

TWENTY-SIXTH DAY

Friday, March 2, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 3:54 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Representative Joe Gomes, after which the Roll was called showing all members present with the exception of Representatives Chang, Morita, Schatz, Takumi and Yoshinaga, who were excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 159 and 160) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 159, requesting immediate passage of H.B. No. 652, for the Child and Adolescent Mental Health Division of the Department of Health.

Gov. Msg. No. 160, requesting immediate passage of H.B. No. 569, for the Department of Budget and Finance to pay for the projected shortfall in the employer's share of health fund contributions.

SENATE COMMUNICATION

The following communications from the Senate (Sen. Com. Nos. 17 through 21) were received and announced by the Clerk and was placed on file:

Sen. Com. No. 17, transmitting S.B. No. 490, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF CONVICTED DEFENDANTS," which passed Third Reading in the Senate on March 1, 2001.

Sen. Com. No. 18, transmitting S.B. No. 781, entitled: "A BILL FOR AN ACT RELATING TO PENAL RESPONSIBILITY," which passed Third Reading in the Senate on March 1, 2001.

Sen. Com. No. 19, transmitting S.B. No. 805, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," which passed Third Reading in the Senate on March 1, 2001.

Sen. Com. No. 20, transmitting S.B. No. 859, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PAROLE," which passed Third Reading in the Senate on March 1, 2001.

Sen. Com. No. 21, transmitting S.B. No. 1390, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRADITIONAL HAWAIIAN HEALING PRACTICES," which passed Third Reading in the Senate on March 1, 2001.

On motion by Representative Lee, seconded by Representative Pendleton and carried, S.B. Nos. 490; 781; 805, SD 1; 859, SD 1; and 1390, SD 1, passed First Reading by title and further action was deferred, with Representatives Morita, Schatz, Takumi and Yoshinaga being excused.

DEPARTMENTAL COMMUNICATION

The following communication (Dept. Com. No. 9) was received by the Clerk and was placed on file:

Dept. Com. No. 9 from Ms. Marion Higa, State Auditor, Office of the Auditor, transmitting two reports: Allocation to New Century Schools Project – FY2000-01 and Sunset Evaluation of Barbering and Beauty Culture.

ORDER OF THE DAY

DEFERRED RESOLUTIONS

The following resolutions (H.R. Nos. 31 through 37) and concurrent resolutions (H.C.R. Nos. 26 through 34) were referred to committee by the Speaker:

<u>H.R. Nos.</u>	<u>Referred to:</u>
31	Committee on Education, then to the Committee on Legislative Management, then to the Committee on Finance
32	Committee on Judiciary and Hawaiian Affairs
33	Committee on Energy and Environmental Protection, then to the Committee on Higher Education
34	Committee on Human Services and Housing and the Committee on Health, then to the Committee on Consumer Protection and Commerce, then to the Committee on Finance
35	Committee on Health and the Committee on Tourism and Culture, then to the Committee on Finance
36	Committee on Education, then to the Committee on Finance
37	Committee on Economic Development and Business Concerns and the Committee on Labor and Public Employment, then to the Committee on Finance
<u>H.C.R. Nos.</u>	<u>Referred to:</u>
26	Committee on Education, then to the Committee on Legislative Management, then to the Committee on Finance
27	Committee on Judiciary and Hawaiian Affairs
28	Committee on Energy and Environmental Protection, then to the Committee on Higher Education
29	Committee on Human Services and Housing and the Committee on Health, then to the Committee on Consumer Protection and Commerce, then to the Committee on Finance
30	Committee on Health and the Committee on Tourism and Culture, then to the Committee on Finance

- 31 Committee on Education, then to the Committee on Finance
- 32 Committee on Economic Development and Business Concerns and the Committee on Labor and Public Employment, then to the Committee on Finance
- 33 Committee on Education, then to the Committee on Finance
- 34 Committee on Transportation, then to the Committee on Finance

Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 632) recommending that H.B. No. 962, 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. 962, entitled: "A BILL FOR AN ACT RELATING TO A SENTENCING SIMULATION MODEL," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 633) recommending that H.B. No. 996, 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. 996, entitled: "A BILL FOR AN ACT RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 634) recommending that H.B. No. 1684, 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. 1684, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE AND LOCAL TAXATION OF MOBILE TELECOMMUNICATIONS SERVICES," passed Third Reading by a vote of 45 ayes, with Representative McDermott voting no and Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 635) recommending that H.B. No. 98, 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. 98, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 636) recommending that H.B. No. 186, 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. 186, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 637) recommending that H.B. No. 508, 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. 508, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION PROJECTS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi 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 House bills on Third Reading on the basis of a modified consent calendar. (Representatives Morita, Schatz, Takumi and Yoshinaga were excused.)

STANDING COMMITTEE REPORTS

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 628) recommending that H.B. No. 1587, 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. 1587, entitled: "A BILL FOR AN ACT RELATING TO ACQUISITION OF HOSPITALS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 629) recommending that H.B. No. 144, 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. 144, entitled: "A BILL FOR AN ACT RELATING TO KAHOLAWE ISLAND RESERVE," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 630) recommending that H.B. No. 505, 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. 505, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 44 ayes, with Representatives Gomes and Thielen voting no and Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 631) recommending that H.B. No. 708, 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. 708, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 638) recommending that H.B. No. 539, 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. 539, 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 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 639) recommending that H.B. No. 543, 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. 543, entitled: "A BILL FOR AN ACT RELATING TO HOMELESS PROGRAMS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 640) recommending that H.B. No. 583, 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. 583, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CODE OF FINANCIAL INSTITUTIONS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 641) recommending that H.B. No. 604, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 604, pass Third Reading, seconded by Representative Lee.

Representative Takai rose to disclose a potential conflict of interest, and the Chair ruled, "No conflict because it is a class [of people]."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 604, entitled: "A BILL FOR AN ACT RELATING TO HAWAII NATIONAL GUARD TUITION ASSISTANCE," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 642) recommending that H.B. No. 698, 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. 698, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 643) recommending that H.B. No. 740, HD 2, 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. 740, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 644) recommending that H.B. No. 1028, 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. 1028, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A MODEL UNITED NATIONS PROGRAM FOR HIGH SCHOOL STUDENTS," passed Third Reading by a vote of 45 ayes, with Representative Stonebraker voting no and Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 645) recommending that H.B. No. 1281, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1281, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I'm voting for this with reservations. This is a bill that encourages the use of non-petroleum fuel by providing that the State and counties give preference to bidders using or selling bio-based oils. I'm concerned that by giving preference, we are also mandating that State-owned vehicles use this product when it's available. And at this point in time, it sells for about 45 cents more per gallon than regular diesel. And that's an added cost to the operation, and I think that we should just let the market operate right now. What they produce is not that much, so they couldn't possibly produce enough at this point in time for all our vehicles to use. But still we're mandating this and I think that in the open market, there would be enough takers to use this product. 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. 1281, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BIOFUEL," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 646) recommending that H.B. No. 1309, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1309, pass Third Reading, seconded by Representative Lee.

Representative Gomes rose in support of the measure with reservations and asked that the Clerk 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. 1309, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," passed Third Reading by a vote of 44 ayes, with Representatives Djou and Fox voting no and Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 647) recommending that H.B. No. 1411, 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. 1411, entitled: "A BILL FOR AN ACT RELATING TO SECONDARY MARKET SERVICES CORP.--HAWAII," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 648) recommending that H.B. No. 1556, 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. 1556, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 649) recommending that H.B. No. 1636, 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. 1636, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 44 ayes, with Representatives Djou and Fox voting no and Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 650) recommending that H.B. No. 728, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 728, pass Third Reading, seconded by Representative Lee.

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

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

"This bill is the "Lobster Resting Bill." This allows the Airports Division to lease land to anything that has to do with air transportation, which includes anything that's flown into the island. Before, they wanted to lease some land to a company that wanted their lobsters to rest before we eat them because otherwise, it's cruel and unjust. So, they needed this land, they could not lease it because the State requires it be airport related. And as these lobsters were just flying, they were aeronautically related, but not airport related. So, I have reservations because I think this is getting a little silly. 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. 728, entitled: "A BILL FOR AN ACT RELATING TO INCREASING DEVELOPMENT FLEXIBILITY OF PUBLIC LANDS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 651) recommending that H.B. No. 159, 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. 159, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 652) recommending that H.B. No. 563, 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. 563, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 653) recommending that H.B. No. 693, 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. 693, entitled: "A BILL FOR AN ACT RELATING TO THE BUREAU OF CONVEYANCES," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 654) recommending that H.B. No. 735, 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. 735, entitled: "A BILL FOR AN ACT RELATING TO THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 655) recommending that H.B. No. 946, 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. 946, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 656) recommending that H.B. No. 1138, 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. 1138, entitled: "A BILL FOR AN ACT RELATING TO SUBMISSION OF REPORTS TO THE LEGISLATURE," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 657) recommending that H.B. No. 1357, 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. 1357, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 658) recommending that H.B. No. 531, 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. 531, entitled: "A BILL FOR AN ACT RELATING TO NONCONSENSUAL COMMON LAW LIENS," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 659) recommending that H.B. No. 824, 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. 824, entitled: "A BILL FOR AN ACT RELATING TO MOTORCYCLE OPERATOR EDUCATION," passed Third Reading by a vote of 46 ayes, with Representatives Davis, Morita, Schatz, Takumi and Yoshinaga being excused.

At 4:05 o'clock p.m., Representative Gomes asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:06 o'clock p.m.

At 4:07 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 4:07 o'clock p.m.

The Chair directed the Clerk to note that the following House bills had passed Third Reading at 4:08 o'clock p.m.

1587	543	728
144	583, HD 1	159
505, HD 1	604	563
708	698	693
962	740, HD 2	735
996	1028, HD 1	946
1684, HD 1	1281, HD 1	1138
98, HD 1	1309	1357, HD 1
186	1411	531
508	1556	824
539, HD 1	1636, HD 1	

At this time, Representative Fox rose and stated:

"Mr. Speaker, I was going to move to recall three bills at this point."

The Chair indicated that the action would be brought before the body at the end of the calendar.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 660) recommending that H.B. No. 204, 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. 204, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 661) recommending that H.B. No. 271, 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. 271, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL INDUSTRY," passed Second Reading as amended in , HD 1, and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 662) recommending that H.B. No. 761, 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 H.B. No. 761, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I would like to disclose a potential conflict as a college instructor at some accredited universities," and the Chair ruled "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 761, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNACCREDITED DEGREE GRANTING INSTITUTIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 663) recommending that H.B. No. 1173, 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. 1173, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LODGING OR TENEMENT HOUSES, HOTELS, AND BOARDINGHOUSES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 664) recommending that H.B. No. 1552, 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 H.B. No. 1552, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I would like to disclose a potential conflict on S.C.R. No. 664. I'm employed by Hilton Hawaiian Village time-share."

The Chair ruled: "No conflict because it is a class [of people]."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1552, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 665) recommending that H.B. No. 1115, 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. 1115, entitled: "A BILL FOR AN ACT RELATING TO THE ADMISSIBILITY OF PAID BILLS IN COURT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 666) recommending that H.B. No. 384, 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. 384, 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 Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 667) recommending that H.B. No. 321, 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. 321, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep.

No. 668) recommending that H.B. No. 703, 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. 703, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 669) recommending that H.B. No. 1526, 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. 1526, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOGS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 670) recommending that H.B. No. 390, 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 H.B. No. 390, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"On Stand. Com. Rep. No. 670, H.B. 390, HD, 1 – I'd like to cast a no vote, and I will speak more in length on this on Third Reading. Thank you."

Representative Rath rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Whalen rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. I'd like to speak with reservations on Stand. Com. Rep. No. 670. On voting with reservations for this, I recognize that they're hate crimes against individuals based on race or based on their sexual preferences. I do also recognize that society can do more to protect those in the homosexual community. Nevertheless, I'm nervous voting for this bill because it has been our tradition that we punish acts rather than thought. By adding enhanced sentencing for individuals based on their thought makes me a little nervous. But I don't want to vote against the bill that is going to a good direction. Thank you."

Representative Auwae rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Stonebraker rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. I think we have it backward with this bill. I think we should be looking for the reporting and not the enhanced penalties. Thank you."

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

Representative Meyer rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Halford rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Kahikina rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Moses rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Ahu Isa rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 390, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HATE CRIMES," passed Second Reading and was placed on the calendar for Third Reading with Representatives McDermott, Rath, Stonebraker and Whalen voting no and Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representatives Kahikina and Ito, for the Committee on Human Services and Housing and the Committee on Education presented a joint report (Stand. Com. Rep. No. 671) recommending that H.B. No. 629, 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. 629, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AUTHORITY OF FOSTER PARENTS TO PROVIDE CONSENTS FOR THE FOSTER CHILD'S EDUCATIONAL AND RECREATIONAL NEEDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 672) recommending that H.B. No. 202, 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. 202, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi 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. 673) recommending that H.B. No. 597, 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. 597, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL SERVICES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 674) recommending that H.B. No. 299, 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. 299, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CHILD SUPPORT ENFORCEMENT AGENCY," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 675) recommending that H.B. No. 534, 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. 534, entitled: "A BILL FOR AN ACT RELATING TO FUNCTIONAL PLANS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 676) recommending that H.B. No. 567, 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. 567, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 677) recommending that H.B. No. 571, 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. 571, entitled: "A BILL FOR AN

ACT RELATING TO THE SHORT-TERM INVESTMENT OF STATE MONEYS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 678) recommending that H.B. No. 574, 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. 574, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 679) recommending that H.B. No. 696, 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. 696, entitled: "A BILL FOR AN ACT RELATING TO REPORTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 680) recommending that H.B. No. 715, 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. 715, entitled: "A BILL FOR AN ACT RELATING TO THE INTEGRATED TAX INFORMATION MANAGEMENT SYSTEMS ACQUISITION BY THE DEPARTMENT OF TAXATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 681) recommending that H.B. No. 723, 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. 723, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC SERVICE COMPANY TAX," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 682) recommending that H.B. No. 863, 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. 863, entitled: "A BILL FOR AN ACT RELATING TO A COMPREHENSIVE MASTER PLAN FOR KOKEE AND WAIMEA CANYON STATE PARKS," passed Second Reading and was placed on the

calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 683) recommending that H.B. No. 1400, 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. 1400, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 684) recommending that H.B. No. 506, 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 H.B. No. 506, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"I rise in support with reservations.

"Briefly, Mr. Speaker, my reservations have less to do with the merits of this bill at least, as I know them, and more with the increased prevalence of emergency appropriations. My concern, having watched the trend in emergency appropriation bills over the last five to seven years that I've been here, is that their increased prevalence reflects, less and less, truly unanticipated circumstances which were not known to the prior legislature or to the executive branch, when originally appropriated, and perhaps more and more either a failure of either the executive or the legislative branch to do an adequate job of evaluating appropriation requests and operate as effective checks and balances against each other, or, on occasion I suspect, a somewhat deliberate attempt to put off some of the hard problems until future budget years. I don't know whether this bill fits that category; I suspect it doesn't. But I simply believe that we're allowing emergency appropriations to start to drive our budget process much too much, and both we and the executive branch need to do a much better job in the regular budget process. 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. 506, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE IRRIGATION PROGRAM," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 685) recommending that H.B. No. 569, 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 H.B. No. 569, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I wish to vote in opposition to this particular emergency appropriation. Part of my concerns has to do with the reservations that I expressed earlier. But in this case, I think it was very much simply a failure of both the Executive and the Legislative Branches to deal effectively with the problems that we face with respect to our Health Fund premiums.

"Here we're asked to 'pony up' another \$14.5 million to match contributions not very long after the original contributions were appropriated just last year. So the problem that I have here is that, going to the bigger picture and I think we'll have debate on the Health Fund in a few days. But it is no surprise to anybody in this State, or it should not be of any surprise to anybody in this State, most particularly the Executive and the Legislative branches as well as the counties, that employer responsibilities for Health Fund premiums are "rocketing" right now. We've been told that by the independent actuary. We have trend lines showing the trends going rapidly up from wherever we are now with this emergency appropriation. What is it? Two hundred and some-odd million dollars, going to one billion inside of twelve years?

"We can anticipate this problem and I cannot do anything other than to vote against these emergency appropriations, and at this point, to try to say to our colleagues and to the Executive branch and to the counties and to the beneficiaries of these health funds, that we have to bring this under control. And the only way that seems to be effective in bringing it under control is to start going after the revenue stream itself. So I'm hoping that there are other bills that are coming out of committee that effectively deal with reform in this area. But until then, I just can't say yes to any more monies that we knew at the time that we would be facing. Thank you."

Representative Djou rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker. I rise to speak in support of this motion. I think there might be a misunderstanding here, Mr. Speaker. Basically, this emergency appropriation is not so much as a reflection of increased cost as much as an adjustment internally. As the members are aware, last year through the sunset of the Convention Center Special Fund, there was a proviso in the budget that authorized the Executive to make provisions for the situation. This is just a reimbursement for that special set of circumstances, and therefore, I believe, it does not reflect the situation referred by the earlier speaker. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 569, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR HEALTH FUND PREMIUMS," passed Second Reading and was placed on the calendar for Third Reading with Representative Case voting no and Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 686) recommending that H.B. No. 608, 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 H.B. No. 608, HD 1, pass Second

Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I rise in support with reservations. I have the same basic observations as Stand. Com. 684, although I will say that I believe that we are taking the right step in terms of providing for a one dollar appropriation in this bill, and thereby ensuring that we do provide additional scrutiny and an adequate check and balance on this particular issue which, I think, we all realize is of utmost importance. Thank you."

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

"I speak with some reservations on this, possibly for opposite reasons than the previous speaker in that, I believe, we are taking some risks by not providing the full funding for Felix v. Waihee [Cayetano]. I believe, through your efforts, Mr. Speaker, and through the efforts of the House leadership and the Finance Chair, he was able to have the Department of Education cut the costs down. And I commend you for that; however, I wouldn't want to play 'chicken' too much longer with the Judge. Thank you very much, Mr. Speaker."

The Chair responded: "I think credit goes to all of the members of this House in support of seeing that we put their 'feet to the fire.'"

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

"Thank you, Mr. Speaker. I'd also like to speak in support. I also agree with the previous speaker. I think we have to look at, and this is not being an apologist for the Administration, but if we looked at the needs of our kids in this special needs category, the main reasons we're under a consent decree is because the State has been neglectful to this population. And we're basically paying the price. But I think without full funding, a lot of the programs, especially in the area of treatment, are going to be unfunded. I was told that by the end of this month, the monies will run out and they're going to try and beg and borrow from some of the other programs in the Health Department. But I'm really afraid that some of these programs will have to be shut down, some of the kids will have to be denied services, and then, I think, we'll really be in 'hot water'.

"There's no getting away from the fact that we were terribly under-funded in the past, and we're paying the price for it now. And I think that in the end, that the light at the end of the tunnel is that if we do have a system in place, [the cost of] these more expensive treatment programs should go down. Especially if we look at less costly intervention and prevention programs, which I hope, will also be part of the strategy when we look at this population. But for now, let's 'bite the bullet' and pay the price for the sake of our kids. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support of Stand. Com. 686. If I could, and I don't know all the details involved with the status on the Felix issues are, but I definitely think this body is perfectly capable with our Senate colleagues of handling whatever issues that must be dealt with and straightened out with regard to this particular issue.

"I'm very reluctant to let the Judge, be it state or federal court, drive our decisions and what we should be doing and that's something we should be handling. And I think that if it's part of the purpose of passing this out with a dollar to continue this conversation with our Senate colleagues and the Executive, so be it, and we'll make the appropriate decisions. Even if that requires, as it is, the Department of Health having to beg and scrimp from other departments, those are calls that we have to make, that's what we're here to do. And I feel averse to allowing the court, if you will, to make those decisions for us. For those reasons, I support this. 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. 608, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR EDUCATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

At 4:21 o'clock p.m., Representative Marumoto asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:22 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 687) recommending that H.B. No. 511, 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. 511, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REMEDIES OF PART VII, CHAPTER 103D, HAWAII REVISED STATUTES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 688) recommending that H.B. No. 512, 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 H.B. No. 512, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker, I rise in opposition to this. You know, I just can't bring myself to vote for an art museum when they tore the playground equipment out of our schools and haven't replaced it yet. I think we have our priorities in the State a little backwards. Thank you."

Representative Djou rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Mr. Speaker, in opposition. I find this bill a gross embarrassment. Anybody who takes a walk off Hotel Street a few blocks beyond the art museum immediately encounters a range of problems that face this society in Hawaii. We don't

have the wealth, we don't have the income to do something like purchase the Hemmeter Building and turn it into an art museum. This is a serious, serious error. This building itself is an embarrassment. The first and second floor are too grand for use as an office building so the only possible thing that somebody's come up with is to put art work in it.

"At this stage in the State's history, we should not be going into the art museum business. We have fine private art museums in this community. They are struggling for financial support and now they're going to have the State competing with them. So on the grounds that the building itself is an embarrassment and enhancing it helps us keep the building rather than give it up like we should. And that we're going into competition with private drives to support the Academy of Arts and the Contemporary Art Museum and other fine institutions around town, I just find this incredibly embarrassing and I strongly urge all of us to just reject this right now. Thank you, Mr. Speaker."

Representative Thielen rose in opposition to the measure and asked that the Clerk record a no vote for her, and that the remarks of Representative Fox be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

"I'd like to add that if we sold the Hemmeter Building and sold all the art collection in it, we could probably fully fund Felix and that would get us out of this problem. Thank you, Mr. Speaker."

Representative Ontai rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker, also a no vote here and I concur with the remarks of the speaker from Waikiki. Thank you."

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

"Thank you, Mr. Speaker, I speak in support of the measure. Currently in the Work of Arts Special Fund, we have ample amount of dollars for this facility's improvements for this ancillary facility for the State Art Museum in this No. 1 Capitol District.

"Currently, one percent of all capital improvement projects is put into the Work of Arts Special Fund. And the purpose for that fund, Mr. Speaker, is to display the works of arts of our local artists. And if that's the case, then that's what we need to do.

"Many of these works of art are situated and located in a warehouse where they are pretty much deteriorating because of the poor conditions that they're stored in. This State Museum will give the opportunity for tourists as well as our residents and our students to see and appreciate the work of arts of our local artists. Thank you."

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

"Thank you, Mr. Speaker, I'd like to rise in support of this measure. As a large metropolitan city of the United States,

Honolulu has many of the things that you find throughout – schools, homes, shopping centers, roadways, parks and beaches. But one of the things, I think, that we're lacking are institutions which celebrate arts, which celebrate culture, which celebrate history.

"I don't know how everybody in this room feels however, if you look at the Hemmeyer Building, it is one of the most beautiful buildings in Honolulu. And we purchased that building at a very good price in terms of economics and real estate investments. We got a great deal. We were spending millions of dollars in rent. Now we own it outright. And we will be able to share our culture, which is the most important thing we can preserve, for future generations, not only with our children and with the local people, but with the people of the world. Thank you, Mr. Speaker."

Representative Thielen rose to speak in rebuttal, stating:

"Thank you, Mr. Speaker. I have voted no against the bill but I would just like to respond to the Chair. I understand his desire to support local artists, I think we could develop a win – win situation, Mr. Speaker. Local artists could design artistic playground equipment for elementary schools similar to what's done in Europe. And I'm thinking, particularly in Sweden, I believe the artist's name is Vigeland, if I'm pronouncing it correctly. But that could be a really win – win situation where we would have the artwork designed by local artists, placed into a school ground equipment where school youngsters would learn about art and would also be able to use it and play upon it. And there are myriad of examples of artistic playground statuary and equipment that can be used by youngsters where they can climb upon it. And I think that's a much better solution to this.

Representative Lee rose to a point of order, stating:

"I would like the speaker to stay to the subject matter of the bill."

The Chair noted that the matter before the body was the "State Art Museum, or the Hemmeyer or Capitol One."

Representative Thielen continued, stating:

"Correct. I'd hate to have the art be placed into a sterile situation. I just recently had an opportunity to see the Hirshhorn Museum and Sculpture Garden in Washington, DC. Mr. Speaker, this was incredible. Preschooler's go to that exhibit to learn about art, they can climb on the sculpture, they can draw it, they can really participate in that. That's a living way that we can solve lack of playground equipment, make art an important factor in our schools and solve this whole problem. So I would suggest that we vote no on this and turn around and re-focus. Let's get art into the schools where it can be used by the elementary school children. Thank you."

Representative Takai rose to speak in support of the measure and asked that the remarks of Representatives Chang and Espero be inserted into the Journal as his own, and the Chair "so ordered." (By reference only.)

"Thank you. Just like to add briefly comments regarding playground equipment as well as Felix Consent Decree funding is inappropriate for this discussion for one reason and one reason only.

"This particular bill looks at the money already allocated and put into the Works of Art Special Fund. As a matter of fact as the Chair already alluded to, this fund sets aside one percent of the CIP money specifically for State art projects. It was started more than thirty years ago, Mr. Speaker, by this

guy named Alfred Preis and a few other people. And if you look at the record books, the record will show that the desire for art museums started way before them. And I think the idea is that we have works of art in our offices. One misgiving of this bill, for me, is that probably some of the works of art in our offices will be turned over to the State Museum so more people can access it.

"But the important thing of the State Art Museum is that it establishes a history of our state artwork. As a matter of fact, I take a look at some of the artwork produced in the 1970s and I look at it and I wonder, I wonder what went on during that decade? However, you know it's important for us to understand that that is art history and should be cherished forever. And I think that's the importance of not only the one percent set aside and the Works of Art Special Fund, but more importantly, a State Museum where we can display the works of art and the history of art in Hawaii. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Mr. Speaker, again, just in rising opposition, continuing the opposition that is. With regard to the warehousing currently of the existing pieces that we have, I think that's very unfortunate. I'm not sure why that is but I noticed even amongst our Capitol building there are many large and open blank walls. And there probably are similar walls in many of our State buildings and I think a lot of that art could and should be hung in those places.

"In addition, we could hang that art in private buildings as well and private spaces as well and continue, if it's not already conducted, enhance it if it's already in place, a loan program with some of the private galleries. And it's a shame, again, that that great artwork is hidden and that would be a real practical, functional way to showcase our local artists and to keep them out there.

"With regard also to the Art Museum at the Hemmeyer Building, Mr. Speaker, I don't see any parking in that area to facilitate visitors or ease of access in and out of that facility. We're all for art and I think the concept of a State-owned art facility to show off our works is noble indeed. But once again, this is not the time for us to be putting forth money for a project like this.

