corporate employee-owners are requesting that either they become exempt from paying the assessment on their wages or are able to receive compensation benefits should they be forced to terminate their operations.

"In all fairness, if one contributes into the fund, that individual should be entitled to receive benefits from that fund as well.

"Another bill that helps business relates to Vocational Rehabilitation. In 1997 the Legislature allowed Worker's compensation claimants to self-refer to Vocational Rehabilitation services where there is any amount of permanent disability. This was due to the cut back in staffing in the Vocational Rehabilitation unit at the Department of Labor. Since then, there has been a substantial increase in the cost of vocational rehabilitation programs to the employer.

"The small business reform proposes to do four things. First, it requests that the injured employee first return to work with their current employer if there is a position that can accommodate their disability and at the same wage level.

"Secondly, the employee should first try and seek vocational rehabilitation on their home island to mitigate additional travel and living expenses. This will also help keep families together.

"Third, when self-employment is the vocational rehabilitation plan, that tools for the training of the new employment is covered, but not the start-up equipment, inventory and premises costs.

"Lastly, we propose to have to Vocational Rehabilitation counselors charge a reasonable fee for their services, as presently there are no fee schedules, caps or limits as to how much is currently charge.

"Although there may be some discussion on how the bill should be implemented at this point we want to keep the discussion alive and would like this bill passed in second reading and go on to Finance."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1502, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY LAW," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 508) recommending that H.B. No. 369, HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 369, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 509) recommending that H.B. No. 1553, as amended

in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1553, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Arakaki and Yoshinaga, for the Committee on Health and the Committee on Labor and Public Employment presented a joint report (Stand. Com. Rep. No. 510) recommending that H.B. No. 790, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the joint report of the Committees be adopted, and H.B. No. 790, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I think it's commendable that we are trying to protect nurses, but I'd just like to point out that the description in the measure says "to protect nurses and other healthcare workers from needlestick and other sharps related injuries". In the body of the bill it does nothing to do such.

"What it does is have some reports required and the reports are such as job classification, procedures being performed, suggestions on protective mechanisms or work practices, but it doesn't do anything to actually protect the nurses. Thank you."

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and, the joint report of the Committees was adopted and H.B. No. 790, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE WORKER INJURY PREVENTION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Arakaki and Takumi, for the Committee on Health and the Committee on Higher Education presented a joint report (Stand. Com. Rep. No. 511) recommending that H.B. No. 1034, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 1034, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSING," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 512), recommending that H.B. No. 917, as amended in, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 917, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CLINICAL SOCIAL WORKERS," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Kanoho and Chang, for the Committee on Water and Land Use and the Committee on Tourism and Culture presented a joint report (Stand. Com. Rep. No. 513) recommending that H.B. No. 694, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the joint report of the Committees be adopted, and H.B. No. 694, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Mr. Speaker it took a great deal of effort to set up the tourism Special Fund. Part of the process was the thirty million dollars in general funds that have previously gone to support tourism was liberated for being returned to the general fund.

"The money that remained was committed to tourism promotion and the mechanism was set up so that a combination of the industry and outside board members would allocate that funds in a way that was best met to meet the marketing needs of the industry in Hawaii.

"In addition, there are upcoming obligations that we're going to have to worry about with the debt service of the convention center. While this is a worthy goal to support the State parks, this should not come from the TAT. This is a big mistake and the Legislature is essentially going back on the word that it gave when it set up this fund. We should oppose this. Thank you."

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

"As the speaker from Waikiki has stated it was never the intent of the task force committee and the initial drafters of this legislation that this money be diverted to anything but for marketing purposes.

"I think it is setting very dangerous precedence as to what is being attempted to do. If some of the members here recall, under the past tourism budget prior to the TAT, we began with approximately twenty-five million dollars and it ended up with approximately ten or twelve or less million dollars going for marketing purposes because we individually kept on siphoning the money every year for different kinds of purposes other than marketing.

"Now we have the Tourism Authority doing an excellent job. The State of Hawaii is thriving with tourists. We are getting good remarks throughout the nation and throughout the world. This is not the time to interfere and to meddle with the Tourism Authority. Thank you very much Mr. Speaker."

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

"The bill which is still subject to the wisdom of the Finance Committee on just how this problem should be addressed and should be fund needed repairs to our parks, will be left to the Finance Committee.

"But, the four million, and it's only for one year, for our parks and we need to agree that our parks are in a state of bad disrepair, and it makes no sense that we do spend 60+ million to bring tourists to Hawaii and subject them to the horrible conditions, especially at the use of our restrooms at our parks.

"But, the important point here, Mr. Speaker, is that the four million, for one year, will not come from the Tourism Special Fund. It will be an amount over and above that. But again, this is a matter for the Finance Committee to determine

"It does though take away that amount that would have gone to the counties. However, it must be realized that the expected revenues from the total TAT will increase in the year 2001-2002 by an amount of \$18.8 million. So, the piece of the pie has grown. It will not subtract from the dollar amount that the counties are receiving. Any benefits to the state parks will indeed benefit our counties. Thank you Mr. Speaker."

Representative Bukoski rose and asked the Clerk to register a no vote for him and to insert the remarks of Representative Souki as his own, and the Chair "so ordered". (By reference only.)

Representative Ahu Isa then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register an aye vote with reservations for her, and the Chair "so ordered".

Representative Ontai then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative McDermott then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her and for the comments of Representative Fox and Representative Souki to be inserted into the Journal as her own, and the Chair "so ordered". (By reference only.)

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

"Just a point that here again this actually bears out what I was discussing earlier and I know it's not related to the special "rainy day fund", but happens when we have an amount of money set aside. Over time pressures bear very severely on that money and they get diverted for other purposes.

"So, this is why I would go down on this and also for the earlier "rainy day fund". Thank you."

Representative Pendleton then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"There is an incredibly tight nexus between tourism and our natural resource destinations. It makes absolutely no sense for the Tourism Authority to spend all of that money advertising Hawaii internationally and on the mainland and then have the people come and experience a horrible situation when they go to one of these destinations.

"I can't see why the two aren't so entwined that the funding for one becomes the basis for the improvements through the

other branch, which is the Department of Land and Natural Resources, so I strongly support this bill. Thank you."

Representative Davis then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 694, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," passed Second Reading and was referred to the Committee on Finance, with Representatives Bukoski, Fox, Gomes, McDermott, Ontai, Pendleton and Souki voting no and Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 514), recommending that H.B. No. 343, as amended in, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 343, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 515) recommending that H.B. No. 1056, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1056, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 516) recommending that H.B. No. 1223, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1223, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYEES' RETIREMENT SYSTEM," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Yoshinaga, for the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 517) recommending that H.B. No. 1307, as amended in HD 1, pass Second Reading and be referred to the Committee on Health and the Committee on Human Services and Housing.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1307, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII COMMISSION FOR NATIONAL AND COMMUNITY SERVICE," passed Second Reading and was referred jointly to the Committee on Health and the Committee on Human Services and Housing, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 518) recommending that H.B. No. 474, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 474, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Ito, for the Committee on Education presented a report (Stand. Com. Rep. No. 519) recommending that H.B. No. 946, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 946, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ito and Arakaki, for the Committee on Education and the Committee on Health presented a joint report (Stand. Com. Rep. No. 520) recommending that H.B. No. 1555, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the joint report of the Committees be adopted, and H.B. No. 1555, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Abinsay's remarks are as follows:

"Mr. Speaker, according to the results of the 1998 Hawaii Student Alcohol and Drug Use Study, substance abuse continues to be a significant problem affecting Hawaii's school children. An estimated 16% of the students statewide in both public and private school from grade six to twelve need treatment for alcohol or drug abuse.

"In 1998, the Legislature passed H.B. 3110 which appropriated funds to treat teens who are dependent on drugs in a family-like, as well as, in-school environment.

"Residential treatment facilities and school-based treatment programs offer a variety of services such as crisis intervention, including individual, group or family sessions for education and counseling, peer and adult role modeling, as well as, clean and sober recreational activities.

"Mr. Speaker and members of this House, studies that have been done show that children who begin to use drugs and drink during their early years in school are the same individuals who become chronic abusers as adults. They are also the most likely to commit crimes and end up in jail. On the other hand, teens who received treatment and/or who were rehabilitated early are less likely to become involved in criminal activities. They are more likely to attend classes regularly and on time, which results in getting good grades.

"This bill, if appropriated would continue and expand the substance abuse prevention and intervention programs in our

schools statewide. The money we invest now for the prevention and early rehabilitation is far less when you compare that to the cost of keeping them in jail in later years.

"I have said this before, and I will say it again. For every teenager that we save from a life of drug abuse and crime is worth all the time and effort, as well as, the money that we spend. I urge you to support this measure. Thank you."

The motion was put to vote by the Chair and carried, and the joint report of the Committees was adopted and H.B. No. 1555, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADOLESCENCE SCHOOL-BASED SUBSTANCE ABUSE TREATMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 521) recommending that H.B. No. 1357, HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1357, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 522) recommending that H.B. No. 1556, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1556, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Abinsay and Takumi, for the Committee on Agriculture and the Committee on Higher Education presented a joint report (Stand. Com. Rep. No. 523) recommending that H.B. No. 365, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 365, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL COMMODITY DAMAGE," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 524) recommending that H.B. No. 123, pass Second Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 123, entitled: "A BILL FOR AN ACT RELATING TO SPEEDING," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 525) recommending that H.B. No. 1171, as amended in HD 1, pass Second

Reading and be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1171, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY INSTRUCTION PERMIT," passed Second Reading and was referred to the Committee on Judiciary and Hawaiian Affairs, with Representatives Case and Whalen being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 526) recommending that H.B. No. 695, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 695, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"This bill terminates revocable permits covering any affected portion of the Kapalama Military Reservation. It provides thirty days after enactment and it is too brief a time and is really unjust for the lessees.

"For this reason I oppose the measure. Thank you Mr. Speaker."

Representative Bukoski then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"The Kapalama Military Reservation contains about seventeen small businesses and according to one of the people that have written to us those businesses are paying market rent and taxes on the land.

"One of them writes and says they can't understand why they're being evicted so an aquarium can be built in Kakaako and the medical school and the end result is that seventeen small businesses that are water related are going to be bumped out.

"One of them which is particularly tragic was bumped out and moved when the airport improvements took place and moved to Kapalama thinking, okay now we're settled in, now here comes the second eviction and its very distressing. This was not handled well. The Department of Transportation is pretty good on putting concrete on everything that moves, but they are not good on dealing with businesses and business people when they want them to move out of the way.

"HCDA did not link in with DOT and evidently just felt that DOT would handle the issue. It has not been done well and I think it's a very disgraceful situation.

"I would like to see us delay on this. I would like to see us not pass this bill and delay on the other two for the massive funding for the aquarium and the medical school.

"I'd also like some planners in our State to take a look at the produce companies that are there in Kakaako. We're talking about moving those and yet with some good thinking you could think of those produce companies as being a live operation that would entice people to go down to the area to see how all of it operates. Think of San Francisco if they

bumped out all of the fishermen and the fishermen's little stalls that are down there. San Francisco waterfront wouldn't have any visitors going to see it.

"Why don't we encourage the produce companies to stay there, but integrate them into the Kakaako area. Right now we've ended up with a real sterile area. We have the two Hoover vacuum towers, those two apartments that reach up to the sky, you have a park that's barely even used, you have streets that barely have any life on them and it's a very sterile area. That's not what the idea was when we took over jurisdiction of that place.

"I would think that we could have a farmers kind of market idea where people from downtown would want to go down to Kakaako because they could go to buy produce, walk through and get something to eat at the different stalls and the maybe go over and look at the aquarium if that ever gets built or go to the children's museum. But the way that we're going about this now just makes no sense. We don't need to move the produce people if we took a better look at that as to how we could do better planning. How could we make it vibrant and a destination area. What we are doing now is not going to accomplish that. Thank you."

Representative Hale then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

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

"I agree with and do appreciate the concerns expressed by the Representative from Kailua and for those reasons a working with the state agencies involved the Department of Transportation and the Department of Land and Natural Resources as well as HCDA to look for appropriate accommodations for the tenants.

"Additionally, Mr. Speaker, we're looking for some kind of financial assistance recognizing that it would be difficult. The bill contains provisions to allow the Department of Transportation to waive rentals for a period of up to three months to provide that kind of assistance.

"Also, Mr. Speaker, the effective date of this bill is 2010 to enable continued discussion to address the concerns expressed and to ensure the 2010 date that we do express those concerns. Thank you."

Representative Rath then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Halford 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 measure with reservations, stating:

"The Chairman of the Committee did a good job of amending this but this is still in a early stage, and I would hope that it would be further amended as it goes through the process.

"The Representative from Kailua is absolutely correct. The way the tenants learned of the plans to have be evicted was very poorly handled. These folks moved in there knowing they were on month to month leases, but they've been there most of them five to seven years.

"The HCDA is taking forever working down there at Kakaako and the idea that these people were originally told that they had to be out in July, which was a shock to them and I doubt anybody's going to be ready to do anything on the medical school in that period of time, so I would hope this bill would be amended giving these people a much longer time to get used to the fact that they're going to have to move in a year or year and a half and perhaps the three months or four months because they're going to interrupt business and lose money. It's my understanding that the State is going to pay to move the tropical fruit people out of there, of course they have a long-term lease and the State will have to reimburse them in order for them to move.

"I think that this bill made a lot of people aware how people are treated pretty shabbily by some departments. I don't know if that's on purpose or if everybody's busy and they don't think about that. But this is a lot better than what it was originally and I hope that it will be amended along the way. Thank you."

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him and that the remarks of Representative Meyer be entered into the Journal as his own, and the Chair "so ordered". (By reference only.)

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

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

"I think instead of doing all of this work at Kakaako where there is already a big traffic problem. We should be moving things out to the second city area. That was designated by the State and the City to alleviate traffic and we have a University West Oahu campus there, we have ample lands at Campbell Industrial Park and we have State owned lands at Barbers Point, Kalaeloa.

"So, all of these things can be handled out there and not congest further downtown. Thank you."

Representative Ontai then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Gomes then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

Representative Davis then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 695, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPLACED LESSEES," passed Second Reading and was referred to the Committee on Finance, with Representatives Auwae, Bukoski, Halford, Jaffe, Leong, Rath and Thielen voting no and Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 527) recommending that H.B. No. 174, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 174, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Meyer rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 174, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Case and Whalen being excused.

Representative Ahu Isa, for the Committee on Economic Development and Business Concerns presented a report (Stand. Com. Rep. No. 528) recommending that H.B. No. 175, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 175, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

Representative Ahu Isa rose to speak in strong support of the measure, stating:

"I just wanted to inform the Representative from Waialae Kahala that this bill and the amendments do include the intellectual property rights credit. Thank you."

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

"It is a very generous tax incentive for high technology and should really help the economy.

"I thank you for the provisions to exempt royalties from performing arts and I would ask that it be further extended, maybe the Finance Committee can consider whether they would like to add intellectual property from writing and art which is not digitally or technologically related. Thank you very much."

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

"It's terrific that we are providing tax benefits for the high technology industry and for the jet propulsion folks and I think we should also provide the same for food and medicine. 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. 175, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 529) recommending that H.B. No. 815, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 815, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Yoshinaga then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Bukoski then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

"It's really amazing to see how the testimonies changed on this bill over the last six years. This is the "divorcement bill" which is trying to solve different problems every year and now the very people that pushed so very hard for many of the measures that were passed, which were the dealers of service stations, have come full circle around and now many of them are saying that this was a mistake, we should have never have done it.

"So, what we really should be doing is repealing this law totally and let the market solve its own problems as it will in time. Thank you Mr. Speaker."

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Jaffe then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 815, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE DEALERS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Bukoski and Meyer voting no and Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 530) recommending that H.B. No. 925, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 925, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOANS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Abinsay, for the Committee on Agriculture presented a report (Stand. Com. Rep. No. 531) recommending that H.B. No. 1074, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 1074, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Mr. Speaker, our branch of government, our state Legislature, of the three branches of the government I believe, is the most important and most valuable of the three branches of government. We do have an executive for expediency and we have a judicial system to keep peace in the land. However, our branch of government is diverse. We have men and women, Republicans and Democrats. We come from all areas of the State. We provide collective and measured wisdom and we're the closest to the people.

"I'm bringing this up Mr. Speaker, not just because I'm excited about our branch of government and that I know that our branch is the best of the three. I want to point out a problem that we get ourselves into once and a while.

"Last year we passed a bill similar to this. All of the members of the State House voted yes, all of the members of the State Senate voted yes, 76 yes votes, went to the Governor and was vetoed. We didn't override that veto.

"So, the problem we're in now is trying to deal with this issue again. Instead of a ten percent tax credit for building water facilities that should be built by the government, we are asking the private sector to build needed infrastructure. It's a homerun bill. We talked ourselves down to four percent because we felt like we needed to go to the executive and ask him what he would approve. And I sincerely believe that a lot of our legislation, not just this one piece, a lot of our legislation would turn out much better if we were willing to go to the mat with the executive when he was clearly misguided on issues. 76-1..."

Representative Lee rose on a point of order, stating:

"I believe that the Speaker is straying from the measure and if he would just leave out personalities and keep to the point."

The Chair responded, stating:

"Representative Halford..."

Representative Halford interjected, stating:

"Well frankly, I'm not addressing personalities, I'm addressing the nature of the forces that drive this bill and in fact all of our bills. We can get better legislation, this can be a better bill, if we know that we're willing to come back after session and override a veto and put in a ten percent that it deserves.

"To conclude, a lot of our legislation, not just this one bill, would be much improved if we were willing to assert our rightful place in this state 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. 1074, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DROUGHT MITIGATING FACILITIES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 533) recommending that H.B. No. 1603, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Representative M. Oshiro moved that the report of the Committee be adopted, and H.B. No. 1603, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection and Commerce, seconded by Representative Lee.

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

"I understand the Chair's reasoning behind this he wants to help low-income and poor folks because we are not providing enough money in Quest and I certainly appreciate that.

"However, the Hawaii Dental Association and numerous dentists' who were concerned with the health and safety of the general public opposed this measure so I am going to side with the dentists. Thank you."

Representative Leong then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Auwae then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Thielen then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register a no vote for her, and the Chair "so ordered".

Representative Rath then rose and asked the Clerk to register a no vote for him, and the Chair "so ordered".

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

Representative Takai's remarks are as follows:

"The passage of this bill is paramount in addressing the access to the dental care crisis that the State of Hawaii is now facing. The Oral Health Task Force report has shown that Hawaii has one of the highest dental decay rates of any state in the nation while we have one of the lowest access to care rates. Hawaii's baby bottle decay is three times higher than the national average with 16 % in Hawaii versus the US rate of 5%. Neighbor Island children are at greater risk with bottle mouth decay as high as six times the national rate on Lanai and Molokai.

"Also at higher risk are Native Hawaiian and ethnic groups with large immigrant populations. Specifically, Native Hawaiians were found to have among the highest rates of baby bottle tooth decay and unmet dental needs. Among ethnic groups with large portion of new immigrants, Filipino and Southeast Asian children have more than twice the national rate for tooth decayed or filled primary teeth. These ethnic groups also have extremely high rates of unmet treatment needs. Nearly half of the Native Hawaiian, Southeast Asian, Filipino and other Pacific Islanders' children age 5-12 years have unmet dental treatment needs.

"The Task Force also addressed access to care. The following is taken directly from the Dental Health 2000 draft.

"Good oral health is dependent on primary prevention and regular preventive dental care. Lack of timely dental care can result in escalating oral problem, which may be costly and difficult to treat. The issue of access to dental care has several distinct factors. One factor is an understanding of preventive practices for good dental health. A second factor is economic barriers to care that include insurance coverage, limitation of benefits, and ability to pay. Another factor to access is provider ability. This is comprised of the total number of dentists who are actively practicing, geographic areas with

dental provider shortage, and providers' ability and availability to serve certain segments of the population.

"This bill is about increasing the access to dental care and providing the majority of practicing dental hygienists (upward of 800) in the State of Hawaii the opportunity to be a part of the solution to addressing these tremendous dental needs.

"Many of you may recall as children, visits that the public health dental hygienists made to your school and what a significant role they played in your dental knowledge and your dental care. This program still exists, but with continual budgetary cuts and increasing population growth, the program has been greatly restricted in its ability to reach all children. At the Committee on Health hearing on February 10, it was reported by the State Department of Health that the public health dental hygiene program has only 10 public health dental hygienists that are working out in the school programs. Nine are based on Oahu and one is based in Hilo. With all ten of these individuals working, they are only reaching one-third of the schools every three years and are providing care to only those children in kindergarten to third grade.

"In discussing this dilemma with the Hawaii Dental Hygienists' Association, we were informed that while many of the private practice dental hygienists within the State would like to be of assistance with this shortage, even on a volunteer basis, they were precluded by existing law which requires direct supervision of a licensed dental hygienist employed in a private practice. This prevents the private practice dental hygienist from performing essential dental services outside the dental office, without the physical presence of the licensed dentist that employs them. Furthermore, law prohibits them from participating in community volunteer programs in or outside of the private practice unless every dentist who employs each hygienist is willing to be onsite for every program and directly supervise his/her dental hygienists. It's no wonder that we have an access to care problem.

"It was amazing to learn that once a longterm patient becomes non-ambulatory, that the dental hygienists can no longer provide care for them unless the dentist accompanies the hygienists to the nursing home and stands by while they perform their treatment. They cannot go into a public school system and do dental screenings to refer children to a dentist for proper treatment. They can teach a nurse's aide how to care for a hospitalized patient, but they cannot perform these services themselves. In Hawaii the private practice dental hygienist cannot go into a mental institution or a prison and provide oral health care, the patient must come to them to comply with the existing law.

"Hawaii is one of the last states in the nation that has maintained its direct supervision provision. Forty-five states have some form of general supervision provision, which enables the licensed dental hygienists to provide certain dental services without the physical presence of a licensed dentist. The other four states are in the Deep South.

"For decades, a double standard of supervision has existed for dental hygienists in Hawaii. All dental hygienists in the State of Hawaii must submit the same education credentials and have take the same National Board Examination in order to sit for the same Hawaii State Board licensing examination. Yet the dental hygienists employed by a legally incorporated eleemosynary dental dispensary or infirmary, private school, or welfare center, or in any building owned or occupied by the State or county can perform all functions within our scope of practice under the direct or general supervision as a license dentist with the exception of local anesthesia. General supervision means that a dentist has authorized a dental

hygienist to perform procedures but need not be present in the treatment facility during the performance of those procedures.

"Since there is no educational nor licensing differential between the public health dental hygienist and the private practice dental hygienist and since we are facing such a huge manpower shortage in meeting the dental needs of the people of Hawaii, it behooves us to remove this barrier for the dental hygienist who are licensed in Hawaii and who can play a major role in improving Hawaii's oral health. These trained and certified professionals specialize in the education of dental hygiene and prevention of dental caries and are currently regulated by the department of commerce and consumer affairs. They are represented by two members on the Board of Dental Examiners and by a member appointed to serve on the State Peer Review Committee. Each dental hygienist must maintain their own malpractice insurance.

"No child in any state deserves to have untreated rampant dental decay or abscesses. No elderly or hospitalized person deserves to lie helpless and suffer from infected gums because a dental hygienist is prevented from attending to their dental needs. This report is distressing and embarrassing to all of us concerned. HB 1603 as amended continues to place the dental hygienist under the supervision of the dentist and it continues to preclude the dental hygienist from establishing or operating any separate care facility which exclusively renders dental hygiene services. This specific access to care issue has received support for public health nurses, teachers, dentists, the mobile dental vans, eleemosynary clinic, taxpayers and the Hawaii Dental Hygienists' Association. We commanded a report on the existing oral health conditions of our citizens and it would be unconscionable for us not to address them while the children, the poor and the elderly in Hawaii are suffering needlessly. Research has proven that poor oral health has a direct negative impact on overall health and can lead to premature, low birth weight babies, respiratory infections, exacerbation of diabetic conditions, heart attacks and strokes. It is a psychological trauma for those impacted. It is our responsibility as legislators to help protect our citizens. I ask for your support of HB 1603."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1603, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL HYGIENISTS," passed Second Reading and was referred to the Committee on Consumer Protection and Commerce, with Representatives Leong, McDermott, Meyer and Rath voting no and Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 534) recommending that H.B. No. 658, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 658, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH SYSTEMS CORPORATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Arakaki, for the Committee on Health presented a report (Stand. Com. Rep. No. 535) recommending that H.B. No. 1356, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1356, HD 2, entitled: "A BILL

FOR AN ACT RELATING TO HEALTH," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Arakaki and Kahikina, for the Committee on Health and the Committee on Human Services and Housing presented a joint report (Stand. Com. Rep. No. 536) recommending that H.B. No. 68, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the joint report of the Committees be adopted, and H.B. No. 68, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"I just wanted the opportunity to put a face on all of the things that I have been talking about in terms of providing access and making a difference in peoples lives when it comes to health care.

"In 1990 congress passed the breast and cervical cancer mortality act which led to the creation of cancer screening programs in all fifty states. Unfortunately it was one of those programs where they didn't provide any funding or mechanism for treatment, only diagnostic services were funded. I think this is such a disconnection in this thinking but it really hit home for me.