"With regard to the special funds that are set aside for art and they are programs. So once again, it's a special fund – we as a legislature can do what we want to with those special funds and we can allocate monies to whatever the appropriate priorities are. So, at any rate, for those reasons, Mr. Speaker. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 512, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANCILLARY FACILITIES FOR THE STATE ART MUSEUM IN THE NO. 1 CAPITOL DISTRICT BUILDING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Djou, Fox, Gomes, Moses, Ontai, Rath and Thielen voting no and Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 689) recommending that H.B. No. 573, 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. 573, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REPEAL OF OUTSTANDING AUTHORIZED BUT UNISSUED SPECIAL PURPOSE REVENUE BONDS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 690) recommending that H.B. No. 718, 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. 718, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX ON NONPROFIT ORGANIZATIONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 691) recommending that H.B. No. 1026, 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. 1026, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KIKALA-KEOKEA," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 692) recommending that H.B. No. 407, 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. 407, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 693) recommending that H.B. No. 937, 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. 937, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL SERVICE CONTRACTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 694) recommending that H.B. No. 1245, 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. 1245, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET,"

passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 695) recommending that H.B. No. 1288, 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. 1288, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 696) recommending that H.B. No. 424, 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. 424, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INCOME TAX," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 697) recommending that H.B. No. 269, 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 H.B. No. 269, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Djou rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Rath rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 269, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 698) recommending that H.B. No. 163, 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 H.B. No. 163, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I think it's good that we're instituting these food tax credits. However, Mr. Speaker, I would like to note, I think what would have been better if we exempted grocery food from general excise tax. Furthermore, I understand that we're going into a sliding scale system I think would be a superior package would be instead of straight \$55 credit. Nevertheless, this is a good bill I support. Thank you."

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

"In support, but let me express some concerns. The most important one is the food tax credit and it comes no where equal in the amount of money that the average person spends in the grocery store. You just take the amount of money that we would have going back into the pockets of the people of Hawaii if there was an exemption. That figure comes out to \$110 a person, or \$440 for every family of four. The credit is only half that amount of money.

"And an additional problem is that the credit is only available to those who file income tax forms that would preclude the credit being used by people who are too poor to file income tax forms and also by retirees who qualify for exemption for income tax because their income comes from pension funds and social security.

"And finally, the credit is only available at the end of the year. The exemption would be immediately available to the families who use it. So a disappointment, particularly in light of the number of members of this body who indicated to one of our newspapers late last year who were in favor of the exemption. Thank you."

Representative Lee rose to a point of order, stating:

"Mr. Speaker, point of order. Was the speaker speaking for or against the measure?"

The Chair responded that Representative Fox was in support of the measure, and without reservations.

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

"Thank you, Mr. Speaker. I rise in support with reservations. We took this credit away around 1996 and it seems to me that we're replacing it with something that is less generous. You're down to \$20 per person for incomes of \$20,000 to \$30,000. I believe with the old law, it was \$55, and then there was so much per person depending on income. So, I would really prefer to see the bill that we had introduced which would give some real relief to people in Hawaii for food. And this doesn't come close to doing much to help people. Thank you, Mr. Speaker."

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

"Mr. Speaker, thank you, I stand in support of this measure. This is a bill that your Democratic Caucus wholeheartedly supports and wants to move on and hopefully pass. It's significant in that it really addresses the issue of the GET on food. In particular, it addresses the local residents over our visitors who are estimated to pay one-third of the GET. By having a credit here, we can basically provide the most support for our local people. Secondly, Mr. Speaker, I believe that this is a graduated tax credit that's applied upon one's income. And secondly, again, Mr. Speaker, your Democratic members here want to really help those who have the least amount of funds in which to purchase food, Mr. Speaker. So

again, I thank the Finance Committee for passing forward this terrific bill. Thank you."

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

"Thank you, Mr. Speaker, I rise with reservations. It wasn't until the last speaker that drew my attention to the inequities under this bill. For someone with an adjusted gross income, if I'm reading this correctly, under \$4,000, and that's \$4,000 throughout the year, the tax credit is \$70.00. That's not even the \$110 which is actually paid according to statistics. If you're over \$30,000 you get zip, nothing. Thirty thousand dollars in Hawaii – having a wife and two children – you can't even make it on that, Mr. Speaker.

"So what we've done is, for all practical intents and purposes, is put this tax credit out there basically, as a 'bone' to a starving dog and say, 'I hope you can get some marrow out of it.' Because we're really not doing what the claims of this bill are to help the poor people, etc., unless for some reason, once you hit \$4,000 etc., the scale goes... And I won't go through it. I won't take any more time. The numbers are there for our members. If you're sincere about addressing this problem, I think this bill doesn't even come close to it, Mr. Speaker. Thank you."

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

"Mr. Speaker, I rise to speak in support of the motion. I realize this is only Second Reading but in light of the concerns that have been raised, I wanted to at least point out a few things that maybe some of the previous speakers are not cognizant of. Certainly, as the Majority Leader indicated, there is a clear purpose for this. I would like to point out that we are in the process of implementing the greatest reduction in the personal income tax in the State of Hawaii. The measure before us is only one piece to add to that. It does address the concerns of those who do have the greatest needs.

"There's been reference to how this is just a 'bone', or that it's not enough and therefore, I was glad, Mr. Speaker, for Stand. Com. 696. This is a second piece that addresses those in our community who have the greatest needs.

"There were speakers who said, 'Well, we had something previously and that was more generous.' Well, the fiscal impact of this, Mr. Speaker, is just about twenty million dollars. And again, as the Majority Leader indicated, it's focused on that group that has the greatest needs.

"We've heard throughout floor debate, all the references to the concerns about regressivity in our tax system. Well, Mr. Speaker, not only would Stand. Com. Rep. No. 696, HB 424 as well as the current bill in front of us, but even the next bill, begins to address those specific concerns.

"And the final point, Mr. Speaker, is that, we talked earlier about our ultimate responsibility of balancing the budget. And while it's easy to argue on this floor about popular tax relief, give this - give that - give this, I believe this package is responsible. It's responsible relief because it allows us to do our job and balance the budget. Thank you very much, Mr. Speaker."

Representative Fox rose to speak in rebuttal, stating:

"Mr. Speaker, in brief rebuttal. First, the Majority Leader's reference to tourists using this tax. Even the estimate of the Department of Taxation which testified against the measure to exempt all of Hawaii's population from paying the tax on food

estimated the size of the tourist population that would use that provision. The tax on food purchased in stores is only 8 percent, not one-third, just 8 percent.

"And as far as the Finance Committee Chair's exposition on behalf of the progressivity of this tax of the rebate. For a family of four in Hawaii, the actual poverty level is over \$20,000 a year. So at the poverty level you're getting a rebate of only \$20 a year, per person in your family. Most of this credit is given away by the time you hit the poverty level. So, I don't think we're really helping our poor families in Hawaii very much. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. For background regarding this regressive tax on food, in 1995 we took away the tax credits on food and also the low income tax credit, etc. That, I believe was the largest tax increase in the State of Hawaii. And that increase came on the backs of the most fragile members of our communities.

"This bill is insufficient, it's moving in a good direction but, it's insufficient in going back to what responsible legislators knew we needed when we had the tax credits in place for 1995. Thank you."

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

"Yes, Mr. Speaker, thank you very much. As the Representative from Kihei has mentioned, in 1995 we repealed that portion of the tax credit for food and medicine. Yes, Mr. Speaker, we did repeal that. But the choice in not repealing that was possibly to raise the excise tax or possibly to cut extraordinary cuts in the programs that we now enjoy.

"Mr. Speaker, with you as a Finance Chairman, painfully we made this repeal because the choice was fairly obvious. Cutting programs which nobody wanted, and, Mr. Speaker, may I remind you and the members here when a proposal was made to cut seventeen programs in this Chamber here, the members of the Minority at that time, everyone of them, voted against the cut of these programs."

Representative Pendleton rose to a point of order, to which Representative Souki responded:

"I stand corrected, Mr. Speaker. I stand corrected."

The Chair addressed Representative Souki, stating:

"Confine your remarks, Speaker Emeritus, to the measure."

Representative Souki continued, stating:

"Yes, Mr. Speaker. I'm very sorry. I apologize to my members, of course. But, Mr. Speaker, I want to say that this is just the beginning - it's an evolution. And let's hope, as the session progresses..."

Representative Thielen then rose to a point of order, stating:

"Mr. Speaker, could the speaker please address the Speaker of the House?"

Representative Souki continued stating:

"I just want to say that this is going into an evolutionary process as far as the tax credit. And I am sure at the end of the session as we begin to meld and complete the budget process,

if we can find the dollars, I'm sure it will be thrown right in there, Mr. Speaker. 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. 163, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FOOD TAX CREDIT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 699) recommending that H.B. No. 165, 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. 165, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 700) recommending that H.B. No. 1131, 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 H.B. No. 1131, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Rath rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Pendleton rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Moses rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Stonebraker rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Djou rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

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

"Mr. Speaker, in opposition if I may with a few comments. This bill, Stand. Com. 700, H.B. 1131, HD 1 was heard last night in Consumer Protection and unfortunately, I wasn't able to make the hearing. We had a town meeting in Kailua that I had to attend so I was unable to comment on this last night or hear the testimony.

"But I'm against this, Mr. Speaker. I think it's not an appropriate policy for us to be jumping in on. It's basically, a contract issue. I'm concerned that the bill is flawed. Constitutionally, I think it serves too small of a group to pass constitutional muster, to abrogate a contract like this will. So for those reasons, Mr. Speaker, I'm not supporting it. Thank you."

Representative Ahu Isa rose in opposition to the measure and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Kanoho rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Espero rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Ontai rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Kahikina rose in opposition to the measure and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Leong rose in opposition to the measure and asked that the Clerk record a no vote for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1131, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY APPRAISALS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Ahu Isa, Djou, Gomes, Kahikina, Kanoho, Leong, Moses, Ontai, Pendleton, Rath and Stonebraker voting no and Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representatives Hiraki and Hamakawa, for the Committees on Consumer Protection and Commerce and the Committee on Judiciary and Hawaiian Affairs presented a joint report (Stand. Com. Rep. No. 701) recommending that H.B. No. 592, 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. 592, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRODUCER LICENSING," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 702) recommending that H.B. No. 451, 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. 451, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIABILITY," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 703) recommending that H.B. No. 741, 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. 741, HD 1, entitled: "A BILL FOR

AN ACT RELATING TO CIVIL LIABILITY," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 704) recommending that H.B. No. 236, 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 H.B. No. 236, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I'd like to say that contrary to what the media had been publicizing, I would like to thank the Chairman of Judiciary and Hawaiian Affairs and his Committee for hearing this bill, given that a lot of our colleagues in the Majority Caucus had approached him, and we really appreciate it. Thank you very much."

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

"Yes, Mr. Speaker, I wish to speak with some reservations. I would hope that as this bill moves along that some concerns that were brought up by the Prosecutor's Office and others would be incorporated into this bill. 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. 236, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Davis, Hiraki, Morita, Schatz, Takumi and Yoshinaga being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 705) recommending that H.B. No. 170, 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 H.B. No. 170, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

Representative Pendleton rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker, I'm speaking in support, but with reservations. I would just like to highlight a few of those reservations. On page 7 of the bill, lines 2 through 7. We basically removed the independence of the Executive Director of the Campaign Spending Commission by prohibiting the Campaign Spending Commissioners to fix the compensation. And instead, she or he, becomes subject to, I guess, tinkering by the Legislature.

"On page 13, I'm very concerned about an issue. It appears to remove a donation limit meaning that any elected official or candidate can give to different community organizations

without a ceiling. And I believe we all saw something in the newspaper, a number of stories in the newspaper, where a Councilwoman was getting into some problems by giving, sort of, major donations. And the Campaign Spending Commission rightfully felt that those donations could influence voters in that person's district. It was much better when we had a ceiling and the ceiling was tied to the amount of money that could be donated by a single person to the candidate.

"And then we go to page 15, and I'm real unclear on page 15, lines 10 through 19. I'm unclear whether the restriction just applies to banks and corporations and not to unions. It does mention 'union', or 'labor organization', further down in the bill. But it's not clear that the restriction applies equally across the board, picking up unions as well as corporations, etc.

"And I think those really touch on some of my primary concerns. I will try to speak with the Judiciary Chair to see if there's any language that possibly needs to be clarified better and assuming that this bill goes on through the process and that we would have an opportunity to correct any deficiencies. Thank you."

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

"Thank you, Mr. Speaker, I would like to register my reservations. I'd also like to thank the Chair of Judiciary for looking at this bill and trying to see what he could do. I still feel that there's more that we can do and would like to look more into it. Thank you."

Representative Moses rose in support of the measure with reservations and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

"Thank you, Mr. Speaker, with reservations and also a commendation to the Chair for working in a bipartisan manner in trying to work this through. 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. 170, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EFFECTIVE DATE OF EXISTING USES UNDER THE WATER CODE," passed Third Reading by a vote of 40 ayes, with Representatives B. Oshiro and Thielen voting no and Representatives Davis, Kahikina, Kawakami, Lee, Luke, Morita, Schatz, Takumi and Yoshinaga being excused.

THIRD READING

H.B. No. 688:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 688, entitled: "A BILL FOR AN ACT RELATING TO THE EFFECTIVE DATE OF EXISTING USES UNDER THE WATER CODE," passed Third Reading by a vote of 40 ayes, with Representatives B. Oshiro and Thielen voting no and Representatives Davis, Kahikina, Kawakami, Lee, Luke, Morita, Schatz, Takumi and Yoshinaga being excused.

At 4:55 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 4:57 o'clock p.m.

The Chair directed the Clerk to note that H.B. No. 688, had passed Third Reading at 4:58 o'clock p.m.

At 4:59 o'clock p.m., Representative Takai asked for a recess and the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 5:10 o'clock p.m., the Vice Speaker assumed the rostrum.

RECALL

Representative Fox moved that H.B. No. 256 be recalled from the Committee on Education, seconded by Representative Pendleton.

The motion to recall H.B. No. 256 from the Committee on Education was put to vote by the Chair and upon a show of hands, the motion was successfully carried and H.B. No. 256, was brought before the House for action.

Representative Fox moved that H.B. No. 256 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

At 5:12 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:13 o'clock p.m.

At 5:13 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 5:13 o'clock p.m.

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

"Thank you, Madame Speaker. I rise in support of this bill. This bill is relating to the Board of Education. It will give our State elected school Boards of Education control of schools at the district level including budgetary and personnel authority; provides for incremental dismantling of the centralized BOE with personnel returning to the district offices and classrooms and new districts that we create. Creates a state school board to oversee programs of education throughout the state comprised of a representative of each of these local school boards now elected state superintendent.

"Madame Speaker, we have the distinct honor of having one of only two places in the United States that has one school district for the entire state. State of Hawaii and the District of Columbia, and we all know the results in the status of the District of Columbia. It's a disaster. The Neighbor Island people want local school boards. People on Oahu want local school boards. There's a feeling that the DOE back behind us, the "Puzzle Palace" if you will, does not have all the answers for the outlying areas in the different communities.

"One thing I'd like to address is getting the classroom teachers and the administrators into the district level. I had a situation at Hickam Elementary School where a second grade elementary teacher was pulled out, without any notice, to be a resource teacher at the district level. It seems the 'tail is wagging the dog' and not 'the dog wagging the tail.' We have created this monolithic beast that needs to be de-centralized.

"Now I reject the argument that this will cost more. We can do this if we're smart and I have complete confidence in my Chair and Vice-Chair, these guys are brilliant men. They're the Chairs of the Education Committee. They can come up with some good creative ideas and ways to do this. We can re-tool the Department of Education and have local school boards. Local school board members – we don't have to pay them, they can serve as volunteers, like your neighborhood board. And the beauty of that is when you go to the supermarket, you can go in and talk to them, you can say 'Hey, why doesn't my kid have books?'"

"Right now we elect people we don't even know who they are. I could probably name you three or four members of the Board of Education and I care. Most folks can't name them and if you ask your constituents, they don't name them. In fact, there's been studies done that people who get elected to the Board of Education get elected by the person always on the top of the ballot gets elected and a person at the bottom always gets elected and somebody pretty close to the middle gets elected. And that's how people do it, because they don't know. There's an impersonal relationship. So we have a system that is not working.

"We can continue the equity of funding where each student, and that is one of the beauties of our centralized system. Every student extensively gets the same amount of money whether you live in Kahala or Waianae or Makaha. You're supposed to get the same amount of funding. And there is a theory that there's equality and equity throughout the system. That is a theory. That is a theory I think that every person in here agrees with. However, it is not working in practice. You have new schools out in Kapolei that are opulent, state-of-the-art and wonderful. And my friend here to the left is very happy. But then you have schools like mine, Hickam Air Force Base that was literally built during World War II. Now the campus is nice and clean, but still, it was built during World War II. On the mainland after thirty years, they either completely renovate the school, refurbish it and/or tear it down. We don't do that here. If you had a local school board, they would demand that that type of thing be done.

"So, I reject the added cost argument, I reject the argument that we cannot continue to have equity in the sense that we have it now. And I reject the argument that this would be less efficient than the current system. Our school system is broke, we need to do something and I would also suggest that we take a look at the Catholic schools of Hawaii that are run by one person who runs all their schools. We could learn something by the way that they do it. Thank you very much."

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

"Thank you Madame Speaker, I rise in strong support of HB 256. This bill will give our communities and parents control over their own schools. I believe very strongly in two principles. Small government is the best government and the government closest to the people is the most responsive to their concerns.

"This amendment, is an amendment to the Constitution and it will reduce the size and cost of State government. It will move our most important governmental function, education, to the level closest to parents, students, teachers, voters and taxpayers. In my own district, Kahuku High School is an excellent school with a champion football team and they do all the wonderful things there because the community is involved with everything that happens in their school. They really feel the school is part of their community. Everybody is proud of what goes on there, and cares about what goes on there.

"Local school boards or district school boards would give the people at the schools and the districts, true local ownership and control of their schools. Rather than have a State Board of Education composed of faceless people, who always seem to meet on another island, a local school board will meet somewhere in your community. Our constituents will be able to participate in a meaningful way in deciding what is best for the schools in their own districts. I truly believe our communities can run their schools better than the Governor, the Legislature and the State Board of Education. Things need to be improved and this is one way to make those improvements. I hope that you all support this bill. Thank you.

"Excuse me, I would like to ask for a roll call vote at the appropriate time, thank you."

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

"Thank you, Madame Speaker, I rise in opposition to HB 256. This bill would create eight elected county school boards, this much is clear. How the contents of this bill will be implemented and how it will be beneficial to Hawaii is not clear.

"First, in order for there to be any changes to the statutes mentioned in the bill, there must first be constitutional amendments. Article X, section 2 and 3 specifically outline the Board of Education's composition and function. These sections would have to be amended before HB 256 could take effect.

"Understand that HB 255 would amend these sections so I'm not really sure why this bill [HB 256] was recalled. Even if it were HB 255 that was recalled today, I would still object for the same reasons. In both 255 and 256, the Neighbor Islands are redistricted by unclear language such as: 'in and around Hilo' or 'in and around Kona.' Then when it comes to Oahu the language changes to representative districts. This bill, if anything, complicates it further as it undermines the 'one man and one vote' notion that is clearly one of the most basic democratic principles. How can the island of Hawaii count as two local districts and on the island of Oahu there are only four board districts when Oahu represents 80% of the States population?

"The third reason for my objection is that HB 256 actually creates more bureaucracy. According to the bill, there would be a State Board of Education composed of representatives from each local board. This state board would be in charge of the State Department of Education. Underneath the State Board and the Department would be local boards. Nowhere in this bill does it abolish a Board of Education. So I ask the members on the left, at a time that we are trying to reduce size of government and eliminate duplication of functions, why create more bureaucracy and spend more money on administrative costs?

"A county board system would be significantly more expensive at the Board and department level. Membership under such a system would increase, requiring more staff, office space and supplies. Inefficiency would result as the functions and duties of the departmental staff would be duplicated by multiple boards. These are costs that the State simply cannot absorb, not when there are so many other educational needs of this State. Monies could be better used for textbooks, supplies or recruitment and retention of qualified teachers for our children. We must also consider the current situation regarding the Felix Consent Decree. We are mandated to make a consorted statewide effort to ensure compliance. This massive undertaking would not be possible

under a fragmented county system. We should be concentrating on making our current system better. We are making huge strides toward a great educational system and I would hate to divert money to create another layer of bureaucracy

"For these reasons, Madame Speaker, I urge you and our colleagues to vote against HB 256. Thank you."

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

"Thank you, Madame Speaker, I rise in opposition to this measure. This bill proposes to divide the current Board of Education into eight local school boards. This would not only increase the level of bureaucracy, but also create an increased financial burden to this State. Currently, we have been faced with increased pressures to reduce the size of government and to eliminate the duplication of functions. Then why create more bureaucracy and spend more money on administrative costs?

"The present board of education consists of seven members and six members at-large for a total of 13 members. Under the proposed constitutional amendment, that number would jump to 56 members – eight local school boards consisting of seven members each. This proposed local board system would be significantly more expensive at the board and the departmental level. In addition to the increasing cost of membership, it would require more staff, office space and supplies. Inefficiency would result at the functions and duties of departmental staff would be duplicated for the multiple boards. Local school boards would also create an imbalance statewide school system.

"One of the most significant benefits is, as the Representative from Foster Village already pointed out, that with statewide school districts, that money and resources are distributed evenly to all areas. Under a local school board system, each school district would have to compete for funds and resources, including competing against each other for qualified teachers. Inevitably, a multiple district system produces inequities in educational services.

"Another issue, Madame Speaker to consider is the current situation regarding the Felix Consent Decree. We must make a consorted statewide effort to ensure compliance with the federal mandate. This effort would be complicated if authority evolves into districts. In a worse case scenario, failure to comply with the Decree may lead to court takeover and sanctions. Inevitably, multiple district systems produce inequities in educational services.

"Our limited resources must go to the students and not to pay for more administrative costs of eight local boards. Local school boards would not increase efficiency as claimed but would actually add bureaucracy and costs. Further on page 69 lines 1 to 5, this bill also proposes to have an elected superintendent. An elected Superintendent of the Board of Education might succumb to undo pressures by not only the registered voters of Hawaii, but also those persons contributing to the superintendent's election campaign. For example, an elected superintendent would find it difficult to act in a controversial situation without considering how his or her actions would affect his or her chances for re-election.

"The superintendent's primary concern should, and always be, the welfare of the students - not his or her own personal political ambitions. It may appear that there would be greater accountability if the current selection method were to be changed. However, the present appointed system ensures both independence of action and public accountability.

"My creative idea, Madame Speaker is to urge my colleagues as well as you to vote against this bill. Thank you very much."

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

"Thank you, Madame Speaker, I rise in support of the motion..."

At 5:28 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 5:29 o'clock p.m.

At this time Representative Gomes called for the previous question.

The prior 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 that H.B. No. 256, entitled: "A BILL FOR AN ACT RELATING TO BOARD OF EDUCATION," 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, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine and Yonamine.

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

Excused, 5: Davis, Morita, Schatz, Takumi and Yoshinaga.

Representative Fox moved that H.B. No. 254 be recalled from the Committee on Education and the Committee on Labor, seconded by Representative Pendleton.

The motion to recall H.B. No. 254 from the Committee on Education and the Committee on Labor was put to vote by the Chair and upon a show of hands, the motion was successfully carried and H.B. No. 254, was brought before the House for action.

Representative Fox moved that H.B. No. 254 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:

"Madame Speaker, this bill is a bill to honor the fact that the principal of a school in the State of Hawaii exercises perhaps the most important job in the state of Hawaii. This bill will enable principals to have the broadest authority possible, to maximize the potential of the school and students. This bill will enable the principal to work with the Department of Education under a limited term contract with a contract that contains performance goals to be agreed to by the Department and the principal in accordance with departmental standards. This bill will provide the principal with the resources the principal needs to do their job effectively and this bill provides the principal's salaries will be raised at least 20% above

whatever current level is established for the highest paid principal. This bill also provides that only principals will be removed from the category of educational officer for the purpose of collective bargaining.

"This is one of the most important reforms we can undertake in education. We all know that the principal is the key management personnel in making the school system work and this recommendation which is strongly sought by people dealing with education has been made by the Governor of the State of Hawaii when he was Lt. Governor. It was a recommendation of the Economic Revitalization Task Force in 1997. Recently we approached the Business Roundtable which is very seriously involved with trying to improve the public education system in Hawaii and working very hard in that direction, and ask them about their recommendations for improving the public school system in Hawaii. And they said very strongly that '...taking the principals out of the union, making them much more important in terms of their responsibilities and paying them significantly more...' was one of the most important reforms we could undertake to improve public education in Hawaii.

"Partly because of the aspect of removing the principals from collective bargaining, this is quite a controversial proposal. And has even elicited deep discussion within our own Caucus, as you will find out later from the people who rise to speak on this motion. We have argued that bringing these matters up for discussion and debate, Madame Speaker, is a very important step as part of the dialogue of improving public education in Hawaii. And it's one of the most important things we can do to focus on what we can do to improve this system and to look at different remedies. We're pleased that this afternoon we have the opportunity to debate and discuss this important reform. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker, I rise in opposition to H.B. 254. This bill would remove principals of the Department of Education from collective bargaining and enable the Department to negotiate limited term contracts. Madame Speaker, this bill is unfair to principals in Hawaii's public school system. Principals are viewed as "scapegoats" for the failure of the school system. This bill punishes principals by taking them out of collective bargaining. I say punish because without collective bargaining, who will represent them? Why should they have to worry about the individual contract and individual lawsuits on top of the enormous workload? In collective bargaining, principals do not have to worry about hiring their own legal representation or spending weeks negotiating a contract because they are being represented. They can, instead, concentrate on what's important, the education of our students.

"There's also the issue of principal retention. Under limited contracts, principals could easily retire without putting in their twenty-five or thirty years. There is no provision in this bill to reward those that have stayed in the system; therefore, nothing would retain these experienced principals. Not only is this bill unfair to principals, there's the question of how visible this bill is?

"Members to the left are constantly speaking of how we need to downsize government while this bill increases the size of the Department of Education. Under this measure, the department would be responsible for implementing 256 plus limited term contracts. The department doesn't have the manpower, resources or training to successfully implement

limited term contracts. Further, do we really want another bargaining unit within the department?

"My last point, Madame Speaker is that principals simply do not want to be taken out of collective bargaining and put on limited contracts. We must pass measures that increase the number of principals and not pass measures like H.B. 254 that would decrease the number. For these reasons I oppose H.B. 254, thank you, Madame Speaker."

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

"Thank you, Madame Speaker, I'm rising in strong support of H.B. 254. Principals are part of management, they should never have been subject to collective bargaining. This bill gives the DOE flexibility to attract, groom and promote the very best of our teachers to be principals. Most of us know that about two-thirds of the principals are going to retire in about five years. We're in the new century, it's Twenty-one hundred. Things are changing.

"This bill calls for principals being offered a raise of at least 20% of what they are earning now. Principals are the CEOs of the schools, they need flexibility, they need to be accountable. They'll have a lot more flexibility under the provisions of this bill. It will surprise no one that the DOE is a huge bureaucracy that endlessly consumes ever-larger amounts of money. The nobility of this feudal bureaucracy are the educational officers who sit in various offices throughout the State. This bill transfers authority and money to the front line leaders of our schools – the principals. These folks are executives, they are CEOs, they deserve to earn more money and they must take the responsibility and feel like they have the control to do what they feel is right for their schools. And that's what this bill will do for them. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker, I rise to speak against this bill. I voted to be able to bring the bill to the floor so we could have discussion on the merits of the bill. I strongly believe that it's an important thing to do in these Chambers. However, when it comes to the merits of the bill, I do not support them. The numerous principals to whom I have spoken do not want to be removed from the union, they feel that it is providing them protection and they want to remain in this process. Therefore, at this point, I cannot support the bill.

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

"Thank you, Madame Speaker, I rise in favor of the motion. I believe that for the maintenance of the balance of power in the Chamber, is important to follow the previous speaker. Let me try to address the merits of the bill because I think that this bill, more than any other bill that we have seen before us thus far, represents a policy choice to us in terms of how we in this State deal with them.

"Our State and county employees, and by employee I mean anybody that works for the State at this point because obviously, principals are not in the same status of employee as other State, city and county workers. But in terms of who should be subject to collective bargaining in the State or county government, I think we probably have a number of basic policy approaches. Certainly there are some members here who don't probably believe in collective bargaining at all and don't believe that there should be any collective bargaining in the State or county government. And certainly

there are probably some members who believe that pretty much any employee, anybody earning a paycheck should be entitled to collectively bargain with the State. I would submit that those are extremes and that most of us believe that some people in state government, at some level, should be entitled to collectively bargain. But the question is who? And I would submit that the question of who is the people that most need to have the protections afforded them by collective bargaining where they have a need to equalize power from the ability to operate jointly – and that would be one test.

“And another test would be: are people in a position where they are primarily being supervised as opposed to managerial or supervisory oriented? And obviously the question there is whether they need the protections of joint action in order to protect themselves against abuses by their employer. And I think basically what this bill presents and the overall policy pantheon is the question whether principals fit that category. And I would submit that principals do not fit that category because there is really no need that they be protected from any abuse by their employer.

“With respect to the Education Chair, I think that the assumption that principals somehow need that protection is to assume the worst of State government. That State government would not, somehow, view it as an extremely valuable asset to be able to take care of their principals, so I don’t fear that abuse. And obviously, principals are in a supervisory function. Principals are in a supervisory function and they need to supervise others. And one of the problems we have with the current system of collective bargaining for principals is that, essentially, principals in a collective bargaining unit are being asked to supervise employees who are in other collective bargaining units which does in fact, create inherent conflicts of interest in terms of whether they are able to carry out their supervisory functions.

“So I think overall the principals simply fall in a different category that should not be subject to collective bargaining. And no different really, from excluded employees in that sense. Managerial employees who are not subject to collective bargaining for the same basic reasons. The results, moreover, in the case of principals I think demonstrates some of the worst of the consequences of collective bargaining as practiced in this State. Frankly, I believe that it leads to an incredible pull towards standardization and mediocrity, and an incredible disincentive to individual merit based individually driven performance where you are not able to reward adequately the best, and not able satisfactorily to divert the not-so-good principals from career tracks.

“So that is why I think on the merits, we should carefully consider removing principals from collective bargaining. And I would note that obviously, this is not a surprise to any place in the country since virtually nowhere in this country are principals unionized in any way. And you have to ask yourself, ‘why is that?’ Are principals suffering so badly in all of those states where they are not in collective bargaining? I would submit that those principals feel a lot better in those jurisdictions outside of collective bargaining. And I would also submit that principals would be much better off, much better off by in large without being subject to collective bargaining. And within the morass of that collective bargaining system as practiced in this State. And that if we were to do this today, in ten years principals would look back and go, ‘I can’t believe we were ever in that system.’

“Now some speakers have already spoken about the fact that this is not a partisan issue. This issue’s been around for a long time. There are a lot of people that have supported this idea. Reference was made to the Hawaii Business Roundtable, which, as a matter of fact, I’ve supported this not just today,

but for about a decade now ever since I got into the business of education reform.”

Representative Hamakawa rose to yield his time.

Representative Case continued, stating:

“Thank you. Reference has yet to be made to the fact that this House Majority Caucus has supported this concept in past years.

“But I think the final reference that needs to be made is that there was reference earlier to the fact that principals did not want to be unionized. That’s not true. There has been an advocacy within the principals themselves to be de-unionized. Now this has not been uniform, some principals want to stay in the union and some don’t. But a group led really by the late and much beloved Cliff Bailey, a product of Manoa Valley and long time Kapa’a principal spoke up some years ago and said, ‘Look, it’s time to end this system. We’re much better off without this.’ And they were, frankly, criticized within their own ranks at the time. But they were right. They were ahead of their time perhaps. But they realized that they would be better off without the burdens, without the incredible shackles that this provides them in terms of their own individual advancement and in terms of advancing the cause of the schools.

“So really, I agree with those speakers who believe that in terms of improving our education system, I think where we really have to look is at the operation of that system. It is not simply a question of throwing money at the schools. We can throw money at the schools and frankly won’t improve them until we improve the operations of the system. And this is an incredibly important aspect of improving those operations. So I would ask members to have a little courage and to go out a little bit on a limb, and cut these people loose to do their job much better than they have been able to thus far. I think we will regard this down the road once we finally get around to doing it and I think its inevitable. We will regard it as one of the better things we have done for education reform. Thank you.”

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

“Thank you, Madame Speaker, I rise to speak in support. This legislation provides much needed fiscal incentive to our most valuable educational professionals, our principals. What I’ve seen in our Committee, our Education Chair, has listened to great bills. I mean, these are all great bills. But I really feel that we’re tinkering at the problem – a dollar here, a dollar there – \$27 million here – and we don’t really get to the core. And this represents a fundamental change and outlook on how we can reform our school systems.

“And I recognize the problem with this perception that they might be unprotected and pulling these guys out and unprotected them. That’s the furthest thoughts from our minds. In the contract, we can adjust – we can address liability issues and as far as grandfather retirement issues.

“Across the U.S., there’s this growing recognition of this principal shortage. I think our previous speakers have mentioned it. Dr. LaMahieu has informed us that two-thirds will become eligible for retirement. We have to do something bold and this measure allows these teachers with certification to be principals. I know several personally who are relatives of mine, who have declined promotion or declined offers to become principals because there’s no incentive there – the pay. Sometimes some of them make more or they perceive that they make more than some of our principals. Certainly

the demands are multi-faceted. They have to maintain discipline; they have to manage the schools; they have to become a legal expert; health and social services coordinator. They have to attend these meetings mandated by the courts and by our policies. And principals regularly put in many, many, many hours every week and they are executives. Make no mistake about it, they are managers and executives and I fancy myself as an amateur union organizer having organized a private school union, or at least participated in an organization committee.

"And we know, at least from our study and my knowledge of union laws, they do not belong there. And there's good reason why they don't belong there and that's so they can feel to exercise more of their responsibility as managers do and as executives and as leaders. So in summary, I really feel that this is a bold measure that's needed to show that we are sincere in compensating our key leaders. And we want to allow them to manage their budgets and their resources and their personnel with the freedom that they should have by decentralizing and allowing our professional leaders to lead. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker, I rise in opposition of this motion. You know last year the legislature passed out H.B. 1874, CD 1, the Educational Accountability Bill which became Act 235. This Act established an interagency Educational Accountability Workgroup to review statutes and agency rules in order to improve accountability in education. Their initial report takes up the issue of school level administration among other things. I think the information in this report is significant. I can appreciate the desires of the members on the left to improve, or some of the members on the left, and some on the right, to improve our education system.

"But I think the information in the initial report of the working group warrants careful analysis and I would refrain from advancing bills such as this until the final report is available for us to scrutinize. In addition, you know I believe that principals should be given the broadest authority possible to maximize the potential of the schools and students. I also believe that principals shall demonstrate commitment to teen progressive levels of high student achievement and school improvement as measured among other things by standardized achievement tests. I also believe that principals shall demonstrate achievement oriented and supportive leadership. I also believe that principals shall utilize effective management strategies to unify staff, build a sense of ownership and commitment to high performance goals. And I also believe that principals shall collaborate with families, community members and community members responding to diverse community interests and needs and mobilizing the community. I believe in those five things.

"As a matter of fact, if you take a look at page 2 of the bill, all these five things are in the bill. I would encourage the supporters of this...first of all, I'd like to say that I don't think pulling principals out of the union is the only way to do these things. As a matter of fact, I think we can do this with our current system. And I would encourage the supporters of this bill to work with the members of the Educational Accountability Workgroup as they deliberate, and discuss, and finally write the report to us. We encourage them to take a look at these 5 principles for principals, and encourage them to address them. Thank you, Madame Speaker."

At 5:58 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:59 o'clock p.m.

At this time Representative Pendleton 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 that H.B. No. 254, entitled: "A BILL FOR AN ACT RELATING TO PRINCIPALS OF THE PUBLIC SCHOOL SYSTEM," 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, Chang, Espero, Garcia, Hale, Halford, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Marumoto, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine Thielen and Yonamine.

Ayes, 14: Auwae, Bukoski, Case, Djou, Fox, Gomes, Jaffe, Leong, McDermott, Meyer, Moses, Ontai, Pendleton and Stonebraker.

Excused, 7: Davis, Morita, Rath, Schatz, Takumi, Whalen and Yoshinaga.

At 6:01 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 6:02 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 38 through 41) and concurrent resolutions (H.C.R. Nos. 35 through 37) were referred to Print and further action was deferred: (Representatives Davis, Kahikina, Kawakami, Lee, Luke, Morita, Schatz, Takumi and Yoshinaga were excused.)

H.R. No. 38, entitled: "HOUSE RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO APPROPRIATE FUNDS FOR FORTY PER CENT OF SPECIAL EDUCATION AND RELATED SERVICES FOR CHILDREN WITH DISABILITIES," was jointly offered by Representatives Say, Luke, M. Oshiro, Lee, Saiki, Nakasone, Schatz, Garcia.

H.R. No. 39, entitled: "HOUSE RESOLUTION REQUESTING THE CREATION OF A COORDINATING COMMITTEE TO OVERSEE THE CARE OF MEDICALLY FRAGILE CHILDREN," was jointly offered by Representatives Arakaki, Kahikina, Hiraki, Takumi, Yonamine, Takai, Auwae, Ito, Kawakami, Garcia, McDermott, Lee.

H.R. No. 40, entitled: "HOUSE RESOLUTION REQUESTING ESTABLISHMENT OF A TASK FORCE TO ASSESS AND DETERMINE WAYS TO REDUCE THE PAPERWORK AND DUPLICATIVE PROCESS REQUIREMENTS RELATED TO EXCEPTIONAL CHILDREN AND FELIX CLASS CHILDREN AND ADOLESCENTS," was jointly offered by Representatives

Arakaki, Takai, Auwae, Kahikina, M. Oshiro, Takumi, Ito, Lee, Ontai, Stonebraker, McDermott, Garcia, Kawakami.

H.R. No. 41, entitled: "HOUSE RESOLUTION REQUESTING THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY TO REVIVE ITS PROPOSAL FOR THE REACTIVATION OF THE NOI'O PUNA RESEARCH CENTER," was jointly offered by Representatives Hale, Morita, Kanoho, Whalen, Chang, Rath, Hamakawa, Takamine.

H.C.R. No. 35, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CREATION OF A COORDINATING COMMITTEE TO OVERSEE THE CARE OF MEDICALLY FRAGILE CHILDREN," was jointly offered by Representatives Arakaki, Kahikina, Hiraki, Takumi, Garcia, Yonamine, McDermott, Ito, Kawakami, Takai, Auwae, Lee.

H.C.R. No. 36, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING ESTABLISHMENT OF A TASK FORCE TO ASSESS AND DETERMINE WAYS TO REDUCE THE PAPERWORK AND DUPLICATIVE PROCESS REQUIREMENTS RELATED TO EXCEPTIONAL CHILDREN AND FELIX CLASS CHILDREN AND ADOLESCENTS," was jointly offered by Representatives Arakaki, Takai, Auwae, Kahikina, M. Oshiro, Takumi, Ito, Abinsay, Lee, Morita, Ontai, Stonebraker, McDermott, Garcia, Kawakami.

H.C.R. No. 37, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY TO REVIVE ITS PROPOSAL FOR THE REACTIVATION OF THE NOI'O PUNA RESEARCH CENTER," was jointly offered by Representatives Hale, Chang, Whalen, Morita, Kanoho, Rath, Hamakawa, Takamine.

Representative Lee moved to keep the Journal open until 12:00 o'clock midnight this legislative day for the purpose of receiving Standing Committee Reports and House Bills transmitted thereby, seconded by Representative Pendleton and carried. (Representatives Davis, Morita, Rath, Schatz, Takumi, Whalen and Yoshinaga were excused.)

At 6:03 o'clock p.m., the House of Representatives stood in recess for the purpose of receiving Standing Committee Reports.

STANDING COMMITTEE REPORTS

In accordance with the motion made earlier, the following Standing Committee Reports (Stand. Com. Rep. Nos. 706 through 871) were received in the Clerk's Office up until 12:00 o'clock midnight this legislative day, and subsequent to its recessing at 6:03 o'clock p.m., the following actions were taken:

Stand. Com. Rep. No. 706 (CPC) and H.B. No. 509, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 707 (CPC) and H.B. No. 945, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WORK," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 708 (CPC) and H.B. No. 1473, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 709 (CPC) and H.B. No. 739, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICAL COOPERATIVES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 710 (CPC) and H.B. No. 1335, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 711 (CPC) and H.B. No. 831, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERISLAND VEHICLE TRANSFERS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 712 (CPC) and H.B. No. 415, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 713 (CPC) and H.B. No. 223, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 714 (CPC) and H.B. No. 16, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 715 (CPC) and H.B. No. 17, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARE PROJECTS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 716 (CPC) and H.B. No. 20, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SALES AGENTS OF TIME SHARE UNITS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 717 (CPC) and H.B. No. 22, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 718 (CPC/JHA) and H.B. No. 23, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO DECEPTIVE TRADE PRACTICES FOR TIME SHARE PLANS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 719 (PSM) and H.B. No. 868, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 720 (JHA) and H.B. No. 1016, entitled: "A BILL FOR AN ACT RELATING TO THE MEMBERS OF THE BOARD OF EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 721 (JHA) and H.B. No. 1679, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DILLINGHAM AIRFIELD," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 722 (JHA) and H.B. No. 1118, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 723 (JHA) 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," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 724 (JHA) and H.B. No. 687, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC NOTICE REQUIREMENTS FOR PUBLIC LAND DISPOSITIONS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 725 (JHA) and H.B. No. 123, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPEEDING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 726 (JHA) and H.B. No. 187, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO RECONSTRUCTED VEHICLES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 727 (JHA) and H.B. No. 646, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF STERILE SYRINGES FOR THE PREVENTION OF DISEASE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 728 (JHA) and H.B. No. 662, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PENALTIES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 729 (JHA) and H.B. No. 830, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 730 (JHA) and H.B. No. 365, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL COMMODITY DAMAGE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 731 (JHA) and H.B. No. 998, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 732 (CPC) and H.B. No. 411, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 733 (CPC/JHA) and H.B. No. 650, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADVANCE DIRECTIVES FOR PSYCHIATRIC CARE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 734 (CPC/JHA) and H.B. No. 173, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY RESOURCES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 735 (FIN) and H.B. No. 87, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY SUPPORT CENTERS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 736 (FIN) and H.B. No. 161, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 737 (FIN) and H.B. No. 249, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 738 (FIN) and H.B. No. 503, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE LEASES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 739 (FIN) and H.B. No. 532, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT A BILL FOR AN ACT RELATING TO THE PREVENTION OF THE FILING OF FRIVOLOUS FINANCING STATEMENTS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 740 (FIN) and H.B. No. 357, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PENSIONERS' SPECIAL COMPENSATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 741 (FIN) and H.B. No. 562, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 742 (FIN) and H.B. No. 564, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 743 (FIN) and H.B. No. 565, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 744 (FIN) and H.B. No. 575, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII OF THE HAWAII CONSTITUTION REGARDING AN EMERGENCY AND BUDGET RESERVE FUND," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 745 (FIN) and H.B. No. 576, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 746 (FIN) and H.B. No. 643, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE MERIT APPEALS BOARD," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 747 (FIN) and H.B. No. 774, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO COURTS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 748 (FIN) and H.B. No. 790, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE WORKER INJURY PREVENTION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 749 (FIN) and H.B. No. 852, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 750 (FIN) and H.B. No. 954, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO REGULATORY PROCESSES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 751 (FIN) and H.B. No. 1111, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR AN INTERGENERATIONAL CARE CENTER AT EWA VILLAGES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 752 (FIN) and H.B. No. 1130, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 753 (FIN) and H.B. No. 1351, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 754 (FIN) and H.B. No. 1670, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ESTABLISHMENT AND CONTINUATION OF PROFESSIONAL DEVELOPMENT SCHOOLS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 755 (FIN) and H.B. No. 47, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 756 (FIN) and H.B. No. 176, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 757 (FIN) and H.B. No. 557, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE BERNICE PAUAAHI BISHOP MUSEUM, OAHU," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 758 (FIN) and H.B. No. 659, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO UNDERGROUND STORAGE TANKS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 759 (FIN) and H.B. No. 731, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 760 (FIN) and H.B. No. 1048, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE LIBRARIAN," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 761 (FIN) and H.B. No. 1586, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 762 (FIN) and H.B. No. 1662, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 763 (FIN) and H.B. No. 872, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 764 (FIN) and H.B. No. 1149, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SCIENCE TECHNOLOGY INNOVATIONS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 765 (FIN) and H.B. No. 237, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO MANDATED HEALTH COVERAGE REVIEW," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 766 (FIN) and H.B. No. 632, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 767 (FIN) and H.B. No. 702, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL HEALTH CARE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 768 (FIN) and H.B. No. 1041, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEACHER COMPENSATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 769 (FIN) and H.B. No. 1310, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR HI-TECH HAWAII, INC," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 770 (FIN) and H.B. No. 1555, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADOLESCENCE SCHOOL-BASED SUBSTANCE ABUSE TREATMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 771 (FIN) and H.B. No. 1671, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 772 (FIN) and H.B. No. 1685, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 773 (JHA) and H.B. No. 1221, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CYBERSQUATTING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 774 (JHA) and H.B. No. 538, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 775 (JHA) and H.B. No. 683, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS PENALTIES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 776 (JHA) and H.B. No. 690, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES FOR NATURAL RESOURCES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 777 (JHA) and H.B. No. 691, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES FOR THE STATEWIDE TRAIL AND ACCESS PROGRAM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 778 (JHA) and H.B. No. 135, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD PASSENGER SAFETY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 779 (FIN) and H.B. No. 1678, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 780 (FIN) and H.B. No. 1391, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ARTS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 781 (FIN) and H.B. No. 1640, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 782 (FIN) 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," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 783 (FIN) and H.B. No. 1216, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KOREAN CENTENNIAL CELEBRATION COMMISSION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 784 (FIN) and H.B. No. 1318, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 785 (FIN) and H.B. No. 1361, HD 1, entitled: "A BILL FOR AN ACT RELATING TO A HAWAIIAN AFFAIRS TASK FORCE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 786 (FIN) and H.B. No. 869, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL

LOANS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 787 (FIN) and H.B. No. 870, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 788 (FIN) and H.B. No. 925, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOANS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 789 (FIN) and H.B. No. 695, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPLACED LESSEES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 790 (FIN) and H.B. No. 860, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 791 (FIN) and H.B. No. 1113, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 792 (FIN) and H.B. No. 1595, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 793 (FIN) and H.B. No. 296, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 794 (FIN) and H.B. No. 644, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 795 (FIN) and H.B. No. 654, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SAFE DRINKING WATER," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 796 (FIN) and H.B. No. 666, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL WASTEWATER SYSTEMS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 797 (FIN) and H.B. No. 626, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 798 (FIN) and H.B. No. 627, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 799 (FIN) and H.B. No. 516, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 800 (FIN) and H.B. No. 166, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE

MINIMUM WAGE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 801 (FIN) and H.B. No. 139, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE ALLOWANCE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 802 (FIN) and H.B. No. 143, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATURE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 803 (FIN) and H.B. No. 1667, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO STUDENT LOANS FOR TEACHERS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 804 (FIN) and H.B. No. 212, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE WATER CODE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 805 (FIN) and H.B. No. 861, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE OPERATIONS AND MAINTENANCE OF CERTAIN AGRICULTURE-RELATED INFRASTRUCTURE ON KAUAI," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 806 (FIN) and H.B. No. 1074, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO DROUGHT MITIGATING FACILITIES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 807 (FIN) and H.B. No. 1282, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONSERVATION TAX CREDITS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 808 (FIN) and H.B. No. 840, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 809 (FIN) and H.B. No. 572, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 810 (FIN) and H.B. No. 596, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 811 (FIN) and H.B. No. 850, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SICK LEAVE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 812 (FIN) and H.B. No. 1589, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 813 (FIN) and H.B. No. 213, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 814 (FIN) and H.B. No. 169, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 815 (FIN) and H.B. No. 857, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 816 (FIN) and H.B. No. 719, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 817 (FIN) and H.B. No. 171, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 818 (FIN) and H.B. No. 620, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 819 (FIN) and H.B. No. 554, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 820 (FIN) and H.B. No. 1156, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 821 (FIN) and H.B. No. 71, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 822 (FIN) and H.B. No. 603, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY PARTNERSHIPS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 823 (FIN) and H.B. No. 1273, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 824 (FIN) and H.B. No. 725, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATEWIDE TRANSPORTATION PLANNING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 825 (FIN) and H.B. No. 1256, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE MANAGEMENT," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 826 (FIN) and H.B. No. 1561, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 827 (FIN) and H.B. No. 179, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 828 (FIN) and H.B. No. 180, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 829 (FIN) and H.B. No. 1056, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 830 (FIN) and H.B. No. 594, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTINUING EDUCATION COURSES AND COURSE PROVIDERS FOR INSURANCE LICENSEES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 831 (FIN) and H.B. No. 614, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 832 (FIN) and H.B. No. 638, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 833 (FIN) and H.B. No. 1076, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF PUBLIC SAFETY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 834 (FIN) and H.B. No. 862, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ESTABLISHMENT OF SOCIAL WORKER POSITIONS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 835 (FIN) and H.B. No. 551, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 836 (FIN) and H.B. No. 282, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE COUNCIL ON DEVELOPMENTAL DISABILITIES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 837 (FIN) and H.B. No. 1669, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO NATIONAL BOARD CERTIFICATION FOR DEPARTMENT OF EDUCATION TEACHERS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 838 (FIN) and H.B. No. 11, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 839 (FIN) and H.B. No. 73, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO HOUSING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 840 (FIN) and H.B. No. 175, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 841 (FIN) and H.B. No. 118, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO FAMILY CHILD CARE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 842 (FIN) and H.B. No. 1339, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WATER SUPPLY BOARDS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 843 (FIN) and H.B. No. 1385, HD 2, as amended in HD 3, entitled: "A BILL FOR AN ACT RELATING TO NET ENERGY METERING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 844 (FIN) and H.B. No. 568, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEE HEALTH BENEFITS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 845 (FIN) and H.B. No. 733, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 846 (FIN) and H.B. No. 1058, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 847 (FIN) and H.B. No. 544, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 848 (FIN) and H.B. No. 633, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO FUNERAL ASSISTANCE PAYMENTS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 849 (FIN) and H.B. No. 647, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DISABILITY AND COMMUNICATION ACCESS BOARD," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 850 (FIN) and H.B. No. 689, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FOREST STEWARDSHIP PROGRAM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 851 (FIN) and H.B. No. 663, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE NEWBORN HEARING SCREENING PROGRAM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 852 (FIN) and H.B. No. 502, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT

RELATING TO PROFESSIONAL EMPLOYMENT ORGANIZATIONS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 853 (FIN) and H.B. No. 1666, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE REPAIR AND MAINTENANCE OF SCHOOLS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 854 (FIN) and H.B. No. 730, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 855 (FIN) and H.B. No. 685, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF VESSELS BY THE DEPARTMENT OF LAND AND NATURAL RESOURCES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 856 (FIN) and H.B. No. 584, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 857 (FIN) and H.B. No. 636, as amended in HD 1, entitled: "A BILL FOR AN ACT RELATING TO REIMBURSEMENT FOR NONINSTITUTIONAL PROVIDERS OF MEDICAL CARE FOR SERVICES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 858 (FIN) and H.B. No. 301, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC DISPLAY," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 859 (FIN) and H.B. No. 432, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE MILLENNIUM WORKFORCE DEVELOPMENT PROGRAM," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 860 (FIN) and H.B. No. 469, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL PERSONNEL," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 861 (FIN) and H.B. No. 472, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOLS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 862 (FIN) and H.B. No. 1287, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 863 (FIN) and H.B. No. 1089, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 864 (FIN) and H.B. No. 369, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 865 (FIN) and H.B. No. 542, as amended in HD 1, entitled: "A BILL FOR AN ACT

RELATING TO THE FEE SIMPLE RESIDENTIAL REVOLVING FUND," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 866 (FIN) and H.B. No. 786, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR DONATED DENTAL SERVICES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 867 (FIN) and H.B. No. 533, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO ANTITRUST," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 868 (FIN) and H.B. No. 77, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 869 (FIN) and H.B. No. 177, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATELY-OPERATED CORRECTIONAL FACILITIES," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 870 (FIN) and H.B. No. 917, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CLINICAL SOCIAL WORKERS," were placed on the calendar for Third Reading on March 6, 2001.

Stand. Com. Rep. No. 871 (CPC) and H.B. No. 815, HD 1, as amended in HD 2, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE DEALERS," were placed on the calendar for Third Reading on March 6, 2001.

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 9:00 o'clock a.m., Tuesday, March 6, 2001.

TWENTY-SEVENTH DAY**Tuesday, March 6, 2001**

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2001, convened at 9:21 o'clock a.m., with the Vice Speaker presiding.

The invocation was delivered by Pastor Andy Kikuta of the Hawaii Kai Community Church, after which the Roll was called showing all members present with the exception of Representatives Hiraki, Say, Schatz, Takamine and Takumi, who were excused.

By unanimous consent reading and approval of the Journal of the House of Representatives of the Twenty-Sixth Day was deferred. (Representatives Hiraki, Say, Schatz, Takamine and Takumi were excused.

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 161) was received and announced by the Clerk was placed on file:

Gov. Msg. No. 161, transmitting the 2000 Report of the Commission to Promote Uniform Legislation of the Department of the Attorney General.

INTRODUCTION

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

Representative Thielen introduced Ms. Bette Tatum of the National Independent Federation of Businesses.

At 9:25 o'clock a.m., the Chair called a recess subject to the call of the Chair.

Upon reconvening at 9:55 o'clock a.m., the Speaker assumed the rostrum.

ORDER OF THE DAY**RECALL**

Representative Fox moved that H.B. No. 1630 be recalled from the Committee on Education, seconded by Representative Pendleton.

The motion to recall H.B. No. 1630 was put to vote by the Chair and on a show of hands, the motion was carried and H.B. No. 1630, entitled: "A BILL FOR AN ACT RELATING TO A STATE BOARD FOR CHARTER SCHOOLS," was recalled from the Committee on Education and put before the House for action. (Representative Schatz was excused.)

NOTE: H.B. No. 1630, was referred to the Committee on Education on January 29, 2001.

Representative Fox then moved that H.B. No. 1630 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Pendleton.

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

"This bill would grant that charter schools would have their own school board in the State of Hawaii. It's a fact that every two years the Board of Education would have to renew the charter school's charter and they have stated in testimony that this would be too difficult for them and it's cumbersome. It is not in their best interest to grant charters as it is also enables competition.

"But charter schools are a good thing and they are good for our educational system. We in Hawaii know that our education system needs all the help that it can get. Charter Schools will save at least \$1000 per student, per year. It empowers parents, teachers, students and it enables them to have a lot more choice. If we allowed charter schools in Hawaii, and we promoted it by a Statewide Board of Charter Schools, it would grant us \$3 million annually in federal funds.