"When I talk about putting a face on this, there was an actual case of a Charlotte Maxolom, who did participate in a free screening program and she was diagnosed with breast cancer. Unfortunately, Mrs. Maxolom had no health insurance.

"These are instances that where tax credits will not help individuals without health insurance or who are underinsured. But she went ahead with the treatment. Obviously she had some resources because she couldn't qualify for Quest, but half way through, with the bills amounting to \$24,000, and no means of paying the cost, she stopped treatment. This case came out in the Advertiser and a couple of people asked for me to intervene and I did write a letter to the Department of Human Services for them to provide some relief. Unfortunately before I got a response from them she had died.

"I wish I had taken a little more aggressive stance in her case and to plead for her case. But I think this illustrates what kind of differences we can make in our public health policy, and I know I'm not a direct beneficiary of this bill, but I think for the women of Hawaii, this bill will make a lot of difference in advancing their health care.

"So, I hope we can find the resources to follow up with treatment when needed so that we can provide the needed care for our women because they're all precious to us. Thank you Mr. Speaker."

Representative Lee then rose to speak in strong support of this measure and asked that the remarks of Representative Arakaki be entered into the Journal as her own, and the Chair "so ordered". (By reference only.)

Representative Lee continued, stating:

"I think this is one place we can really put our money where it will make a big difference.

"I think this and other issues for the elderly and the indigent where we make a difference in preventive care in the long run

you save peoples lives and these are the people that really need our help."

Representative Kahikina then rose to speak in strong support of the measure and asked that he insert additional remarks into the Journal and enter the remarks of Representative Arakaki into the Journal as his own, and the Chair "so ordered". (By reference only.)

Representative Kahikina continued, stating:

"My reservations to HB 552 HD 1 is that it does not define a Hawaiian cultural resource specialist and I'm afraid that the Ewa Neighborhood Board nor the Makakilo/Kapolei/Honokai Hale Neighborhood Board have the expertise to nominate a candidate. I also have reservations that a native Hawaiian Community within 10 miles of Kalaeloa is not permitted participation. This community is the Nanakuli Hawaiian Homestead Community Association whose chairman is a bona fide Hawaiian cultural resource specialist and this community has many knowledgeable native Hawaiians practicing the culture. As this measure moves forward I urge these issues be considered.

"Thank you Mr. Speaker."

Representative Kahikina's additional remarks are as follows:

"Federal legislation funded breast and cervical cancer screening, and for those women who were screened positive there is no help for treatment. This has caused many hardships for many women and their families who were found positive through this free testing. This measure, if funded, would give relief to those women and their families.

"I urge my colleagues to support the measure. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and, the joint report of the Committees was adopted and H.B. No. 68, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CANCER," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 537), recommending that H.B. No. 1345, HD 1, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1345, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONTENT OF FUELS," was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 538) recommending that H.B. No. 423, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 423, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUORS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com.

Rep. No. 539) recommending that H.B. No. 203, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 203, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL AGENTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 540) recommending that H.B. No. 599, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 599, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NONPROFIT CORPORATIONS," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representatives Ahu Isa, and Arakaki, for the Committee on Economic Development and Business Concerns and Health presented a joint report (Stand. Com. Rep. No. 541) recommending that H.B. No. 813, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative M. Oshiro moved that the joint report of the Committees be adopted, and H.B. No. 813, HD 1, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Lee.

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

"Enterprise zones are set up to take care of situations where you have a large percentage of people set up under a certain income bracket. This talks about health providers, all types of health providers, nursing homes, hospitals, dialysis and all kinds of things. I don't think it has any concern about the geographic area which is part of the whole scheme with empowerment zones.

"This just seems like a flawed bill and that's why I have reservations. Thank you very much Mr. Speaker."

Representative Ahu Isa rose to speak in strong support of the measure, stating:

"I stand in strong support because I looked at the bill and I know what the previous speaker said about being so broad and covering almost every health facility, but if you think in the long term and you thinking of GET exemptions for medical, if you look at this it goes way beyond that.

"So, maybe we can use this vehicle and kind of work with it. Thank you Mr. Speaker."

Representative Meyer rose and stated:

"Just a brief additional comment.

"If we want to help the health providers, maybe just eliminating taxes on their operations would do the trick. Thank you."

The motion was put to vote by the Chair and carried, and, the joint report of the Committees was adopted and H.B. No. 813, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Moses rose on a point of information, stating:

"I notice the calendar we've been using ends in HSCR No. 541 and the supplemental calendar begins with 543. I'm wondering if we missed 542?"

"Sorry, Mr. Speaker I didn't see the supplemental calendar no. 1."

### STANDING COMMITTEE REPORTS

Representatives Ito and Yoshinaga, for the Committee on Education and the Committee on Labor and Public Employment presented a report (Stand. Com. Rep. No. 542) recommending that H.B. No. 1041, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1041, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TEACHER COMPENSATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Case and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 543) recommending that H.B. No. 79, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 79, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY DISCLOSURES," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 544) recommending that H.B. No. 1547, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1547, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"I inadvertently parked last night just off of Kapiolani Boulevard and was a little close to the corner. I came walking out from my two and a half hour meeting to go to my car at about 10:15 at night when it was pretty dark. I go walking over to where I left the car and the car was no longer there. I thought well one of two things: it's been stolen or its been towed. I called the police and described the car and they said Oahu Towing has it. So I called Oahu Towing and they said 'Yes, we have your car.' I said, 'Great, will you take a credit card or a check?' They said no.

"I seem to remember a bill like last year or a year before that where there was a provision in that bill that said they would take a credit card if you got to the car just as they were hooking it up. That section was eliminated from that bill, and it's not in the law as it stand now.

"So, I was faced with having to raise \$95 at 10:15 at night right off of Kapiolani Boulevard, in the dark. And I thought, that 's not so swift. Normally I walk around with enough to buy a Starbucks cappuccino in my wallet and for some reason I had \$90 when I plowed through my briefcase and everything else. I looked at some of my colleagues and asked one for \$5 that I could borrow, and he said no. So I tried another one and luckily was able to get a colleague to lend me the \$5.

"Armed with the \$95 I went to Oahu Towing, which is in a rather obscure part, almost bordering on the Waikiki Representative's district. Not a place you'd like to be by yourself, alone at night, with \$95 trying to get your car back.

"The thing that troubles me very much is the fact that the Oahu Towing Company would not accept a credit card and the other thing that troubles me is that if you make an error and you're like a foot back from the corner and your car gets towed and it's the middle of the night, there you are without any remedy, not able to retrieve your car. And of course, if you leave it, Mr. Speaker, that's going to cost you a heck of a lot more than..."

Representative Souki rose on a point of information, stating:

"I'm very sorry for the problem that the Representative from Kailua has but I don't think it has any bearing on this bill at all, Mr. Speaker."

The Chair responded, stating:

"Speaker Emeritus, I think you point is well taken."

Representative Thielen continued, stating:

"Mr. Speaker, I will show you the point it does have. This bill raises the towing fees.

"Now that in my mind is unconscionable. It's bad enough that the companies won't accept a credit card, which most everyone has on them as they walk around. But now we're going to add insult to injury and the bill that is before us raises the towing fee as if it's not enough to have to pay \$95 in the dark of night, in cash.

"I would ask the Members to really look at this seriously and when you're in your Caucus before Third Reading, take a look at it and see if we want to add insult to injury by making the price be a \$100 to over a \$100 for retrieving one's car. I do hope that the rest of you walk around with money in your pocket and aren't caught like that or that you have a colleague who is kind enough to lend you some until you can get your car out of jail. Thank you Speaker."

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

"Mr. Speaker this is my third session and I think each session we have, if not a bill to raise the towing fees, we certainly entertained it every single time. Now it's \$65 if they use a dolly and \$6.50 a mile. State workers I think get reimbursed \$.35, \$.45 per mile, \$6.50 a mile, I hope they're performing a massage or a full body shampoo for that kind of reimbursement."

The Chair interjected, stating:

"Representative McDermott that statement is not related to the measure before us."

Representative McDermott continued, stating:

"I'm just pointing out that its an obscene amount of money just to drive a vehicle, that's all I'm saying, Mr. Speaker, I was talking to the merits of the issue. Thank you."

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

"I would hope that our colleagues can look at this measure before we pass it for third reading and at least make the credit card available."

Representative Djou then rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

Representative Meyer then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

Representative Leong then rose and asked the Clerk to register and aye vote with reservations for her, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1547, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOWING," passed Second Reading, and was placed on the calendar for Third Reading with Representatives McDermott and Thielen voting no, and Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 545) recommending that H.B. No. 773, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 546) recommending that H.B. No. 152, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 152, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 547) recommending that H.B. No. 1003, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1003, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker, and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 548) recommending that H.B. No. 382, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICATION OF NOTICE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 549) recommending that H.B. No. 771, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 771, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 550) recommending that H.B. No. 978, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 978, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 551) recommending that H.B. No. 645, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 645, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENDANGERING THE WELFARE OF INCOMPETENT PERSONS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 552) recommending that H.B. No. 993, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 993, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROMOTING CHILD ABUSE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 553) recommending that H.B. No. 1255, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1255, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MINORS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 554) recommending that H.B. No. 1405, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1405, HD 1, entitled: "A BILL FOR AN ACT A BILL FOR AN ACT RELATING TO USE OF INTOXICANTS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 555) recommending that H.B. No. 524, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 524, HD 1, pass Second Reading and be referred placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker if members would pull their bill out of their stack of bills and take a look at page 6 of this bill.

"What we are going to do is create a crime for the following: "a person commits the offense of unauthorized computer access of the 3<sup>rd</sup> degree if the person knowingly accesses a computer without authorization".

"And then unauthorized computer access in the 3<sup>rd</sup> degree is a misdemeanor. When you go to see what this means it includes but is not limited to mere observation of the data. The way that reads, Mr. Speaker, is you can have a teenager or someone older than that, comes into your office or home, clicks on your computer, the screen pops up and they have observed information and they would have committed a misdemeanor.

"The way that technology is now, young adults and adults knowingly access a computer. It is so broad that it picks up a whole slue. I imagine anyone who has youngsters in this room, your children would be committing a misdemeanor. Go to a friend's house, fathers, mothers computer, pop it on, observe information, what comes up on the screen. Bingo, misdemeanor.

"That's not the intent of this bill and I don't know how this came through with it being so broad on page 6. We have an opportunity to change it but it just goes for third reading.

"So, I would encourage the members to look at recommitting it to the Committee on Judiciary and having the Committee on Judiciary taking another look and tightening up that language so we don't make our children subject to misdemeanor charges. Thank you."

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 524, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMPUTER CRIME," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 556) recommending that H.B. No. 127, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 127, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTIFICATION," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 557) recommending that H.B. No. 624, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 624, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Second Reading and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 558) recommending that H.B. No. 498, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 498, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 559) recommending that H.B. No. 986, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 986, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTIFICATION DOCUMENTS," passed Second Reading, and was placed on

the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 560) recommending that H.B. No. 1208, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1208, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 561) recommending that H.B. No. 1211, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1211, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 562) recommending that H.B. No. 625, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 625, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Second Reading and was placed on the calendar for Third Reading with Representatives Case, Stonebraker and Whalen being excused.

## INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 25) was read by the Clerk and the following action taken:

H.R. No. 25, entitled: "HOUSE RESOLUTION EXPRESSING REGRETS AND SYMPATHY FOR THE VICTIMS OF THE TRAGEDY AT SEA WITH THE EHIME MARU AND THE U.S.S. GREENVILLE," was jointly offered by Representatives Arakaki, Lee, M. Oshiro, Fox, Luke, Takai, Takumi, Garcia, Nakasone, Pendleton, Say.

Representative Arakaki moved that H.R. No. 25, be adopted, seconded by Representative M. Oshiro.

The motion was put to vote by the Chair and carried, and H.R. No. 25, was adopted. (Representatives Case, Stonebraker and Whalen were excused.)

By unanimous consent, the following resolutions (H.R. Nos. 26 through 29) and concurrent resolutions (H.C.R. Nos. 19 through 25) were referred to Printing and further action was deferred:

H.R. No. 26, entitled: "HOUSE RESOLUTION REQUESTING A STUDY ON GRANTING LIMITED

PRESCRIPTIVE AUTHORITY TO PSYCHOLOGISTS CERTIFIED IN PSYCHOPHARMACOLOGY," was jointly offered by Representatives Arakaki, Espero, Kanoho, Lee, Kahikina, Takai, Yonamine, Auwae.

H.R. No. 27, entitled: "HOUSE RESOLUTION APPROVING AND AUTHORIZING THE ESTABLISHMENT OF STATE-PROVINCE RELATIONS OF FRIENDSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES OF AMERICA AND THE PROVINCE OF THUA THIEN-HUE OF THE SOCIALIST REPUBLIC OF VIETNAM," was jointly offered by Representatives Schatz, Leong, Marumoto, Suzuki, Chang, Abinsay, Takumi, Magaoay, Ahu Isa.

H.R. No. 28, entitled: "HOUSE RESOLUTION CONGRATULATING CYNTHIA HAGINO, LINDA MORIKONE AND ALISON TANAKA AS THE 2000 RECIPIENTS OF THE DISTINGUISHED MILKEN FAMILY FOUNDATION NATIONAL EDUCATOR AWARDS", was offered by Representatives Case, Lee and Magaoay.

H.R. No. 29, entitled: "HOUSE RESOLUTION REQUESTING THE COUNTIES TO ALLOW REAL PROPERTY TAXES TO BE PAID QUARTERLY," was offered by Representative Cabrerros.

H.C.R. No. 19, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII TO INVESTIGATE THE SECTION 8 HOUSING POLICY IN THE STATE AND COUNTIES," was jointly offered by Representatives Djou, Suzuki, Case, Morita, Gomes, Auwae, Bukoski, Halford, Meyer.

H.C.R. No. 20, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY ON GRANTING LIMITED PRESCRIPTIVE AUTHORITY TO PSYCHOLOGISTS CERTIFIED IN PSYCHOPHARMACOLOGY," was jointly offered by Representatives Arakaki, Espero, Kanoho, Lee, Kahikina, Takai, Yonamine, Auwae.

H.C.R. No. 21, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE FEDERAL GOVERNMENT TO REAFFIRM ITS SPECIAL POLITICAL RELATIONSHIP TO NATIVE HAWAIIANS UNDER THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED, WHICH IS REAFFIRMED HEREIN BY THE STATE OF HAWAII LEGISLATURE, AND FURTHER REQUESTING THE GOVERNOR TO EFFECTUATE THE LEGISLATURE'S REAFFIRMATION," was jointly offered by Representatives Kahikina, Morita, Ahu Isa, Yonamine, Chang, Arakaki, Bukoski, Magaoay, Kawakami, Auwae, B. Oshiro, Fox, Djou, Luke, Case, Espero, Suzuki, Cabrerros, Moses, Thielen, Hamakawa, Meyer, Lee, McDermott, Takai, Kanoho, Gomes, Hiraki, Takumi, Souki, Hale, Whalen, Halford, Schatz, Pendleton.

H.C.R. No. 22, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE STATE OF HAWAII'S HOPE VI REVITALIZATION GRANT APPLICATION FOR KUHIO PARK TERRACE AND URGING THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO ACT FAVORABLY ON THE APPLICATION," was offered by

Representative Kahikina, by request.

H.C.R. No. 23, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING FEDERAL SUPPORT OF HAWAIIAN SELF-GOVERNANCE," was jointly offered by Representatives Kahikina, Kanoho, Ahu Isa, Kawakami, Morita, Auwae, Bukoski, Davis, Ontai.

H.C.R. No. 24, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING AND AUTHORIZING THE ESTABLISHMENT OF STATE-PROVINCE RELATIONS OF FRIENDSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES OF AMERICA AND THE PROVINCE OF THUA THEIN-HUE OF THE SOCIALIST REPUBLIC OF VIETNAM," was jointly offered by Representatives Schatz, Leong, Marumoto, Suzuki, Chang, Abinsay, Takumi, Magaoay, Ahu Isa.

#### ANNOUNCEMENT

Representative Garcia: "Mr. Speaker your Committee on Public Safety and Military Affairs, together with your Committee on Health will be holding an informational briefing, tomorrow at 2:00 o'clock p.m., in Conference Room 329. For the purposes of hearing two individuals discussing the California Proposition No. 36, the proposition that speaks to the diversion and drug treatment for offenders."

#### ADJOURNMENT

At 7:47 o'clock p.m., on motion by Representative Lee, seconded by Representative Pendleton and carried, the House of Representatives adjourned until 11:30 o'clock a.m., tomorrow, Wednesday, February 21, 2001. (Representatives Case, Stonebraker and Whalen were excused.)

## TWENTY-FOURTH DAY

**Wednesday February 21, 2001**

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 11:48 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Reverend Neal MacPherson, of the Church of the Crossroads after which the Roll was called showing all members present with the exception of Representatives Meyer, Morita, Rath, Saiki, Stonebraker, Thielen and Whalen, who were excused.

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

### SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 11 through 16) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 11, transmitting S.B. No. 64, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," which passed Third Reading in the Senate on February 20, 2001.

Sen. Com. No. 12, transmitting S.B. No. 478, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PATHOLOGICAL INTOXICATION," which passed Third Reading in the Senate on February 20, 2001.

Sen. Com. No. 13, transmitting S.B. No. 726, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ASSAULT," which passed Third Reading in the Senate on February 20, 2001.

Sen. Com. No. 14, transmitting S.B. No. 754, entitled: "A BILL FOR AN ACT RELATING TO MARITIME LANDS," which passed Third Reading in the Senate on February 20, 2001.

Sen. Com. No. 15, transmitting S.B. No. 875, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," which passed Third Reading in the Senate on February 20, 2001.

Sen. Com. No. 16, transmitting S.B. No. 1017, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL LEASEHOLDS," which passed Third Reading in the Senate on February 20, 2001.

On motion by Representative Lee, seconded by Representative Pendleton and carried, S.B. Nos. 64, SD 1; 478, SD 1; 726, SD 1; 754; 875; and 1017, passed First Reading by title and further action was deferred, with Representatives Case, Chang, Meyer and Thielen being excused.

### MISCELLANEOUS COMMUNICATION

The following communication (Misc. Com. No. 6) was received by the Clerk and was placed on file:

Misc. Com. No. 6, from Thomas M. Driskill, Jr., President and Chief Executive Officer, Hawaii Health Systems Corporation, transmitting copies of the PACE Hawaii at Maluhia, Hawaii Health Systems Corporation Annual Report.

### INTRODUCTION

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

Representative Yonamine, on behalf of Representatives Takai, Takumi and himself, introduced a group of student "shadows" from Pearl City High School learning about the legislative process: Ms. Stephanie No, Ms. Kristie Akamine, Ms. Sherilyn Fukuda, Ms. Marian Kang, Ms. Jennifer Sasaki and Mr. Brandon Lee. They were accompanied by their teacher, Mrs. Kathy Tanaka who was last year's Leeward District Teacher of the Year.

At 11:56 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:26 o'clock p.m.

### INTRODUCTION OF RESOLUTION (FLOOR PRESENTATION)

The following resolution (H.R. No. 30) was received and announced by the Clerk and the following action taken:

H.R. No. 30, entitled: "HOUSE RESOLUTION CONGRATULATING VICKY CAYETANO, LYNNE WAIHEE, JEAN ARIYOSHI, AND NANCY QUINN AS THE RECIPIENTS OF THE 2001 WINNERS AT WORK PALAKA AWARD," was jointly offered by Representatives Marumoto and Luke.

On motion by Representative Marumoto, seconded by Representative Luke and carried, H.R. No. 30 was adopted with Representatives Case, Chang, Meyer, Thielen, Nakasone, Rath and Whalen being excused.

Representative Luke introduced the following 2001 Winners at Work Palaka Honorees:

First Lady Nancy Quinn;

First Lady Jean Ariyoshi;

First Lady Lynne Waihee; and

First Lady Vicky Cayetano.

Representative Marumoto introduced Ms. Sandra Koeffel, Vice President of Winners at Work; Ms. Becky Okazaki, Past President of Winners at Work; and Mr. Russell Higa, Winners at Work participant.

At 12:34 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:40 o'clock p.m.

### ORDER OF THE DAY

#### COMMITTEE REFERRALS

The following resolution (H.R. No. 26) and concurrent resolutions (H.C.R. Nos. 19 and 20) were referred to committee by the Speaker:

### H.R.

**No.      Referred to:**

- 26      Jointly to the Committee on Health and the Committee on Consumer Protection and Commerce, then to the Committee on Legislative Management, then to the Committee on Finance

Representatives Case, Chang, Garcia, Meyer, Souki and Thielen were excused.

The Chair directed the Clerk to note that H.B. Nos. 624 and 625, had passed Third Reading at 12:43 o'clock p.m.

**H.C.R.****Nos.      Referred to:**

- 19      Committee on Human Service and Housing, then to the Committee on Finance
- 20      Jointly to the Committee on Health and the Committee on Consumer Protection and Commerce, then to the Committee on Legislative Management, then to the Committee on Finance

**RECALL**

Representative Fox moved that H.B. No. 933 be recalled from the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Pendleton.

The motion was put to vote by the Chair and carried, and H.B. No. 933, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE V OF THE HAWAII CONSTITUTION TO PROVIDE FOR THE ELECTION OF THE ATTORNEY GENERAL," was recalled from the Committee on Judiciary and Hawaiian Affairs and was brought to the floor for action.

**COMMITTEE REASSIGNMENTS**

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

**H.B.****Nos.      Re-referred to:**

- 148      Committee on Finance
- 269      Committee on Finance
- 512      Committee on Finance
- 864      Committee on Finance
- 1390      Committee on Education, then to the Committee on Finance
- 1391      Committee on Education, then to the Committee on Finance
- 1552      Committee on Consumer Protection and Commerce

Representative Fox then moved that H.B. No. 933, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

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

"Mr. Speaker, the basic facts are these. There are only five states in the United States where the governor appoints an attorney general. In two states, there are other ways of electing an attorney general and in 43 states, the attorney general is subject to direct election.

"Of all the subsidiary offices that people vote for in the various states of the United States, the most popular elected position is attorney general with 43 out of 50 states handling the attorney general that way.

"This has been a serious issue in Hawaii for decades. At the 1978 Con-Con, this motion failed to pass by a vote of 53 against and 51 for. It was that close. So, this is an issue that makes a lot of sense and with good reason.

"I'd like to refer, Mr. Speaker, to the comments of Governor Cayetano who in 1993 observed that because Hawaii had an appointed attorney general, the only people who were finding corruption in the State were the federal government.

"It's that nexus between the governor and his own appointed attorney general that interferes with the ability of the attorney general to operate independently on behalf of the people, but rather on behalf of the administration to which the attorney general owes that job. There are many people in Hawaii, after the treatment of Marjorie Bronster as Attorney General by our fellow legislative body, that feel very strongly that the remedy that we needed here at that time, was an elected attorney general. Marjorie Bronster would make an excellent attorney general, as would our current Honolulu Prosecutor, Peter Carlisle. Both of them would be wonderful candidates for the position of attorney general.

"So, this is a good step forward that we can take on behalf of the people of Hawaii, by passing H.B. No. 933 and preparing the way for an elected Attorney General. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm rising in support of the motion. As the distinguished Representative from Waikiki has already pointed out, 43 of the 50 states in our nation have an

**SUSPENSION OF RULES**

On motion by Representative Lee, seconded by Representative Pendleton and carried, the rules were suspended for the purposes of considering bills on Third Reading on the basis of a modified consent calendar. (Representatives Case, Chang, Garcia, Meyer, Thielen, Souki, Rath and Whalen were excused.)

**THIRD READING****H.B. No. 624:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 624, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Third Reading by a vote of 45 ayes, with Representatives Case, Chang, Garcia, Meyer, Souki and Thielen were excused.

**H.B. No. 625:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 625, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Third Reading by a vote of 45 ayes, with

elected attorney general. It's time for the State of Hawaii to also consider having an elected AG.

"Right now, as we go through this Legislature, one of the 'buzz words' we keep hearing about is 'increase accountability.' Normally, we're referring to that in public education system. But it also works in facing our own government system here.

"By having an elected attorney general, we give to the people of the State of Hawaii, greater accountability and greater ability to direct the chief law enforcement officer of our State. Forty-three states in our nation have already done this. No state in the nation which had an elected attorney general, has ever gone back and had an appointed attorney general. But several states in our country, which originally started off with an appointed attorney general, now have an elected AG.

"This is in light of what has happened to Marjorie Bronster two years ago. This is a resolution which makes sense and I encourage this House to pass this. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker, I rise in opposition to this bill. The elective system of the AG could lead to political conflict and hostility between the governor and attorney general. In those states in which the AG is an elected position, the office is often used as a stepping-stone to higher office. Although there is nothing intrinsically wrong with an elected AG seeking higher office, it is highly likely that the elected AG would use that office for political purposes disruptive to the incumbent administration's policies and activities.

"An elected AG might be unduly influenced by those persons contributing to the attorney general's campaign election. Similarly, an elected AG would find it difficult to act in controversial situations without considering how actions would affect his or her chances for reelection.

"The attorney general's primary concerns should be administration of justice. Personal, political ambition could cloud the judgement of the AG and be a distraction from the duties of office.

"I believe the power of selecting an AG properly lies with the executive. The executive acts from the broadest political base and these actions are subject to rigorous public scrutiny.