"The legislation on this bill is our area and in Washington D.C. there is a Center for Education Reform. It gave grades across the country of states that are friendly towards Charter Schools and Hawaii was at the bottom of the list with a "D" grade. That is because our laws are such that Charter Schools are not able to thrive here. Arizona had the #1 rating and they, of course, have a statewide board for charter schools. It allows them to have their own autonomy, they make decisions and they really govern the charter school works. This is certainly the best way to enable charter schools to get up and thrive.

"There has been a lot of talk about charter schools being weird or well-governed or managed. Well this is exactly where I feel it is our responsibility to step in and make a difference and to provide management for the charter school movement. I think overall it will help our education system in Hawaii. For these reasons, I am in strong support of this motion. Thank you."

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

"Although Hawaii was one of the first states to enact a charter school law, we have fallen far behind the other states because we have one of the weakest charter laws in the country.

"The Federal Charter School Expansion Act of 1998, rewards states with significant chartering activity. Our weak Hawaii Charter School Statute will not qualify us for additional federal funds because we do not have a separate chartering authority outside of the Board of Education, and we cannot demonstrate robust school growth.

"Every one of us should support charter schools. Charter schools for one thing, operate for three basic principals: first, accountability. Charter schools are held accountable for how well they educate children in a safe and responsible environment. Not for compliance for State regulations. They are judged on how they meet the students achievement goals established by their charter. If charter schools fail, they are closed.

"In contrast, many of our public schools are failing, but remain open. Choice is another matter. Students and parents choose the school they want to attend and teachers choose to teach at the charter schools. Third, autonomy. Charter schools are freed up from the traditional bureaucracy and regulations that divert the schools' energy and resources toward compliance rather than excellence.

"Mr. Speaker, I would like to challenge several myths that have risen regarding charter schools. One myth that is charged is that there is a lack of learning, that there is no guarantee that charter school provides a suitable or quality education. Charter schools, unlike our traditional public schools are accountable in two ways. First, charter schools must declare their academic goals, which must be found to be sound and rigorous before they get a charter. They cannot remain open, unless they meet the approved academic goals. Secondly, charter schools are schools of choice. No one is compelled by force of law to attend or send their children to a charter school. Parents can remove a student if the school is not meeting their goals.

"Although the myth is that charter schools take support and resources away from other public schools, this simply isn't so. It must be understood that charter schools are public schools and they operate in the interest of public school students. Tax paying parents should have the right to decide whether their child attends a traditional public school or a public charter school. Nationwide many charter schools are funded at less than the normal per pupil amount. That was the \$1000 saved that my colleague from Hawaii Kai talked about.

"Most states fund each charter school student at 70-75% of what the standard public school receives per student. Confident school districts do not fear charter schools. Some districts have converted all of their schools to charter schools. Only a poor performing school system should fear a charter school that actually educates students.

"Some see charter schools as a threat to the established order, but in fact, charter schools provide an alternative for educators and parents that places power and responsibility into the hands of those with the most personal vested interest: parents, students, and teachers.

"Mr. Speaker, I support this bill for the same reason I support locally elected school boards. Involved parents, students and teachers will run better schools than what we have today. Thank you, Mr. Speaker."

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

"Education reform begins with giving students, teachers and parents a choice of a school which is best for a particular student and their needs. The charter school movement is fundamental. The concept of education reform. Because such schools provide a true alternative.

"A charter school is an independent public school that is designed and operated by educators, community leaders, educational entrepreneurs and others. They are supposed to operate free from the traditional bureaucracy and red tape so that they can design and deliver programs tailored to educational access and community needs.

"Because the State Board of Education is a sole chartering authority in the State of Hawaii, and in charge of the traditional ways schools are operated in Hawaii, the Board should not be the State's sole chartering authority. Charter schools compete for funding with established public schools and so the BOE may be in conflict of interest situation.

"If you want education reform, then you must look at the entire picture. Not just books, computers or wages. Reform means changing the system. Reform means giving the students a choice. To achieve these ends, we must support charter schools and support the creation of a state board of

charter schools as proposed in H.B. No. 1630. Thank you, Mr. Speaker."

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

"Members, let's look at this bill. This bill will create another statewide school board. The responsibility would be to: 1) review and approve the charter school implementation plans; 2) conduct evaluations of each charter school every four years; and 3) it will represent the charter schools in communications with the Governor and the Legislature and serve as a financial conduit for charter schools financial requirements.

"Mr. Speaker, so this additional board's function, according to the language of this bill, would be purely administrative. What would be the purpose of creating a second administrative body within the DOE? What would be the purpose of creating an appointed administrative body based on partisan criteria? Our Board of Education is elected in a nonpartisan election. In 1999, during floor debate over a proposed floor amendment, for an appointed school board, the Minority argued against an appointed school board. From the 1999 House Journal, on the 27th day, allow me to quote my good friend and 'comrade in arms', the Representative from Foster Village: 'I'm certain that if they were appointed, by a Democrat or Republican Governor -- either party, it doesn't matter -- they would have, I would think, political agendas that would mirror whatever administration that would be, and I don't think they would be regular folks. They would be politically active, politically connected folks.' I find it really strange that two years later the Minority Caucus now supports an appointed statewide board. What has changed their minds?

"During the 1999 floor debate the issue of accountability was raised by the Minority Members. Were you aware that this bill is silent about the establishment of the internal rules, by and for, this new state board? HRS 302A-1112 states that: the Board of Education rulemaking is subject to Chapter 91. Yet, this bill is silent regarding public proceedings for the adoption of rules for this new board. Where is the accountability issue now?

"Under the new Century Charter School statutes, HRS 302A-1187, neither the Department of Education nor the Superintendent of Education have the power to supervise or control the New Century Charter Schools in the exercise of its function, duties and powers.

"This bill amends the language of the subsection so that the Board of Education or the Superintendent does not have that power. Because the bill is silent about the Charter School Board on this issue, there is no statutory restriction against the charter school board supervising or controlling the charter schools. Oddly enough this bill would imply that the same restrictions or active management of the charter schools by the Board of Education and the Superintendent would be lifted if the Board of Education and the Superintendent engaged in this activity together.

"Mr. Speaker, this bill raises too many questions that cannot be answered. It lacks depth and comprehensiveness. In good conscience I cannot support such a measure and I ask my colleagues to reject this measure. Thank you."

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

"Although I am against this bill, I am strongly in support of Charter Schools and in fact, I have some experience

developing chartering proposals for some of the schools in my area.

"Being that the charter movement in the State of Hawaii is relatively in its infancy, I would say this bill proposes the for the baby to start running before it even manages to crawl or walk. I would also like to make note that out of all of the schools, only the first two are what they consider 'conversion schools', and of all the proposed charter schools, none have proposed to convert the existing schools. So there are problems with the existing system. But, I think that with these proposals to establish another State board of education for charter schools and for the board to be politically appointed and politically tied, is ill advised for a number of reasons.

"First, I think those who support reducing the size of government, should not support this bill. It is a costly duplication which would add another layer to an already large beauracatic system. Charter schools were meant to be tools in educational reform. This was to be part of their toolbox to create new paradigms in delivering education. It was not meant to be an alternative educational system.

"Those who decry increases in government spending should not support the bill. We have already expended almost a half a million dollars a year on our current Board of Education and the current Board has been operating without an increase for more than ten years. This proposed board will cost even more since it will require staffing, facilities and all of the necessary things to operate.

"Now the proponents of this bill will say that the purpose of creating another board is to get charter schools out of the current bureaucracy. Yet, complete autonomy, as proposed by this bill, will result in a demise of charter schools because this board will have no ties to the existing infrastructure and the services that it provides. It will be out there on its own. In a sense it might even be an attempt of creating a private school system using public dollars.

"I just want to point out on paragraph five, page eleven, which makes no sense because it states: "except as set forth in this section, the board or the superintendent of education, individually, shall not have the power to supervise or control the new century charter school in the exercise of its functions, duties, and powers." Now this would create a real problem to our superintendent. Because the current Board of Education is the superintendents employer. The proposal makes him a member of the charter school state board. So, which master does he serve?

"Mr. Speaker, I believe charter schools can work. I believe it is a good way to reform our current educational system and to create these new paradigms of educational delivery.

"But, I think we need to be a little more patient. I think we need to look at the reform movement and what we want to accomplish through charter schools. I believe at this point this bill is ill-conceived and I ask everyone to vote against this bill. Thank you, Mr. Speaker."

Representative Meyer rose in rebuttal and stated:

"I just wanted to rebut a few things that was said by the Chair of Health.

"He mentioned that the "baby is still crawling." You know we had one of the first charter school laws and it has been over ten years. How is it the other states are running a 100 yard dash. Arizona has about 360 schools and we now have 6.

"It is the Members in this Chamber that are keeping this baby from learning to walk and hold its head up high and enter a new era. Charter schools have proven themselves. Why are we fighting it?

"We are withholding this important reform from the parents and children of Hawaii. We should be embracing this new technology, this new form of education. It's innovative and children don't all learn the same way. These children deserve a choice in their public schools. Children that have been failing, a school in Honokaa is doing wonderful things for children who were going to drop out of school. On the mainland, schools for children with a drug addiction are coming under the public schools. There are special schools for kids who need that kind of counseling. They aren't getting it in the public schools, they are being overlooked or they're dropping out. We should embrace this rather than find and "nit pick" every little reason why we can't do it.

"The important thing, and why we need a separate chartering authority, is because the federal law has changed. Hawaii will get no federal funds and this body is making sure that we don't. This is short sighted and I think we need to look at this with our eyes open, without a bias and not cling to protecting the status quo at all cost and the cost of the education for the children of Hawaii. Thank you, Mr. Speaker."

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

"This bill would create an appointed statewide school board not only responsible for the New Century Charter Schools.

"If you would indulge me Mr. Speaker, I would like to quote from the 1999 House Journal, Day 27, specifically the floor debate over the Constitutional Amendment for an appointed statewide school board, H.B. No. 149."

Representative Thielen rose and stated:

"Mr. Speaker, is the speaker addressing the bill that is before us or deviating to a prior bill in the 1999 Session?

The Chair responded, stating:

"I believe he is addressing the bill in regard to the question of an appointed board and an elected board. The bill we have before us, H.B. No. 1630, reflects an appointed school board for the charter schools."

Representative Thielen continued, stating:

"That is correct, but then to address that bill rather than something that was before us in 1999, I think is more relevant, Mr. Speaker?

The Chair responded, stating:

"The Chair recognizes that the present speaker does have the right to address that particular measure since it is addressing last year's vote on the elected board versus the appointed school boards and how this is may be affected by what was discussed last year in the House Journal."

The Chair then recognized Representative Takai.

Representative Takai continued his remarks, stating:

"I just wanted to point out that there were comments made in the past about appointed statewide school boards and therefore I will continue. The remarks made first by the

Representative from Waikiki on that day are: "We certainly don't need this essentially bankrupt idea of going back to a statewide appointed Board of Education."

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

"He is addressing a debate that has nothing to do with this bill. The bill we are talking about is a board that looks at charter schools providing additional chartering authorities, not a statewide school board which sets overall school policy for our public schools."

At 10:18 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:22 o'clock a.m.

Representative Takai continued his remarks, stating:

"I just wanted to point out to our Members that in the past, the Members of the Minority have spoken against an appointed statewide school board and in this case of this bill we are specifically looking at proposing a new appointed statewide school board specifically for New Century Charter Schools.

"As a matter of fact, Mr. Speaker, the bill proposes a partisan appointed statewide school board. Meaning that the Governor in this case would have the opportunity to choose Members from both the Majority as well as the Minority parties.

"But I would like to continue, Mr. Speaker, and I continue by questioning the wisdom of creating another state level school board. Do we want to impose another layer of bureaucracy on our school system? This proposed state board for charter schools would oversee the creation and evaluation of up to twenty-five schools under the New Century Charter School section, mainly 302A.

"It would be administratively attached to the Department of Education as is our current Board of Education and the cost of administration for the Board of Education is approximately \$575,000 annually, which included seven staff positions. Subtract the cost of per diem and other Board Member expenses which are not provided for this new board and that would leave with us with a new annual cost for this new school board of \$455,000.

"Now keep in mind that this figure does not include the cost of the supporting cast of educational, fiscal and legal specialist necessary for the charter school boards to carry out its duties. And for this annual expenditure we get an appointed board to evaluate the activities of 6 existing schools. This board will be part of resources that weren't even considered by the offers of this measure.

"No one knows the cost of this unfunded mandate that we would be imposing on the Department of Education. The establishment of another statewide board of education, appointed political, board of education, would require far more careful consideration than what went into this bill.

"For that reason, I oppose this bill. Thank you."

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

"I had not intended to speak but my name was invoked in affect.

"I would like to remind everyone that there is an important distinction between a small board that is being appointed to deal with the subject of charter schools and the Board of Education which runs the entire statewide school system.

"Just because the word "board" is in there should not lead Members to confuse the two issues. As the Representative from Laie had pointed out, there is no such thing as a workable charter school law that allows chartering authority to be vested in the body that runs the local school district.

"You need to have another authority to deal with the subject of chartering. All situations that I am familiar with, the body that does it is basically appointed. It's either under the Department of Education at the statewide level or some University. It is a separate and distinct body that is appointed. No place that I am familiar with is the body that handles charter schools is actually elected.

"The cost figures are up in the stratosphere, from the Representative of Pearl City's testimony. It has nothing to do with the actual cost of a small body of people actually meeting to discuss only the subject of what gets chartered and to monitor charter schools. Obviously this is very much a part-time activity requiring very little staff time and I find it puzzling that this process is being called partisan when you sit in this body day after day and review legislation that puts together boards that are appointed by the Speaker and the President of the Senate and by the Governor. That is a typical normal way a board is put together and that's all this bill calls for. It is following this same normal process.

"So, I think we are going way overboard in trying to equate this small board that would need to deal with charter schools but independent from the Board of Education, very important distinction separating or trying to identify that Board from the Board itself.

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

"I believe my position was mischaracterize by a previous speaker.

"I had not intended to speak. But my position was stated that I spoke against an appointed board, that is true. But the following year I supported the Democratic Majority's position of a Governor appointed Member. I believe that is called the maturation process. Thank you."

Representative Hale rose to speak in opposition of the measure, stating:

"I think most of this debate has been about the value of charter schools.

"I don't think the problem before us here is the value of charter schools. This State has gone on record, as was pointed out by one of the Members, being the first state to enact the Charter School law.

"I think we have to realize that our educational system has gone through some very traumatic changes within the past few years and we are faced with a so called "Felix decision" to improve our schools.

"The purpose of the Charter School, and I'd like to say that I am for charter schools, I have sat on the board of a chartered school that is being proposed in my district and I am very much supportive of the idea. Charter schools are the way to bring together the parents, teachers and students in an

innovative way. I think that this is a challenge to the Board of Education.

"However, our State system is unique. We can't compare ourselves with other places in the mainland because we are the only Statewide school system in an effort to bring equality to districts which I represent, the southern end of this Island, rural districts. This is not true over the mainland where you have individual school boards.

"I'd also like to say that the charter school has its own school board which oversees the work of that particular charter school. That is part of the charter school law, they have to set up their own school board and they do their own negotiating with the unions, but they are public schools. They are being funded by the public. As such I think we have to keep our State system under an elected school board which is represented of the people on a non-partisan basis, so that we don't have different standards of chartered schools and public schools.

"Our goal should be to educate all of our children so that they can participate in the growing economy and the new system that we are facing in the Twenty-First century. So, I don't think that the solution to our charter school problem is to set up another bureaucratic appointed system. We need to work under the present system and make sure that charter schools are helping our public schools to become better, with new and innovative ways. But it has to stay under the same system. Thank you."

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

"Mr. Speaker, I know we are having a large debate here and I was going to sit down and keep quiet, but the proponents of this bill and may I just say, I'm for chartered schools, I'm in favor of having a determination made at the grass root level as much as possible.

"As the former speaker from South Point described chartered schools, it really derived out of School Community Based Management where the enactment of that Act basically identified six elements within the community to make decisions based on their schools.

"But the reason why I am objecting to this House Bill is because the proponents claim that this would be the paradigm to educational excellence. I hear the argument about "why we are stifling this", "keep our eyes open".

"Mr. Speaker, I have been keeping my eyes open. With due diligence we should hear the people. My question is, why are we going through this? Is this the people's business? If it is the people's business then I am 100% in support of this conversation. But if it is about other things, perhaps party, perhaps the sound bite in the news, then that's what is making me feel uncomfortable.

"If we're doing this in due diligence then we should be talking to the people. When you say things like, "we don't need books", "we don't need computers", "we don't need wages". When HSTA was here they yelled loud. They said they wanted their wages. And the same day in the Committee of Education children came in and said they wanted their laptops and computers and at the same time they said they wanted their books.

"So, now I'm sitting here trying to figure out if this debate about the people's business or about the political business? There is a distinction between the people's business versus the

parties' business. There is a distinction between "news bites" and truth.

"I oppose this because maybe this not a priority of the people. When I talk to people about education, they tell me raise the standards, challenge the kids, free the teachers and get the community involved. That's where education excellence need to be emphasized.

"So, I ask my colleagues to vote against this because it enlarges government, it disregards the present elected Board and it disregards what the people are saying right now. They are saying they want their raises, computers in the classes and their books."

At 10:33 o'clock a.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 10:35 o'clock a.m.

Representative Fox then rose and stated:

"I briefly take objection to the charge that this is a partisan effort.

"We at the beginning of the year placed education at the top of our agenda. We deliberately selected to bring these education measures to the Floor at the end of our effort of recall to highlight the importance of education to the State of Hawaii.

"We think it is the most important issue facing the people of Hawaii today. Taking care of our children. We think we are dealing with a broken education system and we brought to the floor three sincere measure to try to fix that broken system and this is definitely one of them. Thank you, Mr. Speaker."

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. 1630 entitled: "A BILL FOR AN ACT RELATING TO A STATE BOARD FOR CHARTER SCHOOLS," 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, Cabreros, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 20: Auwae, Bukoski, Case, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Excused, 1: Schatz.

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. (Representative Schatz was excused.)

At 10:40 o'clock a.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 10:41 o'clock a.m.

UNFINISHED BUSINESS

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 706) recommending that H.B. No. 509, as amended in 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. 509 HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEASUREMENT STANDARDS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 707) recommending that H.B. No. 945, as amended in 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. 945 HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WORK," passed Third Reading by a vote of 49 ayes, and 1 no, with Representative Stonebraker voting no and Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 708) recommending that H.B. No. 1473, HD 1, as amended in HD 2, 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. 1473 HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 709) recommending that H.B. No. 739, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 739, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I would like to note that on page six of HD 2, I believe that the word "exclusively" should be eliminated and that was Life of the Land that made that recommendation and they have very good reasons for doing so.

"I am hoping then that it will happen in Conference Committee."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 739 HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICAL COOPERATIVES," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com.

Rep. No. 710) recommending that H.B. No. 1335, as amended in 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. 1335 HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 711) recommending that H.B. No. 831, as amended in 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. 831 HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERISLAND VEHICLE TRANSFERS," passed Third Reading by a vote of 49 ayes, and 1 no, with Representative Stonebraker voting no and Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 712) recommending that H.B. No. 415, HD 1, as amended in HD 2, 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. 415 HD 2, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 713) recommending that H.B. No. 223, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 223, HD 1, pass Third Reading, seconded by Representative Lee.

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

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

Representative Lee's remarks are as follows:

"This bill would allow certified optometrists to use and prescribe pharmaceutical agents, repealing the Joint Formulary Advisory Committee and allow the Board of Examiners in Optometry to establish the formulary that therapeutically certified optometrists are authorized to use and prescribe.

"All 50 States now recognize the authority of optometrists to use and prescribe drugs. Thirty eight states allow the use of oral drugs.

"Mr. Speaker, the profession of Optometry is a respected and safe one. There is no history of evidence to show that optometrists in Hawaii are less qualified to prescribe than those in other States. Why, this very body gave prescriptive power to physicians assistants who are far less highly educated and who have the power even to prescribe narcotics.

"Some may say prescriptive power is under a physician's supervision, but everyone knows that doesn't always happen—especially when one lives in such places as Ka'u or Hana. For the most part, the battle between the professions related to prescriptive power is over turf and economics. As Legislators, we should stay out of that and look at the facts. The facts speak for themselves.

"I urge the members to support this bill. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 223 HD 1, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY," passed Third Reading by a vote of 38 ayes, and 12 noes, with Representatives Auwae, Bukoski, Djou, Gomes, Halford, Kanoho, Marumoto, Meyer, Pendleton, Rath, Stonebraker and Thielen voting no and Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 714) recommending that H.B. No. 16, HD 1, as amended in HD 2, 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. 16 HD 2, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 715) recommending that H.B. No. 17, HD 1, as amended in HD 2, 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. 17 HD 2, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARE PROJECTS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 509, HD 1; 945, HD 1; 1473, HD 2; 739, HD 2; 1335, HD 1; 831, HD 1; 415, HD 2; 223, HD 1; 16, HD 2; and 17, HD 2 had passed Third Reading at 10:46 o'clock a.m.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 716) recommending that H.B. No. 20, HD 1, as amended in HD 2, 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. 20 HD 2, entitled: "A BILL FOR AN ACT RELATING TO SALES AGENTS OF TIME SHARE UNITS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 717) recommending that H.B. No. 22, HD 1, as amended in HD 2, 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. 22 HD 2, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS," passed Third Reading by a vote of 50 ayes, with Representative Schatz 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. 718) recommending that H.B. No. 23, HD 1, as amended in HD 2, pass 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. 23 HD 2, entitled: "A BILL FOR AN ACT RELATING TO DECEPTIVE TRADE PRACTICES FOR TIME SHARE PLANS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Garcia, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 719) recommending that H.B. No. 868, as amended in 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. 868 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 720) recommending that H.B. No. 1016, 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. 1016, entitled: "A BILL FOR AN ACT RELATING TO THE MEMBERS OF THE BOARD OF EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 721) recommending that H.B. No. 1679, 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. 1679 HD 1, entitled: "A BILL FOR AN ACT RELATING TO DILLINGHAM AIRFIELD," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 722) recommending that H.B. No. 1118, 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. 1118 HD 1, entitled: "A BILL FOR AN ACT RELATING TO HUNTING," passed Third Reading by a vote of 49 ayes, and 1 no, with Representative Thielen voting no and Representative Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 20 HD 2; 22, HD 2; 23 HD 2; 868, HD 1; 1016; 1679, HD 1; and 1118, HD 1 had passed Third Reading at 10:47 o'clock a.m.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 723) recommending that H.B. No. 630, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 630, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's remarks are as follows:

"The purpose of this bill is to exempt the Department from the statutory requirements for medical information on natural parents of the prospective adopted minor child when it will expedite the adoption process and it is in the best interest of the child."

The motion was put to vote by the Chair and carried, and 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 Third Reading by a vote of 49 ayes, with Representatives Hiraki and Schatz being excused.

At 10:59 o'clock a.m. Representative Stonebraker asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:00 o'clock a.m.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 724) recommending that H.B. No. 687, 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. 687 HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC NOTICE REQUIREMENTS FOR PUBLIC LAND DISPOSITIONS," passed Third Reading by a vote of 49 ayes, with Representatives Hiraki and Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 725) recommending that H.B. No. 123, as amended in 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. 123 HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPEEDING," passed Third Reading by a vote of 49 ayes, with Representatives Hiraki and Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 726) recommending that H.B. No. 187, as amended in 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. 187 HD 1, entitled: "A BILL FOR AN ACT RELATING TO RECONSTRUCTED VEHICLES," passed Third Reading by a vote of 49 ayes, with Representatives Hiraki and Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 727) recommending that H.B. No. 646, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 646, HD 1, pass Third Reading, seconded by Representative Lee.

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

"This measure is an example of the law of unintended consequences, because it will actually encourage illegal intravenous drug use while undercutting effective programs already in place. For almost ten years, the Hawaii Statewide Syringe Exchange Program has been coupling a sterile syringe exchange program with a significant program of education and outreach into the illegal drug use community.

"H.B. No. 646, has none the important counseling features of an exchange program, and, as stated by the Honolulu Police Department, is a poor substitute to the more effective alternative, an exchange program.

"It also hurts prosecutors' efforts by removing the sale of syringes from the drug paraphernalia offense. If the bill becomes law, addicts will be able to obtain a supply of syringes without routine contact with a public health worker that the exchange program provides.

"They're requiring the seller of the needles to only make written education materials available. The connection between the addict and the treatment that the counseling program provides is seriously weakened.

"The Hawaii State Life Syringe Exchange Program reported a total of 193,350 syringes exchanged in 1999. As stated in the testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu, we desperately need the counseling and education that will bring this number down, not such a measure as the one before us that would bypass the efforts to provide them.

"The exchange program has another benefit that this legislation fails to consider or address that of used needle disposal. Exchange, by definition, ensures that the contaminated needles are collected by proper disposal by allowing the outright purchase of syringes by addicts and sick people, the proper disposal procedures will be ignored. And used needles will be forgotten and cast aside wherever they are used.

"Will there be an effective disposal syringe program in place when this bill takes effect? Will we be able to deal with a hazard created by our own short sightedness? I suggest my colleagues here today consider the consequences of undercutting drug counseling programs that this measure accomplishes and join me on voting no on H.B. No. 646, HD 1. Thank you."

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

"As my colleague has mentioned, the fear that we have is that we are flooding the market with needles, aside from the issue of enabling an addict. Here is a situation where we are not only enabling, but there is an endangerment of the public safety.

"My other job is downtown here and one of our rules in the morning prior to our church service is to go out into the Smith Street parking lot and pick up the used syringes. So, I know first hand the dangers of flooding the market place with needles. My concern is that we would find needles sitting in public parks, beaches and parking lots. We are just

multiplying their numbers on the streets and for that I am voting down on this measure. Thank you."

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

"This is a very important public health measure.

"We all know that the sharing of needles by drug injectors is a major cause of the spread of HIV, Hepatitis B and Hepatitis C. Unfortunately knowledge of the dangerousness of this practice has not halted injection drug use.

"The United States Public Health Service and the major organizations of health professionals recommends that access to sterile syringes be increased. Research has shown that increased access of sterile syringes does not lead to increased drug use, but does reduce transmission of deadly blood borne diseases.

"Access to sterile syringes continues to be problematic and that is why we need this bill. For people who cannot or will not use a needle exchange system. It is time for Hawaii to take the next step as several other states have already done, and legalize the purchase of syringes from pharmacies or other authorized health care providers.

"There is a growing body of evidence from state programs and national public health studies that improving syringe access will help further reduce the transmission of blood borne diseases. During the past decade many thousands of sterile needles have been given to intravenous drug users throughout the State in an effort to limit the spread of HIV and other pathogens due to needle sharing.

"I think we should all be proud that Hawaii has only half of the national rate of HIV infection due to needle use. It is something we can be proud of.

"The Hawaii Syringe Exchange Program has been credited by national experts in preventing HIV transmissions evidenced by Hawaii having only 17% of its AIDS cases attributed to injection drug use. While nationally, 35% of the AIDS cases are injection related.

"However, we can make significant improvement in prevention efforts by removing the legal barrier that currently exists to accessing sterile syringes. Definitive research demonstrates access to sterile syringes prevents disease transmission and does not increase drug use. Effective disease prevention requires allowing individuals to purchase syringes from pharmacies because the syringe exchange program cannot alone address the need for sterile equipment.