"Our Constitution establishes a strong executive with administrative responsibility lodged in a single chief executive. In order to effectively perform executive functions, the governor must be able to choose advisors and staff members in a manner that the governor has complete trust and confidence. This element of trust is particularly critical in the selection of an attorney general since the governor, being charged with the responsibility of faithfully executing the laws, must look to the attorney general to discharge that responsibility.

"Although greater public accountability is often mentioned as a reason for changing the selection method, I believe that our present appointive system ensures both independence of action and public accountability. The executive is directly accountable to the electorate for appointment of the State's chief legal officer and poor judgement in this selection would have adverse political effects of the executive. Further, the requirement for senate confirmation also provides assurance of public accountability.

"It should also be noted, Mr. Speaker, that Article V, Section 6 of the Hawaii State Constitution requires Senate approval for the removal of the attorney general. This

provision gives the attorney general the ability to act independently of the executive when the need arises.

"Some have argued that the appointed attorney general is unable to act as the independent watchdog on the executive. I will submit to you, Mr. Speaker, that the traditional function of Hawaii's attorney general has been that of a legal advisor to the executive department, the legislature and state agencies. Another major function which really differs from those of the county prosecutors is that the AG represents the State in civil suits.

"However, by statute, most of the AG's prosecutorial functions are delegated to the county prosecutors. The argument has often been raised that there is no one in office charged with investigating the executive branch. However, to some extent, the Ombudsman and the Auditor act in this capacity. It is true that these offices cannot directly prosecute, but by statute, these offices must report any unlawful activities to the appropriate authorities.

"Our government is designed to provide checks and balances of each branch. As such, it is the legislature's function to act as the watchdog when necessary. It is the court's function to act as a watchdog when necessary. And ultimately, it is the people's function to act as a watchdog when necessary -- not an elected attorney general.

"For these reasons, Mr. Speaker, I would like to urge my colleagues to vote in opposition to this measure."

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

"Thank you Mr. Speaker. I thank my distinguished colleague for his opposition to this measure and for pointing out the reasons he believes we should not elect an attorney general. However, I'd point out, that only an elected attorney general is free to maintain true impartiality, detachment and faithfulness to the law in the exercise of his duties. This is in contrast to an attorney general appointed and subject to removal by the governor. An appointed AG would tend to compromise impartiality and objectivity in straining to reach an opinion approved by the governor.

"Only an elected attorney general has unrestrained authority to interpret the law without fear or favor in accordance with his understanding of the law. There is no pronounced trend to modify the position of attorney general as an official largely independent of the governor and under no compulsion to see 'eye to eye' with the governor in matters of administration policy. Therefore, the attorney general should be elected by and directly responsible to the voters.

"Under an appointive office, gubernatorial control is apt to be influenced by political considerations. The office is not solely an administrative post but includes responsibilities that are quasi-judicial and quasi-representative as attorney for the people and for the State as well as for the governor and for the administration.

"An important aspect of the attorney general's responsibility, is his duty is to check on the governor and the governor's administration, to prevent violation of the law and to expose official wrongdoing in State government wherever it is found. This is a 'watchdog' function that an appointed attorney general, subject to removal by the governor, cannot discharge. Popular election of the attorney general is a mandate from the people that increases the respect and prestige of the office.

"I'd like to point out Mr. Speaker, that recent editorials have stated, though some might argue, an attorney general should be spared the political burden of campaigning for office, it's a test that nearly all states have found acceptable.

"As for political influence, what could be more susceptible to it than a system in which the office is filled by political appointees. Maintaining an independent legal office is especially important in a state essentially run by one party. The strongest argument for an elected attorney general is that it would help restore public confidence in government by guaranteeing that the State's top legal officer has no obligation to anyone but the voters. Thank you, Mr. Speaker."

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

"Thank you Mr. Speaker, I rise in opposition to this measure for three reasons. In the last few years, I have met more than 5,000 people in my neighborhood -- and I say that because I do count -- and I've asked them if they have any questions or concerns. It's an open-ended question on purpose because I want to know what they think on any issue. Not one has ever mentioned having an elected attorney general, either for or against. This is not on the 'radar screen.' For this reason, I don't believe that this measure rises to the level that ought to be recalled.

"Second, on the substance of the matter, a few questions arise. Do you really want the attorney general to have to raise campaign contributions? How much would a candidate for AG have to raise to win, and from who? Do you think that the investigation of the Bishop Estate would have occurred through the 1990s if the AG's office were an elective office?

"Finally, I believe the same arguments for and against an elected attorney general can be made for and against elected judgeships; and I hope that we all agree that we shouldn't be electing our judges.

"Mr. Speaker, I'm a little frustrated. I've been watching us spend too much time on this floor; watching issues being created out of thin air. Let's get on with it. Let's get on with the business of the people. I don't think anybody is very serious about this bill. I think we need to get on with the business of the people. Thank you."

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

"Thank you Mr. Speaker. I rise in support of the bill. You know, this is not really a partisan issue and I really don't like it being called as such. What it really does is, it takes the idea that passively we should elect an attorney general and simply puts it on the ballot for the voters to decide. We don't, in this House, make that decision. And for the previous speaker's point that this is some kind of 'out of thin air' partisan issue, I'd like to remind him that his own Majority Leader was a co-introducer of this bill. So this is not a partisan issue. It is an issue that many people in our State have long thought about. And yes, it might not be a 'mom and apple pie' issue that affects the pocketbooks of the people of the state, but it most certainly affects the jurisprudence of our state. What kind of investigations are being undertaken. What kind of dispensation there is to those investigations, and whether they result in indictments or not. And the ability to look into corruption if it be there.

"Like I said, this is not something that this body decides. This is something that the people themselves, on the ballot during an election, will decide. And that's the proper venue from this. All we are saying as your Republican Minority, is that people have the right to have the question put to them and decide on their own. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I am in opposition for two reasons. The first has to do with responsibility and accountability. We hold the governor responsible for the administration of affairs of State government in administering all activities and programs. An integral part of that administration is the advice from the attorney general. When things wrong, when that advice is not correct, it's very difficult to distinguish and separate the two. An elected attorney general would mean a split responsibility.

"The more important reason, Mr. Speaker, is that there must be absolute trust between the governor and the attorney general. I'd look at that in the same way that I would look at selecting a personal attorney. I would not want, in critical cases, to have someone appoint or select an attorney for me. I need someone I can trust and depend on. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support of the motion. Again the motion is to allow, basically, the people of Hawaii to make this decision. As we all know this is a constitutional amendment, so our vote today, regardless of what may happen, will not make this the law of the land. It will simply allow the people of Hawaii to have say.

"Mr. Speaker, the reason why I support the motion, is because I firmly believe that the attorney general, is not necessarily the governor's attorney or the cabinet's attorney or the executive branch's attorney. The attorney general is the people's attorney and he or she represents the people of the State of Hawaii, takes an oath to uphold the law of the State's Constitution and to enforce all the laws that we have on the books. I think it's very different from hiring a personal advocate. Again, this person takes an oath to apply the law and that oath is something that is very important. It's not just a matter of friendship or having a close relationship with the governor, but it's being accountable to the people for upholding the law.

"Mr. Speaker, I think this bill is appropriate to recall at this time and the reason why we've done it is because it is an issue that many people feel very strongly about. And in fact, polls have shown and editorials beginning back, as far as I know, 1999, in our papers have shown that it is on the radar screen. Especially following the Bronster vote, there were many people who had called for this issue to be brought to the forefront. And so in absence of a hearing on this bill, I think, makes it an appropriate one for recall.

"I've stated the reasons why I believe we need to be allowed to let the people of Hawaii choose to elect their attorney general. There have been some concerns raised and let me speak to those very briefly if I may, Mr. Speaker. One of the concerns that was brought up is that this will lead inevitably, to a conflict between the governor and the attorney general because ultimate loyalty is to someone other than the governor. And yes it is true, ultimate loyalty will be to the law - the law of the land and to the people who elected that attorney general. And I think that is ultimately where we want the authority to lie and that's where we want the accountability to be. There's also been the concern, Mr. Speaker, that an elected attorney general would use the office for political purpose, as though no other elected official uses their office for political purpose. I think it's appropriate to be able to rely on the oath that the attorney general takes.

"Each of us, Mr. Speaker, in our own respective offices, take an oath. And the mere fact that we are elected to our post doesn't negate that oath. And so I don't think that that is a valid reason to think that some how, an elected attorney general is going to be more political than an appointed attorney general. It was also brought up that an attorney

general may not be able to operate in a climate where there's a lot of controversy because there will be mixed loyalties. And again, I don't think that's a valid argument in opposition to elect an attorney general. It's precisely when you have controversy, it's precisely when there is a lot of tension in the air and things are very, very heated when you want to remind that attorney general who he or she works for. He works or she works for the people of Hawaii and is obligated to interpret and apply the law appropriately.

"There are those, Mr. Speaker, who say that trust is something very important. And yes it is. But I believe that the governor works very closely with people who are elected officials, and works with people who are chosen directly by the people. And the governor has no problem trusting those individuals. Similar, I think, trust would not be a problem. So Mr. Speaker, for all of these reasons, I believe that we ought to give the people of Hawaii the opportunity to vote up or down as to whether they want to be able to elect an attorney. Thank you."

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

"Thank you, Mr. Speaker, I rise in opposition to this motion. As the State's chief legal council, the attorney general must remain fully accountable to the governor. It is the governor who sets the direction that the State will take and it is imperative that the AG follows this direction. As a team, the governor and all the department heads must ensure efficient operation of government towards a unified goal.

"If the worry about an appointed AG is the independence, be assured the AG has a firm amount of discretion, including the responsibility to investigate any violations of the law that would be in the public interest. Article V, Section 6 of the Hawaii State Constitution also requires the Senate's approval for removal of the AG. This gives the AG the ability to act independently of the executive branch when the need arises. Election of the AG would not add any more discretion. It would only separate the AG from the structure of the government and essentially establish an entire executive office with no accountability to the executive branch.

"And even if elected, there are no assurances that the attorney general will follow any of the high profile cases, even those against the interest of the executive branch. The AG would be beholden to special interest groups that help in the election and might have major financial interest in the outcome of certain state legal actions. Even Marjorie Bronster who was previously referenced, in her testimony on the bill proposing an elected AG admits that an elected AG might be burdened with debts owed to those who worked on or contributed to the campaign effort. The perception will always be that the AG is working in part to satisfy those interests. With an appointed AG, removal can be swift if performance is poor. Having to wait an entire election cycle for the removal of a person, who is not performing up to expectations, could create havoc while awaiting the next election.

"Finally, running for office extracts a huge toll on a person's personal life and would interfere with the person's professional life. It would be absurd to assume that a person with such a demanding full time job requiring around-the-clock responsibilities, 365 days of the year, would be able to continue to give the required attention to the job while running for office in what little spare time they might have. We all know what a political campaign demands of us. Could a person honestly bring their best to the position of an attorney general while running for office? Even Marjorie Bronster, as previously cited, has stated that an attorney general "may be distracted by the rigors of campaigning."

"Just to address some of the other issues that were brought up. Some people have said that the prosecutor is elected. But I think there is a significant difference between the AG and the prosecutor. If you look at the role of the attorney general, the attorney general is responsible for providing legal advice and enforcement in the appellate division, civil recoveries, employment, health, land and transportation, public safety and housing, tort and litigation, criminal justice, education, environment, family law – the list goes on and on. That's a significant difference from the prosecutor who has only the criminal code to deal with.

"I think a second difference between the prosecutor and the attorney general, is as I said earlier, the multiple roles that the attorney general must play. The attorney general, as stated, provides legal advice which a lot of the elected officials and the executive branch rely upon. Also, the attorney general is required to enforce Hawaii's laws when it comes to the environment or criminal fraud. The attorney general also must pursue moneys owed to the state, approve consent decrees, interact in complex cases and all of these roles are things that the prosecutor does not have to undertake. And I think that there is a practical consideration that people seem to be missing.

"As an attorney, I kind of know what it's like to be in a law firm. And really, the Department of the Attorney General is a huge law firm. You have 142 attorneys. That makes it the largest law firm in the State. And this law firm deals with a multiple and a diverse area of interest. And normally in a law firm, you have a person who is the managing attorney or the person that is the senior attorney. That person is someone that has ascended to that role because of their leadership qualifications. I don't think that an election will necessarily prove that this person can lead 142 attorneys to properly enforce other laws of the State."

At this time Representative Morita yielded her time to Representative B. Oshiro.

Representative B. Oshiro continued, stating:

"Thank you. I think that there's another consideration here when you look at the bill as it is currently drafted, H.B. No. 933, is lacking right now, a removal process for an attorney general who is not fulfilling their role. Specifically, the governor does it and then this process goes through the Senate. If you look at the way the bill is currently drafted, what they've done is they've taken out the part of the Senate having an involvement in the process. So the question we have to ask then, is how is this attorney general going to be removed?

"If you look at the impeachment process in the Constitution, Article III, Section 19, that impeachment process only talks to the governor, lieutenant governor and appointed officials who are confirmed by the Senate. If you look at the House's own rules, we have a self-policing measure where we can get rid of someone who is not fulfilling their duties. The Judiciary, the same thing. Here what we have is, an attorney general who is elected but yet at the same time, part of the executive. So there's a real question as to what are we going to do if this person is not fulfilling their duties? Are we going to wait four years until the election cycle comes up again and then remove them? That really does not fulfill the purposes of accountability.

"And I think that it's for these reasons, the bill as it's currently drafted, to me, seems fatally flawed in that it doesn't answer that very important question. And for those reasons, I'm opposed to this motion."

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

"Speaker, I stand in opposition to the recall of this bill. Two things, Mr. Speaker. First of all, it's been said many times on the floor already that this is not even on the 'radar screen.' It's not even on the horizon. And to underscore that point, I can only point to the GOP's plan that was issued back in January of this year. And when I look through this plan itself, there is nowhere in this plan, entitled House Republican Caucus *Agenda 2001*, do I see any mention here of any attorney general election as being an item for this caucus here."

At this time, the Chair asked Representative M. Oshiro to confine his remarks to the proposed measure.

Representative M. Oshiro continued, stating:

"Thank you, Mr. Speaker. The second point is even more important, and it underscores the reason why the committee process is so important and why sometimes recall process and its abuse can create all kind of trouble and problems. Members, look at Section 1 of the bill, H.B. 933, before you, it states as follows:

The purpose of this Act is to propose an amendment to Article V, Section 6, of the Constitution of the State of Hawaii to provide that the attorney general be elected to office at a nonpartisan general election.

"Flip the page, members, to page 2, line 15:

"The attorney general, the chief legal officer of the State, shall be elected by the qualified voters of the State in a partisan general election in the same fashion as election of the governor.

"Mr. Speaker, this type of drafting error in this kind of bill and the affect on such an important measure like this, again, underscores why the recall of a measure has to be used with utmost discretion, judiciously and with much thought. This bill is patently flawed and should not be passed out of this House. Thank you, Mr. Speaker."

At this time, Representative Djou requested a roll call vote.

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion that H.B. No. 933, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE V OF THE HAWAII CONSTITUTION TO PROVIDE FOR THE ELECTION OF THE ATTORNEY GENERAL," pass Second Reading and be placed on the calendar for Third Reading was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 27: Abinsay, Ahu Isa, Arakaki, Cabrerros, Espero, Garcia, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Suzuki, Takai, Takamine, Takumi and Yonamine.

Ayes, 16: Auwae, Davis, Djou, Fox, Gomes, Hale, Halford, Jaffe, Leong, Marumoto, McDermott, Moses, Ontai, Pendleton, Rath and Stonebraker.

Excused, 8: Bukoski, Case, Chang, Meyer, Souki, Thielen, Whalen and Yoshinaga.

## ANNOUNCEMENT

Representative Hamakawa requested a waiver of the 48-hour notice requirement hear the following bills, tomorrow, Friday, February 23rd, at 1:00 p.m. in conference room 325, and the Chair "so ordered."

H.B. No. 1115, relating to the admissibility of paid bills in

court;

H.B. No. 1221, HD 1, relating to cyber squatting,

H.B. No. 1679, HD 1, relating to Dillingham Airfield;

H.B. No. 187, relating to reconstructed vehicles;

H.B. No. 1107, HD 1, relating to motor vehicles;

H.B. No. 1043, relating to motor vehicles;

H.B. No. 824, relating to motor cycle operation education;

H.B. No. 830, HD 1, relating to driver licensing;

H.B. No. 133, HD 1, relating to drivers license;

H.B. No. 123, relating to speeding;

H.B. No. 135, relating to child passenger safety;

H.B. No. 630, HD 1, relating to information on the natural

parents of the adopted minor child;

H.B. No. 646, relating to the sale of sterile syringes for the

prevention of disease;

H.B. No. 321, relating to controlled substances;

H.B. No. 703, relating to controlled substances; and

H.B. No. 1497, relating to major commercial public events.

## ADJOURNMENT

At 1:20 o'clock p.m., on motion by Representative Lee, seconded by Representative Pendleton and carried, the House of Representatives adjourned until 11:30 o'clock a.m. Thursday, March 1, 2001. (Representatives Ahu Isa, Bukoski, Case, Chang, Meyer, Souki, Thielen, Whalen and Yoshinaga were excused.)

## TWENTY-FIFTH DAY

Thursday, March 1, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 11:44 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Pastor James Shiroma of the Cornerstone Fellowship, Mililani Mauka, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Marumoto, McDermott, Schatz, Takumi, Whalen and Yoshinaga who were excused.

On motion by Representative Lee, seconded by Representative Pendleton and carried, reading of the Journals was dispensed with and the Journals of the Twelfth, Thirteenth, Fourteenth, Fifteenth and Sixteenth Days were approved.

## GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 156 through 158) were received announced by the Clerk were placed on file:

Gov. Msg. No. 156, transmitting the Report on Findings and Recommendations on a Potential Captive Insurance Company for State Risks, pursuant to Act 132 Session Laws of Hawaii 2000.

Gov. Msg. No. 157, transmitting a report on the Public Utilities Commission Special Fund for fiscal years 1998-1999 and 1999-2000, pursuant to Section 269-33(c), Hawaii Revised Statutes and Act 226, Session Laws of Hawaii 1994.

Gov. Msg. No. 158, transmitting the Department of Education response to the proviso of the General Appropriations Act of 1999, Act 91, Section 46, on the Quarterly Status Report on Meeting Requirements of the Felix v. Cayetano Consent Decree.

## DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com. No. 11) was received by the Clerk was placed on file:

Dept. Com. No. 11 from Marion M. Higa, State Auditor, transmitting copies of A Review and Identification of Fiscally Related Powers Conferred Upon or Assumed by the Executive Branch.

## MISCELLANEOUS COMMUNICATION

The following communication (Misc. Com. No. 7) was received by the Clerk was placed on file:

Misc. Com. No. 7 from Genevieve G. Wong, City Clerk of the City and County of Honolulu, informing the House that Resolution 01-39, CD 1, urging the Legislature to impose a state-wide ban on fireworks except for religious and cultural purposes or public display, was adopted by the Council of the City and County of Honolulu on Wednesday, February 21, 2001.

## INTRODUCTIONS

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

Representative Thielen, on behalf of Representative Kawakami and herself, introduced her grandson, Mr. Zack Thielen, who was visiting with students from Kauai High School.

Representative Morita, on behalf of Representatives Kawakami, Kanoho and herself, introduced students from Kauai High School, Kapaa High School, and Waimea High School; and their student activities coordinators, Ms. Harriet Watanabe of Kapaa High School, Mr. James Kawamura of Kauai High School and Ms. Janice Nitta of Waimea High School.

Representative Yonamine on behalf of Representatives B. Oshiro, Takai, Takumi and himself introduced student "shadows" from Pearl City High School, Mr. Michael Higa, Mr. Christopher Stiles, Mr. Joel Akimoto, and Ms. Kim Kawamoto.

Representative Ito introduced students from Kekulawai C-Base Alternative School and their advisors, Ms. Cindy Francis; Ms. Gail Somma; and Mr. Kam Lai.

At 11:53 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:11 o'clock p.m.

## ORDER OF THE DAY

## COMMITTEE ASSIGNMENTS

The following resolutions (H.R. Nos. 27 and 29) and concurrent resolutions (H.C.R. Nos. 21 through 25) were referred to committee by the Speaker:

H.R.  
Nos.Referred to:

- |    |   |
|----|---|
| 27 | Committee on Tourism and Culture, then to the Committee on Economic Development and Business Concerns |
| 29 | Committee on Finance  |

H.C.R.  
Nos.Referred to:

- |    |   |
|----|---|
| 21 | Committee on Judiciary and Hawaiian Affairs   |
| 22 | Committee on Human Services and Housing, then to the Committee on Finance                             |
| 23 | Committee on Judiciary and Hawaiian Affairs   |
| 24 | Committee on Tourism and Culture, then to the Committee on Economic Development and Business Concerns |
| 25 | Committee on Finance  |

The following Senate Bills were referred to committee by the Speaker:

S.B.  
Nos.Referred to:

- 64 Committee on Judiciary and Hawaiian Affairs
- 478 Committee on Judiciary and Hawaiian Affairs
- 726 Committee on Judiciary and Hawaiian Affairs
- 754 Jointly to the Committee on Transportation and the Committee on Water and Land Use, then to the Committee on Finance
- 875 Committee on Consumer Protection and Commerce, then to the Committee on Finance
- 1017 Jointly to the Committee on Human Services and Housing and the Committee on Water and Land Use, then to the Committee on Finance

#### COMMITTEE REASSIGNMENTS

The following House Bill was re-referred to Committee by the Speaker:

#### H.B. No.

#### Re-referred to:

- 390 Committee on Judiciary and Hawaiian Affairs

#### STANDING COMMITTEE REPORTS

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 563) recommending that H.B. No. 585, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 585, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 564) recommending that H.B. No. 589, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 589, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ARCHITECTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 565) recommending that H.B. No. 590, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 590, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 590, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 566) recommending that H.B. No. 593, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 593, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 567) recommending that H.B. No. 595, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 595, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 568) recommending that H.B. No. 896, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 896, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REVISED UNIFORM COMMERCIAL CODE ARTICLE 9 - SECURED TRANSACTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 569) recommending that H.B. No. 1134, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1134, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTION AGENCIES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 570) recommending that H.B. No. 1231, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1231, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 571) recommending that H.B. No. 518, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 518, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 572) recommending that H.B. No. 601, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the joint report of the Committees was adopted and H.B. No. 601, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRADE MARKS," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representatives Hiraki and Hamakawa, for the Committee on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 573) recommending that H.B. No. 602, as amended in HD 1 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 602, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 574) recommending that H.B. No. 688, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 688, entitled: "A BILL FOR AN

ACT RELATING TO THE EFFECTIVE DATE OF EXISTING USES UNDER THE WATER CODE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga being excused.

### SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Pendleton and carried, the rules were suspended for the purpose of considering certain bills on Third Reading on the basis of a modified consent calendar. (Representatives Arakaki, Bukoski, Gomes, Moses, Schatz, Souki, Takai, Takumi, Whalen and Yoshinaga were excused.)

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 575) recommending that H.B. No. 18, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 18, pass Third Reading, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

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

"May I be excused from voting? I work for the Hilton."

The Chair recognized the potential conflict and excused Representative Ahu Isa from the vote.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 18, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," passed Third Reading by a vote of 46 ayes, with Representatives Ahu Isa, Bukoski, Schatz, Takumi and Whalen being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 576) recommending that H.B. No. 21, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 21, pass Third Reading, seconded by Representative Lee.

Representative Rath rose and asked the Clerk to register and aye vote with reservations for him, and the Chair "so ordered".

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

"May I be excused from voting? I work for the Hilton."

The Chair recognized the potential conflict and excused Representative Ahu Isa from the vote.

At 1:15 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 1:17 o'clock p.m.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 21, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," passed Third Reading by a vote of 46 ayes, with Representative Ahu Isa, Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 577) recommending that H.B. No. 3, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 3, HD 1, pass Third Reading, seconded by Representative Lee.

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

"The bill appropriates funds to the Department of Education for a full-time, year-round student activities coordinator at each high school. The Hawaii State Student Council certainly supported this bill and I think it is a wonderful time to have it pass while we have members from the student body visiting from the Island of Kauai in the gallery. I am glad that they are here, Mr. Speaker, to be able to see us pass 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. 3, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 578) recommending that H.B. No. 94, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 94, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PARENT-COMMUNITY NETWORKING CENTER PROGRAMS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 579) recommending that H.B. No. 100, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 100, entitled: "A BILL FOR AN ACT RELATING TO AUTISM," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 580) recommending that H.B. No. 160, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 160, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FRAUDULENT CLAIMS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 581) recommending that H.B. No. 168, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 168, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I'm in favor of this, but I think the construction of the task force could be more equitable than what it is in the bill. Thank you."

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

"The task force is a good idea, but the task force will be comprised by two appointees by the Governor, two by the Speaker of the House, two by the Senate President and only one each by the Minority Leaders of the respective Chambers. Like the previous speaker, I think it could be a little more equitable. 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. 168, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 582) recommending that H.B. No. 216, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 216, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 583) recommending that H.B. No. 284, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 284, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 584) recommending that H.B. No. 408, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 408, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO STUDY THE FEASIBILITY OF ESTABLISHING A TECHNOLOGY-FOCUSED, COMMUNITY-BASED CENTER IN WAIALUA TOWN," passed Third Reading by a vote of 43 ayes to 4 noes, with Representatives Djou, Fox, Moses and Rath voting no, and Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 585) recommending that H.B. No. 429, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 429, pass Third Reading, seconded by Representative Lee.