"Many drug injectors lose their supply of syringes and are then unable to participate in the one-for-one exchange program. So they can't get access to counseling unless they can get a replacement. These is especially among the most high risk individuals who are homeless and generally have multiple social and health problems. Their belongings are frequently stolen and lost and may have their syringes confiscated by police officers. If allowed to purchase syringes at a pharmacy or health care facility, many of these individuals would do so, and then resume participating in the exchange and the counseling that's available.

"So this program is very important and we would be joining other states such as Connecticut, New York, Minnesota, Maine, Illinois and New Hampshire to legalize the purchase of syringes through pharmacies and other authorized health care providers.

"Therefore, I would like to ask everyone to please support this measure. Thank you, Mr. Speaker."

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

"Mr. Speaker preventing drug use and providing substance abuse treatment for persons who use illegal substances are very important to preventing many blood borne infections, including HIV, Hepatitis C and Hepatitis B.

"Due to the limited availability of substance abuse treatment, lack of readiness of some drug users to enter treatment, as well as many other multiple reasons, substantial numbers of drug users continue to inject drugs. People who are drug users are also at risk of other serious infections because they are in a very debilitated condition.

"But the most important public health reason that I can think of is, they place at risk people who are unknowing victims such as, sexual partners and their children. That is why this is such an important public health measure. The risk of transmission of blood borne illness is a compelling reason to strengthening public health and community efforts.

"One-third of all AIDS cases and half of all Hepatitis C cases are directly or indirectly related to injection drug use. The American Medical Association strongly encourages State legislation modifying drug paraphernalia laws so that injection users can purchase and possess needles and syringes without a prescription. That's the American Medical Association and I think they know a good deal about public health.

"It is responsible and right that we support this bill which is truly a public health measure which will protect the general public.

"Lastly, our ultimate goal should be rehabilitation and treatment of the drug user. Prevention of disease is important to this goal too, as without a source of sterile syringes addicts may develop chronic or fatal illness which will make recovery impossible in the future. 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. 646 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF STERILE SYRINGES FOR THE PREVENTION OF DISEASE," passed Third Reading by a vote of 37 ayes, and 12 noes, with Representatives Auwae, Davis, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Whalen voting no, and Hiraki and Schatz being excused.

At 10:59 o'clock a.m., Representative Stonebraker asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:00 o'clock a.m.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 728) recommending that H.B. No. 662, HD 1, as amended in HD 2, 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. 662 HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PENALTIES," passed Third Reading by a vote of 49 ayes, with Representatives Hiraki and Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 729) recommending that H.B. No. 830, HD 1, as amended in HD 2, 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. 830 HD 2, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," passed Third Reading by a vote of 48 ayes, and 1 no, with Representative Halford voting no and Representatives Hiraki and Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 630, HD 1; 687, HD 1; 123, HD 1; 187, HD 1; 646, HD 1; 662, HD 1; and 830, HD 2 had passed Third Reading at 11:00 o'clock a.m.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 730) recommending that H.B. No. 365, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 365, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Abinsay's remarks are as follows:

"Mr. Speaker, members of this house, what your Committee on Agriculture has found was that there is a growing number of activists that are deliberately destroying private and public crop research and development facilities. It is a growing problem across the United States, and in Hawaii alone, two sites were destroyed in Kauai. One is operated by a private seed company and the other by the University of Hawaii, at the Kauai agricultural experiment station, where vandals uprooted and destroyed vital papaya and taro research fields.

"Mr. Speaker, research is the foundation of the agriculture industry. Farmers rely on biotechnology research to produce higher yields crops, or develop disease resistant varieties. Without research, the future of Hawaii's agriculture would be impossible to sustain. I believe that the threat of violence against research facilities is real. It is happening right here in Hawaii.

"The purpose of H.B. 365, HD2 is to impose liability for double the market value of the crops that were destroyed. I believe that passing this bill would send a clear and strong message to activist groups or individuals that we are going to protect farmers and crop research facilities from any acts of violence.

"The State of California recently enacted a similar bill on this issue and I am urging all of you colleagues, to support passage of 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. 365 HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL COMMODITY DAMAGE," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 731) recommending that H.B. No. 998, HD 1, as amended in HD 2, 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. 998 HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 732) recommending that H.B. No. 411, HD 1, as amended in HD 2, 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. 411 HD 2, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Third Reading by a vote of 50 ayes, with Representative Schatz 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. 733) recommending that H.B. No. 650, HD 1, as amended in HD 2, pass 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. 650 HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADVANCE DIRECTIVES FOR PSYCHIATRIC CARE," passed Third Reading by a vote of 50 ayes, with Representative Schatz 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. 734) recommending that H.B. No. 173, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the joint report of the Committees be adopted and that H.B. No. 173, HD 2, pass Third Reading, seconded by Representative Lee.

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

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

"This bill will implement renewable portfolio standards for Hawaii's qualified electrical utility companies.

"One of my concerns is that this measure explicitly creates a bias for the development and production of solar electricity. By requiring qualified electric utility companies to have a minimum, at this point an unspecified percent, of their total electric generating capacity provided from solar generated power.

"This measure further entitles developers and manufacturers of solar electricity production and equipment to receive twice the kilowatt hours of electricity in renewable energy credits toward fulfilling the renewable portfolio standard requirements.

"The added incentive of receiving twice the credits for solar power will have the effect of determining the purchase of energy from renewable energy production facilities that have achieved lower production costs. The outcome of this by allowing twice the credits of solar power would be an unnatural forcing of the supply side of the market toward

energy produced at a higher cost. Guess who's going to pay for that? You and I and all of the people of Hawaii.

"For the sake of fulfilling the requirements set out in H.B. No. 173, the electricity rate payer will ultimately pay.

"Mr. Speaker, because of these serious considerations I hope that through the process there will be the necessary changes made in this important bill. Thank you."

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

"Decades of broad general policy has not worked. These policies are stated in the State Energy Plan.

"The renewable portfolio system is the single most effective way of accomplishing renewable objectives for the State. One of Hawaii's greatest assets is our sunshine. In order to take care of this important asset and to make solar photovoltaic systems more affordable we need to create a market approach to foster competition to get the industry growing so prices can be reduced. That is one of the reasons why for a special section for with an emphasis on solar.

"Other renewable energy assets for Hawaii are wind and geothermal and those costs over the years have become competitive where their actively competing with fossil fuel prices. One of the reasons why we must move in this direction is for economic stability. Instead of creating jobs in other areas of the world where we import fossil fuel, we will be creating jobs in Hawaii and one of the ways we can do it is by the support of the solar industry. Thank you."

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

"I know we have to do a lot more with regard to renewables and keeping our environment clean and getting off of our dependency for fossil fuels, not only in the power industry but also the transportation industry in particular.

"But, I don't necessarily buy the rhetoric on either side of this particular issue. I think that the assumptions underlying the advocacy for it. I am uncomfortable with it and I don't think they are going to bear out as we hope they will. I suspect it may cause more problems than we anticipate. Mostly on the cost side, not just on the financial cost side, Mr. Speaker.

"I also recognize that this position that I am taking may not be politically popular in some quarters, but so be it. Again, I am in opposition just because I don't think the underlying assumptions that are driving this really do bear out. At least I am not convinced at this point. For those reasons, Mr. Speaker, I am opposed. Thank you."

Representative Bukoski rose to declare a possible conflict of interest, stating:

"I currently serve as a consultant on a renewable resource generator."

The Chair ruled "no conflict".

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

"As it was mentioned earlier by my colleague, this bill is technically not written very well. In Part I, in the preamble, it basically states that it is the intent of the Legislature to recognize the economic, environmental, and fuel diversity

benefits of renewable energy resources to establish a market for renewable energy in Hawaii, using the State's significant renewable energy resources, and to drive down the cost of renewable energy cost to the consumers. It goes on further to say that, renewable portfolio standards is a flexible market driven policy that seeks to ensure that the public benefits of wind, solar, biomass, geothermal energy and other renewable energies continue to be recognized as electricity market, become more competitive.

"It also goes on further to say that, innovation will deliver renewable energy at the lowest possible cost. Section 1 also goes on to say that the renewable portfolio standards applies equally to all generators and is competitively neutral. But as the Chair from the Energy and Environmental Protection Committee has written in the bill, she is basically creating an unfair market advantage towards one particular resource solar in particular. As noted in testimony from Dr. William Jacobs, that was presented to the Committee on Energy and Environmental Protection Committee, solar energy is four to seven times more costly per kilowatt hour than all of the other renewable energy resources available to use today.

"I feel that if we are truly trying to create a market driven arena for this renewable energy resource to take affect then we should "level the playing field" and allow the market to compete equally. For those reasons, I have reservations. Thank you, Mr. Speaker."

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

"Mr. Speaker, I think that this bill is one of the few before us today that is truly revolutionary, truly change-oriented, and truly looks to the long-term welfare of the State, and it deserves more discussion than it has gotten thus far.

"Here are the facts briefly. I don't think anybody is going to contest any of these facts. We obviously have an incredible dependence in this State on imported fossil fuels. We do not generate anywhere close to something that resembles self-sufficiency in this State. We are obviously extremely exposed to the vagaries of the world market in oil and other fossil fuels.

"We also have what continues to be, to put it charitably, a monopoly on energy production in this State, what would probably be classified as a monopoly under traditional legal analysis. It's a regulated monopoly, it is permitted, but it is operated essentially by one company, the largest company in Hawaii. That company has no interest in looking to the development of realistic alternative energy. That company is motivated like most companies toward short-term profit, and that company has opposed this bill and has been very active in the Legislature in opposing this bill. Perhaps there has been some softening of its position in recent times, but perhaps that's more of a realization that public sentiment is changing.

"What this bill does is to affect the market for fossil fuel-generated energy. What it basically says, when you strip away all of the essentials, is: we know for a fact that given the world oil reserves and our own exposure to that market, fossil fuel-generated energy is going to be far more expensive within ten or twenty years than alternate energy. We know that we have two choices. Either we can wait for that to happen and kind of respond to it at the time and treat it as an emergency and throw our hands up and say "Oh my gosh now we have to start to develop these alternate energy sources." Or we as policymakers can sit here and decide that it is in our best interest and our children's best interest, economically, environmentally and for a number of other reasons, to jump start development of an alternate energy industry.

"Now it is perfectly legitimate for us to affect that market by saying that we are going to sacrifice some cost savings now from the continued utilization of fossil fuels in order to develop that market over the long-term, and that's what we're doing.

"So, when the Representative from Laie says, who is going to pay for it, the rate-payers? I answer her, "yes", the rate-payers are going to pay for it. Rate-payers are going to pay a little bit more now to develop that market but realize large savings later on. That is a legitimate public policy decision for us to make, and the point is that it is made across the board. You ask a business out there right now: "Hey business, will you go out and purchase solar generated energy even though it is more expensive than fossil fuel energy" what do you expect them to say? They're trying to provide for the viability of their business in the current environment. If you ask a family, "Hey would you pay \$1000 more per year to put a solar generation facility on your house and don't worry about it, it is for the good of us all down the road", I think the family would choose the fossil fuel-generated electricity. But if everybody is playing by the same rules, if everybody is subsidizing indirectly the development of an industry that is good for us all in the long term, then we all bear a mutual responsibility to realize a mutual benefit later.

"Unless you can sit here and argue to me or anybody else that fossil fuels will not be tremendously more expensive in ten or twenty years, unless you can make that argument in good faith, this is the right decision to make today. The benefits are not going to be realized for some time, but the benefits will be there and the benefits will be awesome if we just have the courage to proceed with a little revolutionary, forward-thinking change-oriented policymaking. Thank you."

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

"I would just like to add a few points that I agree with the public policy purpose of this measure, having been the former Energy and Environmental Protection Chair.

"However, I would like to point out to the members that we are the taxpayers and that to attribute to a utility bad motives is not correct. As former counsel to a utility it is a regulated entity that has the highest purpose in terms of reducing cost for all of us in terms of the efficiency, and cost effectiveness in its services that it provides to the community, and that is an important balance that any utility that is regulated must make.

"Therefore, I believe, Mr. Speaker, in terms of the debate and in terms of how we are going to pay for some of these types of increases, that's a decision that concerns all of us and having been in an oil industry the facts are, and I do dispute the facts, that within the next generation we aren't looking at an astronomical increase of oil prices which is, I think, the fear factor that many advocates for an accelerated cost increase would promote.

"We need to take a look at this, and I support this measure but I take exception to some of the comments made by another Member in terms of the motives of a utility. Thank you."

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

"I believe that the intent of the bill is excellent and we need to look into the future and we need to be less dependent on fossil fuels.

"However, I believe that there is possibly some naivete to believe that having an increase in the solar capacity is going to

lessen the need for increasing capacity for the State of Hawaii. I want to make this point to the Members here. Years ago I had a solar company that made our own solar water heaters and we had constructed for practically every poor home in Molokai a solar heater because I believe in solar heating. I believe in energy saving devices as well because we rented those.

"However, we were also cognizant that including solar does not lessen capacity. You need to continually have generation capacity so that we won't get into a situation that California is in. As the population grows and business increases, capacity increases. Solar heating and wind power provide assistance only when the weather is ideal for those respective alternatives. Solar heating doesn't work in the evenings and you cannot store the solar heating for continual care. Wind is fine when the good north wind is coming in at 25 to 35 mph, then we get the August, September, October and November parts when there is hardly any wind at all there is no capacity generated in there.

"So you need to continue to have the capacity for these down times. It is important that we look at renewable energy. We must not lose sight of the bigger picture and the bigger picture is that we need to continue to have the capacity in generation to take care of the people of the State of Hawaii. Thank you, Mr. Speaker."

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

"Mr. Speaker, the motives of the utility company were called into question. I think it was very appropriate. We must remember that the utility company is responsible to its shareholders. That's a relatively small group.

"We as policymakers are responsible to all the people in Hawaii. The utilities' motives are to make a profit for the shareholders. Our responsibility is to make sure that we have varying sources of energy, not just today but in the future, for our residents in the Islands.

"I do question the motives of the utility, Mr. Speaker. Particularly the utility which is a regulated monopoly, came in and worked hard to prevent our requiring them to disclose the percentage of fossil fuel that is used for power production. We know it's like 93-95%. They did not want to be forced to put that item on the utility bills because that would alert the public, and have them say, hey wait a minute we've got a utility that's not even looking at being aggressive in looking at other sources of energy.

"So the responses to us were, it would take up too much space, we would have to put in another piece of paper and that would require an additional stamp. Look at your utility bills when you get them and look at all of the space that is available for a simple little line item. This is from the area from which we get our power and it would be fossil fuel 93% or 95% a little bit of solar, maybe a "smidgen" of wind. It would tell the public that we had better take a look at long range policy changes. That's what we are being asked to do today.

"The other thing is, that the utility has always been able to depend on the fact fossil fuel is cheaper. As the previous speaker indicated, that's not going to be the case as we move forward another ten or fifteen years out.

"Another measure is going to allow the Public Utilities Commission to look at the long range cost of the dependency on fossil fuel. That's terribly important coupled with this bill, because we need to start thinking with advanced thoughts similar to the article that is put into the Economist Magazine

recently. Shell Oil is doing that. Shell Oil is the leader. Germany is the leader. Other nations are the leaders, they've gotten the message. We need to move away from the dependency of fossil fuel. Our monopolistic utility has been unwilling to do that and I do question their motives and I would like them to get the message.

"Time is here now to start looking at alternative sources of energy. If you won't do it then we will set standards and objectives that you must meet in the coming years. Thank you, Mr. Speaker."

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

"I'm not an expert on this measure, but my electric bill is about \$150 a month. I've got five school age boys in my home and I just want to thank some of the members who are so eager to raise my electric bill. I really appreciate the courtesy and I thank you very much along with some of the other bills and fees that you pass on all the time. I thank you.

"With all this talk about fossil fuels. We have to do away with fossil fuels. What is the replacement? There is no replacement. Fossil fuels are terrible. It depends who you ask and how many years we have of these resources we have left. Some people say we have one hundred years and some people say two hundred years.

"The only acceptable thing that is going to replace them is that new technology which we haven't discovered yet. Couple of years ago they came up with cold water fusion and that didn't work, but something like that. You have nuclear power out there that doesn't use fossil fuels, do we want that? That would take care of our dependence on foreign sources. No, we wouldn't want any nuclear power in Hawaii.

"Pearl Harbor which is my district is loaded with nuclear powered ships. There are no solar powered war ships. If solar powered war ships worked we would have them because it is free.

"Finally Mr. Speaker, I want to ask, where are we going to put these acres and acres and acres of solar cells? Whose neighborhood are we going to put this in? This will be a visual blight. Environmental terrorism. Where are we going to put the acres and acres of them? Who's Island? I don't know. Thank you."

Representative Gomes rose and stated:

"A couple of things that we talked about is the stockholder and their interests and I would just like to remind the Members that stockholders include a lot of mutual funds and a lot of mutual funds include a lot of us. A lot of us and our pensions are in those mutual funds and those costs as they may be passed on to those particular stockholders. It's a middle class, if you will, situation that's middle class people that are involved and invested in things like utilities.

"I think that stockholders themselves can effectuate actions against the utilities to encourage them to develop these alternative sources.

"With regard to the subsidy that was spoken of earlier, I agree it would be a subsidy on our part, but that's really the principal reason that I am against this. Not only would we be subsidizing this industry, at the same time we're also subsidizing schools, transportation, health care, prison, etc. None of this happens in a vacuum, Mr. Speaker, and that's my concern and that's the larger issue that we need to address. Thank you."

Representative Lee then rose and asked the Clerk to insert her remarks in support of the measure into the Journal, and the Chair "so ordered".

Representative Lee's remarks are as follows:

"We live in a state where approximately 93% of our electric power generation comes from oil, coal, diesel - some form of hydrocarbon. That's a lot. You may ask, so what? How does this impact my constituents or the economy? These are very good questions.

"Recently we have seen a 170% increase in oil prices. This has increased our electric bills in Hawaii by \$700 million dollars - dollars taken out of our state's economy without adding one job - without adding one dollar of economic benefit. This money didn't stay here in the State - it went to pay for jobs in Indonesia, Alaska and other such places. If this \$700 million had been placed in renewable energy power plants, how many jobs could have been provided for here, in our State, for our people?

"This oil cost is quite a hole in our economy. Now ask yourself, if we had any other situation which cost us so much, wouldn't we consider it to be the number one item on our agenda - to find the source of the drain and insure support was in place to correct the problem? Our economy is at enormous risk with such increases. We can't provide assurance of costs of energy to businesses that want to come to our state.

"What are the costs to the consumer? In electric bills here in Hawaii all fuel cost increases are passed directly to the ratepayers. They shoulder the entire burden of the cost. Our local businesses have watched their profits disappearing in ever increasing amounts into their electric meters over the past year. What effect does this have on the mother on state aid, or the senior citizen on retirement pay? Can an extra \$25 to \$50 a month in electric costs make a difference in their ability to buy food - in their basic quality of life? It can. So it is affecting our people - directly in an area that they must have - their electric power.

"We have a bill before us which is designed to begin the journey of helping to stabilize the impact of fluctuating fuel cost on our constituents. It's not the final answer - it is the beginning of an answer. It will give a signal to the state electric utilities of our concern about the direction our energy future is heading. (HB 173 establishes a market for the State's significant renewable energy resources, with an emphasis on solar electric production.)

"The development and greater use of renewable energy will delay the need for new fossil-fuel burning electricity-generating facilities and new transmission lines. Renewable energy will create new jobs; it will strengthen the economy by keeping local dollars within the state and promote a cleaner environment. But the planning for this has to begin now for future generations to benefit.

"Until now the utilities have done an excellent job of supplying us with our energy. However, almost all of their electricity is produced the old way. This must change. We as a state do not have the time to take a "wait and see" attitude. It is important to insure these newer forms of energy, if available, are used before an oil powered generator is asked to provide the power which come from these renewable resources. This bill sets the stage to help this become a reality. We need fixed, affordable percentages of renewables now, which at least will head us in the direction of weaning ourselves off fossil fuels in the future. As of today, hundreds of megawatts worth of new oil, coal and other fossil fuel

plants are being planned for construction in our State. There is no concrete, projected plan for introduction of renewable resources. This will make it even harder for renewable power to be a useful part of our generation base. This is one of the points that make this bill so urgent.

"Electric utilities, by law, must judge the usefulness of renewables within the narrow confines of their franchise authority. It is argued fossil fuel plants are the least expensive so they are the best. What does this mean? It means they are the cheapest equipment to buy at the beginning. But you know what? We still have to pay for the fuel - which is the largest cost of these types of plants. We as a legislative body have the charge of looking at the bigger picture. This is why it is important the groundwork for future renewable generation be legislated by us. In this way, we can insure that the implementation of this technology supports the overall needs of the state's economy. So it is important for us to set the guidelines for the electric utility industry, to insure enough renewable resources are in this mix.

"HB173 will guarantee at least part of this new power generation comes from technologies which don't go up and down in cost - which will not have the uncertainty of the increases we have seen in oil prices. What would it be like to have an economy in which we could know our electricity costs? How much would this add to our economic stability? These are two very important questions.

"To have at least a stated percentage of renewable resources within a certain time frame will help this become a reality. It will set an excellent example for the other island nations that are our ohana of the Pacific. Perhaps even allow us to export our knowledge and expertise after a few years.

"Countries such as Denmark are basing their energy future on these renewable technologies - up to 50% by the year 2030. Why? Because their economists know it is the soundest way of insuring a thriving economy - by taking the fluctuations of the oil market out of their economic equation and choosing stability instead.

"I am asking you to do the same - to choose the road of economic stability. It is our duty to enact legislation to foster the development and use of our indigenous natural resources and fuel diversity to ensure an environmental future for Hawaii powered by clean energy. I am asking you to open the door to an energy future that will provide for enhanced economic strength and security for the State of Hawaii, and increased future economic protection for our citizens. This may be the single most important bill you vote for this session. Please vote for the passage of HB173.

"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. 173 HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY RESOURCES," passed Third Reading by a vote of 48 ayes, and 2 noes, with Representatives Gomes and McDermott voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 735) recommending that H.B. No. 87, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 87, HD 2, pass Third Reading, seconded by Representative Lee.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 87 HD 2, entitled: "A BILL FOR AN ACT RELATING TO FAMILY SUPPORT CENTERS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 736) recommending that H.B. No. 161, HD 1, as amended in HD 2, 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. 161 HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 365, HD 2; 998, HD 2; 411, HD 2; 650, HD 2; 173, HD 2; 87, HD 2 and 161, HD 2 had passed Third Reading at 11:27 o'clock a.m.

LATE INTRODUCTION

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

Representative Arakaki introduced on behalf of Representatives Ahu Isa, Nakasone, B. Oshiro, M. Oshiro, Takamine, Yonamine and himself students visiting from Okinawa participating in an exchange program accompanied by: Mr. Hitoshi Miyazato, program Coordinator; Mr. Tadashi Oshiro; Ms. Ayumi Arakaki; Mr. Mark Kanetsuna, of Kalaheo High School; and various local high school students representing the Academy of the Pacific High School, Campbell High School, Aiea High School, Castle High School, Iolani School, Kahuku High School, Kalaheo High School, Kalani High School, Leilehua High School, Mililani High School, Moanalua High School and Nanakuli High School who were host families to the Okinawan visitors.

STANDING COMMITTEE REPORTS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 737) recommending that H.B. No. 249, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 249, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This is a very important issue and bill for the Health and the Human Services Committees.

"H.B. No. 249, will provide some basic dental services. As of February 1, 1996, basic dental services for adults covered by the Medicaid and Quest medical assistance programs were discontinued and currently only emergency dental services are covered for these clients.

"Comprehensive dental benefits for adults from the Quest and Medicaid programs have created several significant problems. Nearly half of all Quest and Medicaid beneficiaries, over 79,000 people, are adults. Their lack of coverage for basic dental care results in untreated oral diseases. Not getting timely dental care can result in

escalating complex medical and dental problems that may be very costly and difficult to treat.

"Additionally, this is a difference in benefit structure between adults and children in Quest and providers. It also appears to result and reduce use of available benefits by Quest and Medicaid recipients.

"I also want to point out that the issue is not only providing more reimbursements, it's also a real problem in terms of those who are available as far as dentists who provide this care. The problem is especially critical on the Neighbor Islands.

"In terms of children, although children are covered under the health insurance, almost every single child is covered by some type of insurance, our children's oral health care is among the worst in the nation, especially in terms of untreated decay and baby bottle tooth decay. I know we have had discussions on fluoridation, but besides fluoridation we're really not doing anything in terms of prevention and treatment and I think in terms of not providing access to adequate dental services is going to put the State at risk and possibly a lawsuit because we're not providing that treatment.

"So, there's a lot that needs to be done and unfortunately this bill is about the only one that has survived. Hopefully we can address some of these other issues and really address the issue of access to our most vulnerable in our population. Thank you, Mr. Speaker."

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

Representative Kahikina's remarks are as follows:

"The purpose of this bill is to appropriate funds to provide basic dental services to adults receiving services through Medicaid or Quest medical assistance programs.

"I urge my colleagues to support this bill."

Representative Lee then 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:

"Basic dental services for adults covered by Medicaid and Quest medical assistance programs were discontinued as of February 1, 1996. Medicaid, which is federally funded, will provide 53.85 % of such services with the State paying the remaining amount.

"Cutbacks were also made in community health and DOH, leaving even those covered by Medicaid and Quest without dental care. Recent studies and just plain common sense will tell you that oral health affects the total health of the body. If teeth are decayed, abscesses may develop leading directly to systemic infections and pain. Poor dentition also prevents food from being chewed well and may result in poor nutrition when eating is painful.

"This bill recognizes the need to provide dental care for those indigent adults, especially on the Neighbor Islands. This is simply a question of pay now or pay later. Treating an individual for sepsis or blood poisoning is a lot more expensive than filling or pulling a few teeth.

"Mr. Speaker, I urge the members to vote yes and I urge us to find the money now to save money later.

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. 249 HD 2, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Third Reading by a vote of 46 ayes, and 1 no, with Representative McDermott voting no and Representatives Bukoski, M. Oshiro, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 738) recommending that H.B. No. 503, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 503, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I rise on behalf of all of Hawaii's hard working and deserving farmers.

"For years, Mr. Speaker and members we have attempted to unsuccessfully to address a problem of terminating the leases of State lands held by some of our best farmers. With 30% of such State leases scheduled to expire within the next ten years, we face an exasperating situation which must be addressed.

"This bill will enable a farmer to petition the responsible department, either the Department of Land and Natural Resources or the Department of Agriculture to negotiate a new lease. In considering such a request the Department must be convinced that: 1) the land is and has been well utilized by the lessee for agricultural purposes; 2) agricultural production through sales or tax documents indicate that the agriculture operation is and has been viable; 3) infrastructure and other improvements on the land confirm that the agricultural operation is/has been and in all likelihood will continue to be viable and the failure to renew the lease would result in a substantial loss of time, effort and capitol on the part of the lessee to construct similar infrastructure improvements so as to achieve equivalent agricultural production results; and 4) other agricultural lands are available in proximity to the leased land which would satisfy the needs of an interested person who would otherwise bid on the property.