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

"I would like to thank the Committee on Finance for passing out 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. 429, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR BLINDNESS SKILL TRAINING," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 586) recommending that H.B. No. 461, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 461, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE PARKING PERMIT PROGRAM FOR PERSONS WITH DISABILITIES," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 587) recommending that H.B. No. 462, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 462, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM ARBITRATION ACT," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 588) recommending that H.B. No. 480, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 480, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR BUSINESS SPECIALIST POSITIONS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 589) recommending that H.B. No. 487, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 487, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 590) recommending that H.B. No. 513, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 513, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 591) recommending that H.B. No. 540, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.B. No. 540, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 592) recommending that H.B. No. 545, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 545, entitled: "A BILL FOR AN ACT RELATING TO THE RENTAL HOUSING TRUST FUND," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 593) recommending that H.B. No. 546, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 546, entitled: "A BILL FOR AN ACT RELATING TO THE DOWNPAYMENT LOAN PROGRAM," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 594) recommending that H.B. No. 600, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 600, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Third Reading by a vote of 43 ayes and 4 noes, with Representatives Fox, Halford, Moses and Rath voting no, and Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 595) recommending that H.B. No. 611, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 611, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONCESSIONS AT PUBLIC LIBRARY FACILITIES," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 596) recommending that H.B. No. 612, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 612, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LIBRARY ENHANCED SERVICES PROGRAM," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 597) recommending that H.B. No. 613, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 613, entitled: "A BILL FOR AN

ACT RELATING TO REALLOCATION OF VACANT LIBRARY POSITIONS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 598) recommending that H.B. No. 628, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 628, entitled: "A BILL FOR AN ACT RELATING TO FOSTER BOARD ALLOWANCES FOR STUDENTS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 599) recommending that H.B. No. 634, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 634, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL ASSISTANCE RECOVERY," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 600) recommending that H.B. No. 637, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 637, entitled: "A BILL FOR AN ACT RELATING TO OHANA CONFERENCING," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 601) recommending that H.B. No. 670, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 670, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 602) recommending that H.B. No. 676, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 676, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OCCUPATIONAL AND CAREER INFORMATION," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 603) recommending that H.B. No. 699, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 699, entitled: "A BILL FOR AN ACT RELATING TO SUBSTANCE ABUSE TESTING," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 604) recommending that H.B. No. 953, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 953, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 605) recommending that H.B. No. 1233, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1233, HD 1, entitled: "A BILL FOR AN ACT RELATING TO YOUTH SERVICES," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 606) recommending that H.B. No. 1234, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1234, HD 1, entitled: "A BILL FOR AN ACT RELATING TO QUEST," passed Third Reading by a vote of 46 ayes and 1 no, with Representative Fox voting no and Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 607) recommending that H.B. No. 1254, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1254, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 608) recommending that H.B. No. 1399, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1399, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL ATTORNEYS GENERAL," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 609) recommending that H.B. No. 14, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 14, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR ADDITIONAL SCHOOL CLERICAL POSITIONS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 610) recommending that H.B. No. 210, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 210, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 611) recommending that H.B. No. 336, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 336, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL DEVELOPMENT ACCOUNT CONTRIBUTION TAX CREDIT," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 612) recommending that H.B. No. 444, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 444, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BURIAL SITES," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 613) recommending that H.B. No. 514, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 514, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEPUTY ATTORNEYS GENERAL," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 614) recommending that H.B. No. 549, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 549, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 615) recommending that H.B. No. 550, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 550, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 616) recommending that H.B. No. 599, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 599, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NONPROFIT CORPORATIONS," passed Third Reading by a vote of 47 ayes, with

Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 617) recommending that H.B. No. 697, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 697, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TELECOMMUNICATIONS AND INFORMATION INDUSTRIES ACT," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 618) recommending that H.B. No. 709, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 709, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COMPENSATION OF CRIME VICTIMS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 619) recommending that H.B. No. 1001, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1001, entitled: "A BILL FOR AN ACT RELATING TO GARNISHMENT," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 620) recommending that H.B. No. 1243, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1243, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 621) recommending that H.B. No. 1345, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1345, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONTENT OF FUELS," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 622) recommending that H.B. No. 1554, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1554, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Morita's remarks are as follows:

"On September 30, 1999, I read an editorial in the Honolulu Advertiser entitled, "Catastrophe is just right around our corner." This was my wake up call.

"The article commented on three reports released by the United Nations Environmental Program.

"The reports found that:

"Scientists said global warming will cause severe hurricanes. And, a rise in sea levels could engulf thousands of oceanside communities.

Tourism run amok is not a long-term economic lifeline for small island nations. Rather, it actually threatens the island's environment if it generates too much solid waste, destroys environmental attractions or depletes natural resources.

"Prior to reading the editorial, I never identified the events I experienced personally as a pattern typical of other island nations.

"I have been through two hurricanes within a ten-year period, Hurricane Iwa in 1982 and Hurricane Iniki in 1992. Hurricane Iniki destroyed my family's home. Our homeowner's insurance policy allowed my family the resources to rebuild and furnish a new home but it came with a sizable increase in premiums and high risk factor.

"In 1995, I watched three one-hundred year floods in a ninety-day period from my back porch. The first flood broke the banks of the Hanalei River and created a cut-off, which now flows through my backyard. Although I now have waterfront property I am sure it affects my flood insurance policy. The second flood caused me to abandon my car as a flash flood came across the road and stalled the car while driving home. That incident cost my insurance carrier over \$7,000 to repair the car.

"I live in one of the major river valleys of Kauai, carved by rain water from Mount Waialeale, the wettest spot on earth averaging over 400 inches of rainfall per year. Last summer my husband actually had to get out the hose and sprinkler to water the lawn.

"I no longer suggest to people the best time of the year to visit because I just don't know when the rainy or dry seasons are any more.

"In the meantime, gasoline appears to be a bargain on Kauai at \$2.07 a gallon for regular because it is \$2.29 a gallon on Maui. My last utility bill averaged 26 1/2 cents per kilowatt hour, of which 6 cents was the energy cost adjustment charge, a direct pass through to the ratepayer for increased oil prices. With a population of about 55,000 people on Kauai, this pass through alone cost \$22 million last year.

"An environmental and economic disaster is staring not only small island nations but also the State of Hawaii in the face.

"This approach to move from a petroleum-based economy to a hydrogen-based economy is for purely selfish reasons. I am Hawaiian and I cannot bear the thought that the Hawaii I know will be different for my grandchildren. I view this transformation as the only means to protect the natural and cultural heritage of my identity. I am convinced that this is the only answer to sustain Hawaii's fragile environment and to stabilize and diversify its economy.

"As we proceed in our legislative efforts to promote a hydrogen-based economy, the experiences and lessons Hawaii will learn in this transformation will be a model for the rest of the world. And, we must move forward because it is the only

moral and ethical choice we have as the existence and survival of many islands and their people depend on this decision. This is "pono", what is right and just.

"There are several trends that make a hydrogen future attractive and timely:

- First, rising oil prices are stimulating interest in energy issues.
- Second, we are experiencing an electrical revolution that will be as dramatic as what we have seen in the telecommunications industry. How we make and distribute energy is changing thanks to advances and innovation in micropower generation. As you all know, this is the next technology boom area.
- Third, to power the new economy, information technology demands reliable power that cannot be delivered through centralized power generation systems and overhead transmission lines. The need for an uninterruptable power source will create the market demand for on-site power generation.
- Fourth, environmental and social concerns regarding climate change must be addressed.
- Fifth, developing nations expect and deserve the same standard of living we have achieved. The only way to meet the demands of a growing world population and increased energy usage is the development of alternative sources of energy. While we may argue on the potential of future fossil fuel discoveries, we are dealing with finite resources as demand quickly exceeds supply.
- And sixth, even if the United States were to develop new oil resources in a sensitive area like the Arctic National Wildlife Refuge, it may not be available for at least ten years and will not affect present oil prices. A recession caused by current rising oil prices will be the death of Hawaii's environment for the simple fact that these kinds of programs will be the first to be cut or reduced from the State's budget. Hawaii can achieve greater control and immediate impact developing its own indigenous renewable resources.

"As fuel cell technology progresses, the critical question is "how are we going to get the hydrogen?" While we can view gasoline and methanol as transitional fuels the desire is zero emissions. To achieve zero emissions, the hydrogen must come from a resource that by itself produces no emission, and that is a renewable source.

"Hawaii can play an important role and become the key in unlocking the potential in marrying fuel cell technology and renewable resources. And, hydrogen storage will end the debate of viewing some renewables as only intermittent, unfirm power.

"Hawaii is blessed with a variety of renewable energy resources – lots of sunshine, strong, reliable tradewinds, fast-growing crops, flowing streams, geothermal heat, and both hot and cold ocean waters.

"Although Hawaii has a good energy policy, the policy lacks a strategy on how to lessen Hawaii's dependence on fossil fuels. It is imperative that short and long term strategies are laid out to meet these policy goals with specific benchmarks.

"One of the first steps that will need to be done is restructuring our electrical regulatory regime to allow for innovation, efficiency and conservation, technological advances and competition in electrical generation. As I mentioned before this is a very important step to meet the

reliability needs of information technology, an economic base that Hawaii is trying to attract to diversify its economy.

"Second, is to implement a renewable portfolio standard to help create a market for renewable energy that will foster competition in this area to help drive prices down. Hawaii's renewable potential must be maximized to open the door for a hydrogen-based economy.

"Third, is to set up a long term strategy to move from a petroleum based economy to a hydrogen-based economy where the goal is for Hawaii to become an exporter of energy rather than an importer.

"How vulnerable is Hawaii's economy to rising oil prices? The 1993 oil price spike cost Hawaii residents over \$1.18 billion and over 15,000 jobs for that year alone. Assuming, wrongly of course, that there is no further spiking, it would take Hawaii over twenty years to recover from that episode. As I pointed out earlier, the energy cost adjustment clause alone cost Kauai ratepayers over \$22 million last year.

"I am here today to expound on Hawaii's advantages as the premier location for a model hydrogen-based economy.

"Hawaii is overly dependent on imported fossil fuels. Over 93% of our fuel requirements are imported to meet transportation and electrical generation needs.

"One of the biggest consumers of energy in Hawaii is the military. A stable source of power is essential for national security. Partnerships with the Department of Defense can range from base operations to research and development for application in the field.

"Hawaii has an uncomplicated electrical grid. Each island is served by its own grid, owned and operated by a single entity. There are no interstate commerce issues.

"The Hawaii Natural Energy Institute within the University of Hawaii and the Department of Business, Economic Development and Tourism are valuable and talented research and business development resources ready to assist potential projects.

"Yogi Berra said, "if you don't know where you are going any road will get you there." Hawaii is at a crossroad. One path is business as usual; our continued dependence on imported fossil fuel, vulnerable to outside forces beyond our control. The other path involves political will, risk taking, commitment, planning, partnerships and diligent effort for at least the next twenty years – moving Hawaii towards a hydrogen-based economy.

"Foremost, as a Hawaiian and secondly, as the Chair of the House Committee on Energy and Environmental Protection, this is the path I am committed to take. At this stage I am not sure how to get there but I am more hopeful today than I was one year ago when I received my wake up call.

"A little boy asked his father, "Daddy, do all fairy tales begin with once upon a time?" The father said, "No son, some start with if you elect me." Well, at times we do rely on elected officials like me to help connect the dots, plant an idea, to describe a project so everyone can understand, or to create a shared dream.

"Hawaii futurist James Dator said, "to predict the future you must create the future." This is our role as legislators, to create Hawaii's future. Can you envision the following scenario:

In the year 2020 Hawaii and her sister Pacific Islands are powerful world exporters of energy known as HOPEC, Hydrogen of Pacific Exporting Communities, controlling the

hydrogen commodity trading prices as active participants in a hydrogen economy based on renewable resources such as solar, geothermal, wave and wind. Biomass and stored hydrogen aid in making 100% uninterruptable power generation attracting information technology firms to these Pacific islands because of their quality of life.

HECO, formerly known as Hawaiian Electric Company, now stands for Hydrogen Energy Company, responsible for an extensive net metering program manufacturing hydrogen for excessive renewable energy output. Kauai Electric is now a municipal owned utility. So successful is the operation that qualified homeowners do not pay any property taxes, as its profits are reinvested in the community.

The question "do you want a power plant in your backyard?" is now met with a resounding YES as renewable energy resources and fuel cell development has made every home, school and business a power generator and participant in HECO's net metering program. Roof tops are a valuable asset.

The bundling of underground wiring systems and services with superconductivity wires puts to the grave the debate over high voltage transmission and other above ground lines improving the viewplanes throughout Hawaii.

The hydrogen economy brings a new prosperity to these Pacific islands based on sustainability and environmental stewardship improving the quality of life and increasing the standard of living of its residents as the rest of the world moves forward to model that success.

"Hawaii's state motto now truly lives up to its meaning. Ua mau keia au o ka aina I ka poNo. The life of the land is perpetuated in righteousness."

Representative Morita also submitted the following articles from the February 15, 2001 issue of Public Utilities Fortnightly:

From fuel cells to a hydrogen-based economy.

How vehicle design is crucial to a new energy infrastructure.  
by Amory B. Lovins and Brett D. Williams

FUEL CELLS STAND ON THE VERGE OF commercialization, but their adaptation to motor vehicles as part of a wider hydrogen-based energy economy is seen as problematic. The doubters cite two presumed roadblocks:

\* A large new infrastructure for producing and distributing bulk hydrogen, costing tens or hundreds of billions of dollars for the United States alone.(1)

\* A technological breakthrough to make it practical to store compressed hydrogen gas directly onboard the motor vehicle. (Cryogenic storage is considered costly and complex.)

Nevertheless, these two assumptions do not reflect the technological and market opportunities available today. Structural changes in the vehicles themselves can improve efficiency enough to allow onboard hydrogen storage. And fuel cells in vehicles can be integrated with buildings in a way that improves the economics and postpones any need for a massive new infrastructure. Such ideas might make possible the widespread use of hydrogen in the energy economy. The strategy proposed here is not the only one that could work, but it does appear to offer significant attractions.

Of course, to be competitive in motor vehicles, fuel cells must become dramatically less expensive than they are today, at the dawn of their commercial mass production. Yet there can be little doubt that this will occur if they are engineered for and put into mass production.

Compared to car engines, with their thousand parts made chiefly of heat-treated metal alloys and subject to the stresses of motion and explosion, fuel cells ultimately should prove cheap, rugged, and easy to make. It is a truism of modern manufacturing, verified across a wide range of products, that every doubling of cumulative production volume typically makes manufactured goods about 10-30 percent cheaper. There is every reason to believe fuel cells will behave in the same way.

In 1998, handcrafted fuel cell stack prototypes sold for thousands of dollars per kilowatt. In early mass production, a kilowatt will probably fall to \$500-\$800, and, as production expands during the following few years, to around \$100. That's only several-fold more than the cost of today's gasoline engine/generators (after more than a century of refinement), about tenfold cheaper than a coal-fired power station, and several-fold cheaper than just the wires to deliver that station's power to a building, where the fuel cell already could be.

When fuel cells are manufactured in very large volumes, using such innovative designs as (for example) molded roll-to-roll polymer parts glued together, they could become extremely cheap—probably less than \$50 per kilowatt, which is about a fifth to a tenth the cost of today's cheapest combined-cycle gas-fired power stations. In fact, several independent studies<sup>(2)</sup> have used standard industrial engineering techniques to calculate costs around \$20-\$35 per kilowatt for the PEM-design fuel cell stack (proton-exchange membrane) at high production volumes.

Most automakers assume they need such low costs before fuel cells can compete with internal-combustion engines. Hypercars change that picture, however. Hypercars (trademarked by the Rocky Mountain Institute) are ultralight, super-efficient vehicles made of carbon fiber. Because of their efficiency, Hypercars need several-fold fewer kilowatts to provide excellent performance, so they can tolerate higher costs, perhaps as high as about \$100 per kilowatt (kW). This advantage, coupled with a correspondingly higher tolerance of immature specific mass and volumetric power ratings, gives Hypercars a few years' head start in adopting fuel cells—an important market advantage for both Hypercars and fuel cells.

Moreover, it is shortsighted to assume that fuel cell costs must be driven down to automotively acceptable levels by brute-force, loss-leader mass production. It is more plausible that the initial markets that build production volume and cut cost instead will come from buildings. Enough production volume to achieve \$100 per kilowatt readily could come from using fuel cells first in buildings—a vast potential market, since buildings use two-thirds of America's total electricity. For these reasons, several large makers of cars and car parts are crossing traditional boundaries and quietly launching significant ventures to commercialize fuel cells in stationary as well as mobile applications.

#### Installations on the Building Site

The main reason to start with buildings is that fuel cells can convert 50 percent or more of the energy of the hydrogen<sup>[3]</sup> into highly reliable, premium-quality electricity. The remainder of the energy goes into 70 degrees Celsius pure water—ideal for water heating, space heating and cooling, and dehumidifying buildings using a modular "balance-of-system" black box, which several capable firms already are developing. Air conditioning is particularly significant, since a considerable fraction of air conditioning capacity in U.S. commercial building is slated for replacement in the next decade or so because of age and the need to displace CFCs (chlorofluorocarbons).

In a typical building, such services would help pay for natural gas and a fuel processor.<sup>(4)</sup> With the fuel expenses thus largely covered, electricity from early-production fuel cells should be cheap enough<sup>(5)</sup> to undercut even the operating cost

of existing coal and nuclear power stations, let alone the extra cost to deliver their power, which in 1996 averaged 2.4 cents per kilowatt-hour.<sup>(6)</sup>

**LOCATIONAL BENEFITS.** Even the handmade-by-Ph.D.s fuel cells of the past few years could turn a profit in buildings if deployed in those neighborhoods where the electrical distribution grid is fully loaded or needs life-extension or replacement. In fact, such deferral of grid investment is among the roughly 75 important "distributed benefits" available to improve the investment value of fuel cells.<sup>(7)</sup> More than 100 North American utilities already are prospecting for such "hot spots" where local generation or load reduction can be targeted by "Local Integrated Resource Planning" specifically to avoid or defer costly distribution investments.<sup>(8)</sup> In emerging competitive markets, the value of such local grid support may become reflected in "decongestion rents." (Of course, realizing the profit from avoided grid investments requires institutional arrangements to recognize this value and, if necessary, to reallocate it from the distribution utility to other actors.)

In addition to avoiding distribution costs and losses, fuel cells can offer the utility such valuable "distributed benefits" as reactive power support, stability support (via very fast ramp rates), improved distribution circuit management, simplified fault management, and reduced reserve margin and spinning reserve. Moreover, customers benefit from enhanced reliability and unsurpassed power quality, which can displace uninterruptible power supplies for computers and other critical applications, while investors realize important reductions in financial risk. Collectively, such distributed benefits often can increase the economic value of decentralized generators by about an order of magnitude.<sup>(9)</sup> Counting these benefits is not necessary to make \$500 per kilowatt fuel cells competitive in many buildings, but it certainly enhances their margin of advantage and hence accelerates their market adoption. Nor is it necessary to perform detailed and sophisticated analyses to conclude that the site-specific attractiveness of such a cheap, efficient power and heat source should be quite robust in a wide range of settings.

**THERMAL BENEFITS.** Besides co- or trigeneration (electricity plus heating plus cooling) in buildings, fuel cells offer a nearly ideal fit to some important industrial niche markets. For example, microchip fabrication plants each use an average on the order of 15 megawatts (MW), with a capacity factor over 90 percent. A single such "fab" typically loses about 6-8 percent of its \$5 million to \$10 million annual electric bill to the standby losses of a giant and very costly uninterruptible power supply (UPS) required by its ultraprecise processes. Instead, consider eliminating that UPS by a suitably configured array of fuel cells and inverters designed for the desired level of reliability. Moreover, the waste heat (about 70 degrees Celsius) from the fuel cells matches well with the lab's requirements for process heating and cooling. The dean hot water created by the fuel cells is an ideal feedstock for the lab's ultrapure water system; and the manufacturing process requires pure hydrogen as a reagent, offering the opportunity to share the hydrogen source. These features appear to make even early-production PEM fuel cells (the "proton exchange membrane" design) or other competing types (such as the ONSI phosphoric-acid stacks) strong candidates for immediate retrofits into many existing fabs, and the power supply of choice for all new ones. Nor is chipmaking the only important industrial niche application.

Early adopters of fuel cells naturally will prefer those applications and locations that offer the most favorable combination of fuel cost, electricity output, and thermal value, after considering temporal patterns, distributed benefits, net-metering laws, interface requirements, pollution credits, and other technical, economic, and institutional conditions. Although site-specific analysis will be important initially, even a modest subset of the in-building generation market can

yield an aggregate fuel-cell capacity larger than should be required to achieve a cumulative production volume consistent with system costs at or less than \$100 per kilowatt, as needed for deployment in Hypercars. (See "Three Steps to a Hydrogen Economy.")

#### Vehicle Installations

Once the fuel cell becomes cost-effective and is installed in a Hypercar, the vehicle becomes more than just a car. It is also, in effect, a clean, silent, ultra-reliable power station on wheels, with a generating capacity of at least 20 kilowatts. The average American car is parked about 96 percent of the time, usually in habitual places. Suppose you pay an annual lease fee of about \$4,000 to \$5,000 for the privilege of driving your "power plant" the other 4 percent of the time. For much of the rest of the title, rather than plugging your parked car into the electric grid to recharge it--as battery cars require--you plug it in as a generating asset. While you sit at your desk, your power plant-on-wheels is sending 20+ kilowatts of premium-quality electricity back to the grid. You're automatically credited for this production at the real-time price, which is highest in the daytime: You're probably running the power plant at the place and time at which its output is most valuable. Thus, your second-largest but previously idle household asset is now repaying a significant fraction of its own lease fee. And this payback is significant even at the lower "traditional" electricity prices that prevailed before last summer's price spikes in California and the West, since the fuel cell car often will generate during peak hours and earn a real-time pricing premium.

For illustration, consider a 20-kW "mobile power plant," earning an average of, say, 5 cents gross or 2 cents net of fuel cost per kilowatt-hour for an average of, say 15 hours per day, or 65 percent of the nominal time that it stands parked. It would return \$2,190 net per year, or 59 percent of the total depreciation and financing cost of the average 1994 U.S. passenger car. A light vehicle with a bigger fuel-cell stack could earn twice that much. Obviously, the surplus, and the costs of capturing it, actually would be shared among a number of actors in proportion to their market power.

The interconnection device could be provided at reasonable cost by the landlord, a gas or electric utility, or a third-party entrepreneur. At one time, Southern California Edison's EV subsidiary installed Hughes inductive-paddle rechargers, whose electric capacity is broadly comparable, for about \$50 per kilowatt. Such a price might at first seem significant, but in fact it is a small fraction of the typical value of distributed benefits. Obviously, the interconnection becomes more commercially attractive if the distributed benefits can be captured properly, if they are captured mainly by those making the investments, and if the institutional arrangements are kept simple and transparent.

Of course, in this scenario, the fuel cell would need to be designed for a much longer operating life than is normal in cars, but that is not unduly difficult if high-quality hydrogen fuel is supplied consistently. The marginal cost of such design would be well compensated by the extra value created. Technologies for making the hydrogen pure enough are well established, as are inexpensive controls to protect the stack and inverter from electrical anomalies.

If a modest fraction of drivers took advantage of this deal on a consistent basis, most or all existing coal and nuclear power plants in principle could be displaced, because ultimately the U.S. Hypercar fleet could have four or more times the generating capacity of the national grid.<sup>(10)</sup> Fuel cells will not be the only formidable competitor to central thermal power stations, but they may well be the most ubiquitous. As Asea Brown Boveri's Bertrand Dusseiller correctly notes, the rated prime-mover power of the automobiles now manufactured

each year exceeds the total rated capacity of the world's power stations. And even though power stations enjoy far longer operating lives, and future Hypercars might carry less motive power than today's gasoline-fueled autos, any improved use of automotive generating capacity avoids duplication of energy production capacity--all the more because cars tend to operate closer to load.

#### Hydrogen Storage: Disasters and Myths

In practice, this revolution may depend not so much on the fuel cell (many firms are working overtime to start mass production early), but on the fuel cell's best source of energy, hydrogen gas, and how it will be manufactured, delivered, and stored.

For fuel cell cars, any discussion of hydrogen safety often evokes images of the 1937 Hindenburg disaster, but such concerns are misplaced. Former NASA scientist Addison Bain recently found that the airship's envelope, made of a cotton substrate coated with an aluminized cellulose acetate butyrate dopant--a cousin to rocket fuel--was very susceptible to the electrically charged atmospheric conditions at Lakehurst at the time of the incident and was the probable cause of the fire.<sup>(11)</sup> The hydrogen, the protective lacquer on the aluminum airframe, and onboard diesel-oil did of course catch fire, but the envelope probably would have ignited without the hydrogen. Further, the hydrogen apparently did not explode and its unique burning properties kept the bulk of the fire in a cloud swirling above the passenger compartment. Sixty-two of the passengers and crew were able to ride the airship to the ground and survive, while 35 on board were killed from burns--but probably not directly by the hydrogen fire.