"The Department would be required to publish a public notice inviting comments in support or opposition to the lease renewal application. The Department may negotiate and consummate a lease renewal which if done, only means that the farmer has successfully met the test and in fact deserves to remain on the land. Undeserving tenants would not enjoy this privilege.

"The bill also provides for the Legislature to disapprove the negotiated lease in the session immediately following. Now that language addresses expressed concerns regarding so-called "sweetheart deals". Also subject to further discussion as this bill continues to move through the legislative process, is the provision that negotiated renewals would not exceed ten years. This is intended to cover concerns by Committee Members that these leases would be given the appearance of fee simple ownership. These renewed leases should be periodically reviewed and scrutinized.

"Let me emphasize that these two latter provisions are most certainly subject to modification if not complete deletion. A critically important requirement in this bill is that DLNR and the Department of Agriculture shall identify agricultural leases

that expire in the next ten years and to determine both the availability and projected need for agricultural lands. This will help ensure that the State's constitutional mandate of agricultural sustainability is fulfilled and to also avoid the counter productive and repugnant act of having farmers vie for lands already occupied by someone who wishes to remain on the property.

"We keep hearing that these public lands are subjected to auction so that the State can realize the highest and best value of the land. If one really wants highest and best value, residential or commercial developments would be a better answer, but what we want is agriculture. Lease rent based on appraised market value is not only fair but is all that is necessary.

"I ask you to picture yourself as a hardworking successful farmer nearing the end of your thirty-five year lease. Let me say that again. Please picture yourself as a hardworking successful farmer nearing the end of your thirty-five year State lease. Assuming that you began farming at age 20 or 25 and are now 55 or 60 years old. Your home, agriculture improvements and all you've worked for your entire life will be placed on the auction block and you stand to lose it all. Understandably..."

Representative Pendleton rose to yield his time.

Representative Kanoho continued, stating:

"Understandably, hopelessness and grief would describe your feelings of despair which would also be harbored to your entire family.

"Now let's take this to the next step. Someone has outbid you and has moved onto the lands and into the home you have occupied for many, many years. At 55 or 60 years of age, how able will you be, physically, mentally and financially to start all over again at some adjacent land? At best it would be extremely difficult. The time, effort and resources to prepare the land to construct improvements to cultivate and plant and wait for the harvest, is an insurmountable task to have to start all over again.

"This bill is to help deserving farmers with emphasis on deserving farmers. This bill is simply to help those hardworking deserving farmers to remain on State farm lands and to continue with their meaningful contribution to their community.

"Members, it is on behalf of all of these deserving farmers who stand to lose it all, that I ask for your support on this bill. Thank you, Mr. Speaker."

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

"I think the prior speaker has articulately depicted the problem we face with expiring agricultural leases. As a matter of overall public policy, in terms of the administration of our public lands, I believe we have long pursued the general approach of providing for alienability of those lands. So those who utilize public land use are guaranteed a certain time at certain terms, and that's known to everybody up front.

"Now, if the best use of those lands at the conclusion of that period is to continue with the current tenant under the current uses or different uses, I think that that's good. But if it is true that the best use of those lands is for some other public purpose at that point, then our general public policy has been to provide for a mechanism by which that transfer is made. This is for the good of all citizens of Hawaii.

"The reason I am voting for this bill is because the Chair of Water and Land Use has inserted several provisions which I think are fairly restrictive in terms of when this power to continue the lease without public auction occurs. However, I think we have to be very careful in how we establish precedent in this area. I think that there are other alternatives that we can pursue, maybe more targeted to specific circumstances that may arise.

"In addition, I believe that, before we make a move that affects public lands that are used in agricultural purposes, we complete our work on at least the constitutional requirement to identify our prime agricultural lands. I am encouraged by what I understand to be the commitment from the Water and Land Use Committee to devote substantial time to this during the interim.

"But if we are going to do that, we really should wait on this bill. Thank you."

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

"As you all heard from the Chair of our Committee that this bill will allow the Department's of Agriculture and Land and Natural Resources to directly renegotiate agricultural leases without public auction.

"There are some major policy changes in this bill and I would encourage the members to take a look at this so everyone knows what we are exactly, what we are doing. It means that a farmer who has the lease can renew the lease by negotiating with either Department of Agriculture or DLNR, whichever had issued the original lease.

"I am concerned that the original lease rent was set on the basis that the farmer would not be able to renew the lease unless the farmer went through public auction. As such the original lease rent was based on a set term and it was obviously lowered due to this term restriction. Now the farmer gets the benefit of a longer term lease without having paid a commensurate higher rent to the State for this privilege.

"In other words Mr. Speaker, a short term lease is going to be worth less than a 40, 50, 60, 70 year lease. The value to the farmer would be much more for the longer term and so would the lease rent be.

"I am also concerned that this would allow the same farmer to farm the land for 65 to 75 years. Practically speaking, we're talking two generations here, not just a single generation. Non-agricultural park leases. This means the original 45 year lease which already can be extended to 55 years, now adds more years. For agriculture parks the lease can run from 15 to 55 years plus the renewal in this bill. This has the unfortunate effect of disallowing other persons the opportunity to farm State lands and it may create a family monopoly of sorts on these agricultural lands.

"This is a major change, Mr. Speaker, and I think we need to work through this carefully. I think the former speaker's comments about waiting until the lease review is done, may have more merit and it might be better that this bill stays in the process but without being finalized this Session. Thank you."

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

Representative Kanoho rose and stated:

"All of these State farm leases are subject to re-opening for rent renewal, and certainly at the time the lease would be renewed it would be subjected to a fair market appraisal. Thank you."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 503 HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE LEASES," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, M. Oshiro, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 739) recommending that H.B. No. 532, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 532, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, this bill as drafted, per se, is not bad. I recognize what it is trying to do, which is, prevent frivolous filings with the Bureau of Conveyances.

"Nevertheless, I am troubled by this bill. The reason is, the National Commission of Uniform Law promulgates uniform laws which all states in our nation, including the State of Hawaii have adopted.

"Perhaps the most important uniform laws is the uniform commercial code, in trying in Chapter 490 of the Hawaii Revised Statutes. In the uniform commercial code one of the most important Articles is Article 9. This bill will alter Article 9 of the uniform commercial code, making Hawaii non-uniform with the rest of the nation when it comes to commercial transactions.

"There have been complaints in the past that Hawaii has not been business friendly and that individuals who would like to come to Hawaii cannot always necessarily understand our business laws. This bill would make our laws non-uniform which troubles me.

"Furthermore, the trend nationally when it comes to the filing of finance statements is for national registry. There are a number of companies that are using the UCC filing statement so you can go on a computer and type it up. This will alter the financing statements here in Hawaii and again, make it non-uniform with the rest of our country.

"For these reasons, although I like the intent of this bill I must vote against it because it takes Hawaii out of compliance with the uniform commercial code. Thank you, Mr. Speaker."

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

"This bill simply requires that liens placed on all documents be authenticated. This bill is intended to protect the biggest asset that we have and that's our property. The deed in the Bureau of Conveyances, and it has happened. This is what promulgated this bill. That a frivolous lien was placed on someone's property.

"What that means is that for all subsequent transactions that will leave a blemish and put that property in question. All we are doing here is saying that such liens must be authenticated by the mortgage holder. 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. 532 HD 2, entitled: "A BILL FOR AN ACT A BILL FOR AN ACT RELATING TO THE PREVENTION OF THE FILING OF FRIVOLOUS FINANCING STATEMENTS," passed Third Reading by a vote of 38 ayes, and 9 noes, with Representatives Davis, Djou, Fox, Halford, Marumoto, Meyer, Moses, Ontai and Rath voting no and Representatives Bukoski, M. Oshiro, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 740) recommending that H.B. No. 357, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 357, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I support the bill because there may be specific hardship situations which a bill along these lines might fairly address. However, my reservations are the same as the Governor's in his veto message of a similar bill in recent years, specifically the veto message of June 7, 1999, to H.B. No. 98. He had basically asked whether this was a wise exercise of fiscal and budget restraint under the circumstances. I think those circumstances still exist; this bill gives false hope and we should not have let it come this far. We should probably just let this one go. Thank you."

Representative Yoshinaga rose to speak in support of the measure and asked that the Clerk insert her additional remarks into the Journal.

Representative Yoshinaga continued, stating:

"I would like to encourage the members that we have heard other measures today that's going to increase the costs of living for our taxpayers for different types of public policy decisions. These are the very people our career civil servant employees are living on fixed incomes that do not have the opportunity to adjust their income to absorb these types of increases that we may feel are necessary.

"Therefore, Mr. Speaker, this measure is about people. It is not just about the money. We need to find ways to support these types of people when they are our people in this category who have devoted their lives for career civil service and eating cat food because they can't afford to keep up with all of their rising rents and other types of increases.

"Mr. Speaker, the Committee of Labor attempted to address some of the cost issues in terms of providing for the most senior of these categories and we would like to support keeping this discussion alive and I think that this is not a false hope but as leaders it's giving the right hope to our people. Thank you, Mr. Speaker."

Representative Yoshinaga's additional remarks are as follows:

"*Visioneers* are people of vision who engineer their future and want a high quality of life in a safe environment. As a visioneer engineering a future that will ensure a quality of life that encourages the creativity and imagination needed to secure the care for our elderly, this bill will help state and county retirees over the age of seventy. Retirees living on fixed incomes have difficulty with the rising costs of living in Hawaii and are not able to benefit from the economic recovery that we are looking forward to. Yet retirees deserve retirement with dignity that this bill will help to provide.

"The purpose of this bill is to recognize career employees who have dedicated their life in civil service and provide special monthly compensation to state and county retirees who are 70 and older and have at least 20 years of credited service, with compensation adjustments made every five years."

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

"This bill will assist the former employees who are now 70 years old or older and have had more than twenty years of faithful service in the county or the State.

"These pensioners now find that increases in the cost of living have strained their fixed retirements. These are the same pensioners who have contributed to our retirement system at a rate of 7.5% and whose contributions have helped the ERS fund grow to its present nine billion plus figure.

"So join me people, and I hope that you will assist these dedicated former State and county employees in providing a special pensioners compensation from the ERS which they contributed to. Thank you very much, Mr. Speaker."

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

"Some of you may remember back in 1990, when we had hundreds of retirees who came to the Legislature. They overflowed the Finance Committee in support of a pension bill.

"We can always remember the example of the early retirees in our civil service system. A person who served in the DOE for forty-two years, ended up being a principal, his salary when he retired was \$12,000 a year.

"What is \$12,000 in terms of the pension that he would receive. Because of that fact this bill came to being in 1990 to take care of those very early retirees who retired a very low salary and could not get fair compensation or pension bonus within the retirement system which they help build.

"This bill is really to address the issues that the two previous speakers had mentioned. We are looking at those who are over 70 years old. We need to look at this pension bonus in terms of what they would need to live on a fixed income. This is really addressing the real terrible need that we have been affording or able to give them since 1990.

"So I would urge my colleagues to please keep this going. 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. 357 HD 2, entitled: "A BILL FOR AN ACT RELATING TO PENSIONERS' SPECIAL COMPENSATION," passed Third Reading by a vote of 45 ayes, and 2 noes, with Representatives Djou and Rath, voting no and Representatives Bukoski, M. Oshiro, Schatz, and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 741) recommending that H.B. No. 562, HD 1, as amended in HD 2, 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. 562 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, M. Oshiro, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 742) recommending that H.B. No. 564, HD 1, as amended in HD 2, 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. 564 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, M. Oshiro, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 743) recommending that H.B. No. 565, as amended in 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. 565 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 47 ayes, with Representatives Bukoski, M. Oshiro, Schatz and Stonebraker being excused.

At 11:55 o'clock a.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 11:56 o'clock a.m.

The Chair directed the Clerk to note that H.B. Nos. 249, HD 2; 503, HD 2; 532, HD 2; 357, HD 2; 562, HD 2; 564, HD 2 and 565, HD 1 had passed Third Reading at 11:57 o'clock a.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 744) recommending that H.B. No. 575, HD 1, as amended in HD 2, pass Third Reading.

Representative Luke moved that the report of the Committee be adopted and that H.B. No. 575, HD 2, pass Third Reading, seconded by Representative Lee.

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

"The fact that we are proposing a constitutional amendment to set up a "rainy day fund", is a very good move. My concern with the amendment is the requirement for Legislative utilization of the fund, changing it from a three-quarter vote as introduced, to two-thirds.

"I acknowledge the Judiciary Committee's careful analysis of the fact that there are other statutory provisions setting super-majorities at the two-thirds level. However, I think, as we are going to see later today, on occasion members of the Legislature are too quick to utilize what was truly intended to be an emergency situation, not one to provide for normal day-to-day operations and expenses.

"I think if we are talking about a real emergency, we should be talking about a higher threshold to spend than two-thirds. Thank you."

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

"We seem to be in some sort of time warp in the body. This is not the time to establish such a fund.

"Such a fund should have been established in the late 80's when we had a very large surplus. We have very critical needs that are being unmet in this community. This is not the time for any kind of emergency or budget reserve fund. This is a time to carefully spend every dollar we have. Thank you, Mr. Speaker."

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

"I just want to say that I am very happy that the Minority Leader believes in spending all of the funds that we have, it's very unlike a conservative philosophy that I know of from that side."

"I stand corrected, Mr. Speaker. I believe this fund here is long overdue and like our own family finances at home, even when we make a relatively small salary, it is always advisable to put some away for a 'rainy day'.

"We were all taught this very early. Certainly my uncle did and Uncle Sam does that pretty well too. This fund here will also provide us favorable ratings with the bond market. Those bond market people look at "rainy day funds" and to the extent of the dollars that you have for emergency purposes, which will always come about.

"Most of the states in our great nation have "rainy day funds". I believe that Hawaii is one of the few that don't have one. In this fund here, and we should use it judiciously by the way, is only for emergency purposes when there is an economic downturn, a catastrophic emergency that may come about, tidal wave, hurricane, etc. For these kinds of reasons and for very strong catastrophic reasons.

"So, Mr. Speaker, to say that we don't need a fund like this, when even Lowell Kalapa, years ago spoke against a fund like this when we first started to get funded in the 80's. Lowell Kalapa and the editorial boards all spoke against a "rainy day fund", saying that we were simply trying to stash money away from the public. Why not spend it all.

"A few years later after that, the same people were saying that the State of Hawaii should have a "rainy day fund". Because situations do happen where you need dollars to take care of the respective emergencies.

"Mr. Speaker and members, please look at this bill as something that is important and as something you yourself would do in your own household, to put a dollar away for the future. Thank you very much."

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

"In all due respect to my cousin from Maui, Speaker Emeritus, and his comments on his long term desire to establish such a fund.

"I don't think this is the time for our State to be "salting away" monies that we are looking at for this fund. Frankly, for many of the reasons that were raised by the speaker from Manoa earlier, which was that once we establish a pot of money legislatively, there will be pressures of all sorts to use that money for other reasons aside from what it might have been created for.

"In addition, it seems that there is an attempt to move the Hurricane Fund into this special fund. When we started the Hurricane Fund it was not that intent. That was not why we initiated the Hurricane Fund and now we are going to move that money, or there is an intention anyway, to move that money from the so called hurricane fund to this "rainy day fund".

"That's a misrepresentation, Mr. Speaker, to the public and to the policy holders and to the people that paid their recordation fees. Mr. Speaker with regard to the question about, why not spend it all, and that there is some confusion that the Minority members who are fiscally conservative are spending government money. Mr. Speaker, the money probably shouldn't have been collected in the first place that might be a nice place to start with in regard to some of these funds. So it should never have come to the government as an initial matter.

"Some of the issues with regard to the bond market and people who rate our bonding, I'm sure there are lots of other factors in addition to "rainy day funds" and whether we have one or not, that the bonding people will take a look at to determine whether or not we should rate highly or not with regards to bonds.

"Lastly, Mr. Speaker, it may be good fiscal policy, at times, to create such a fund. This is not the time. I still find it unconceivable that we are basically going to "salt away" about two hundred million dollars at a time when our economy is still struggling mightily. For all of those reasons, Mr. Speaker, I am against this proposal. Thank you."

Representative Hamakawa rose to speak in support of the measure and asked that his additional remarks be inserted into the Journal, stating:

"I just wanted to correct a statement by the Minority Leader on establishing the "rainy day fund". We already have a "rainy day fund" we established it two years ago, statutorily.

"All we are doing with this bill is to establish it constitutionally. We already have a "rainy day fund" that we work with."

Representative Hamakawa's additional remarks are as follows:

"I rise to speak in favor of House Bill No. 575, House Draft 2.

"There are two points I would like to make. First, the establishment of a 'rainy day' fund is sound fiscal policy. Second, the establishment of a two-thirds 'super-majority' vote requirement is consistent with other Hawaii laws.

"For the past ten years, our State has suffered through the pains of economic decline. Many of the factors that contributed to this downturn were outside of the State's control -- the crisis and conflict in the Middle East; the reduction in tourists from Japan and other Asian markets; soaring oil costs; the drop in prices for sugar, pineapple, and other cash crops; and the decline in foreign capital investment.

"One of the main reasons why it has taken so long for our economy to turn around has been the lack of surplus funds that could have been used to stem some of these problems at their outset.

"The use of a 'rainy day' fund could have made it easier to retrain workers and stimulate new industries in our State. Such a fund could have provided needed capitol for infrastructure improvements. Such a fund could have been used to create new jobs and opportunities for our citizens.

"So important was the creation of a 'rainy day' fund deemed that it was a key recommendation of the past three tax review commissions and the Governor's Economic Revitalization Task Force.

"So important is the concept of a 'rainy day' fund that forty-five states have established this type of fund.

"Without belaboring this point, I think requiring a 'rainy day' fund in our Constitution makes good sense.

"During discussion on this measure, your Committee on Judiciary and Hawaiian Affairs also reviewed the proposed mechanism for authorizing expenditures from the 'rainy day' fund. Originally, the bill called for a "super-majority" vote of three-fourths. This requirement was changed to two-thirds to conform to other State laws.

"Upon a cursory review of constitutional provisions and state laws, staff found numerous instances where a two-thirds vote was required:

"For the issuance of special purpose revenue bonds in accordance with Article VII, Section 12 of the Hawaii State Constitution;

"For the extension of a legislative session in accordance with Article III, Section 10 of the Hawaii State Constitution; and

"For the disapproval of water leases, the execution of quitclaim deeds, and land transfers authorized by the Department of Land and Natural Resources in accordance with Chapter 171, Hawaii Revised Statutes.

"The establishment of a new three-fourths voting requirement could cause confusion. In essence, it would create two separate "super-majority" standards for separate purposes.

"If it is this body's view that the requirement should be changed to three-fourths, then this new standard should be applied to all other requirements as well. However, in my view, House Bill No. 575, House Draft is not the appropriate vehicle for such debate.

"The title of the bill reads, "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE SEVEN OF

THE HAWAII CONSTITUTION REGARDING AN EMERGENCY AND BUDGET RESERVE FUND". The title would prohibit the inclusion of new language to amend all other references.

"In sum, I believe House Bill No. 575, House Draft 2, is a good bill, and I urge your support on this important measure."

Representative Fox then rose in rebuttal, stating:

"I think the bond rating is a very important issue and I think that what we need is an image outside this State as a State that handles its monies responsibly. The basic reputation we have is that we pay the highest State and local taxes in the country and bond raters look favorably upon efforts to reduce taxation and that is of course the first priority we should do, which is to help keep the money that they earn. 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. 575 HD 2, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII OF THE HAWAII CONSTITUTION REGARDING AN EMERGENCY AND BUDGET RESERVE FUND," passed Third Reading by a vote of 31 ayes, and 19 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 745) recommending that H.B. No. 576, HD 1, as amended in HD 2, pass Third Reading.

Representative Luke moved that the report of the Committee be adopted and that H.B. No. 576, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, this is one of those bills that looks innocuous on its surface, perhaps even incomprehensible, but that has come to strike fear into my heart when I watch them move through with blank amounts.

"For those of you who are especially concerned with our budget, and particularly concerned with some fiscal moderation in this State, please watch this bill very carefully.

"Let me try and back into why this is a problem. We, being the State and the counties, make certain contributions to our Employees' Retirement System. The amount of those contributions are based on various assumptions. Those assumptions are written into law.

"We have 'monkeyed' with those assumptions in the past in order to affect the amount of money which we must pay into the Employees' Retirement System as government's contribution.

"In other words, when we are faced with a budget-balancing challenge, we have changed some of these assumptions statutorily in order to set the amount that is being contributed to the Employees' Retirement System. So, we haven't started with saying how much do we need to contribute to maintain solvency; we've had unrelated budget goals in mind.

"Now one of the assumptions that is in this bill is how much our public employees are going to be paid in the future, because Employees' Retirement System contributions are

based on the amount of the base salary that is being paid to State and county employees. Now without going into the details, a system has been in place to make projections over a five year period, looking forward; the current formula has to do with a variable salary growth assumption.

"Now the Administration came in and introduced this bill and said, the variable growth assumptions are creating some havoc in terms of predictability. We want to move to a fixed growth assumption and that, in and of itself, is a fine idea. So to move to a fixed growth assumption in terms of what our employees are going to be paid in the future years is itself no big deal.

"The problem is that the amount is blank, and I cannot support a blank amount without knowing what is proposed. Let me illustrate the problem that we have. The testimony to the House Committee on Finance from the Hawaii State Teachers Association on this particular bill proposed that the assumption to be plugged in at 2% a year. Two percent a year for five years is 10%, and that is obviously not what the teachers are requesting. The teachers are requesting 22% over two years.

"So, you can see that the teachers have advocated a lower assumption than they are actually asking for in negotiations, or quite frankly, what we are prepared to pay them. Now, why are they doing that? The reason that they are doing that is because public employees prefer a low assumption. Why do they prefer a low assumption? Because it lowers the amount of money the State and counties are going to contribute to the Employees' Retirement System. Why do they want to lower that? Because they want to balance the budget in order to pay for pay raises.

"Now I have no problems with us deciding the matters of public policy to pay teachers and other public employees pay raises, but I have a big problem with messing with the assumptions in order to balance a budget. So the fear that I have is that somewhere along the line we are going to see this bill come back to us with an unrealistic salary growth assumption which is designed solely to balance our budget and I think we need to put a stop to messing with the ERS at this point to balance our budget. It has been going on too long and I think we should stop it at this point. Thank you."

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

"For the newer members and also to ask for all of the members' support on this measure, it's not just about balancing the budget. The intention of this measure is really to address the concern of volatility in regard to, and we all have stocks, I'm sure with regard to the high technology fluctuations, there's been volatility on a lot of different economic forecasting fronts and it has affected the salary increase assumption.

"So, the ERS itself used to be on a fixed rate and they are supporting this measure. The reason that the Labor Committee left the measure blank is that there needs to be further discussion and in the testimony presented in the Finance Committee by the Budget and Finance Department, Neal Miyahira, requested that the actuary provide different scenarios of salary increase assumptions and investment yields.

"Those of us who have experience in the business sector realize that forecasts are just that. It's not a science, it's an art. Forecasting may take many different terms because forecasts are based on certain assumptions and again I would like to state for the record that the Labor Committee's motivations are

sincere in terms of dealing with pension planning for our retirement and providing protections for employees.

"Frankly, this is a useful tool and discussion in terms of how best to prepare for our pension's unfunded liability. We have other funds that we are in similar situations with and we don't want to give a false expectation to our employees but really to balance many different priorities in terms of many of the programs that our employees support and are beneficiaries of as well.

"So I ask all members to support this measure and to keep this discussion alive and we do not have bad motives in the passage of 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. 576 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 48 ayes, and 2 noes, with Representatives Case and Marumoto voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 746) recommending that H.B. No. 643, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Luke, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 643 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE MERIT APPEALS BOARD," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 747) recommending that H.B. No. 774, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Luke, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 774 HD 2, entitled: "A BILL FOR AN ACT RELATING TO COURTS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 748) recommending that H.B. No. 790, HD 1, as amended in HD 2, pass Third Reading.

Representative Luke moved that the report of the Committee be adopted and that H.B. No. 790, HD 2, pass Third Reading, seconded by Representative Lee.

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

"The intention of this bill is good. I am concerned that it adds another layer of regulation and I think it is not necessary and I question the effectiveness of this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 790 HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE WORKER INJURY PREVENTION," passed Third Reading by a vote of 46 ayes, and 4 noes, with Representatives Djou, Meyer, Pendleton and Rath voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 749) recommending that H.B. No. 852, HD 1, as amended in HD 2, pass Third Reading.

Representative Luke moved that the report of the Committee be adopted and that H.B. No. 852, HD 2, pass Third Reading, seconded by Representative Lee.

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

"To save time, my remarks will be similar for the upcoming HSCR No. 792, H.B. No. 1595, HD 1.

"This bill is a bill that takes a step backwards in civil service reform.

"Last year we passed a bill that we labeled civil service reform which I and others believe did not provide effective civil service reform. Nonetheless, one portion of that bill which I think did provide some measure of reform was a provision affecting excluded employees.

"Excluded employees are a category of State and county employees who are right under the level of political appointees. They are the career managerial and supervisory level. They have not been subject to collective bargaining and have not been authorized as a collective bargaining unit.

"Principals fit into this category, although principals were provided with collective bargaining rights, and we had that debate a few days ago. But the comparability is to a class of long-term civil service employees who exercise direct managerial and supervisory obligations over other employees who do tend to be in authorized collective bargaining units.

"Now, for many decades these excluded employees, although they were not subject to collective bargaining, were linked to the collective bargaining result. So if the collective bargaining result was "X", then automatically that result applied to the excluded employees. This was complained about for many years on the basis that it created an inherent conflict of interest for those excluded employees. In exercising their managerial and supervisory roles, they would effectively be neutralized because their real motivation in many cases was to provide for pay raises or extra benefits for the employees that they supervised.

"The administration, in its civil service reform proposal, argued that these employees should be treated as managers and supervisors and motivated primarily by performance standards. When we passed our civil service bill last year we did in fact de-link these excluded employees from any collective bargaining result. We provided that during a certain period of time standards would be developed that would be utilized to pay for and to provide compensation for these excluded employees. But they were de-linked. I think that was a good step forward.

"What this bill does is to take a giant step backwards, to go back to the old way, less than one year after we promised to deliver civil service reform. Now, the reason we are doing this is because the excluded employees do not want to be de-linked, they want certainty. For this reason, the Department of Human Resources and Development has come in, an opposed this bill, so, contrary to the statements in the committee report, this bill is opposed by the Administration. They have come in and said: 'Look, excluded employees, if you want certainty, then what you should do is advance the effective date of the requirement that the state administration develop applicable

standards so that we will put standards in place that will govern your salaries.'

"That appears not to be good enough for the excluded employees and the proponents of this bill. So when we talk here about advancing civil service reform this year, and this has been something that has been spoken about, I believe, in some of the Opening Day speeches, and is also a major plank in our Majority Package, in which we say we want to "build upon our success in reforming and improving our civil service system, to realize our goals of a more efficient and responsive government workforce," we are not delivering. We in fact are taking a step backwards, even before the effective date of our reforms of last year.

"This is a big mistake. This is not going to be something that is going to be supported publicly. It is certainly supported by the excluded employees, but it is not supported beyond those ranks. I think it is a mistake. Thank you."

Representative Yoshinaga rose to speak in support of the measure and asked that the Clerk insert her additional remarks into the Journal, stating:

"I would like to briefly educate the members who are not part of the complex task of reinventing government.