Although no fuel is free from potential hazard, carrying a tank of compressed hydrogen in an efficient car actually could be safer than carrying an equivalent-range tank of gasoline.<sup>(12)</sup> The car's inventory of hydrogen would be modest<sup>(13)</sup> and typically would be stored in an extremely strong carbon-fiber tank. Unlike spilled gasoline, escaped hydrogen likes nothing better than to dissipate--it's very buoyant and diffuses rapidly. It does ignite easily, but this requires a fourfold richer mixture in air than gasoline fumes do, or an 18-fold richer mixture (plus an unusual geometry) to detonate. Moreover, although its flame is invisible, a hydrogen fire can't burn you unless you're practically inside it, in contrast to burning gasoline and other hydrocarbons whose white-hot soot particles emit searing heat that can cause critical burns at a distance.

Hydrogen, then, would make an excellent fuel. Fortunately, it's not necessary, as is often assumed, to delay the deployment of fuel cells in vehicles and buildings for decades while first building a vast new infrastructure to deliver hydrogen. Nor do automakers need to go through an awkward and costly transitional phase of fitting a fuel processor--a sophisticated portable thermochemical plant--into the car so it can convert liquid fuels (gasoline or methanol) into hydrogen onboard. It is true that many automakers are pursuing the onboard-fuel processor concept. But that strategy likely stems from a wrong assumption--that their cars (too inefficient) otherwise would incur large hydrogen tanks, safety problems, and/or infrastructure problems. In reality, reformers will always work better, and have an enormously higher capacity factor, if located offboard the vehicle.

All told, onboard hydrogen storage offers multiple advantages. Above all, it allows for the downstream siting of hydrogen production and delivery appliances, thus avoiding huge initial investments in infrastructure, and easing the transition to a hydrogen economy.

So how does this transition occur?

### Infrastructure and Delivery: The Downstream

#### Phase

Hydrogen technology isn't new. Producing hydrogen is a little-known but large and mature industry.<sup>(14)</sup> Making hydrogen now consumes about 1 percent of total U.S. primary energy and 5 percent of natural gas. Essentially all the hydrogen is used as an on-site reagent, mainly for refining petroleum and for manufacturing petrochemicals, food, and electronics. Industry now either uses grid electricity to split water in an electrolyzer, or more commonly, reforms natural gas. However, reforming or electrolyzing need not be done industrially, at the scale of a refinery; it also can be efficiently and cost-effectively carried out at the scale of an apartment building, an office or retail building, or a neighborhood. One water heater-sized, mass-produced "fuel appliance" can produce enough hydrogen to serve the fuel cells in one big building or dozens of cars.<sup>(15)</sup>

In the initial stage, hydrogen can be produced downstream, at the site of the fuel cell. This stage-one strategy takes advantage of the existing natural gas pipeline system and the ubiquitous electrical power grid to form the backbone of the hydrogen infrastructure. In this way, "Hydrogen is produced where and when it is needed, in quantities that match the incremental growth of [fuel-cell] sales, minimizing the need for multi-billion-dollar investments prior to the introduction of sufficient numbers of [fuel cells] to provide adequate return on investment."<sup>(16)</sup> In addition, thanks to economies of production scale for the hydrogen appliances, the hydrogen costs less than centrally produced hydrogen requiring new pipelines or other distribution means;<sup>(17)</sup> but upstream bulk supply (discussed below) can still be added later as it becomes justified. Further, as other, more renewable ways of producing hydrogen become available and economic, they too can be adopted without waiting for the vehicle fleet's technology to turn over yet again, as would be required by liquid-reforming scenarios. This innovation- and evolution-friendliness is an important strategic advantage.

What's missing, however, is the step that bridges from initial, cost-cutting deployment of fuel cells in buildings to fuel cells' later rapid deployment in hydrogen-fueled cars. This bridge can be built by noting that the hydrogen appliances initially installed to serve fuel cells in buildings (in combination with the hydrogen appliances built to fuel public and private vehicle fleets) represent a constellation of hydrogen sources available also to cars.

Suppose that fuel cell Hypercars are leased first to the people who work in areas with buildings where fuel cells already have been installed. (The same utility could even lease both.) As you park your fuel cell Hypercar at work (or at your house or apartment, which might offer more opportunities for thermal integration), you plug into both the electricity grid and a snap-on fuel line bringing surplus hydrogen from the fuel appliance in the building. Since that device isn't normally kept fully occupied, in its spare time it makes a surplus of hydrogen, reducing the need to build a whole new infrastructure of hydrogen sources dedicated solely to cars. This approach makes the profits of cars-as-plug-in-power plants promptly available to a set of drivers far larger than those who operate centrally fueled vehicle fleets. In addition, the high purity of the hydrogen required for long-life, low-catalyst loading (hence low cost), and high efficiency in the buildings' fuel cells also supports the same qualities in the mobile fuel cells fueled by the same hydrogen appliances.

The next stage of expansion for hydrogen supply follows naturally. The more owners of general-market vehicles acquire hydrogen-fueled Hypercars or similar vehicles, the more entrepreneurs will want to start installing street-corner "gas stations"<sup>(18)</sup> based on the same inexpensive hydrogen

production appliances, using either natural gas or electricity, that will already be mass-produced to supply the fuel cells inside buildings.<sup>(19)</sup> At the January 1999 Detroit Auto Show, Ford cited studies showing that hydrogen "can be cost-competitive with [U.S. taxed] gasoline on a cost-per-mile-driven basis if generated by [such] small factory-built [fuel] ... appliances capable of supporting up to 100 vehicles." The retail margin available is far higher than already motivates the widespread establishment of gasoline filling stations, which suffer from cutthroat commodity competition, refiner and wholesale dominance, and high capital cost (including new precautions against leaking underground tanks). Initially, these distributed hydrogen sources will tend to cluster in nodes, corridors, and such regions as Southern California where air quality or other circumstances encourage early adoption. Gradually, economies of scale in hydrogen supply and utilization will fill the geographical thin spots.

This approach offers several strategic advantages.

First, it should prove easier, more profitable, and useful for longer than creating a recharging infrastructure for battery-electric cars or adapting the existing gasoline infrastructure to methanol. Both of these would probably prove to be short-lived transitional investments, unless perhaps direct-methanol fuel cells prove attractive, and both lack the long-term flexibility that lets a direct-hydrogen strategy adapt readily to new sources of hydrogen.

Second, it uses idle off-peak capacity in the natural gas and electricity distribution systems that have already been installed and paid for. It is build-as-you-need and pay-as-you-go, requiring investment only in step with incremental demand. It is one or two orders of magnitude cheaper than building a dedicated, centralized hydrogen production and delivery system from scratch. A nationwide system of decentralized hydrogen sources could be built for \$4.1 billion, even if none of those sources were being built anyway to support the fuel cells in buildings.<sup>(20)</sup>

Third, vibrant competition between gas- and electricity-derived hydrogen, based on the large and expanding range of fungible sources of both gas and electricity, will exert downward pressure on the prices of hardware and hydrogen. Such competition at a fundamental level is more important and valuable than the narrower forms of competition often invoked by advocates of "fuel flexibility"—a euphemism for "continued dependence on liquid hydrocarbons," in whose name the breakthrough advantages of direct-hydrogen fuel cells often are proposed to be sacrificed.

#### Upstream Production: A Carbon-Friendly Model

The bigger the total hydrogen market becomes, the more interested the energy industries will become in serving it, expanding bulk hydrogen from an on-site reagent in refineries and petrochemical plants into an off-site commodity. Though off-site shipment, typically in pipelines, may require special arrangements, many existing natural gas networks appear to be adaptable for this purpose. Older existing pipelines originally meant for "town gas," the hydrogen-rich synthetic predecessor of natural gas, can be suitable, while middle-aged pipelines without the proper metallurgy and seals could often be retrofitted in situ with metallized composite liners. In any case, natural gas rights-of-way would be available for conversion. Moreover, if the construction even of special new pipelines is justified by the market value of natural gas, then it should be all the more justified by the market value of hydrogen, which can be used far more effectively.

An especially attractive commodity-market opportunity is to reform natural gas at the wellhead, where a large plant can efficiently strip out the hydrogen for shipment to wholesale

markets. Professor Robert H. Williams of Princeton University points out(21) that the other product of the separation process, carbon dioxide, could then be reinjected into the gas field (a common practice today in oil fields), adding pressure that would help recover about enough additional natural gas to pay for the reinjection. The carbon then would be safely sequestered in the gas field, which can typically hold about twice as much carbon in the form of [CO.sub.2] as it originally held in the form of natural gas. The world's abundant resources of natural gas--more than a century's worth--thus could be cleanly, efficiently, and profitably used in fuel cell vehicles and fuel cell-powered buildings and factories, while reducing the threat to the earth's climate. The hydrogen provider could be paid three times: for the shipped hydrogen, for the enhanced recovery of natural gas (often about enough to pay for the reinjection), and potentially a third time, under future Kyoto Protocol trading or other such arrangements, for sequestering the carbon. This triple-profit opportunity, among other value propositions, already is leading several major energy companies to move aggressively into the hydrogen business.

Using electricity to split water to make hydrogen can also be climatically benign if the electricity comes from such renewable sources as solar cells or wind farms--intermittent sources whose economic value would be greatly enhanced by energy storage in the form of hydrogen. One of the biggest sources of renewable energy sources is also the oldest. Consider the old-fashioned hydroelectric dams, like those in the Pacific Northwest and the Tennessee Valley. They could make higher profits if they operated as "hydro-gen" plants--using their electricity to make hydrogen to sell as a premium vehicular fuel--than if they kept on selling electricity into an ever more crowded bulk market. That is because fuel cell cars could use hydrogen at least 2.5-3.5 times more efficiently than today's cars use gasoline. Hydrogen priced to compete at the wheels with \$1.25-a-gallon gasoline (\$0.33 per liter) therefore can fetch a far higher value than its raw energy content would imply. In fact, that value is equivalent to selling the electricity used to make the hydrogen at a price ranging from \$85 to \$125 per megawatt-hour.(22) These hydro plants might well consider selling not electricity but hydrogen--in effect, shipping each electron with a proton attached. In places like Europe and Japan, where taxed gasoline prices commonly are three to four times U.S. levels, this argument is even more compelling.(23) The more the hydrogen is sold, the more its climatically benign bulk production--in hydro-gen plants, wind farms, natural gas fields, biofuels, etc.--will expand too. Meanwhile, new, cheaper ways to use solar electricity to obtain hydrogen from water are rapidly emerging, as are methods (so far only in the laboratory) that use light instead of electricity, imitating photosynthesis.

#### Choices on the Path To Commercialization

This combination of technologies can ameliorate--at a profit--close to two-thirds of America's carbon dioxide emissions,(24) while improving mobility, safety, fun, and comfort. Retail price competition ought to be strong, because at least four main ways to make hydrogen--upstream and downstream, from electricity (especially renewable electricity) and from natural gas--will all be vying for the same customers. We will be betting not on the supply or price of a single fuel such as oil, but on the entire, expanding, and highly dynamic portfolio of ways to make cheap electricity and gaseous fuels.

Like any business decision, this strategy will depend on quantitative, site- and region-specific analysis of such issues as the population of buildings suitable for early conversion to fuel cells, the best hydrogen sources for those buildings, and the technical and institutional arrangements matching hydrogen production appliances with parked vehicles. Other important factors include the locational price of electric

power, the proximity of hydrogen-ready pipelines, investor needs, and the allocation of environmental and institutional requirements to provide the best match between fuel cell and hydrogen investors or operators and the allocation of distributed, environmental, and other benefits. But despite the diversity and complexity of these remaining issues, no breakthroughs are required: The needed technology already exists.

Even without fuel cells, successful Hypercars ultimately will save as much oil as is now sold by OPEC (Organization of Petroleum Exporting Countries), making gasoline prices both low and less relevant. Between Hypercars and other new ways to displace oil at lower cost in each of its main uses today, oil probably will become uncompetitive even at low prices before it becomes unavailable at high prices.(25) Like most of the coal and all of the uranium now in the ground, most oil probably will become no longer worth extracting--good mainly for holding up the ground.

The implied shift from oil and electricity to hydrogen as an increasingly dominant energy carrier also has equally important implications for vehicle and fuels strategy. The key issue is whether as a matter of urgency to deploy the extremely efficient vehicles needed to fuel this hydrogen revolution (fuel efficiency on the order of 2 liters per 100 km, or about 117 miles per gallon).

Early signs already can be seen that dramatically more efficient vehicles will soon arrive on the market; making that happen faster and more aggressively could prove highly consequential. Without such hydrogen-ready cars, manufacturers will not realize the very low on- and off-vehicle costs achievable through a direct-hydrogen fuel cell propulsion system. That failure would lock in extra capital costs on the order of more than \$1 trillion for the next car fleet and its liquid fueling infrastructure.(26) By the same token, it would lock out a highly diverse portfolio of vigorously competing fuel sources (i.e., the hydrogen-production portfolio). The nation would remain dependent on a narrower, less-secure, and less-competitive supply base--denied access to an effective and benign alternative energy system, based on hydrogen and the fuel cell.

But starting aggressively down the hydrogen path offers the rapid commercialization of fuel cell vehicles and the promise of a more sustainable transportation and electricity system.

(1) For example, a 1992 A.D. Little study estimated that a from-scratch bulk hydrogen supply infrastructure sufficient for 25 million cars would require about \$95 billion of investment, or \$3,800 per car. This antiquated result is still being quoted, e.g. in the Epyx article in the December 1998 Fuel Cells Bulletin (Derby 1998).

(2) e.g., Lomax et al. 1997.

(3) Widely quoted efficiency figures around 30-odd percent to 50 percent assume the fuel cell is fed not pure hydrogen, but the more dilute and impure reformat gas converted from a hydrocarbon fuel, and often include the conversion losses in the fuel processor.

(4) Obviously, liquid fuels would become potentially interesting reformer feedstocks only if natural gas were not locally available, so that (for example) LPG or biofuels had to be substituted.

(5) For illustration, even an \$800 per kilowatt fuel cell system, at a 15 percent per year fixed charge rate, would incur a capital charge of only 2.7 cents per kilowatt-hour at a 50 percent capacity factor. Alternatively, the net electrical output efficiency of a PEM fuel cell using reformed methane often is quoted at or above 40 percent (LHV), often with neither heat recovery from the stack to the reformer nor pressure recovery from the stack's hydrogen input and stack output to the air compressor. With both

forms of heat recovery, the best technology is now about 50 percent. At 50 percent conversion efficiency, natural gas at \$3.70 per gigajoule or \$4 per thousand cubic feet would produce electricity at 5.5 cents per kilowatt-hour. That would represent 2.7 cents per kilowatt-hour for the fuel plus 2.7 cents per kilowatt-hour for the cost of a relatively expensive early fuel cell system at about \$800 per kilowatt, plus a nominal 0.1 cents per kilowatt-hour for O&M. This would undercut typical commercial-sector U.S. electricity tariffs (averaging 7.6 cents per kilowatt-hour in 1997) by 28 percent, even with no thermal credit and no allowance for the improved power quality and reliability or for other distributed benefits.

(6) Lovins & Lehmann 1999, representing the capital and operating costs and the losses of the transmission and distribution systems for the average customer at the average hour. Obviously the actual costs, both total and marginal, depend on who, where, and when.

(7) Lovins & Lehmann 1999.

(8) Lenssen 1995.

(9) Lovins & Lehmann 1999.

(10) One-hundred fifty million light vehicles times a minimum capacity of 20 kW—the average could be substantially higher—yields 3 terrawatts (TW), vs. summer- 1997 U.S. peak capability of 0.78 TW and 1996 noncoincident peak load of 0.62 TW (neither of which reflects the approximately 14 percent on-peak grid loss).

(11) Bain, 1997; Bain, Addison: Personal communication, Nov. 1, 1999.

(12) Directed Technologies Inc. 1997.

(13) James et al. 1997. Further, a fuel cell Hypercar could travel roughly 200 km on 1 kg of hydrogen: A Taurus-class Hypercar was calculated to drive roughly 925 km fueled by 4.65 kg of hydrogen (Williams et al. 1997).

(14) President's Council of Advisors on Science and Technology (PCAST) 1997 at 6-34.

(15) Ogden et al. 1997, Thomas et al. 1997, 1998a. Although natural gas reformation generally is assumed to be the cheapest option, if off-peak retail electricity costs only about 1.5-3 cents per kilowatt-hour, as it now does in many parts of the nation, using it to split water could cost less than locally reforming natural gas for small numbers of fuel cell vehicles: Thomas et al. 1998, 1998a. Electrolysis could therefore initially be deployed faster if initial vehicular hydrogen markets were small, but vehicle fleets or, of course, fuel cell systems in buildings could favor small methane-steam reformers.

(16) Thomas et al. 1998a.

(17) Id.

(18) Lovins 1998. On-site storage of compressed hydrogen is straightforward, although updating of regulations is necessary. In general, current regulations, meant for natural gas, assume metal tanks subject to corrosion and cracking, and are overly conservative for the very different engineering details of composite hydrogen tanks.

(19) Such hydrogen appliances could even end up in individual garages—better than schlepping one around in your car, and providing battery cars with an overnight refueling advantage. Electrolyzer Corp. of Canada, for example, is developing just such an electrolyzer-and-compressor device for home use.

(20) Assuming 18,000 stations each able to supply 1,000 relatively conventional (about 40-kW to 80-kW) fuel-cell vehicles—an offboard investment of \$230 per vehicle: Thomas et al. 1998.

(21) Williams, R.H. 1996.

(22) One gallon priced at \$1.25 contains 125 kBTU or 132 megajoule, enthalpically equivalent to 36.6 kWh of electricity priced at 3.4 cents per kilowatt-hour. However, the 2.5-3.5-fold greater efficiency of converting each J of hydrogen into vehicular traction, compared with a J of gasoline (i.e., about 50 percent system efficiency in a fuel cell car vs. 15 percent in an Otto-engine car), makes this price functionally equivalent to 8.5 cents to 12 cents per kilowatt-hour.

(23) This is bad news for aluminum smelters, which now often enjoy preferential access to very cheap hydropower under old contracts that will represent an increasingly severe opportunity cost. However, it might be good news for anadromous fish if hydrogen storage could be large enough to control seasonal water flows for their benefit.

(24) Only the road-vehicle portion of transportation's emissions, of course, but fuel cells in buildings and industry would also displace much of the fossil fuel now burned for space, water, and process heating.

(25) Lovins 1998.

(26) If one multiplies the per-vehicle costs in Thomas et al. 1998a times the world's fleet of a half-billion light vehicles, which is growing by about 5 percent per year.

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### Three Steps to a Hydrogen Economy

Assume high-efficiency and ultralight hybrid motor ideas, powered by fuel cell stacks(\*) supplied by compact onboard tanks of compressed hydrogen gas, making onboard liquid-fuel reformers unnecessary and uncompetitive.

#### 1. DEPLOY FUEL CELLS IN BUILDINGS.

\* Thermal output allows fuel cells to compete as a source of electric energy in buildings (which use two-thirds of all U.S. electricity) through cogeneration or trigeneration.

\* Fuel cells operate on hydrogen produced on-site within the building by a mass-produced "hydrogen appliance"--either an off-peak electrolyzer or a natural gas steam reformer.

#### 2. INTEGRATE VEHICLES WITH BUILDINGS.

\* Wide deployment of fuel cells in buildings helps cut fuel cell manufacturing costs to levels competitive enough to allow fuel cell installation in motor vehicles.

\* Installation occurs first in Hypercars with low tractive loads, which can adopt fuel cells at several-fold higher prices, hence several years earlier, than conventional cars.

\* The general vehicle market then could be opened to hydrogen. That would occur first using the spare off-peak capacity of hydrogen-production sources within buildings to deliver hydrogen to vehicles--particularly those vehicles whose drivers work or live in or near the same buildings.

\* When parked during the daytime, vehicles with fuel cells function as plug-in power plants, with a capacity of ~20 kilowatts, and use revenues from such operation to repay a significant fraction of their owners' lease costs.

\* This building/vehicle integration could make it practical to rely on gaseous hydrogen for fueling, without first building a new upstream bulk-supply and distribution infrastructure. It would work better and cost less than onboard liquid-hydrocarbon reforming. Ultimately it could provide more than 3 terrawatts (TW) of U.S. generating capacity, enough in

principle to displace virtually all central-station thermal power stations.

#### 3. SHIFT HYDROGEN PRODUCTION UPSTREAM

\* Widespread fuel cell deployment in buildings and vehicles cuts costs for dispersed but stationary reformer and electrolyzer appliances as sources of hydrogen production. Such sources begin to be installed freestanding (outside of buildings).

\* Growing hydrogen market then further justifies competition from upstream bulk supply.

\* One such upstream option would convert hydroelectric dams (or other renewable resources) to "hydrogen" plants that earn far higher profit by shipping each electron with a proton attached.

\* Another option incorporates the concept proposed by R.H. Williams for wellhead reforming of natural gas to hydrogen, with reinjection of byproduct [CO<sub>2</sub>] into underground natural gas fields.

\* Wellhead reforming offers three possible revenue streams--(1) high-value hydrogen-fuel sales, (2) enhanced hydrocarbon recovery, and (3) potential carbon-sequestration credits.

END RESULT: Diverse and dynamic portfolio of hydrogen sources, at locations both up- and downstream, using renewable and nonrenewable resources, based on electrolysis, reforming, or other production methods, producing a small or negligible climatic effect. Ensures healthy price competition and robust policy choices.

(\*) This article assumes development of fuel cells using the proton exchange membrane (PEM) design. However, successful development of alkaline, high-temperature solid-oxide, or other types of fuel cells probably would not substantially alter our logic. The arguments might change with regard to cars if direct-methanol fuel cells were dramatically improved, but they look uncompetitive with direct-hydrogen pem fuel cells, at least initially. In the longer term they could get "locked out" by hydrogen's early adoption.

--A.B.L. and B.D.W.

### The Hypercar(\*)

A superefficient, lightweight motor vehicle with hybrid-electric propulsion. If powered by a fuel cell, it can be fueled by compressed hydrogen gas stored safely on board.

Some assume that vehicles powered by fuel cells must carry their own onboard fuel processors(#) fueled by gasoline, methanol, or other liquid hydrocarbons. Yet, with reduced weight, drag, and rolling resistance, fuel cell vehicles store compressed hydrogen gas onboard. That in turn requires a highly integrated ultralight design --a Hypercar(\*)--typically using a body molded from advanced polymer composites, plus close attention to design synergies, mechanical simplification, and open-architecture whole-platform software and electronics.

\* SMALLER GENERATOR CAPACITY--about 25-30 kilowatts for a four-passenger sedan or 30-50 kW for a five- to six-passenger sedan or larger light-duty vehicle.

\* BETTER POWER TO WEIGHT RATIO--the lower required fuel-cell capacity also increases the range of tolerable fuel cell mass and volume per kilowatt of capacity.

\* HIGHER PRICE TOLERANCE--a fuel cell becomes competitive at \$100 per kilowatt--a several-fold higher price than could compete in a less-efficient conventional car.

\* **SOONER TO MARKET**--the higher tolerable fuel cell price is likely achieved a few years earlier, through production scale efficiencies.

\* **GREATER DRIVING RANGE**---a tank with compressed gaseous hydrogen combines reasonable cost, packagable bulk, and very low mass.

Of course, a Hypercar could make its traction power onboard from any liquid fuel, including gasoline, methanol, or biofuels, using an engine- or turbine-driven generator, though at a lesser efficiency.

In round numbers, an engine-driven, liquid-fueled Hypercar normally would achieve about 2-3 liters per 100 kilometers, while a hydrogen-fuel cell version would achieve roughly 2 liters or fewer per 100 km (both expressed as liters of gasoline-equivalent). Since the Hypercar relaxes the fuel cell- and tank-packaging constraints that make direct hydrogen fueling unattractive in conventional fuel cell-powered cars, it also makes unnecessary the many penalties in cost, mass, volume, efficiency, and other attributes that have been well established as consequences of the onboard liquid-fuel reforming strategy.

(\*)Hypercar is a registered service mark of the Rocky Mountain Institute. For more information and bibliographic references, visit [www.rmi.org](http://www.rmi.org), and [www.hypercar.com](http://www.hypercar.com).

(#) Often but imprecisely used interchangeably with "reformer," a fuel processor comprises a thermochemical (often catalytic) reformer that extracts the needed hydrogen from a hydrocarbon fuel, plus cleanup stages to remove carbon monoxide, sulfur, and any other impurities that could poison the fuel cell's catalyst.

¶Uniquely, methanol can be reformed to hydrogen at only 260 degrees Celsius rather than the approximately 600 degrees to 900 degrees Celsius required for gasoline, ethanol, methane, or other hydrocarbons (Thomas et al. 1998a). Methanol also enjoys a short-term global surplus of production capacity sufficient to run about 1.5 million to 2 million relatively inefficient fuel cell cars, but methanol raises potentially offsetting issues of toxicity and materials compatibility.