"I would like for the record to take some moments here to lay a platform because this bill is related to some other measures that we will be discussing today. But I think it is important to take a look at the landscape and the facts as a prior speaker has mentioned.

"The facts are that two years ago when I first became Chair of the Labor and Public Employment Committee, our Governor set forth a vision and his vision was to reinvent government and he gave us a copy of five strategies for banishing bureaucracy, I don't know how many other members have taken the time to read, but I have taken it to heart and that is the mission that we are all in favor of in government efficiency.

"The question is, how do we achieve that in fairness to our people? The standard that the Labor Committee has always used and will continue to use is, what is in the best interest of the people of Hawaii. It's not just about cost. If you read the Legislative Reference Bureau report and many other reports, including this book. I'd like to take a moment to read a quote from it because I think we need to remember the transformation and reinvention of government, I quote: "is a long hard slog". It takes five to ten years to transform an organization at a minimum. In their book Osborne and Victor, again I quote states that: "Phoenix, Sunnyvale and Hampton have been at it for roughly 20, 16 and 12 years respectively and they're still improving and still using new strategies and tools.

"In a strategic shift toward entrepreneurial government which is the guiding mission that our government set forth infrastructure is not needed and new economy relies on intelligence and creative ideas that are fostered through that transformation process. In order to have that transformation, you need to build the loyalty and trust and hopes of the people that are going to be participating in that process.

"Again, for the record I would like to give a few facts to correct the prior speaker's statements that he may not be aware of. I did have a meeting with yesterday with the DHRD Director with respect to how this provision would apply. I think that this is an important point. Your Labor Committee, Mr. Speaker, is committed to reinvention of government, but

it's about taking care of the people that is going to support that transformation as we move to the 21st century.

"Some of these people are excluded managers and it's not their fault that they are in that category, but in the past due to various oversights and one of which are 'pay for performance' principals that Act 253 put into place. These workers are in the transition process unable to be subject or participate in any kind of merit pay increase. So, therefore, in my conversation with Mr. Yogi yesterday, the statement by the prior speaker to accelerate the implementation of that which the Chair is open to discussion."

Representative Saiki rose to yield his time.

Representative Yoshinaga continued her remarks, stating:

"These excluded workers in the merit principles, Davis Yogi, is stating that he can then accelerate implementation of merit principles. Which is as people with business experience? No. It's goal setting. This is a new invention and reinvention for our excluded managers. So the earliest that they would be able to then participate in any pay increase would be in either 2002 which is next year, assuming that he accelerates the implementation of setting forth goals.

"If you don't have goals, how do you then measure performance? In the interim he is supportive of accelerating this goal setting process which still leaves a gap of either one or two years depending on when these goals are set into place for these excluded workers.

"Therefore, Mr. Speaker, what this bill does is just provides for a pot of money based on collective bargaining numbers which are still not finalized as we speak, to then providing a transition in terms of then giving management the opportunity to have a pot of money to give merit increases as they so deem in the interim until DHRD, our Department, then sets into place and effectuates and implements the goal setting which is the pillar for pay for performance in Act 253.

"So I take exception to the misstatements of the prior speaker but perhaps he didn't really understand the steps involved in transformation. The 'devils' in the details and we are committed to having merit pay and pay for performance and this bill is just a transition step and there may be other bills like it to provide that transition in fairness to our managers that we need to support of reinvention. Thank you very much, Mr. Speaker."

Representative Yoshinaga's additional remarks are as follows:

"This bill is an example of doing what is good for the people of Hawaii. There might be some misunderstanding that this measure is inconsistent with pay for performance for excluded employees under Act 253, but the effective date for Act 253 is 2002 and it will take time for the Department of Human Resources to set up goals. In effect it will be 2003 before pay for performance benefits could be implemented.

"The committee is open to accelerate the effective date for the pay for performance process, i.e. to have the goals implemented for merit pay increases in 2002 and to cover the interim period. The Department of Human Resources and Development (DHRD) has stated it could set up the goals this year to have pay for performance implemented in 2002. DHRD needs adequate time to implement a comprehensive compensation and incentive program that will provide for pay for performance benefits.

"This bill requires that wage and salary adjustments for certain excluded employees within a comparable group shall be not less than those negotiated for professional and scientific employees bargaining units. This money could be allocated in a lump sum for distribution by management. Management for merit pay could allocate the total pay increases into a merit based resource allotment based on performance. By accelerating the time for goals setting a package for pay and benefits based on pay for performance can be assured."

Representative Djou rose to speak in opposition to the measure and that the remarks of Representative Case be entered into the Journal as his own, stating: (By reference only.)

"First, what we need in State government is more flexibility and not less. This bill represents a reduction in that flexibility."

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 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Third Reading by a vote of 41 ayes, and 9 noes, with Representatives Case, Davis, Djou, Gomes, Marumoto, Meyer, Moses, Rath and Thielen voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 750) recommending that H.B. No. 954, HD 2, as amended in HD 3, pass Third Reading.

Representative Luke moved that the report of the Committee be adopted and that H.B. No. 954, HD 3, pass Third Reading, seconded by Representative Lee.

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

"I support this bill it is a good one, but my reservations are that we have excluded the Public Utilities Commission in the most recent draft of this. I believe that the Public Utilities Commission should be included. Otherwise this is a good bill. Thank you."

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. 954 HD 3, entitled: "A BILL FOR AN ACT RELATING TO REGULATORY PROCESSES," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 575, HD 2; 576, HD 2; 643, HD 2; 774, HD 2; 790, HD 2; 852, HD 2; and 954, HD 3 had passed Third Reading at 12:28 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 751) recommending that H.B. No. 1111, as amended in 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. 1111 HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR AN INTERGENERATIONAL CARE CENTER AT EWA VILLAGES," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 752) recommending that H.B. No. 1130, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1130, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This legislation would make permanent the employer assessment to the Employment and Training Fund. This assessment is just really another unnecessary tax on businesses here in Hawaii.

"Instead of being made permanent it should instead be allowed to disappear as it was originally intended to.

"Way back in 1991, I think many of you can remember, this tax was enacted for a period that was supposed to last only five years. This was an effort to get money to train sugar workers who were on the verge of losing their jobs. Now, here we are in the year 2001, ten years later, and this bill would now make the tax permanent.

"This is an example of what goes on in government. Once you create a source of money, somehow there is a great reluctance to ever stop doing it. Of course there are always people who can find a use for that money.

"This tax is paid by just about every business in Hawaii, big and small. It is especially hard on struggling small businesses where every dollar can make a difference. With our State economy in such fragile shape, why should we continue to saddle businesses with this unnecessary tax?

"In 2000 the tax was half of percent of all wages paid. Then it was to go down to one percent, then it was to disappear in the year 2003. Now it is a real slap in the face for small businesses who have been advocating for years for the removal for this. Now we come around and we say that we are going to bring it up to .015% and make it permanent.

"Instead of making this tax permanent we should take a stand and work together to make Hawaii a more business friendly State by repealing this unnecessary burden on the businesses of Hawaii. Most of this money is spent to train people to use computers. They are all kinds of businesses in Hawaii that need all kinds of training, not just computer training.

"For that reason I cannot support this. Thank you, Mr. Speaker."

Representative Rath rose to speak in opposition to the measure and asked that the remarks of Representative Meyer's remarks be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker this is a tax increase and as previously pointed out it was designed to disappear and this is not only making it permanent but an increase over the last step of the phase out.

"Tax increase, "no"."

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 continued, stating:

"Briefly, to state for the record, there is some misunderstanding by some of the prior speakers of this bill.

"If you characterize this as a tax, or an assessment, this bill reduces the current assessment by 50% as an accommodation to small businesses that are paying into the Unemployment Compensation Fund.

"As the previous speakers have mentioned, this fund has a long history, but like good ideas that have an embryonic start based on a crisis to fix a certain problem, we are now moving into a global networked economy where training and workforce development is a very significant and important priority both of a national and State level.

"Frankly, as an accommodation for small business we are reducing the assessment, however, we are also requesting that subscribers to these training's then become subject to co-payment. Like the public school system, we all need to be responsible for appropriate training for new workers so that they can be as productive as they can be. Although many small businesses of the business community were at our hearings were divided in terms of support of this fund. Many small businesses have been the beneficiaries of these training programs. They have a direct benefit and as I stated earlier, the standard that the Labor Committee is using is, what is in the best interest of all of the people.

"On balance, Mr. Speaker, I believe that this measure is a compromise and is fair and reasonable for workforce training and development of all of the people. Thank you, Mr. Speaker."

Representative Yoshinaga's additional remarks are as follows:

"This bill has quite a history. In 1991 the Employment Training Fund was set up with a five-year sunset date. This was because the original intention was to retrain sugar plantation workers who were losing their jobs. Since then many other businesses have used the program to help their employees become better workers. Because of the overwhelming support of the fund it was extended so that it still is in effect 10 years later.

"Although the testimony was greatly in favor of making the fund permanent there were those that were against it. I would like to address their concerns. The argument is why should all businesses be paying into a fund when many of them do not use the program. To address that concern the bill was amended so that the assessment would only be .015% and those who use the program would pay for half the costs.

"Like the public school system we all need to be responsible for training new workers so that they can be the most productive that they can be. Although many small businesses do not have a direct benefit from the training fund they, and the whole state, benefit from having a better trained workforce to draw from and attract new business to the state. If we are to be visioneers for the future we need to help our people become the best that they can be for the future of the state.

"HB 1130 HD 1 is good for the State of Hawaii, for its people and needs to be passed out to the Senate. In a global marketplace your people make all the difference and training is always an asset."

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

"I would like to clarify for this body that we are talking about an increase in this fund. According to the current schedule the assessment is scheduled to go down to .01% beginning in January 2002.

"But the bill that is before us is going to take that to .015%, that is a 50% increase over what was scheduled starting in January 2002. While it may be half of what the current figure is, the intention after 2002, January 1, is to have a 50% higher fee than what was previously scheduled and of course to eliminate the sunsets so that this goes on forever, a bill that was supposed to end several years ago.

"We should oppose this measure. Thank you, Mr. Speaker."

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

"As you recall, Mr. Speaker, back in 1995, you remember that I stood in opposition in continuing this Employment Training Fund, because I felt that in the first two years of its creation there was much time wasted in terms of developing procedures by which these funds would be made available to small business employers throughout the State.

"At that time it was .05% and nothing was mentioned that the major reform in our employment insurance reform bill back in 1991, also provided different classes or scales of wages so that we were bringing in equity for the employers because first, all of the workers were assessed uniformly across the way whether they were low income or high income. This major bill gave opportunities for employers then to be assessed on different scales and that saved \$48 million to the small employees and in exchange for that was a result of that too, was the ERTF fund.

"The problem with this bill is, we have 25,000 employers and about 22,000 who employ twelve employees and below. So naturally, you can meet the needs of all of these employers and many of them do not need employment training because the type of services that they render.

"The fact was since 1995, that more and more employers have applied for and have gotten funds to do the training. It's not the other way around. We were looking for businesses back in 1991 and 1992. The great weight of evidence just shows that more and more employers have submitted proposals, these are in cluster employer areas, and have gotten so much benefits from it that they have continued this fund now till this year.

"All I am saying is this, the fund is needed because it benefits the small businesses absolutely. I don't look at it as a mandatory assessment of .015% from .05% but I think it is a benefit that has applied to all of the 22,000 employers who can get something from this fund. Thank you."

Representative Whalen rose on a point of inquiry, stating:

"The prior speaker lost me. If he could answer the question, is his statement basically that this fund is for the benefit of small business and that businesses are asking that the funds be continued? I am lost at that point."

The Chair recognized Representative Yonamine, stating:

"Representative Yonamine, would you like to respond to the question?"

Representative Yonamine responded, stating:

"Yes, Mr. Speaker."

The Chair allowed him to proceed.

Representative Yonamine continued, stating:

"All I said is that the proposals have been submitted by employers. That's all I am saying.

"In other words, the needs are there and employers are submitting the proposals to the training. So, obviously the needs are there and if you review the annual reports, exhibits and activities that they sponsor, you will note that there is a tremendous support for this program."

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

"Many small businesses did in fact support this measure and the continuation of the fund at our Labor and Public Employment hearing."

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

"The answer to this question may help me to decide how I am going to vote on this measure.

"Would the Chair disclose whether the National Federation of Independent Business has commented on this bill?"

At 12:39 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 12:40 o'clock p.m.

Representative Djou rose and asked that his remarks be inserted into the Journal, and the Chair "so ordered".

Representative Djou's remarks are as follows:

"Mr. Speaker, I rise in strong opposition to this measure for the following reasons: First, the Hawaii state government already inserts itself into far too much of the business transactions in our State. This measure continues a flawed program of forcing small business owners to pay for training whether they want such training programs or not. The State should get out of the way of our local entrepreneurs and stop telling them how they should run their businesses.

"Second, this fund is another tax on business. In 1999 the Legislature promised small business owners that this tax would end. This tax was extended and with this measure the Legislature seeks to make this tax permanent. The Legislature should honor its original promise to the small business community that this was only going to be a "temporary" tax. Passage of this measure is blatantly breaking a pledge to entrepreneurs.

"Finally, we don't need to continue this special fund. As I have repeatedly complained, Hawaii has too many special funds and, again, we are giving up too much of our legislative authority over the budget with the proliferation of special funds. If a program is necessary, it should stand on its own merits, not with a special fund.

"For these reasons, I urge this chamber to vote against this bill. Thank you, Mr. Speaker."

Representative Halford rose and stated:

"I just wanted to comment that I am one of the vast majority, one of those many thousands of small businesses who paid into the system but has received no benefits. In fact, Mr. Speaker, today I have no employees and this is one of the many reasons why.

"If this is good public policy, Mr. Speaker, for those few businesses who do use it and for the perspective employees who will be benefit from this then appropriately the money should be taken from the General Fund and not from a tax imposed on a group of people most of whom will not benefit. Thank you."

Representative Marumoto rose in opposition to the measure and asked that her remarks be inserted into the Journal, and the Chair "so ordered", and she stated:

"Most employers would rather use the money to train their own workers. Thank you."

Representative Marumoto's additional remarks are as follows:

"Mr. Speaker, previous speakers have said that small business owners support this program. I am sure that if one checked, many of these testimonies have come from previous beneficiaries and contractors of the "E&T" program.

"Many business owners that I have talked to have complained that they have not been able to access these training programs, that the right type has not been available when and where they are needed.

"A Maui nursery owner, Tina Rasmussen, stated that many of the class offerings have to deal with computers. But most of her employees work out in the fields, yet she is forced to pay the "E&T" assessments and can never seem to benefit from this Labor Department program.

"Other employees have stated that they train their own workers their own way and would prefer that they not pay the tax and use the money, instead, to train for the benefit of their own workers."

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

"I support it because I think there is a place for a State-sponsored pooled training arrangement, particularly for small businesses that want to utilize the services. We probably can find a better solution than this bill to those businesses that legitimately and in good faith do not have a need for that State-sponsored program. Thank you."

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

"I just want to thank the Chair who responded to my inquiry. I was confused as to whether or not the businesses supported it or not.

"The answer that I have learned is, individual businesses have come forward in favor but the NFIB, is formally in opposition."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1130 HD

2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," passed Third Reading by a vote of 30 ayes, and 19 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen voting no and Representatives Arakaki and Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 753) recommending that H.B. No. 1351, as amended in 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. 1351 HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 34 ayes, and 15 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Jaffe, Leong, Meyer, Moses, Ontai, Pendleton, Rath, Thielen and Whalen voting no and Representatives Arakaki and Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 754) recommending that H.B. No. 1670, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1670, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Ito's remarks are as follows:

"I rise in support of H.B. No. 1670, HD 2, a bill for an act making an appropriation for the establishment and continuation of Professional Development Schools, which is part of the National Commission on Teaching and America's Future (NCTAF) Hawaii policy groups legislative package.

"This bill will create Professional Development Schools (PDSs) in Hawaii's public schools to train preservice teachers for the classroom. Professional Development Schools (PDSs) refer to any public schools, consortia of schools, or departments within schools that have entered into formal agreements with approved teacher education programs to address standards-based education, teacher preparation and professional development. In PDSs, classroom teachers and university faculty work as a team to educate.

"K-12 students and college students studying to become teachers. Teacher education students are fully integrated into school life – it is highly clinical experience. They teach classes with mentor teachers, participate in discussions with parents and review classroom problems at faculty meetings.

"Research indicates teachers who are trained in PDSs elicit superior student achievement. Students enrolled in these schools perform better in basic subjects and receive more hours of adult attention. The school district benefits because of PDSs reduce recruiting costs and professional development needs.

"According to the National Center for Restructuring Education, Schools and Teaching, professional development schools are one of education's fastest growing reforms. Ten years ago, there were fewer than forty (40) professional development school partnerships across the country. Today, there are more than 300 partnerships. In Michigan and

Minnesota, state licensing boards are reviewing proposals to require that all beginning teachers have experience at professional development schools.

"PDSs are another way to provide teachers with the induction they need to become qualified teachers and to help our students achieve."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1670 HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ESTABLISHMENT AND CONTINUATION OF PROFESSIONAL DEVELOPMENT SCHOOLS," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 755) recommending that H.B. No. 47, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 47, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This creates a new government bureaucracy where the government would negotiate with drug companies for prescription drug costs. If they do as good of a job as they do with the unions I think the prices would go up. Thank you."

Representative Auwae rose to speak in support of the measure with reservations and asked that her remarks be inserted into the Journal, and the Chair "so ordered".

Representative Auwae's remarks are as follows:

"We all are all aware that the price of prescription of medications can be extremely high here in Hawaii. Further, we are all aware that it is truly a hardship for many individuals to afford the medications that are prescribed to them. Especially affected are those individuals living on a fixed income and those who do not have any access to prescription drug insurance coverage.

"Therefore, I do support the intent behind this legislation; however, I do not feel that it is the State's role to get involved in the pharmaceutical business.

"Testimony in opposition of this bill was introduced to demonstrate that SHPDA does not feel that they have the resources or expertise to run this program. Moreover, the State would have to negotiate for the pricing structure. Does our State need to take on this task? I take the position that our answer should be "no." We need comprehensive legislation to aid those who need to make the decision to either fill prescriptions or purchase groceries, because they can not afford both. This legislation, however, does not appear to be the answer."

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

"First, like the Representative from Kona, I am uncomfortable that we are creating another bureaucracy with this program.

"Second, I question the effectiveness of whether or not this program would do its intended need. Although noble, I would like to note that several HMO's in our State cannot negotiate

significantly more than a few percentage points and I question whether or not that bureaucracy costs would completely eat up whatever net savings we achieve from this bill. Thank you very much."

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

"Mr. Speaker, this bill passed in Maine in April of last year, unanimously in the Senate, and 141 out of 151 members in the Maine House, supported a bill that is far more "draconian" than the one we are looking at today.

"Let me give a little background for those members who may not be aware of the crisis that we are facing in the issue of pharmaceutical drugs. The average price of a prescription has risen from \$28.50 to \$42.30 this year. The cost continues to increase at over twice the rate of inflation.

"As a result, seniors 65 and older paid an average of \$1205 each in 1999 for prescriptions. Up from \$559 in 1992, and this will rise to \$2810 by 2010. Some people say that Congress should deal with the issue, after all, it is a federal issue, a national issue, and as we remember the Presidential candidates all spoke on pharmaceutical drugs as it relates to Medicare. But so far they have done nothing.

"They have failed to deal with the 70 million Americans who have absolutely no drug coverage, including 13 million who are on Medicare. Indeed the only measure passed so far by the Congress, is to allow pharmacies to re-import drugs that U.S. companies have sold to other countries under price controls and sold them back in the U.S. at a discount. I think that we all know that in Mexico and Canada you can buy the same prescription drugs at 30-70% cheaper than you can buy it in the U.S.

"Mr. Speaker, I submit that is a defacto admission that consumers in the U.S. are paying far more than they have to for their prescription drugs. How would this bill work? If you read the bill it's pretty self explanatory. The State would be able to receive discounts by using its ability to buy prescription drugs in bulk and pass on the savings to those who now pay the full retail price. It is estimated that 19% of people in Hawaii have absolutely no prescription drug coverage and that totals about 220,000 people.

"If all Hawaii residents would qualify to receive this program card then a discount would be given to those showing this card at a local pharmacy. The State would then reimburse the pharmacies from the rebates received from the pharmaceutical manufacturers and a small portion of that rebate, and I say a small portion, would be used to run the program itself.

"Mr. Speaker, health is not a commodity that we can sell to the highest bidder. Reasonable access to drugs should be a minimum standard of care for all of our people. H.B. No. 47, is a modest approach to deal with the sky rocketing cost of drugs. We can do something or we could hope or wish it would go away and disappear. But I've learned a long time ago, Mr. Speaker, that keeping your head in the sand results in you getting kicked in the *okole*.

"So I believe that we should keep our heads up and *okoles* down and vote in the affirmative on H.B. No. 47. Thank you."

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

"Notwithstanding our attempts to keep our heads up, I think we will still get our *okoles* kicked with this program.

"Basically as I understand it, Mr. Speaker, this creates a buyers' club, essentially a State run buyers' club and I'm all for the concept. My problem is that we are relying on our State government once again as a first resort rather than a last resort in this area.

"I haven't seen any evidence, in fact it is my understanding that there are existing non-profit buyers' clubs, if you will, that exists in our State. I haven't seen any evidence, if that's true, that they have failed their task. In fact I understand that they're gaining their ground and beginning to run in this.

"There was a comment made by the previous speaker with the overwhelming support of a bill similar to this in Maine. I congratulate them on their attempt to grapple with this issue. Of course I don't know what they have done, we don't know what they've done prior to this. It may have been a last resort and may have a better practice with regard to administering state programs as a general rule.

"I don't think that is the case here in Hawaii, Mr. Speaker. Also, with regard to the financial rebate portion of this and being the trigger component that will sort of pay for the program, I also don't buy that, Mr. Speaker. It's admirable and in theory it looks good on paper but, I'm very positive that before too long we will be needing additional funds from the general fund to operate this. We will probably create a special fund or a trust fund or revolving fund of some kind and one other means to go off budget.

"So, for those reasons, Mr. Speaker, I oppose this program. Thank you."

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

"If you're fortunate enough to have prescription drug coverage on your medical plan then all you would pay is your co-payment. Then the next time you get your prescription ask the pharmacist for the actual price of the prescription. Talk about sticker shock.

"That's the price anyone without insurance has to pay and it will keep getting higher. According to *U.S. News and World Report*, December 11, 2000: Nineteen other states have enacted some form of pharmacy assistance to help control the high cost of prescription drugs. These states have instituted programs where the state is able to reduce the cost of prescriptions by regulating the sale of prescription drugs within the state for the population that does not have drug coverage. This population is primarily the elderly who are not part of group medical insurance programs.

"From the public policy point of view when individuals cannot purchase the medications they need or begin to self-medicate, for example, take medicine every other day instead of every day in order to save money, other problems arise. I see it every weekend in the emergency room in Wahiawa General Hospital. Hospital admissions increase.

"This is the cost, believe it or not, the whole community has to bear, because most of these patients are on Medicare and Medicaid and Medicaid comes out of your taxes. Believe it. The drug companies complain that such a plan is a form of price control. They claim such practices will kill companies' incentives to do research and development on new drugs. Yet the top ten drug companies spend two and a half times more in marketing, public relations and administration than they did on research and development in 1999.

"The reality is that drug prices have become so high the cost is unreasonable for the average consumer and especially for those without insurance. I urge your support of this measure to ensure that our citizens have access to the prescription drugs they need. Thank you, Mr. Speaker."

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

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

Representative Takai continued, stating:

"I just wanted to add briefly that the experiment that had happened in Maine previously that was alluded to by the Chairman of the Higher Education Committee was supported by a Legislature that was overwhelmingly Republican, both the House and the Senate.

"I don't think this is an issue that is partisan. In fact I think that one of the things that we need to do is take a look at the high cost of prescription drugs and both the left as well as the right should be supporting this. Thank you."

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

Representative Kahikina's remarks are as follows:

"The purpose of this bill is to reduce cost of prescription drugs for persons without drug coverage under health insurance plans or public programs. This measure establishes a Prescription Drug Access Program, administered by the State Health Planning and Development Agency, with advice by the newly created prescription Drug Advisory Commission composed of consumers, pharmacists, and representatives of government agencies."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 47 HD 2, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Third Reading by a vote of 40 ayes, and 9 noes, with Representatives Davis, Djou, Gomes, Jaffe, McDermott, Moses, Ontai, Rath and Stonebraker voting no and Representatives Arakaki and Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 756) recommending that H.B. No. 176, HD 2, as amended in HD 3, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 176, HD 3, pass Third Reading, seconded by Representative Lee.

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

"As we are on the subject of public health, I thought it would be appropriate to stand in support of this measure.

"Mr. Speaker, this measure speaks to offenders with substance abuse problems. As we want to deal with these people traditionally, as a criminal justice problem, I feel that the momentum now, and I appreciate, that the momentum is

picking up, not just in this arena, but in the greater community. We should also deal with this problem as a public health crisis as well.

"Mr. Speaker, I feel that this bill establishes a framework to incorporate the Governor's proposal to divert substance abusers from incarceration. The Majority Caucus proposal with the support of the Minority across the way, to screen and treat and those people incarcerated who have a substance abuse problem.

"The most important theme of this legislation is the shift from a punitive corrections oriented viewpoint of substance abuse, to a rehabilitative public health viewpoint. By incorporating the Governor's initiative into this bill, it will establish a continuum of care for those offenders, starting with probation, assisting those already incarcerated, and finally addressing the substance abuse problems for those people on parole.

"I take special care to point out that the diversion is not offered to ever offender. I say that because it will be a point of contention should this bill or its Senate counterpart continue on for further discussion. There seems to be some question about whether or not we should also include many of the people who this bill I feel should target and that is the people who abuse crystal methamphetamine.

"Further I am aware that the revisions to the sentencing policies proposed in this bill are complex, I look forward to the continuing debate on this topic with my House and Senate colleagues.

"Mr. Speaker, I might also add that this legislation is largely based on the initiative that was passed overwhelmingly by the voters in California in the last election. I make reference to Proposition 36, which was enacted as the Substance Abuse and Crime Prevention Act.

"Briefly, this initiative is to enhance public safety by reducing drug related crime and preserving jail and prison space, which this Chair of the Public Safety Committee is very concerned with, owing to the fact that there might not be very much support for a new prison in our back yard.

"By reducing drug related crimes and preserving jail and prison space for violent offenders, prison for the right people of violent offenders, the initiative will provide community based substance abuse treatment programs for non-violent defendants, probationers and parolees charged with simple drug possession or drug use offenses. As you may recall, Mr. Speaker, the State of California had a problem with prison space, or lack thereof.

"So I would call on the members as this measure continues for further discussion. Not just the fact, and we should consider also that we include crystal meth abusers, also take a look at whether or not this will actually divert criminals from our prisons. We should take a look at the 'hammer' by which we have given in this draft to the Judiciary, in the fact that imprisonment is still considered an option to be exercised by the Judges on the first offense.