*Amory Lovins is CEO for research at the Rocky Mountain Institute ([www.rmi.org](http://www.rmi.org)). Brett Williams is adjunct senior research associate at RMI. This article is adapted and expanded from a chapter in the book by Paul Hawken, Amory Lovins, and Hunter Lovins, "Natural Capitalism: Creating the Next Industrial Revolution" (1999, Little, Brown & Co., New York) and from "A Strategy for the Hydrogen Transition," presented to the National Hydrogen Association in April 1999 and posted at [www.rmi.org/images/other/HC-StrategyHCTrans.pdf](http://www.rmi.org/images/other/HC-StrategyHCTrans.pdf). The authors acknowledge an intellectual debt to colleagues at Directed Technologies, Princeton University, and Rocky Mountain Institute's Hypercar Center. Their research was supported by grants from W. Alton Jones Foundation and the Compton and Energy Foundations.*

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#### The car of his dreams.

Amory Lovins says gas prices won't stick, but even if they do, he's still stuck on his Hypercar.

by Carl J. Levesque

THIS JUST IN--IF YOU CAN BELIEVE Amory Lovins, who has the news posted on the network of websites sponsored by his Rocky Mountain Institute.

Sheikh Yamani, the Saudi oil minister for a quarter century up until 1986, reportedly stated last July, according to Britain's Daily Telegraph, that world oil prices will plummet in this decade, due in no small part to competition from hydrogen-powered fuel cells.

"This is coming before the end of the decade and will cut gasoline consumption by almost 100 percent," Yamani is quoted as saying, in warning of potential economic consequences for Saudi Arabia.

"Thirty years from now there will be a huge amount of oil, and no buyers. ... Thirty years from now ... oil will be left in the ground."

Is this legit? Even those who believe in the benefits of a hydrogen-based economy might question how the energy industry could possibly make such a transition. Yet Lovins has ready answers for would-be critics.

To Lovins, an early proponent of renewables, conservation and "negawatts," that car of yours sitting out in the middle of your office parking lot could become a 20-kilowatt fuel cell generator, but only if it's built light enough and efficient enough to be able to run the fuel cell off of its own onboard hydrogen gas storage tank. Once that's possible, there's no need to first construct an interstate hydrogen gas pipeline, since the building where it's parked would produce its own hydrogen from natural gas, and pipe it to vehicles sitting in the parking lot with little more fanfare than an upgraded garden hose.

Then, as fuel cells proliferate, the hydrogen infrastructure would expand in tandem, complete with hydrogen pipelines and hydrogen "gas stations." Initially, though, fuel cell "Hypercars," (the service marked name given to ultralight, ultra-low-drag, hybrid-electric vehicles by RMI's spin-off Hypercar Inc., [www.hypercar.com](http://www.hypercar.com)) could be leased to people who work in buildings with fuel cell generators, presumably in areas with tight emissions standards, such as Southern California.

In this issue, Lovins and colleague Brett Williams offer their vision of how the United States might create a hydrogen-based energy economy. And in the following interview, Lovins expands on his article and shares some updates on what's been happening of late.

How safe is an ultralight, carbon fiber car? Would it fare well in a collision--say, against a tractor trailer?

Probably not a tractor trailer, because that will mash anything except another one or a locomotive, I suppose. But actually an ultralight advanced-composite car can be safer than a conventional car. The advanced-composite materials in a correctly designed crush structure can absorb five times as much crash energy per pound as steel, and do so more evenly so that the crush link or stroke can be used twice as effectively. It is possible, for example, to design--and Hypercar Inc., has designed--an SUV replacement Hypercar vehicle comparable in interior volume and superior in load hauling and other attributes to the most popular mid-sized SUVs.

[This concept car] is simulated to have an undamaged passenger compartment in a head-on, fixed-barrier crash at 35 mph; you simply replace the front end, but the people would be fine and their safety compartment undamaged. ... It would have a 330-mile driving range on 7.5 pounds of hydrogen. That's equivalent in gasoline terms to 99 mpg. ... These are remarkable materials. Such a car would weigh less than half as much as the most popular mid-sized SUV, but it could haul

1/8 more weight. It could also go 0 to 60 in about 8.2 seconds.

Then what's keeping these things off the road today?

The technology exists, but integrating it optimally takes another two years of detailed engineering design and manufacturing process development and validation. However, the information published by Hypercar Inc. indicates this can happen sooner and at lower cost with their design than industry norms ... for a conventional car.

Is Hypercar Inc. partnering with major automakers?

Hypercar Inc. aims to support the industry's transition. ... The only two of our many industrial partners that we're currently authorized to disclose are BP Amoco and Sun Microsystems. ... I can say that ... one of the European firms that we've been working most closely with in developing the concept vehicle is not just an automotive engineering house and Formula One race shop, but also an automaker in its own right.

Do you contend that parked cars with fuel cells will actually displace central power stations?

There are many other competing ways of providing electrical services. Most of the electricity now sold could be more easily displaced by end-use efficiency. ... I'm speaking to you from a 4,000-square-foot house, for example, whose household functions use five bucks a month worth of electricity. ...

Then there is competition from improved grid efficiency, which buys you a few percent, and from, of course supply-side resources. I think there, we will see--and we're already seeing--a dramatic shift toward distributed resources. ... Plug-in Hypercar vehicles would, of course, be one of the competitors, and I think they would be a pretty effective one because the car is already paid for as a means of mobility, the hydrogen production will already be largely paid for for other purposes like running fuel cells in buildings ... and the infrastructure necessary to connect parked cars to nearby hydrogen sources and to the grid is the only significant marginal investment, and it's pretty small. ... Of course you'll be providing the electricity at the time and place where it's most valuable, so with real-time pricing and locational rents, it should be a very attractive part of the automotive value proposition.

... [A] full Hypercar fleet in, say, the United States would represent about five or 10 times the generating capacity that all power companies now own. So, it doesn't take many people accepting the value proposition of earning back maybe up to a third or a half the cost of owning their car this way to put at least all the central stations out of business, and I think it would give the other distributed resources a run for their money.

Once we manufacture hydrogen right at the gas wellhead, as you suggest, would converting natural gas pipelines for hydrogen transport leave downstream gas users out in the cold?

I think some of the gas pipelines would continue to carry natural gas, but others would gradually shift over to hydrogen. Basically, the newest gas pipelines often have metallurgy and seals that are suitable for carrying hydrogen. The old ones, typically at an intra-city and distribution level, often do too, because many of them are used to carry town gas, which has a high hydrogen content. The bulk of the [middle-aged] trunk pipelines would require conversion which can apparently be done at reasonable cost ... and of course the compressors would have to be changed. ...

Could power producers convert their natural gas turbines to

run off hydrogen?

Yes, in fact, there is a lot of aerospace work on hydrogen turbines, and Boeing among others has done a lot of work on a liquid hydrogen fuel aircraft concept, which could be quite advantageous because although the liquid hydrogen is moderately bulky, it's much lighter per unit of energy than aviation kerosene because you're not carrying the carbon. ... So you could use hydrogen in everything from domestic cooking--which they did in the days of town gas, more or less--to both micro- and macro-turbines.

However, if you have a choice, you probably would be happier with a fuel cell than you would with a turbine. ... It's the most reliable generating technology we know because it has no combustion and no moving parts.

... One other wild card likely to emerge in this decade is the reversible fuel cell, which can convert electricity into hydrogen or hydrogen into electricity with equal ease, and comparable efficiency. Proton Energy Systems in Connecticut is already shipping early models. ...

I think [reversible fuel cells] could turn out to be the method of choice for distributed systems like residential photovoltaics. Having affordable local storage changes everything, and it makes intermittent renewables like photovoltaics and wind far more attractive because you can make them a firm dispatchable resource.

How has the recent gas price runup affected your strategy?

[Assuming the present spikes stay up], which I think is A not very likely--this brings out a strategic advantage of the hydrogen approach: You're not depending on any single fuel. You can make hydrogen just as easily and cheaply out of off-peak retail electricity [through electrolysis]. ... In addition, and not often talked about, there are two other classes of options for making hydrogen. One is non-electric renewable approaches, using biomass or direct photolysis--that is, sunlight plus a catalyst splitting water--that works in the lab, and people are trying to scale it up. ... [Another] option is to reform liquid hydrocarbons. ... If the carbon were sequestered and the hydrogen sold, then you'd have that option.

In the beginning, how would cars "gas up" with hydrogen while sitting in an employers' parking lot?

It's not difficult to pipe hydrogen around safely. ... You piggyback at first on the miniature reformers that you put in buildings to run their fuel cells for cogeneration and trigeneration, because the reformer will typically be sized to peak building loads that seldom occur, so the rest of the time it has some spare capacity that can be used to produce hydrogen for storage and resale to nearby vehicles.

You say that fuel cell prices must drop first. What's new on this front?

The factories for early volume production are now built or are being built, and this year you should see some very interesting products entering the market. I think the first applications will be in buildings and buses. (And we're talking here about PEM [proton exchange membrane] fuel cells. [Others] have been on the market for several years and there are hundreds of them in the field.)

I think the most important argument about fuel cell cost is that you can afford to pay several times more per kilowatt if your car is so efficient that it needs several times fewer kilowatts to make it go. That's exactly what Hypercar vehicles do.

Why not put the converter right in the car, as many automakers have attempted?

A Hypercar vehicle, being so efficient, needs much smaller hydrogen tanks, which are small enough to package conveniently within the vehicle. ... [Hydrogen tanks] wouldn't fit conveniently in ... an ordinarily inefficient heavy steel vehicle. That's where the automakers started thinking about fuel cells, and they said, "Oh dear, the tanks won't fit."

So the only way to be able to get decent driving range is to take compact liquid fuel ... and reform it into hydrogen on board. Almost all the problems that people talk about with fuel cells are actually reformer problems, not fuel cell problems. ... By the time you get through, a good gasoline reformer fuel cell car is probably no more efficient, and maybe less efficient, than an efficient internal combustion engine gasoline car. So by going to the reformer you gave up most of the reasons for wanting the fuel cell in the first place.

How will fuel cell cars compete with today's hybrids?

[The Honda Insight and Toyota Prius hybrids] are very good cars. ... But I think engine hybrids starting in 2003 and accelerating rapidly over the next two years after that will be leap-frogged by fuel cell hybrids. At least eight major automakers have announced volume production of fuel cell cars starting between 2003 and 2005. I think it also actually offers interesting possibilities for the [vehicle] fleet that utilities themselves operate.

Do you have a message for the utility industry?

It behooves utilities that are modernizing and automating their distribution systems to design them for bidirectional flow.... In the future, with or without plug-in Hypercar generators we will certainly have a lot more distributed generation so it's important that your distribution system be designed and built to handle gracefully power flows in any direction.

#### Fuel Cell Century? A look at Last Year's Technology

\* JANUARY 2000. Ballard's Mark 900 75-kW fuel cell cuts mass 30 percent and bulk 50 percent. GM shows the five-seat, 108-mpg Precept fuel-cell concept car.

\* FEBRUARY. DaimlerChrysler shows the five-seat, ~70-mpg, thermoplastic/aluminum ESX-3 with 1.5-liter diesel hybrid, lithium-ion buffer battery, at estimated price of \$28,500.

\* MARCH. Ballard announces an automotive PEM fuel cell goal of \$20 per kilowatt stacks and \$80 per kilowatt systems.

\* APRIL/MAY. Three German firms offer hydrogen-powered fuel-cell buses for sale.

\* MAY. GM says its "long-term vision is of a hydrogen economy." Texaco enters the fuel-cell/[H.sub.2] business with ECD/Ovonics. The TES consortium (DaimlerChrysler, BMW, VW, MAN, Shell, ARAL, RWE, and the German government) switches its default fuel choice from methanol to direct hydrogen.

\* JUNE. Ford confirms its chairman's view that 20 percent of cars on the road by 2010 will be hybrid-electric. GM aims to make "hundreds of thousands of fuel-cell vehicles annually before the end of the decade."

\* AUGUST. GM says it will always stay ahead of Ford, confirms that within a few years it will be selling full-sized,

hybrid-electric pickup trucks. Environmentalists cheer the combatants on. Several California cities confirm commercial orders for fuel cell buses.

\* SEPTEMBER. Volkswagen's chairman targets 2003 production of the 1 liter/100 km (236 mpg) city car, mainly carbon fiber and apparently an engine hybrid.

\* OCTOBER. GM sells its first hybrid buses. Daimler-Chrysler slates a 20 percent-more-efficient Dodge Durango hybrid for 2003, and shows a doubled-efficiency luxury fuel cell SUV. Ballard's chairman confirms several automakers will start 2003 low-volume production of fuel cell cars.

\* NOVEMBER. BMW reports a carbon fiber concept car, saying that it is "absolutely feasible" that production could start within five years.

--C.J.L.

*Carl J. Levesque is associate editor at Public Utilities Fortnightly.*

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

Representative Meyer's remarks are as follows:

"Mr. Speaker I rise with reservations regarding Standing Committee Report 622, House Bill 1554 HD1.

"House Bill 1554 provides an organization with funding for hydrogen research and development. I agree that hydrogen will likely be the fuel of the future - it is clean burning, can be used in fuel cells, and is readily available in the environment.

"Nonetheless, I have three major concerns about the approach taken in this bill.

"First, the bill establishes hydrogen research and development as another government program at taxpayer expense. State government continues to grow in size and cost. If hydrogen is the fuel of the future, private industry will develop it if we reduce the burden of taxes and regulations we impose on them.

"Second, this bill requires building a hydrogen plant on the island of Hawaii while the demand for hydrogen is on the island of Oahu. It seems to me that hydrogen should be generated close to the users in order to minimize transportation costs. Legislating where something must be produced, in a way that increases the cost of the product, is a sure recipe for economic failure.

"In addition, the scientific experts on hydrogen are located at the University of Hawaii on Oahu. Locating this plant on the big island makes no sense since it will increase the cost of those involved.

"Third, the bill requires the hydrogen plant be built in the Kona coast of the island of Hawaii. The Kona coast has no particular advantage over any other part of the Big Island for this plant. In fact, if we were sincere in our desire to use renewable energy to make hydrogen we would locate this plant in Puna where geothermal energy would be available.

"Further, the bill as written will require five million dollars of general fund financing over the next 5 years. I believe the money would be better spent on our public schools.

"Mr. Speaker, for these reasons, I think this bill is badly flawed in the details while it still represents a good idea whose time may have come."

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1554, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HYDROGEN RESEARCH AND DEVELOPMENT," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 623) recommending that H.B. No. 1668, HD 1, pass Third Reading.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 1668, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REHIRING RETIRED TEACHERS IN THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, Schatz, Takumi and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 624) recommending that H.B. No. 1686, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1686, HD 1, pass Third Reading, seconded by Representative Lee.

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

"This provision will allow the DOT to get special facility revenue bonds to make improvement to various harbors for a new ferry operation; a ferry for either intra- or inter-island transportation.

"I guess the problem I have with this is that, over the last ten or twelve years this is the third or fourth ferry type operation that has been tried. Each time the federal government pays the lion's share of it, but the State always comes up with millions of dollars when you add the all up.

"None have been truly successful, even the one that did do inter-island, Seaflight, which was a very fast boat. They did stay in business for a couple of years but then they went out.

"I think one of my concerns is, here we are looking at spending about \$64 million to make these improvements to the harbor for another ferry operation. I can't fault the Legislature because last year we passed a provision which would have fast tracked improvements to our commercial harbors for the cruise line, but the Governor vetoed that bill.

"The cruise lines we know, are extremely successful and bring millions of dollars into this State and the powers that be chose not to fast track those improvements. Now, we want to go ahead and spend \$64 million to make these improvements all over the Island for another ferry experiment. I just think we have our priorities crossed up. 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. 1686, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF REVENUE BONDS FOR INTER-ISLAND MARITIME TRANSPORTATION," passed Third Reading by a vote of 45 ayes and 2 noes, with Representatives Djou and

Meyer voting No and Representatives Bukoski, Schatz, Takumi and Whalen being excused.

At 1:25 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 1:26 o'clock p.m.

At 1:26 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 1:26 o'clock p.m.

The Chair directed the Clerk to note that following House Bills had passed Third Reading at 1:30 o'clock p.m.:

18	545	14, HD 1
21	546	210, HD 1
3, HD 1	600, HD 1	336
94, HD 1	611, HD 1	444, HD 1
100	612, HD 1	514, HD 1
160, HD 1	613	549, HD 1
168, HD 1	628	550
216, HD 1	634	599, HD 1
284, HD 1	637	697
408, HD 1	670, HD 1	709, HD 1
429	676, HD 1	1001
461	699	1243, HD 1
462, HD 1	953	1345, HD 1
480, HD 1	1233, HD 1	1554, HD 1
487	1234, HD 1	1668, HD 1
513, HD 1	1254, HD 1	1686, HD 1
540, HD 1	1399, HD 1	

## RECALL

Representative Fox moved that H.B. No. 264 be recalled from the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Pendleton.

The Chair addressed the body, stating:

"This is a procedural motion. The debate will be limited to the propriety on the action in recalling the bill. Debate on the merits of the bill is not in order at this time and the discussion will be on the recall motion only."

Representative M. Oshiro rose to speak in opposition to the motion to recall, stating:

"I believe this motion at this particular time violates the spirit and letter of the Memorandum of Agreement between the Minority Caucus and the Majority Caucus, date February 20, 2001.

"Mr. Speaker, what we have failed to do here is notify and request a hearing of the subject matter Chair of this particular bill. If we had done so in the proper course of the process, perhaps we could have had time to post notice and invite the community in to provide testimony on this bill.

"What we see here today is a violation of the previous agreement, and for this reason, Mr. Speaker, I ask the members to vote down this recall motion. Thank you."

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

"On February 6, 2001, I addressed a letter to the Chair of the Committee on Judiciary and Hawaiian Affairs. In this letter I asked him to hear two bills, both of which we're going to bring up today, and this was on February 6, 2001, H.B. No. 264 and H.B. No. 265.

"I asked him for his favorable attention to this request and I said I was available to discuss these bills and I gave my phone number. I did not hear back from the Chair.

"Yesterday, with 24 hours notice, we once again, in effect, asked for a hearing. I apologize that the wording was not that way. We said that we would recall a bill and the understanding that we have made clear verbally in conversations with the Majority Leader and the Committee Chair was, that in any point of the 24 hours we were told that the bill would be heard, we would withdraw a recall request.

"So, those are the basic facts. February 6th a request for a hearing, a repeated request yesterday and no notice up until this time that the bill would be heard. Under the circumstances I believe a recall is in order. Thank you, Mr. Speaker."

Representative McDermott rose to speak in support of the motion to recall, stating:

"Mr. Speaker, my Minority Leader just outlined the basic facts of the case.

"But, aside from that, the thing that I am concerned about is the mention that the public didn't or won't have an opportunity if we don't hold a public hearing.

"Mr. Speaker, routinely, if not on a daily basis, we waive the 48-hour notice and hear bills routinely, so I think that argument is a 'red herring.' Thank you."

At this time, Representative Pendleton asked for a vote by the raising of hands.

The motion to recall H.B. No. 264 was put to vote by the Chair and on a show of hands, the motion was carried, and H.B. No. 264 entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," was recalled from the Committee on Judiciary and Hawaiian Affairs, and put before the House for action.

Representative Fox then moved that H.B. No. 264 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

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

"Mr. Speaker, I rise in strong support of this measure. If we do nothing else this session, we must ensure that every citizen, every voter, is absolutely confident that their vote was fairly and openly counted. H.B. No. 264 improves our election system by opening the process to the media and the public in three important ways.

"First, our optical scanning machines count the ballots as they are cast. The machine print-out is done immediately after the polling place closes which provides an instant tally of the election results. Posting these results at each polling place will minimize the possibility of fraud and provide a duplicate record of the votes if the magnetic card is lost or damaged in transit to the county center. It will take no more than a minute or so for a precinct official to post the results. The burden imposed on the precinct official is minimal.

"Some may argue posting the results at the polling place may cause confusion in the mind of the public or give the media the opportunity to call the election before the Office of

Elections has done their tally. These arguments might make sense if our State covered more than one time zone or if the polling places closed at different times. However, all polling places close at the same time and posting these results can no impact on people who have not yet voted. We have much to gain in public confidence and nothing to lose by posting election results at each polling place.

"The second aspect of this bill is that it requires a recount in all elections where the margin of victory is one percent or less. By adopting this measure, we are telling the public that we want to recount all close elections. No ifs, ands, or buts.

"In the vast majority of cases the recount will confirm the initial result and public confidence in our election system will be reinforced. In the rare case where the initial count was incorrect, we need to get the correct count in results. None of us wants to lose an election, but we cannot complain if we're confident that we actually received fewer votes than our opponent.

"The final aspect of this bill eliminates the requirement that a precinct chair must be the same political party as the Governor. This requirement causes people to raise their eyebrows and ask, 'why is that the law?' This requirement creates the appearance of impropriety and the appearance that the election system is politically controlled rather than being neutral and objective.

"I know precinct chairs that are Independents and Republicans. Making this change to the law allows more flexibility and creates a more neutral election process. I hope that others on this floor will support this bill today. Thank you Mr. Speaker."

Representative Auwae rose to speak in support of the measure and asked that the remarks of Representative Meyer be inserted into the Journal as her own, and the Chair "so ordered". (By reference only.)

"I have personally suffered through such a glitch in our problems which we had in the election of 1998.

"I know exactly what it means to have problems in our elections. The optical scanning system that we use today is far from perfect. We need to protect candidates from losing because the optical scanner was flawed.

"In 1998, the Honolulu Advertiser reported that seven of ES&S's vote counting machines malfunctioned in the 1998 general election. These malfunctions included my House district, resulting in a statewide recount.

"For my election, I didn't receive my official certificate of election until the day before the Session started. That is why I support H.B. No. 264 and I urge my colleagues to do the same. Thank you, Mr. Speaker."

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

"I speak as one of the new rookies on the block to discuss some of the interesting parts as to why this bill is important.

"First, the posting of unofficial results. I find this incredibly democratic. Some of the results were actually published in the 2000 primary and I know that in at least one of my precincts, the results or numbers in that precinct were actually printed on the resulting tally that was printed out before they closed the polling place.

"At the general we actually had several personal acquaintances of mine as poll watchers at each of my precincts waiting for that number because we knew that we could add

the seven numbers and get a result much faster than is typical in past elections.

"As you know, I am way out there in Mililani and we didn't get our results until near or after midnight. So, therefore I rise in strong support of this measure. Thank you, Mr. Speaker."

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

"Mr. Speaker, H.B. No. 264, proposes to reform Hawaii's electoral system by doing three things: requiring the posting of tabulated votes at the precinct polling place after the closing of the precinct and prior to the removal of ballots from the counting machines; requiring manually recounts and audits of votes whenever the difference between the candidates for an elected office is less than one percent of the total votes cast; and repealing the requirement of the chairs of precinct officials be of the same party as the governor.

"Mr. Speaker, in my opinion this a poorly drafted and ill-conceived bill that lacks an understanding of the practical aspects of an election.

"With regard to the first issue, beginning on page 1, line 16, the bill states:

Currently, unofficial precinct results can be ascertained nearly immediately after the closing of the polling precinct. However, these results are not published in any manner and the public has to wait for official counts disseminated by the Office of Elections through the news media. In this age of high-speed information, such delay is unacceptable.

"On its face, Mr. Speaker, this statement seems to make perfect sense. We do live in an age where technology allows for the rapid transmission of data and information. So, what is the problem? The problem, Mr. Speaker, is that Hawaii's elections laws were enacted to ensure the accuracy and integrity of each election. Section 11-152, Hawaii Revised Statutes, prohibits the printing and disclosure of number of votes cast until all polls are closed on Election Day. The law states, in part:

The ballots shall be taken in sealed ballot boxes to the counting center according to the procedure and schedule promulgated by the Chief Elections Officer. To promote the security of the ballots in the presence of official observers, counting center employees may start to count the ballots prior to the closing of the polls provided, there shall be no print-out by the computer or other disclosure of the number of votes cast for the candidate or on the question prior to the closing of the polls.

"If H.B. No. 264 were enacted in its present form, can you imagine the chaos it would cause for the Office of Elections to coordinate the printing and release of results for 336 precincts statewide in such a manner to be in compliance with Section 11-152? How would H.B. No. 264 impact other Election Day operations? What impacts and changes, whether they be procedural, operational or training, would need to be instituted in order to implement this new posting requirement. How would this change the delivery and collections of ballots? What impact would this have on the release of Election Day summary reports to the media and general public?

"Our present precinct and statewide election reports, results from the process of checks, audits and reconciliation that are conducted in a controlled environment. This assures the accuracy of the ballots counted. It is done so under the scrutiny of official observers that, like their precinct counterparts, are selected by various political parties, public interest groups and other interested organizations.

"All handling of election materials and processing of election results are carried under their eyes. It is only with the assistance of the Office of Elections is able to confirm and certify the results of any election.

"In sum, Mr. Speaker, the posting of unofficial results at each precinct would create more problems than solutions. It would erode the public's confidence in an election system and undoubtedly, be used as fodder for lawyers to contest each and every race. If this is the case, how will this bill eliminate the perception of unfairness that may destroy the legitimacy of an election, the fundamental purpose of this bill seeks to achieve. To me, this bill will do the opposite and do disservice to our people.

"Mr. Speaker, with regard to the second issue, the mandatory recount. As presently drafted, H.B. No. 264 would also mandate the recount of audit of every race that is decided by less than one percent of total votes cast. In discussing this bill, certain representations were made that virtually every jurisdiction in the United States has some statute requiring an automatic recount. This statement, Mr. Speaker, is simply not true. Only sixteen states currently have automatic recount provisions. Another twenty-five allow for candidates to request a recount if certain conditions are met. Six other states, of which Hawaii is included, allows a recount upon the issuance of a court order."

At this time, Representative Hiraki yielded his time.

Representative Hamakawa continued, stating:

"Thank you. And three states don't have any laws dealing with election recalls at all. But that gets away from the real issue at hand. Rural and automatic recount law improved integrity of elections. In my opinion, it would not.

"As we saw in the recent Florida case, we saw recount after recount that was started and stopped. And what did it prove? Nothing. Ultimately, that issue was decided by the courts. Florida has an automatic recount law and that law was intended to provide the certainty to close elections and assure the legitimacy of the final count. In my opinion, Mr. Speaker, that law did not work. To this day, the people are still wondering who received the most votes in Florida.

"Questions were raised on the actions of election personnel and the election system itself. Ultimately the winner was decided by a third party, the courts. To me, Mr. Speaker, the courts are the appropriate venue to handle close elections. The courts are able to clarify issues of fact and law. More importantly, the courts have an institutional foundation for representing justice and impartiality that is vital toward re-instilling the public's confidence in elections when questions arise from a close contest. Hawaii's election laws already provide for this and I believe that is what's best.

"With regard to the third issue, Mr. Speaker, precinct chairs. H.B. 264 would eliminate the requirement that precinct chairs be of the same political party as the governor. Perhaps a short discussion of the legislative history of this law would seem appropriate. In 1949, the Territorial Legislature enacted Act 318. Just a reminder that at that time, the Legislature was Republican controlled in both Houses and we had a Republican Governor. That Act integrated voting machines into the election process. Under this law, the voting machines in each precinct were overseen by three elections inspectors who were appointed by the Governor. In practice, the Governor would appoint elections inspectors of the same party affiliation. This process, however, changed in 1970 when the State Legislature recodified and modernized Hawaii's election laws.

"During the deliberation on the Recodification Bill, various proposals were introduced that would have required precinct

officials, precinct workers, to be determined by party affiliation based on the votes cast for a presidential, congressional, and state candidates in the last General Election.

"In House Stand. Com. Rep. No. 589, the Committee on Judiciary found that:

"With the advent of new political parties, it is only fair that they be represented in polling place staffing. Since parties are supposed to be organized throughout the state, this system should encourage parties to fill candidates on a statewide basis.

"By establishing that formula, Mr. Speaker, Hawaii's election laws were changed to allow persons with party affiliations other than that of the governor to serve as precinct officials. However, in keeping with the strong Republican Party tradition started in 1949, the law retained provisions that the chair of the precinct be of the same party as the governor. In practice, it is very difficult for Office of Elections to recruit and retain workers in the precincts. Because of this, the law specifically authorizes the Chief Elections Officer to fill any position including the precinct chair without regard to party when there is a vacancy.

"According to the Office of Elections during the Primary Election of 2000, of the 334 precincts that were in operations, 66 were chaired by persons affiliated with the Republican Party and 49 were either unaffiliated or with the Green Party. For the General Election of 2000, of the 334 precincts that operated, 71 precincts were chaired by persons affiliated with the Republican Party and 43 were either affiliated with the Green Party or independent. In other words, to answer certain representations that every precinct chair for the last 40 years has been a Democrat is simply not true."

At this time, Representative Takai yielded his time.

Representative Hamakawa continued stating:

"Thank you. In light of what occurred during the Presidential Election of 2000, I agree that there is a need to re-examine all of Hawaii's election laws. As stated earlier, the last time these laws were recodified over thirty years ago. Because of this, your Committee on Judiciary reported out House Bill 168 which we've just voted on for Third Reading would establish a third temporary task force to comprehensively review, evaluate and recommend changes to Hawaii's election laws regarding vote counting. Particularly, consideration of automatic re-count in contested procedures to ensure the integrity and certainty of the State's electoral process. This approach was supported unanimously by all members of the Committee on Judiciary and Hawaiian Affairs and of Finance.

"In summary, H.B. 264 is an ill-conceived bill that would create more problems than solutions. For this reason, Mr. Speaker, I urge my colleagues to defeat this bill. Thank you."

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

"Thank you, Mr. Speaker. I'd like to speak in favor of this measure. I'm not going to go over every single word that was said, but just in summary and rebuttal. Posting the unofficial results. The Chair of Judiciary mentioned the obligations of the Office of Elections. And I say, 'Great, what's to prohibit them to doing it if this bill were to pass and become law?' You can still post the unofficial numbers at the precinct and the Office of Elections has the duty, as they're bound now, to post the official tally. There's no conflict that I see.

"Secondly, all the polls close at the same time so there's no problem there as was mentioned in earlier debate. On the

summary of these positions, I say posting unofficial results provides a check against fraud, provides the public with results immediately and shows confidence in a system with nothing to hide. I think that's inherent on our duties to provide those services to the public.

"As far as the automatic recount, the Office of Elections right now does not have the authority to order a recount, they have to be requested. And as we saw in Florida, it could go through the courts and the courts could make a decision. But if you recall, the ballots in Florida were recounted and recounted and recounted and recounted and recounted... I think I've lost count of how many times they were recounted. But in the end, the results were the same so it didn't hurt the system at all. What it did do is put a final end to the debate on who actually won the election because the courts were right. So it didn't hurt, it helped.

"An automatic recount providing for automatic recount makes it more efficient than seeking a court order. We don't need the courts to make the decisions. It provides a process in case of close elections and there have been some in my district too, not with me personally but with other people. It's a very good thing to do. And they finally did it but they had to request it and it took time, and then they did it. And it shows a belief that all doubt should be removed by ensuring that the right person won. Again, it doesn't do any harm to have the automatic recount in a close election. If the numbers were right, the numbers will still be right, will always be right. It doesn't change that fact now that you've done it automatically.

"As far as removing the requirement of the precinct chair being of the same party of the governor, it eliminates the perception of unfairness, it helps lesson public cynicism, and you know, Mr. Speaker, there is quite a bit of that, and it's just the right thing to do. It also shows that political party affiliation is not a requirement to run the polls. You know the Chairman of Judiciary rightfully pointed out that this is not something that is prohibited now. It is allowed - it has been done. So why on earth are we afraid to change the law to reflect the practice that we already see in front of us? If it's already done, what harm is there in changing the law to make it legal to do what we're doing?

"This is not a partisan issue Mr. Speaker, in fact, Senator Hanabusa introduced a similar bill in the Senate. And there's no reason why we should look at this as partisan, whether there were Democrats in the past that did certain things or Republicans in the past. I heard 1949. A lot of things were done in the '49s and '50s, and we debated that on the floor here just a few sessions ago. And we know that things weren't always done properly - we're trying to set it right. This is a new time, new people, and we're trying to make government more open for all the people. Not for any party. We're not trying to give any advantage to any party. We're trying to do what's right for the people. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'd like to point out a practical or hypothetical situation if this bill is passed. You have to remember that all polling places, although they close at 6:00 p.m., everybody does not stop voting at the same time.

"Let's say you have some people in Waikiki, Downtown, in the urban area, who live and work close by and the polls close and people get to vote such that everything is done by 6:20 or 6:30 p.m. And then you've got some other areas, in the rural areas, the outlying areas, where there might be an onslaught of voters at the end of the day. And these people may be standing in line until 7:00 or 7:15 p.m., whatever the case may be, such that, those polls may not be posted until 7:30 or 8:00 p.m. where another area they may be posted 6:30 p.m.

"Now, if I'm standing in line and there's a radio station or someone aggressively out there checking all of these polling places and says, 'Okay, it looks like this area has gone for Candidate X.' It then starts to broadcast this information over the radio, thus, giving an idea where the votes may be going or may not be going. Then there's somebody standing in line at 7:00 p.m. and they happen to have a radio on and they're just listening because they're trying to kill time, or maybe someone's waiting for them in the parking lot listening to the radio. And then there's a broadcast, 'It looks like Candidate X is going to win,' or 'Candidate Y is going to be losing.'

"That's one of the problems with this bill Mr. Speaker. It will disenfranchise some people who may be waiting long after the polls have closed. And instead of giving them the opportunity to vote without any outside information or any information that might be wrong. You know, someone might be jogging by and say, 'Hey why are you standing in line Henry?' They're saying this guy's already won or lost.' To be fair to everybody, because the polls may close at the same time but people do not stop voting at the same time, I think this measure should be defeated. Thank you very much."

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

"Mr. Speaker, I'd like to speak in opposition to the measure. We've heard what the requirements of this bill are and I won't go into those. But because of the importance of the issues, I would like to discuss each part of the bill separately and outline a little bit on why they are unnecessary."

"First, posting the unofficial vote tallies. Posting the unofficial vote tallies is unjustified according to Section 1 of the bill. This provision would presumably provide a check and balance against electoral tampering. First, I have not heard of allegations of electoral tampering in my district. Second, we have so many checks in place already, which is probably why we don't have any reports of tampering."

"Also, posting unofficial vote tallies could easily lead to confusion. Reports from other states and jurisdictions that post such tallies include anecdotal stories of misuse or misunderstanding of these tallies. Even though all our polls close at 6:00 p.m., not all voting is finished by then. Polling places finish all of their work at different times and often, people vote well until past 6:00 p.m. If each polling precinct had to post their unofficial results, every one of the 334 statewide precincts would have to be coordinated for simultaneous release or each would have to do so at different times, contrary to the current law."

"This requirement would also delay the time when ballots could be transferred to the central location where the official count takes place and thus, the release of the final official results. Posting the unofficial results would still require that a manual and poll book audit would need to be done at the precinct to ensure accuracy of these results. This would dramatically delay the official results. Polling officials could easily become caught up in the urgency to post the unofficial results, misplacing the importance of getting the materials to the central location. Such a scheme would also require additional funding, at a minimum, providing each precinct with a computer to enable the officials to generate the tallies. What also might be necessary to leave a precinct official at each precinct, to ensure that the information remains posted until no longer needed."

"Posting unofficial results is redundant, costly, and not helpful. The election process includes many steps to validate each election. The accuracy of the machines and procedures are tested throughout the election process. Every machine is tested prior to an election, audits are done during the election, and official observers of the various parties are always present

in the counting area and poll watchers are present at the polls. The ballot boxes are delivered to the central location for counting by representatives of different parties. Posting unofficial vote tallies is unnecessary and accomplishes nothing."

"On to the automatic recount. The automatic recount provisions are unnecessary and wasteful. First, Hawaii has a single statewide set of procedures. Each county must follow the same requirements and guidelines for voting so we don't have the problems that Florida had this past election. And remember, we no longer use machines that generate chads. It's obvious from Florida's experience, that a recount doesn't accomplish anything. It did still wind up in court. Hawaii eliminated the recount procedure some years ago substituting a procedure of requesting a review by the courts (finding this a more objective unbiased procedure). It is wrong, though, that hand counts are notoriously inaccurate. As we've seen in Florida recounts aren't a panacea – the procedures currently in place in Hawaii already provide for an accurate, quick, and efficient closure to our elections. Introducing a mandatory manual tally would delay the results and possibly past the time an official must take office."

"In 1998, a manual recount of a single Senate district took a week of long days. A machine audit of the entire State took a week. From this experience it's easy to see that if manual recounts are required, the timing for elections would have to be changed."

"There is little time now between the primary and general elections to do much more than the work already required. If the manual recount for a primary is required, the interval between elections would have to be lengthened dramatically. In addition, a manual recount following a general election could take months, depending on which election or elections were close. If an election for President required a recount, our results would probably not make the deadlines required to ensure that our votes would be fairly applied. A manual recount would also require additional funding to hire the necessary staff. Even though recounts may on occasion be required, mandatory manual recounts as provided for in this bill will not necessarily ensure a fairer election process and should not be passed."

At this time, Representative Luke yielded her time.

Representative Lee continued, stating:

"Thank you. The Judiciary Committee passed out a bill earlier this session establishing a task force, as a matter of fact, I think we voted on it, to comprehensively review, evaluate, and recommend changes to the election laws. I think it's better at this time to wait for the findings from this task force instead of making piecemeal structural changes that will not improve the current system."

"Party affiliation of precinct chair persons. Elections are a partisan and historically, the party in charge, has enjoyed a few formalities. In this case, the governor historically appointed the precinct chairs and chose from his party. With all the safeguards in place today to ensure a valid election, the fact that the chairperson is supposed to be a member of the governor's party is no more than ceremonial and need not be changed. In fact, because it is so difficult to fill all of the positions of chairs as well as the precinct officials, there are times when the chairs are not from the governor's party. In the year 2000 for the 3,500 precinct officials needed, the Democrats provided 200 – the Republicans provided 800. That left 2,500 to be found outside of the parties' ranks."

"In summary, Mr. Speaker, I think it's apparent that our election laws were written with fairness in mind. There are more than enough checks and balances in the current law and there have been no indications that anything about the law is

broken. Let's not run scared because another state had a problem with a system totally different from ours. Our system remains one of the best in the nation. In fact, the March 1999 report of the Election Oversight Committee found that the voting equipment used in the 1998 elections is accurate and counted contests correctly. It found no credible evidence of fraud and it went so far to state that democracy is too important to all of us to allow unfounded or unproved allegations to undermine our confidence in elections. It went on to state that despite the fact that a new system had been introduced, the audit found that 99.8 percent -- 99.8 percent -- of Hawaii's voters had marked their ballots correctly. Their audit demonstrated that the results of the 1998 General Elections were accurate and trustworthy.

"Mr. Speaker, there's nothing wrong with the current system so we should not make sweeping changes to the procedures as this bill proposes. This motion should be defeated. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support of the motion to put HB 264 up for Third Reading and just comments in response. I think number one, what we need to do, what the problem is and what we need to address is the lack of voters that are out there. I think we all know that there are problems with getting people to the polls and to participate in our government. I think that the voter participation percentages are down considerably from what they could be. And I think everything we do should be in an effort to encourage more people to get off the bench and come to vote for whoever that might be and for whatever Party.

"And to that extent, Mr. Speaker, I think we should always err to the side of disclosure, disclosure, disclosure and immediate posting of unofficial results is an attempt in that regard. And again, it's unofficial and it's certainly clear to anybody reading them and any reasonable voter, that the posting of the votes at a particular precinct once the precinct is closed is in fact, unofficial.

"With regard to some of the comments of the previous speakers, and one in particular with regard to her potential radio broadcast, and whatever prejudicial impact that that may entail on voters waiting in line. And it's true -- that's possible, there could be some influence and there could be some discussion. But I would see that as highly unlikely. I would think most of the precincts throughout the State, there wouldn't have been radio broadcast or reporters out there discovering what the unofficial results are.

"And number two, I think it's my understanding in that, several states already have this practice without any problem. And the voters themselves are perfectly capable of standing in line in the cold and the snow and the rain here as the case is in Hawaii, waiting for their turn to vote. And knowing how they're going to vote without being influenced necessarily, by some radio or a bumper sticker for that matter that passes by.

"With regard to the automatic recount provision, Mr. Speaker, I think in fact, that saves considerable time and considerable money because we don't have to necessarily call on the courts to get involved with something that they shouldn't necessarily have to do right away. We can go back to them for a second count if we want, if we're still unsatisfied with the automatic recount. But especially in the case where a candidate doesn't have the wherewithal and doesn't have financial means to file a court challenge and get a lawyer and do all the things it takes to implement that kind of judicial challenge to a vote count and a vote tally. So that's another strong reason why an automatic recount is important and especially for challengers Mr. Speaker. If you're in a Majority

Party or an established Minority Party, you may have the wherewithal to draw upon but many others will not.

"Some of the comments have been referenced to what occurred in the Florida system. Well, some of us may not like the results, I do. But the system worked. There were recounts, and recounts and more recounts and the courts got involved. But that was all part of the process and in the end, the process worked. It worked. It wasn't ideal, but it worked.

"Finally, Mr. Speaker, with regard to the concern over having to manually recount ballots and the time it might take and that it might extend the period of an election process. Again, we just came through that on a Presidential Election, things have worked. And on a local level we certainly wouldn't have gone through the delays hopefully that they did. But again, it's ironic because the speaker was from the Majority Party and the claim had been from them on a national level that every vote should count. And if it requires a manual recount of the ballots because it's a close race and it's going to take extra time, so be it. And that maybe the inefficiencies of the democratic process, but that's part of the price we have and the benefit we have in this process. For those reasons, Mr. Speaker, I support the motion. Thank you very much."

Representative Pendleton rose to call for the previous question and to request a roll call vote.

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion that H.B. No. 264 entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," pass Second Reading and be placed on the calendar for Third Reading was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 30: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoaho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine, Yonamine and Yoshinaga.

Ayes, 17: Auwae, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Thielen.

Excused, 4: Bukoski, Schatz, Takumi and Whalen.

Representative Fox moved that H.B. No. 265 be recalled from the Committee on Judiciary and Hawaiian Affairs, seconded by Representative Pendleton.

The Chair addressed the body, stating:

"Once more, as stated earlier, that this is a procedural motion. Debate will be limited to the propriety of the recalling of bill. At this time any discussion?"

Representative M. Oshiro rose to speak in opposition to the motion to recall, stating:

"Mr. Speaker, I rise to speak against this recall motion. Mr. Speaker, I believe this recall motion, again, is in violation of our memorandum of agreement between the Majority Caucus and the Minority Caucus. In particular, Mr. Speaker, there was not the prior written request for a Committee hearing delivered to the Chair of the Committee which would enable the Chair to properly post notice on this hearing, invite the community to participate in the legislative process, and to comment on this bill. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. Again, Mr. Speaker, in a letter, a written letter, dated February 6, 2001, addressed to the Committee Chair, I requested specifically a hearing on H.B. No. 265 and indicated my availability for any questions or comments on it and attached a copy of the bill for the convenience of the Committee Chair. We did not hear back from the Committee Chair. Requests were made yesterday, orally, plus notice - official notice of intent to recall. All of these couched in the language, 'If you hear this bill, we will not have to go through this procedure.'

"We were never given any assurance that this bill would be heard; thus, the need to recall at this time. Thank you, Mr. Speaker."

The motion to recall H.B. No. 265 was put to vote by the Chair and on a show of hands, the motion was carried, and H.B. No. 265 entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," was recalled from the Committee on Judiciary and Hawaiian Affairs, and put before the House for action.

Representative Fox moved that H.B. No. 265 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

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

"Thank you, Mr. Speaker. House Bill No. 265 is favorably and pleasurably before this body for action today. It is a bill drafted by the Campaign Spending Commissions Chair, Robert Watada, Executive Director of the Campaign Spending Commission. It is done to correct a most grievous problem we have with our current campaign financing system, and that is the people who do business with the State or the city, are able to influence the selection of contracts by contributing to the campaigns of those who make the decisions. This is, in fact, a corrupt practice. It is a practice not permitted by the federal government and a practice not permitted in a majority of states. People who do direct business with the State or city should not be contributing to the campaigns of those who award those contracts. And we should end that practice in Hawaii.

"In fact Mr. Speaker, the city made a valiant effort to end this practice. They passed an ordinance and it went into effect in the mid-1990s however, one of the defeated candidates in the mayoral election questioned the law, and brought the case into court. In January 1998, Judge Kevin Chang made a ruling that struck down the ordinance barring city contractors from contributing to candidates in political races and ruled the law invalid because it conflicts with a controlling State campaign spending law that allows such contributions.

"Mr. Speaker, I am quoting from an editorial in the Honolulu Advertiser that appeared on February 7, 1998 essentially requesting that this body act. According to the editorial and I quote:

"The next step then should be obvious. The Legislature, now in Session, has authority over the State campaign spending law. Lawmakers might want to take time out from their busy round of legislative session fund-raisers to think about whether they like the underlying concept of the law. Does it make sense to prohibit contributions from people anxious to curry favor of those who hand out non-bid government contracts? If it does, as we believe, then the legislature should act.

"That was three years ago. In three years not only have we not acted, we have never had a hearing on this bill. So I feel really compelled to speak strongly on the necessity of bringing this bill to the floor and getting recorded votes, up or down, as

to whether we want to end the corrupt practice of contractors contributing to campaigns of those who award the contracts. Thank you, Mr. Speaker."

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

"Thank you Mr. Speaker, I rise to speak against H.B. No. 265. Mr. Speaker, H.B. 265 proposes to prohibit persons who contribute to a candidate, committee or political party from receiving contracts from a state or county for one year period after notice of availability of the contract or the date of the contract whichever is earlier. The bill would also prohibit persons who receive a contract from making expenditures or contributions to a candidate, committee, or party for one-year period after the completion of all the terms of the contract.

"Mr. Speaker, one of the elections bills that your Committee on Judiciary and Hawaiian Affairs heard on February 6th of this year, dealt with some of the same issues contained in HB 265. And that bill proposed to classify expenditures or financial assistance by a political party to a candidate as a contribution and an expenditure by the candidate. Originally, Mr. Speaker, your Chair of the Committee on Judiciary and Hawaiian Affairs had grave concerns about whether statutory restrictions on campaign expenditures would violate constitutional rights to free speech. Yet, it was apparent that many of my colleagues felt the need to review this issue in light of allegations made by members on both sides of the aisle on impropriety surrounding party contributions to candidates during the 2000 General Election.

"Despite my reservations, I decided to schedule a bill for hearing. During the public hearing on H.B. No. 170, your Committee learned that the United States Supreme Court in its ruling in *Buckley v. Vallejo*, drew a white line between expenditures and contributions treating the expenditure restrictions, whether they are made by a political party or by individual, as direct restraints on free speech. Mr. Speaker, I would like to share with you, some excerpts from testimony received on that bill which I think applies directly to this bill presently before us. It was submitted by the State Chair of the Hawaii Republican Party, and she admonished us for wasting taxpayers time and money by introducing legislation that is, on its face, blatantly unconstitutional.

In 1996, the U.S. Supreme Court struck down a federal law that limited expenditures by public parties made independent of their candidates. This issue is dead. Any attempt to pass this legislation will be done in conflict with an obvious disrespect for our Constitution. At a time when legislators should be focused on improving public schools, reforming civil service and diversifying the economy, it is my recommendation that you spend your time and efforts working for the public's interest instead of your own interest.

"To my colleagues on the other side of the aisle, heed the words of your own Party Chair and stop wasting the public's time and effort with blatantly unconstitutional legislation.

"As was the case in H.B. 170, H.B. 265 is facially unconstitutional. For these reasons Mr. Speaker, I urge my colleagues to vote against this measure, thank you."

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

"Thank you, Mr. Speaker. I would like to just briefly respond to the previous speaker's contentions. One of his contentions is that H.B. 265, which is before us at this time, is unconstitutional. We need to remember in the discussion of the bill which he eluded to, which was H.B. 170, the Supreme Court stated that it was unconstitutional to restrict uncoordinated funds and the Chair can correct me if that is the incorrect holding. But that has nothing to do with this

particular case, we're not restricting how much a contractor can give, the contractor has the basic choice. If he wants to go after a contract with the State, then he doesn't participate. If he decides to participate and contribute then he doesn't go after a contract with the State. Because the choice rests with that actor, that contractor, that person seeking the contract. There is no constitutional problem with this measure.

"House Bill 170 was very different, there was no choice, it basically said, if this is uncoordinated, we're going to restrict it and there was no choice placed on a person. As we all know, if this bill were to become law, 265, the contractor would have that choice and in fact, in many ways, they would very happily exercise the choice to decline participating in contributing to a campaign. They would very happily exercise the choice to decline, participating, contributing to a campaign.

"Mr. Speaker, I've had various people who do business with the State say thank goodness we have campaign contribution limits because we can only be shaken down for that limit. I might not word it that way but I've had people approach it in those terms. With this then, would give them the perfect ability to say, 'I'm just going to go for this thing on the merits, I'm not going to have to contribute and somehow curry favor be placed in a favorable light, I'm going to win this contract on the merits. And I think the contractors, the people who want to be able to have these kinds of contracts with the State, want to be able to compete on the merits, on a level playing field, without having to have some other committee look to see if they've been contributing to the right people.

"Mr. Speaker, so for those reasons I think this is a pro-democracy measure, it's for openness and it makes it possible for us to say that these decisions, who gets to do business with the State, that those decisions are based on the merits. Even if I were to grant that all we're talking about is perceptions, well then it's a good enough, I think, reason to pass this bill to address that perception. Because regardless of what's actually happening, the public thinks that these people are trying to purchase the ability to have these State contracts. People think that these contractors are being coerced to contribute to elected officials. This Bill, 265, would eliminate that wrong perception. So for those reasons, Mr. Speaker, I stand in strong support of it. Thank you."

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

"Mr. Speaker, thank you. I rise in support of H.B. No. 265. To say that this measure is unconstitutional when it mirrors federal laws is..."

At 2:29 o'clock p.m., Representative Fox requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:30 o'clock p.m.

Representative McDermott continued, stating:

"Mr. Speaker, I apologize to you and I apologize to the Minority Leader. I came late to caucus and I'm sorry for that. Resuming my speech. To say that it is unconstitutional when it mirrors federal law, I think, is on its face, absurd. With regards to contractors, campaign finance reform, there was a lot of discussion about a week ago about this 'radar screen.'

"Ladies and gentlemen, my colleagues, my peers: this is on the 'radar screen.' People want the special interests out of it. I hardly get any money from these guys. Most of my contributions are \$50, \$25, and that's why I don't raise much money, but nevertheless, I'm being honest and frank with you. It is on the 'radar screen' so let's address this.

"We heard all about the 'radar screen' last week. Now the 'radar screen' is gone, so I'm not supposed to look over there. Now the 'radar screen' is gone, what happened to the 'radar screen'? And some of the biggest proponents of the 'radar screen' are absent right now, which is quite interesting as we talk about campaign finance reform.

"Mr. Speaker, I take umbrage, personal umbrage to saying that measures that we bring up... This is democracy. We're the loyal opposition. We take our job seriously, and to say that any measure we bring up is a waste of time... We're all equals here. We're a body of equals. There are 51 of us, and to say a measure that we bring up is a waste of time, which was just said, because it is not the Majority point of view... I take umbrage to that.

"So, those are my comments and, Mr. Speaker, can I request a roll call vote at the appropriate time? Thank you."

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

"Thank you, Mr. Speaker, I rise in opposition to this motion. As already written Section 11-205.5, really what it does is prescribes a procedure for disclosure. And what the bill is trying to do now is it's trying to regulate contributions and prohibit expenditures.

"Now we've been hearing a lot of people talk about the constitutionality and throwing it around like it's some kind of document. But let's really look at the constitutionality and I'll take you through the steps in case people don't know how to do a constitution analysis.

"Step 1 of the constitutional analysis under Buckley v. Vallejo is really the strict scrutiny test and that's the highest test you can apply to any sort of regulation or governmental restriction. What they're trying to do or what this may be aimed at doing is regulating free speech, one of the ultimate rights we have in our Bill of Rights. Under Buckley v. Vallejo as previously spoken to by the Chair, there are three different distinctions we need to make when it comes to political speech.

"One is contributions. What they said in Buckley v. Vallejo is that it could have a severe impact on political dialogue if the limitations preventing candidates and political committees from amassing the resources necessary for effective advocacy. But they felt that the contribution limits were okay because they were narrowly tailored to achieve the objective. And that's the second part of the strict scrutiny test.

"So really, again, just to clarify what strict scrutiny is, it's a compelling state interest that's narrowly tailored to reach that objective. There's two parts to the test. There has to be a compelling state interest, which is the highest state interest that must be there. And the second part is that it must be narrowly tailored meaning that, there is no less drastic alternative. This is as narrow as we can make it to try and achieve that objective.

"Okay, so, if that's the two parts of the test, what they said for contributions was it's okay because it is narrowly tailored. But for expenditures, what they said was, 'No, this isn't constitutional because the limitations on expenditures by individuals acting independently from candidates impose direct and substantial restraints on the quality of political speech and limited political expression at the core of the First Amendment freedoms.'

"So, as spoken to by the Chair, expenditures cannot be limited or regulated and that this is what H.B. 265 is attempting to do. The third part of..."

Representative Pendleton rose to a point of inquiry, stating:

"The gentleman said that expenditures cannot be restricted. Did I hear him correctly? Is that his reading on the Constitution?"

Representative B. Oshiro responded, stating:

"I'm saying that what they said was that expenditures, when you do so under the Buckley v. Vallejo case, those types of limits on expenditures were held to be unconstitutional. I'm just citing to the actual case, Buckley v. Vallejo, because people seem to be confused on what the constitutionality is. I'm trying to explain the actual analysis going through Buckley v. Vallejo because that's the only case we have on campaign contributions right now. Although, in all respect to the Minority Floor Leader when he spoke to the Supreme Court Case and he said that it really dealt with uncoordinated funds, I think it actually had to do more with political action committees. But that's just a side note."

"The third part of Buckley v. Vallejo was trying to talk about disclosures. Here what they said was that the government can regulate disclosures because really what that's doing is just making the public more aware and holding the candidate more accountable. So that's really the three kinds of regulations you can have. And here is what we need to look at is that this law is significantly changing the way expenditures or contributions and disclosure are being done. And while it's possible, and I do admit that maybe this is on the 'radar screen.'

"Maybe this is a compelling state interest. But the really important part of this analysis is, is it narrowly tailored? And I don't think so. I think that one of the significant problems here when you look at..."

At this time, Representative Magaoay yielded his time.

Representative B. Oshiro continued, stating:

"One of the significant problems here is it suffers from over-breadth. And over-breadth in and of itself can be a constitutional flaw as cited to in Thornhill v. Alabama. Over-breadth is a constitutional flaw because it sweeps within its coverage, speech or conduct, which is protected by the guarantees of free speech. And here what you're worried about when it comes to over-breadth is a 'chilling effect.' Not necessarily that the actual speech is being regulated is prohibited or allowed. Actually, what you're afraid of with chilling effect is really, it's effect on everybody else who does have the free right for protection.

"I think it was stated best by Justice Marshall in 1974 when he talked about what the 'chilling effect' was. He said:

An over-broad statute hangs over peoples heads like the sword of Damocles. The court will ultimately vindicate a person if his speech is constitutionally protected. However, that's of little consequence, for the value of the sword is that it hangs and not that it drops.

"Specifically, that's what we're talking about here when we look at the overall objective that they're trying to achieve. Maybe it's worthy, maybe it's not. Maybe there's a compelling state interest; maybe it's just an important state interest. But clearly, clearly this is not the least drastic alternative and it's not narrowly tailored to try and achieve those goals. What it's doing is trying to prohibit all kinds of expenditures for one year and it's trying to limit the actual contributions. And it doesn't say that it's for a particular candidate. It says any candidate, committee, or political party for any amount. And really, how is that not over-breadth?

"For those reasons, I think that it is constitutionally flawed. So when people are throwing around the Constitution, I would

say they should really take a careful look at what is the analysis that's going to be going on because that's really what gets to the meat of the matter. For those reasons, I stand in opposition to the motion. Thank you."

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

"Thank you, Mr. Speaker. Just briefly, I have grave, really grave concerns about this bill. This bill is fatally flawed because it has numerous drafting flaws. One of the examples that I want to give is on page 2, line 12. The bill references section 103D-34. Such section does not exist. It would be irresponsible for us to pass this bill in this form. We need to look carefully at the draft of this bill and we need to be a little careful before putting forth such a bill as this.

"I also oppose this bill because the House Judiciary Committee has been working on a comprehensive campaign reform bill which addresses a large number of issues. And what I contend, at this time, is that members should have communicated better with the Chair to coordinate this entire effort because he has been working on the comprehensive campaign reform bill. Thank you."

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

"Mr. Speaker, I rise to speak against this bill. When I got notice that this bill was going to be heard or called for recall..."

At 2:40 o'clock p.m., Representative Fox requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:40 o'clock p.m.

Representative M. Oshiro continued, stating:

"Mr. Speaker, thank you very much. Just briefly, again, in opposition to this bill. I hope people really look at the bill and read the bill. It states:

Any person making a contribution to any candidate, committee, or political party shall be prohibited from receiving contracts from the State or county.

"That's on page one. Really think about what you're voting on today folks because you haven't spoken to the counties, you haven't spoken to the small business people out there, you haven't spoken to the independent candidates like the Green Party.

"When I heard of those lines, four through seven, I called Mr. Bob Watada and Bob explained to me, 'Yes Marcus, that could be a concern. For example, if I gave \$10 to the Green Party, that would prohibit me from receiving a contract from the Office of Hawaiian Affairs, County of Kauai, City and County of Honolulu, State of Hawaii, Judiciary, -- just because I gave \$10 to the Green Party. Is that fair?' I don't think so, Mr. Speaker. So people have got to really think through what they're voting on here and who they're going to impact and what message they're sending out. Thank you, Mr. Speaker."

Representative Pendleton rose to speak in rebuttal, stating:

"Mr. Speaker, a brief rebuttal. We had the same conversation with Mr. Watada but our understanding is that, of course we could have drafted the bill to prohibit or make it so that they couldn't contribute to incumbent elected officials but the challengers. But we thought it was a much better thing to have it across the board and that's why the bill is drafted in that even-handed fashion.

"We know that people who are not presently in office and parties that are not necessarily currently in power, may want to be able to increase their power and we could of drafted a language so that it just prohibited contributing to the incumbents, those who are in power. But we thought it would be wise to draft it across the board even handed to make for a fair playing field. And that's why the bill is drafted in the way it is Mr. Speaker."

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

"Thank you very much. I believe we've had a lot of discussion on this measure and I want to thank all of the individuals and colleagues who have debated this issue in educating all of the members of this particular measure and the measure you'll probably make decision tomorrow.

"So at this time, roll call has been requested. So all those in favor of a roll call vote, please signify such by raising your hands."

The request for a roll call was put to vote by the Chair and upon a show of hands, the request was granted.

Roll call having been requested, the motion that H.B. No. 265 entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," pass Second Reading and be placed on the calendar for Third Reading was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 29: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine, Yonamine and Yoshinaga.

Ayes, 15: Auwae, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath and Thielen.

Excused, 7: Bukoski, Davis, Morita, Schatz, Stonebraker, Takumi and Whalen.

#### STANDING COMMITTEE REPORTS

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 625), recommending that H.C.R. No. 11, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 11, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE LEASE OF SUBMERGED LANDS AT DUKE KAHANAMOKU BEACH AT WAIKIKI, HONOLULU, OAHU, FOR PIER PURPOSES," was referred to the Committee on Finance, with Representatives Bukoski, Fox, Halford, Morita, Schatz, Souki, Stonebraker, Takumi, Whalen and Yonamine being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 626), recommending that H.C.R. No. 12, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 12, entitled: "HOUSE CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON LAND

EXCHANGES," was referred to the Committee on Finance with Representatives Bukoski, Fox, Halford, Morita, Schatz, Souki, Stonebraker, Takumi, Whalen and Yonamine being excused.

Representative Kanoho, for the Committee on Water and Land Use presented a report (Stand. Com. Rep. No. 627), recommending that H.C.R. No. 13, be referred to the Committee on Finance.

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 13, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE SALE OF EASEMENT COVERING PORTION OF SUBMERGED LANDS AT LAHAINA, MAUI, HAWAII, FOR CONCRETE PIER AND DECK PURPOSES," was referred to the Committee on Finance with Representatives Bukoski, Fox, Halford, Morita, Schatz, Souki, Stonebraker, Takumi, Whalen and Yonamine being excused.

#### RECOMMITAL

H.B. No. 127, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 127, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTIFICATION," was recommitted to the Committee on Judiciary and Hawaiian Affairs, with Representatives Bukoski, Fox, Halford, McDermott, Rath, Schatz, Souki, Stonebraker, Takumi and Whalen being excused.

#### THIRD READING

At 2:48 o'clock p.m., Representative Pendleton asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:49 o'clock p.m.

H.B. No. 79, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 79, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY DISCLOSURES," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

H.B. No. 1547, HD 1:

Representative M. Oshiro moved that H.B. No. 1547, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you Mr. Speaker, I'm rising to speak against H.B. 1547, the increase in towing fees. I explained to members the other day about my experience with having my car towed very late on a Sunday night, and having to go to a very under lit area of town where there were a lot of people loitering around that looked as if some of them were up to no good, and going up to the tow lot and saying, 'Do you take credit cards?' They barked at me, 'No, cash only.' I fortunately had some money and had been able to borrow some money from a colleague so I was able to 'spring' my car.

"I went back and looked at the bill, Mr. Speaker, H.B. 1547. I recognize this bill is not as significant as election reform, although to consumers or motorists who have their cars towed,

the bill is important because it raises the towing fees. I went back to look at the language of the bill and particularly it says on page 4:

The towing operator shall accommodate payment by the owner for charges by cash and by either credit card or automated teller machine as located on the premises.

"Now I read that as saying the person who had his or her car towed can pay by cash or by credit card or automated teller machine. So I was very puzzled as to why Oahu Towing refused to let me pay by a credit card. I called them today and spoke to the owner and I said, 'If my car is towed, can I pay by credit card?' 'No' he barked. So I said that the law says it's by credit card or ATM machine. He said, 'I make that choice. I have an ATM machine on my lot, so I choose it will be by ATM machine.'

"I don't read the law that way. I read it that the motorist has the right to use either option but it's obviously being implemented by the towing industry in a way that does not help an unfortunate motorist who has had her or his car towed.

"I oppose the bill. I think it's anti-consumer and I'd like to oppose it as long as we allow the towing operators to interpret the law to their favor. To say no, you can't pay by credit, it's only ATM or cash, which ATM is cash, so it's cash or cash. I would encourage my colleagues to send in pink slips, or I think yours are green slips, and please come down on the side of the consumer. That was a \$95 bill that I had to pay, that's pretty expensive. We're going to raise the rate and the consumers are going to have to pay more. So I would really encourage colleagues to send in a no slip to the Minority and Majority Floor Leaders.

"The other thing I'd like to query when we had a similar bill before us before, it had a double committee hearing. This one only went to Transportation; it should have gone to Consumer Protection because this is very clearly a Consumer issue. Who's out there driving the cars? Your consumers and I believe had it gone to Consumer Protection, the Chair of Consumer Protection, I think, would have taken a look at that and made it clear that a credit card would be acceptable. You're talking about stranded motorists in the middle of the night and that's a pretty apprehensive kind of thing and I thought our law made a lot more sense allowing the credit card to be used. Obviously we're letting the 'fox guard the chicken coop' and I hope you all vote No. Thank you."

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

"Mr. Speaker, thank you, in opposition. The drivers and automobile owners in my district are not in favor of this bill. Just simply, there apparently is no increase in services being provided for these increased costs. Thank you."

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

"Thank you Mr. Speaker, I rise in support of the same measure. I do so because I think that the other side of the story should come out. First off, whenever you have a regulated industry, you have with it, an attachment of a lot of regulation and requirements that the owner of that business is forced to go through; bonding and insurance and the like. Additionally, it's the only way he can raise his fees. There is no free market and we've done that ostensibly to protect people from having their car towed and find out they have a \$250 or \$300 bill to get their car back. So we've limited the fees they can charge like we do with cabbies and other types of businesses. So the only recourse they have when insurance goes up or their costs go up, mechanicals, the price of vehicles, the price of tires, and especially lately, the price of gasoline, is to come to us for some kind of increase.

"Additionally, I've never been in the towing business nor do I know anybody personally in it, but I would have to suspect it's that kind of business where you could get 'stiffed' as they say, with a bad check or somebody canceling payment or the like. And I'm absolutely sure that it could be inconvenient for somebody who parks their car and happens to find themselves in a rather indigent manner in the middle of the night. But nonetheless, they didn't park legally and for some reason, their car had to be towed.

"This is the only recourse these business owners have. They can't arbitrarily say they'll charge what the market demands. They have to come to us. I don't know about you but my gasoline bill personally has gone up as I suspect yours and every other member of the House has. And I would suspect that their costs have gone up.

"So that's the 'other side of the story,' as Paul Harvey would say. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1547, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOWING," passed Third Reading by a vote of 30 ayes to 15 noes, with Representatives Auwae, Davis, Djou, Fox, Gomes, Halford, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Takai and Thielen voting no, and Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

#### **H.B. No. 773, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 773, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

#### **H.B. No. 152, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 152, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

#### **H.B. No. 1003, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1003, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

#### **H.B. No. 382, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 382, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICATION OF NOTICE," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

#### **H.B. No. 771, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 771, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 978, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 978, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 645, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 645, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENDANGERING THE WELFARE OF INCOMPETENT PERSONS" passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 993, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 993, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROMOTING CHILD ABUSE," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 1255, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1255, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MINORS," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 1405, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1405, HD 1, entitled: "A BILL FOR AN ACT A BILL FOR AN ACT RELATING TO USE OF INTOXICANTS," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 524, HD 1:**

Representative M. Oshiro moved that H.B. No. 524, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I think there are some aspects to this bill that need to be cleaned up. I have no doubts as this bill moves on that that would probably happen. There are some small errors in it. Thank you, Mr. Speaker."

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

"Thank your Mr. Speaker, this is H.B. 524, Computer Crime. Mr. Speaker, I have reservations too. We're going to be making 'techie-felons'. I think we really need to clean up the language in it too. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 524, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMPUTER CRIME," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 498, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 498, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 986, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 986, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTIFICATION DOCUMENTS," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 1208, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1208, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

**H.B. No. 1211, HD 1:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1211, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Third Reading by a vote of 45 ayes, with Representatives Bukoski, Schatz, Souki, Takumi, Whalen and Yonamine being excused.

The Chair directed the Clerk to note that the following House Bills had passed Third Reading at 3:00 o'clock p.m.:

79, HD 1	771, HD 1	1405, HD 1
1547, HD 1	524, HD 1	524, HD 1
773, HD 1	978, HD 1	498, HD 1
152, HD 1	645, HD 1	986, HD 1
1003, HD 1	993, HD 1	1208, HD 1
382, HD 1	1255, HD 1	1211, HD 1

**INTRODUCTION OF RESOLUTIONS**

By unanimous consent, the following resolutions (H.R. Nos. 31 through 37) and concurrent resolutions (H.C.R. No. 26 through 34) were referred to Printing and further action was deferred. (Representatives Bukoski, Pendleton, Schatz, Souki, Takumi, Whalen and Yonamine were excused.)

H.R. No. 31, entitled: "HOUSE RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE ADMINISTRATIVE SERVICES BRANCH OF THE DEPARTMENT OF EDUCATION," was jointly offered by Representatives Morita, Thielen, Hiraki, Schatz, Lee, Takumi, Kawakami and Arakaki.

H.R. No. 32, entitled: "HOUSE RESOLUTION REQUESTING THE ATTORNEY GENERAL TO REVIEW AND COMPARE SELECTED PROVISIONS OF HAWAII FAMILY LAW," was jointly offered by Representatives Arakaki, Lee, Kahikina, Fox, Morita and Takumi.

H.R. No. 33, entitled: "HOUSE RESOLUTION REQUESTING THAT THE DEPARTMENT OF HEALTH DENY A NPDES PERMIT WAIVER FOR EXPERIMENTS BY THE PACIFIC INTERNATIONAL CENTER FOR HIGH TECHNOLOGY TO INJECT 63 TONS OF LIQUID CARBON DIOXIDE INTO THE OCEAN OFF THE NELHA

SITE ON KEAHOE POINT," was jointly offered by Representatives Rath and Whalen.

H.R. No. 34, entitled: "HOUSE RESOLUTION URGING THE FORMATION OF A WORKING GROUP TO DEVELOP A STATEWIDE CERTIFICATION PROGRAM FOR LONG-TERM CARE PROVIDERS," was jointly offered by Representatives Arakaki, Kahikina, Espero, Morita and Lee.

H.R. No. 35, entitled: "HOUSE RESOLUTION PROCLAIMING MAY 2001 AS HEALTH AND WELLNESS AWARENESS MONTH," was jointly offered by Representatives Chang, Hiraki, Case, Jaffe, Halford, Meyer, Souki, Takumi, Fox, Hale, Garcia, Magaoay, Schatz and Rath.

H.R. No. 36, entitled: "HOUSE RESOLUTION REQUESTING A DEPARTMENT OF EDUCATION POLICY TO INCORPORATE A FINE ARTS REQUIREMENT INTO THE MINIMUM REQUIREMENTS FOR GRADUATION," was jointly offered by Representatives Chang, Hiraki, Case, Jaffe, Halford, Souki, Takumi, Fox, Magaoay, Luke.

H.R. No. 37, entitled: "HOUSE RESOLUTION REQUESTING THE BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM TO EXAMINE THE FEASIBILITY OF PURCHASING A LAS VEGAS CASINO," was jointly offered by Representatives Chang, Kahikina, Fox, Abinsay, Garcia, Suzuki, Souki, Magaoay.

H.C.R. No. 26, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE ADMINISTRATIVE SERVICES BRANCH OF THE DEPARTMENT OF EDUCATION," was jointly offered by Representatives Morita, Thielen, Takai, Schatz, Lee, Takumi, Kawakami and Arakaki.

H.C.R. No. 27, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ATTORNEY GENERAL TO REVIEW AND COMPARE SELECTED PROVISIONS OF HAWAII FAMILY LAW," was jointly offered by Representatives Arakaki, Lee, Kahikina, Fox, Morita and Takumi.

H.C.R. No. 28, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE DEPARTMENT OF HEALTH DENY A NPDES PERMIT WAIVER FOR EXPERIMENTS BY THE PACIFIC INTERNATIONAL CENTER FOR HIGH TECHNOLOGY TO INJECT 63 TONS OF LIQUID CARBON DIOXIDE INTO THE OCEAN OFF THE NELHA SITE ON KEAHOE POINT," was jointly offered by Representatives Rath and Whalen.

H.C.R. No. 29, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE FORMATION OF A WORKING GROUP TO DEVELOP A STATEWIDE CERTIFICATION PROGRAM FOR LONG-TERM CARE PROVIDERS," was jointly offered by Representatives Arakaki, Kahikina, Espero, Morita and Lee.

H.C.R. No. 30, entitled: "HOUSE CONCURRENT RESOLUTION PROCLAIMING MAY 2001 AS HEALTH AND WELLNESS AWARENESS MONTH," was jointly offered by Representatives Chang, Hiraki, Case, Jaffe, Halford, Meyer, Souki, Takumi, Fox, Hale, Magaoay, Schatz and Rath.

H.C.R. No. 31, entitled: "HOUSE CONCURRENT

RESOLUTION REQUESTING A DEPARTMENT OF EDUCATION POLICY TO INCORPORATE A FINE ARTS REQUIREMENT INTO THE MINIMUM REQUIREMENTS FOR GRADUATION," was jointly offered by Representatives Chang, Hiraki, Case, Jaffe, Halford, Souki, Takumi, Fox, Hale, Garcia, Magaoay and Luke.

H.C.R. No. 32, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM TO EXAMINE THE FEASIBILITY OF PURCHASING A LAS VEGAS CASINO," was jointly offered by Representatives Chang, Kahikina, Fox, Abinsay, Garcia, Suzuki, Souki and Magaoay.

H.C.R. No. 33, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH MANDATORY COMMUNITY SERVICE, WORK EXPERIENCE, OR SERVICE LEARNING AS A REQUIREMENT FOR GRADUATION FROM HIGH SCHOOL," was jointly offered by Representatives Takai and Ito.

H.C.R. No. 34, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF ESTABLISHING AN INTER-ISLAND FERRY SYSTEM BETWEEN ALL OF THE ISLANDS," was jointly offered by Representatives Souki, Yoshinaga, Espero, Moses, Nakasone, Garcia and Rath.

#### ANNOUNCEMENTS

At 3:00 o'clock p.m., Representative Takamine requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:04 o'clock p.m.

Representative Takamine for the Committee on Finance, requested a waiver of the 48-hour notice requirement to hear the following bills today at 5:00 p.m. in room 308, and the Chair "so ordered":

- HB 77 relating to the Women in Military Service for America Memorial;
- HB 139 relating to legislative allowance;
- HB 143 relating to the legislature;
- HB 296 relating to medicaid;
- HB 551 relating to technology;
- HB 554 relating to the Hawaii Community Development Authority;
- HB 557 authorizing the issuance of general obligation bonds and making an appropriation for the Bernice Pauahi Bishop Museum, Oahu;
- HB 666 relating to individual waste water systems;
- HB 695 relating to displaced lessees;
- HB 1048 relating to the State Librarian;
- HB 1216 relating to the Korean Centennial Celebration Commission;
- HB 1245 relating to the State Budget;
- HB 1391 relating to the arts;
- HB 1561 relating to education;
- HB 1640 relating to transportation;
- HB 1685 relating to taxation; and
- HB 1044 relating to the solid structure of educational offices and the department of education.

Representative Takamine further requested waiver of the 48-hour notification for the following bills previously heard and pending decision making, and the Chair "so ordered":

HB 407 relating to general excise tax,  
HB 298 relating to procurement,  
HB No. 937 relating to professional service contracts,  
HB 608 making an emergency appropriation for education;  
HB 1288 relating to the issuance of special purpose revenue  
    Bonds to assist not-for-profit corporations that  
    provide health care facilities;  
HB 502 relating to professional employment organizations;  
HB 1156 relating to the Hawaii hurricane relief fund,  
HB 917 relating to clinical social workers;  
HB 1361 relating to Hawaiian Affairs Task Force;  
HB 177 relating to privately operated correctional facilities.  
HB 1149 relating to the issuance of special purpose revenue  
    bonds to assist science technology innovations; and  
HB 1056 relating to public employees.

Representative Hamakawa for the Committee on Judiciary and Hawaiian Affairs, requested a waiver of the 48-hour notice requirement to hear HB 170 relating to elections, today at 1:15 p.m.

At this time, Representative Gomes rose to a point of inquiry and asked if Representative Hamakawa would yield to a question.

At 3:09 o'clock p.m., Representative Hamakawa requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:09 o'clock p.m.

#### **ADJOURNMENT**

At 3:09 o'clock p.m., on motion by Representative Lee, seconded by Representative Thielen and carried, the House of Representatives adjourned until 3:00 o'clock p.m. tomorrow, Friday, March 2, 2001. (Representatives Bukoski, Pendleton, Schatz, Souki, Takumi, Whalen and Yonamine were excused.)