"So, for those reasons, Mr. Speaker, that I have stated, I call on the members to support this measure as it moves forward. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 176 HD 3, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 49 ayes, with Representatives Arakaki and Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 757) recommending that H.B. No. 557, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 557, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Chang's remarks are as follows:

"I rise to speak in support of H.B. No. 557, HD 2, to authorize the issuance of general obligation bonds and make an appropriation for the relocation of the Bernice Pauahi Bishop Museum Science Learning Center to the Kakaako Makai area. The Bishop Museum serves more than 300,000 families and children annually through educational programs that highlight Hawaii's unique culture and history. Mr. Speaker, we are all aware that not all learning is done in the classrooms.

"The Museum's Science Learning Center already inspires our youth by exposing them to a new technologies and opening the door to science-related careers. There is no question in today's developing economy and workplace that the need for science education is critical. This bill will allow the Science Learning Center to expand and gain an essential role in Hawaii's educational system.

"There are tremendous benefits in moving the Science Learning Center to the Kakaako Makai area. Plans are already underway to make this area a center for educational, cultural and recreational activities. The Science Learning Center would work in conjunction with the Children's Discovery Center, as well as the proposed Ocean Science Center, and possibly even the University of Hawaii Medical School. Together with the Kakaako Waterfront Park, which has already revitalized this district, these projects would create a world-class center for technology-based industry that would bring a significant amount of revenues and prestige to the State.

"For these reasons, I urge my colleagues to support this worthy bill. Thank you, Mr. Speaker."

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

"Recent articles that I have read are that the Bishop Museum has spent a considerable amount of money enlarging the area of their campus and having plans drawn and working with consultants with the intention of building a new building there in Liliha for this Science Learning Museum.

"I don't have, and I regret I don't have the exact amount of money that they spent, but it is a lot. Now enters the State and with all this vacant land in Kakaako trying to figure out what to do with it, what would be reasonable, what would be an asset and suddenly we are willing to float general obligation bonds up to an amount of \$10 million to lure them over closer to Waikiki with the idea that I suppose, will have visitors go there more regularly and yet at the Bishop Museum, at the foot of Kapalama, they are not visiting the different science type exhibits that Mr. Duckworth has brought to Hawaii. At first they were very popular but seem to dwindle in popularity.

"I just question that this is the best thing for us to do with these \$10 million bonds. I see that the money will lapse by 2004 but I feel very squeamish about supporting it but I'm still going to do that at this time. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 557 HD 2, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN APPROPRIATION FOR THE BERNICE PAUAHI BISHOP MUSEUM, OAHU," passed Third Reading by a vote of 43 ayes, and 6 noes, with Representatives Gomes, Jaffe, McDermott, Moses, Rath and Whalen voting no, and Representatives Arakaki and Schatz, being excused.

At 1:01 o'clock p.m. Representative Gomes asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:02 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 1111, HD 1; 1130, HD 2; 1351, HD 1; 1670, HD 2; 47, HD 2; 176, HD 3; and 557, HD 2 had passed Third Reading at 1:03 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 758) recommending that H.B. No. 659, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 659, HD 2, pass Third Reading, seconded by Representative Lee.

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

"My opposition is that there is a great proliferation of special funds here in our State budget. The Auditor recently came out with a report that we're seating too much control over our Budget. I believe that our Legislature should take a stand in reducing these number of special funds and instead of appropriate these things out of the general fund instead out of special funds. 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. 659 HD 2, entitled: "A BILL FOR AN ACT RELATING TO UNDERGROUND STORAGE TANKS," passed Third Reading by a vote of 41 ayes, and 7 noes, with Representatives Bukoski, Davis, Djou, Fox, Leong, Ontai and Rath voting no and Representatives Arakaki, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 759) recommending that H.B. No. 731, as amended in HD 1, pass Third Reading.

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

"This is a very good bill which statutorily implements the constitutional autonomy that the voters approved for the University of Hawaii.

"I cannot let this bill as well as the subsequent bill go unpassed without commending the Higher Education Chair and Committee for moving forward with autonomy for the University. Thank you."

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 731, HD 1 pass Third Reading, seconded by Representative Lee.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 731 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 760) recommending that H.B. No. 1048, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1048, HD 2, pass Third Reading, seconded by Representative Lee.

Representative Yoshinaga rose to speak in opposition of the measure and to have her additional remarks inserted into the Journal.

Representative Yoshinaga continued, stating:

"With all due respect to the Subject Matter Chairs it is on principle that I am rising to speak in opposition of this measure.

"In terms of compensation and benefit issues that your Labor Committee is reviewing, I believe that this measure would then set the compensation of the State Librarian no greater then \$120,000 per year which is greater than our Chief Executive Officer of the State of Hawaii.

"This is the kind of aberration that we need to address systemically that your Committee has been reviewing the best methodologies based on the private sector analysis and benefit modeling to determine compensation and benefit reviews and this measure in my view is a symbol of the picture not looking correct. There is no reason for the State Librarian to be receiving more compensation then the Governor or depending on what kind of methodology you would like to use.

"So for these principles I stand in opposition to this measure. Thank you."

Representative Takai rose to speak in support of this measure, stating:

"This bill will allow the Board of Education to set the salary of the State Librarian.

"We've done a study of library systems throughout the nation and we have found that this particular rate of no greater than \$120,000 a year is comparable. As a matter of fact, it is much less than some cases in other jurisdictions with comparable size library systems.

In addition, Mr. Speaker, I would just like to add that in two other instances we already allow for this to happen. One is, our State Superintendent for the Department of Education as well as the President of the University System.

"So I think this is in line with what's happening, not only locally, but what's happening nationally. 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. 1048 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE LIBRARIAN," passed Third Reading by a vote of 44 ayes, and 4 noes, with Representatives Leong, Marumoto,

Rath and Yoshinaga voting no and Representatives Arakaki, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 761) recommending that H.B. No. 1586, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1586, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Yoshinaga's remarks are as follows:

"It is a terrible thing to go from a productive member of society to being unemployed. So it is now for 250 workers on the island of Kauai where a business that has been a way of life for people for over 150 years has had to close down. Being a small island with an undiversified economy the loss of Amfac Sugar Kauai has been a true tragedy for the many people whose families have worked for the company for generations. Now the small economy of Kauai has been asked to absorb over 400 workers with families and mortgages, and it is more than it can take.

"After so many years of putting into the Unemployment Benefits Program these workers need more time to continue retraining from their former lives and for the businesses to handle putting so many people to work. For this reason alone this bill should be passed.

"But this limited amount of support goes beyond just the workers and their families. Many businesses that have been helping the employees are greatly effected by the loss of income. These people still need help to get by and will put a stain on the other benefit programs with out the continuation of benefits. It was testified by the DLIR that it could cost the trust fund over \$4.5 million for these people to have an extra year of benefits. But let us not mistake ourselves that if we do not give them an extension that it will not cost the state millions to be helping these people, it will just becoming from another source.

"I urge you all now to act now before there is a crisis on our hands and to give back now to people who have helped shaped our state.

"HB 1130 HD 1 is good for the State of Hawaii, for its people and needs to be passed out to the Senate. In a global marketplace your people make all the difference and training is always an asset."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1586 HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Third Reading by a vote of 42 ayes, and 6 noes, with Representatives Auwae, Davis, Djou, Marumoto, Ontai and Rath voting no, and Representatives Arakaki, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 762) recommending that H.B. No. 1662, as amended in 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. 1662 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION," passed Third Reading

by a vote of 48 ayes, with Representatives Arakaki, Schatz and Whalen being excused.

At 1:18 o'clock p.m. Representative Ontai asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:19 o'clock p.m.

At 1:19 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 1:25 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 763) recommending that H.B. No. 872, HD 2, as amended in HD 3, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 872, HD 3, pass Third Reading, seconded by Representative Lee.

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

"The purpose of this bill as amended is to authorize the issuance of \$10 million in special purpose revenue bonds to assist Science Technology International in planning and building a processing plant in Hawaii.

"Mr. Speaker and colleagues, we all know the importance in high technology and bio technology industries in today's global economy. The way of this Legislature thus far, Mr. Speaker, has been aggressively supporting and encouraging this industry to build this nest in Hawaii.

"Science Technology International, better known as STI, has been in the forefront of this industry having done business in Hawaii for the past twenty years. It has offices and employees local residence on Oahu, Hilo, Kona and Maui as well.

"STI has been successful in the field of advanced camera and image processing technology for environmental monitoring, national defense and medical diagnostic treatments. According to a recent article in the Pacific Business News, STI is the embodiment of what Hawaii's technology has to offer.

"In the field of Agriculture, Mr. Speaker, as well as in biotechnology, its subsidiary, STI bio system plans to build a freeze drying facility which will be made available to farmers to freeze dry agricultural crops. This facility will be the first of its kind in Hawaii. This facility according to plan will also convert tropical agriculture waste to create new products such as cosmetics, food additives, specialty teas and many others.

"Mr. Speaker and colleagues, originally STI planned to build and operate at Elele Kauai. But whether this processing plant will be built on Kauai, Oahu or any other part of the Islands, one thing is certain, if successful the end result is the same. It would create jobs, boost our economy and enhance Hawaii's business image to the world.

"I believe that this bill has strong merits and deserves further discussion. So, therefore I urge all of our support for passage on Third Reading in the House and send it to the Senate. Thank you, Mr. Speaker."

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

"This bill would authorize up to \$10 million in special purpose revenue bonds for STI Corporation.

"The authorization for these bonds seems like an innocuous way for the Legislature to encourage a private enterprise. However, it is important to remember that the Legislature does not have a bottomless supply of special purpose revenue bonds to hand out. There is a federal cap on the amount that can be outstanding without incurring a tax penalty.

"Special revenue bonds also, should be authorized for projects that are tied to the public good. Science Technology International currently has other special revenue bond authorization bills pending before this Legislature that amount to another \$10 million.

"It is our responsibility here to maintain some discipline over the issuing of these bonds. There's a limit to what we can authorize and if that limit is approached by bond projects that have benefits primarily for private sector companies there would be no room for projects paying public benefits, such as hospitals or the needed facilities.

"Special revenue bond authorization for private development is a bad use of public funds. Business development is best left in the hands of developers. Without \$10 million nudges from the State Legislature.

"Mr. Speaker, I urge my colleagues to think long and hard about this issue. Thank you, Mr. Speaker."

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

"Mr. Speaker it must be remembered that special purpose revenue bonds are privately financed and does not represent an obligation of the State. But more than that we learned very recently that approximately \$161 million in previously authorized bonds have lapsed and have rescinded, representing at least fifteen projects.

"So what this means, Mr. Speaker, is that many of these entities do have difficulty in proceeding with their authorization because they must do due diligence before a private lender and not all of these bonds are finally approved within the time frame. We also know that we had put a time of three years currently, but with the time limitation it is still very possible that these entities can come in later for an extension.

"So this merely just allows us that additional flexibility. Thank you."

Representative Abinsay then rose in rebuttal to Representative Meyer, stating:

"Thank you Mr. Speaker, just a short rebuttal on the comments of our Representative from District 46. Their concerns are very valid in issuing special purpose revenue bonds. In this particular case though, we have to make sure that there are other advantages in this issuance. STI for instance, we were informed that they are employing about 100 employees right now. There are about 50 vacancies at this point and their growth is about 150% next year. They are also involved in trying to encourage many of our people who used to live in Hawaii, to come back. Those who are in the mainland right now for them to come back and get employment here. So, we have to take a risk on many

occasions, it's good to be very cautious but at the same time, we should be willing to be bold. This is one particular situation wherein this company has proven itself. They have been very successful in their work, they want to diversify and again, who will benefit? The people – especially the farmers, hopefully. So I would like to just mention that let's go ahead and extend help where it is most needed. And this company, I believe Mr. Speaker and colleagues, deserves the need right now. Because, by giving this support, they will create employment and hopefully the economy of the State of Hawaii will eventually benefit. Thank you."

The motion was put to vote by the Chair and the report of the Committee was not adopted and H.B. No. 872 HD 3, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," failed to pass Third Reading by the required two-thirds vote in accordance with Article VII, Section 12 of the Constitution of the State of Hawaii, by a vote of 30 ayes, and 17 noes, with Representatives Auwae, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Thielen voting no and Representatives Arakaki, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 659, HD 2; 731, HD 1; 1048, HD 2; 1586, HD 1; and 1662, HD 1 had passed Third Reading at 1:19 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 764) recommending that H.B. No. 1149, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1149, HD 2, pass Third Reading, seconded by Representative Lee.

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

"As has been ably described by our Chairman on Agriculture, STI is a state of the art organization. We learned in Committee from hearing testimony, that STI has been able to devise systems which can detect cancer, systems which can detect mines and other foreign objects in water to help our military forces and I was very, very impressed with what they have been able to do. Now they want to expand further. We're talking about a company has which has rapidly expanded, providing a lot of jobs and high tech jobs to our people – many of whom have now been able to return to Hawaii. And so this is something that is definitely within the best public interest and something that we can all look forward to with pride and that we should all support as an entity and a project worthy of our consideration in Hawaii. Thank you."

Representative Djou rose to speak in opposition of the measure, stating:

"Thank you Mr. Speaker, I'm rising in opposition of Stand. Com. Rep. No. 764, H.B. 1149, HD 2. Just a brief comment Mr. Speaker, I recognize that these special purpose revenue bonds should be used very judiciously. There might have been some benefit for STI using it for freeze dried materials. What we're doing in this particular bill is giving them a \$10 million bond for relocation and construction costs. Mr. Speaker, I submit that these are costs which should be properly borne by the private entity themselves and the State should not be getting involved in these. While I may have disagreed that there was economic benefit in terms of economic development with the freeze-dried technology, I vigorously disagree in terms of any economic benefits there

are for relocation costs pursuant to this bond. Thank you Mr. Speaker."

The motion was put to vote by the Chair, and the report of the Committee was not adopted and H.B. No. 1149 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SCIENCE TECHNOLOGY INNOVATIONS," failed to pass Third Reading by the required two-thirds vote in accordance with Article VII, Section 12 of the Constitution of the State of Hawaii, by a vote of 31 ayes, and 17 noes, with Representatives Auwae, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Thielen voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 765) recommending that H.B. No. 237, HD 1, as amended in HD 2, 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. 237 HD 2, entitled: "A BILL FOR AN ACT RELATING TO MANDATED HEALTH COVERAGE REVIEW," passed Third Reading by a vote of 46 ayes, and 3 noes, with Representatives Djou, Meyer, and Rath voting no and Representative Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 766) recommending that H.B. No. 632, HD 2, as amended in HD 3, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 632, HD 3, pass Third Reading, seconded by Representative Lee.

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

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

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

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

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

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

"I really appreciate the "Filipino Mafia", but we've heard the reservations and I think that this bill will be moving

forward because of the importance of the contents in there. But I'm very certain that we can work things out and I ask my members to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 632 HD 3, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Third Reading by a vote of 44 ayes, and 5 noes, with Representatives Djou, Marumoto, McDermott, Ontai and Rath voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 767) recommending that H.B. No. 702, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 702, HD 2, pass Third Reading, 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:

"Visioning a future for Hawaii that ensures a high quality of life in a safe environment requires us to look at what is in the best interests for the people of Hawaii. Maintaining health for inmates is a part of engineering a Hawaii that looks out for the betterment of the people. Not only are inmates people and part of the population and society, but their maintenance of their health could help to create a more positive outlook for their lives, better their chances for rehabilitation, and reduce recidivism rates. The purpose of this bill is to establish a correctional health care program within the Department of Public Safety (DPI) and exempt the position of the correctional health care administrator and authorized physician positions within DPI from collective bargaining provisions, thereby creating an efficient system by which to function."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 702 HD 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL HEALTH CARE," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 768) recommending that H.B. No. 1041, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1041, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you Mr. Speaker, I rise in opposition and have some remarks.

"The representative from Lanikai referred in the previous bill to a position that was politically incorrect. And I have no doubt that the position of opposing annual salary increments for teachers is a politically incorrect position to take. Nonetheless, it is I believe the wrong approach.

"Essentially what this bill does is to return us to an approach with the teachers salary which we have already rejected in the past. And that approach is one in which, after collective bargaining for teachers is completed by law, teachers get an annual salary increase based on experience. So it's automatic, it's an automatic increase from year, to year, to year, to year to year to year.

"Now, in and of itself, that's not such a bad idea, that teachers would in fact be rewarded for experience. After all, with greater experience in the most cases should come a greater salary, a greater recognition of ability.

"However in civil service reform, at least as we put it forward last year, we adopted this basic premise, and I agreed with this premise. And that premise was that conditions of work including automatic salary increases should be subject to the collective bargaining process. The policy call the Legislature made, and which I agreed to at the time, was that you either bargained everything collectively, or you required that all of these provisions of wages, hours, and work conditions for the most part be directed by statute, but you couldn't do it both ways.

"Now the Labor and Finance Committee Chairs made a basic policy recommendation to this body, which I agreed with, which was you have to choose one or another. And that's how we came to adopt what we call the 'bright line' of collective bargaining. Collective bargaining should be where we determine these aspects, and that would also give us substantial flexibility to determine whether we wanted to allocate the advances for salary in some way other than just the year-by-year step increase. For example, we could have chosen in collective bargaining to give a higher rate of increase for the first five years as a recruitment tool and then level out for a while and adopt performance standards. Or we could have adopted the provision in collective bargaining and negotiated a level salary with higher eligibility for merit based pay at different experience levels. The whole concept was that this should be up to the teachers and the executive branch as ratified, adopted, or rejected by this body as and to the degree that was regarded as a cost item. And make no mistake: this bill has a very large price tag attached to it, which is why it's sitting here outside of the budget with an effective date some decades out.

"Now what has happened in this bill is that we are going back on that basic policy. We are now saying, 'no, no, no, no, we don't want this to be subject to collective bargaining. We want it mandated by statute.' This is just another example of the fact that in some areas of civil service reform last year, where we did in fact adopt some forward looking thinking, we're now having second thoughts and going back on it.

"What's also interesting to note is some of the testimony in opposition to this bill. So I don't feel alone in my political incorrectness. Obviously the Hawaii State Teachers Association, and I think unfortunately, wants automatic salary increments back. I think that's unfortunate for teachers. I think it harms our ability to provide for merit based pay performance advancement for teachers.

"Contrary to the committee report again, the testimony of the Department of Human Resources Development is in opposition to automatic salary increment adjustments and I'd like to read that. 'During 2000, the legislature passed the civil service reform bill. The Act created 'bright lines' and deferred matters that are subject to negotiations to the bargaining table. The Conference Committee Report of the House and the Senate on that bill stated that the belief of the Legislature was that the collective bargaining process may be the appropriate arena to determine these issues which are critical both for

employees and for management: I think it's no surprise that the Administration took that position.

"Now, let's take a look at the testimony to the subject matter chairs by the Hawaii Congress of Parents, Teachers, and Students. As we all know, this is an organization which is very much committed to educational improvement, educational reform, and this is what they have to say on the proposal which is now before us. They testified in opposition.

"On behalf of the 40,000 members of the Hawaii State PTSA, we urge your opposition to H.B. 1041. We believe that Hawaii's teachers deserve a raise in base compensation to a level that can attract and retain qualified teachers'. So far no objections from anybody. "However, we support legislation that provides for compensation plans that reward teachers for their knowledge, skills, and performance. We oppose this bill because it rewards teachers solely on the basis of longevity". I really couldn't say it any better than that. It's not coming out of my mouth. It's coming out of the mouth of people who work in the trenches every day in trying to provide for educational improvement.

"This is the wrong approach. We should keep this in collective bargaining where it belongs. Thank you."

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

"Thank you Mr. Speaker, I rise in support of H.B. 1041, HD2. This bill proposes to require that teachers receive the normal annual increment or longevity increase for year's satisfactory service in any given fiscal year. In order to recruit and retain public school teachers, Hawaii has to restore the annual increments. In nearly every other school district in the nation, teachers receive annual increments for experience. These increments will provide the incentive for our newly hired licensed teachers to remain in the profession.

"Although I support this bill, I would have liked to have seen the effective date match the companion bill in the Senate which is in the year 2003. House Bill 1041, HD 2 has an effective date of 2020. It is a good bill with an unreasonable effective date. Nonetheless, I support the idea of restoring annual increments for teachers. Thank you Mr. Speaker."

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

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

"This is a good idea. I do support it. My reservations however are too foolproof but I question whether or not our State can afford it especially when we have so many other raises we need to fund. And second, I would prefer to see us in collective bargaining but nevertheless, because it is a good idea, I will be supporting it. Thank you."

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

Representative Meyer's remarks are as follows:

"This bill requires annual longevity pay increases for teachers, and removes such increases from the scope of collective bargaining.

"We need to be moving toward a system that encourages excellence, rather than rewarding longevity. Superior teachers should be compensated for their knowledge and performance. Taking all pay increases off the table when we start to bargain hampers our ability to create performance based compensation schemes."

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

"Thank you, Mr. Speaker, I rise in support of H.B. 1041, HD 2. This bill allows teachers to receive their normal annual increment increase for years of satisfactory service. Annual increments are increases in salary for years of satisfactory performance as a teacher. Teachers rated marginal or unsatisfactory, like the school principals, do not receive any annual increments. Under the current salary schedule, there is a maximum of 15 steps. The teacher does not receive increments throughout his or her career.

"In 1975, the Legislature passed a law providing incremental moves in the same year there was a negotiated pay raise. In 1985, the Legislature amended the legislation allowing for negotiated incremental moves and/or negotiated increases. Mr. Speaker, prior to 1975, Hawaii ranked fourth in the nation for average teachers salary. Now, we are rated 20th unadjusted for cost of living, if we adjust the cost of living, Hawaii ranks 51 in the nation.

"Authorizing the funding for annual increments will make Hawaii competitive in the recruitment of teachers. Most school districts on the mainland provide annual increments. Teachers recruited from other states expect to receive increments and teachers from Hawaii should be treated to similar benefits as other state teachers enjoy.

"Second, we need to retain the teachers that we have. For example, without increments, a teacher with eight years of experience with a Bachelor's Degree would earn \$30,000 instead of \$36,000. A teacher with twenty years of experience would earn \$36,000 instead of \$45,000. Teachers who stay in our school system should be rewarded for the time they put into the system.

"This bill, Mr. Speaker, is a recruitment and retention issue. Annual increments will cost about \$14 million a year, about 3% per teacher. This is a small price to pay for recruitment and retention of qualified teachers. Let's face it, there is a teacher shortage and it must be addressed. I urge my colleagues to support this measure. Thank you."

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

Representative Yoshinaga continued, stating:

"Just briefly Mr. Speaker, two points. With respect to other comments by other speakers in opposition to this measure. I think that these are tough times that teachers are facing in terms of many working condition situations. And in the private sector, I think that management has always utilized flexible planning and decision making tools in terms of how to recruit and retain it's most needed employees. It's already been pointed out by the previous speaker; we are in a teacher shortage situation that is also on a national basis. We need to take a look at incentives and ways to support teachers to not only come into the profession but also to stay in the profession. And we are short, as we speak, it's my understanding, over 200 teachers in our public school system which is about two high schools.

"Secondly, the Committee on Labor and Public Employment held an informational briefing in terms of the historical analysis of collective bargaining results over the last ten years. On a comparative note, the teachers union, HSTA, has been receiving approximately, if you normalize it for some fringe benefit amounts, on a normalized basis, comparable raises to other public sector unions. This measure is an indication that we need to do more. Because unlike other situations, where we're not facing, and I'm not sure exactly which workers but, shortages, public education and excellence for our children's future is a number one priority with the State and this measure is a tool toward that endeavor. Thank you, Mr. Speaker."

Representative Yoshinaga's additional remarks are as follows:

"Looking through my e-mail and the phone messages that I have gotten the last month there is a common cry among teachers to pass this bill. HSTA was the only union not to bargain away step increases, it was taken away by the Legislature. Everyone says that they want to improve education and help the teachers, but it never seems to get done. Repairs on classrooms are years behind schedule, salaries are not on par with what they used to be when we were in school, and student discipline is not what we remember it. Is it any wonder that we are having a teacher shortage?

"We want to support teachers with a long-term compensation plan. By being able to plan for the future we can all become better visioners for the future. It is time for us to listen to the teachers and pass this bill to restore what we have taken away from the educators of our children who will be taking care of us in our old age. And remember that HSTA will be looking at the votes you cast today and remind their members what you did at voting time."

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

"I value our teachers, I'm aware of the shortage. I believe that we should offer them a lot of pay in order to recruit and retain our best teachers. But I wish they would be given good salary through the collective bargaining process and only through the collective bargaining process. Thank you."

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

"In order to recruit and retain public school teachers, Hawaii has to restore its annual increments. In nearly every other school district in the nation, teachers receive annual increments for experience. As a matter of fact we learned in the Committee on Education's deliberations on this bill that even private schools in our State offer annual increments. As a matter of fact, Kamehameha Schools offers these annual increments to their teachers.

"These increments will provide the incentives for our newly hired licensed teachers to remain in the profession. As a matter of fact, recent teacher recruits said they were not informed that increments were not automatic and that it would be nearly impossible to reach the top of the salary schedule. Once new teachers realize how low their salaries are, they become discouraged, and in fact, leave teaching. Teachers have no promotion opportunities to increase their wages except by becoming administrators in the system. We want to keep our teachers teaching in the classroom and we do need increments to retain them. High student achievement requires quality and qualified teachers. Restoration of annual increments will assist in the recruitment and retention of

qualified, competent and caring teachers. I encourage my colleagues to vote in support of this measure. Thank you."

Representative Ahu Isa rose to speak in strong support of the measure, stating:

"Mr. Speaker, I stand in strong support of the measure. I remember when teaching at Pearl City High School, we had these increments in place and these steps. And somehow, they were negotiated out. They were in collective bargaining. But because other public unions gave up their increments, HSTA or the teachers union had to give up their increment. They were kind of forced to do that. And I think at that time, the State was short-sighted or the union was short sighted looking down the road that these increments really meant something to people and these steps were like a goal or something to look forward to. Regardless whether the union negotiated a raise for them or not, this way, they were at the mercy of the union negotiating a raise so they got nothing. 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. 1041 HD 2, entitled: "A BILL FOR AN ACT RELATING TO TEACHER COMPENSATION," passed Third Reading by a vote of 46 ayes, and 3 noes, with Representatives Case, Marumoto and Rath voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 769) recommending that H.B. No. 1310, as amended in 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. 1310 HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR HI-TECH HAWAII, INC," passed Third Reading by a vote of 47 ayes, and 2 noes, with Representatives Djou and Meyer voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 770) recommending that H.B. No. 1555, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1555, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, a 1998 study conducted in Hawaii's schools found that alcohol and drug abuse is still a significant problem affecting Hawaii's school children from as young as middle school. It estimates that 16% of the students in both public and private schools in the State, from grades six to twelve need treatment for alcohol or drug abuse.

"In 1998, the Legislature passed House Bill No. 3110, which appropriated funds to treat teens who are dependent on drugs in a family-like environment, as well as on the school campus.

"These types of treatment facilities or programs are special and unique in that they offer a variety of services such as crisis intervention, including individual, group or family sessions. They also provide educational and counseling programs, 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 alcohol 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. The studies also show that teens who underwent and received treatment and are rehabilitated early, are less likely to become involved in criminal activities. They are more likely to attend classes regularly and on time, which results to getting good grades. If nothing else, it gives them hope and a second chance at life.

"The purpose of this bill is to appropriate funds for each fiscal year 2002 and 2003 to continue or add to the number of schools who have school-based prevention and intervention programs in middle schools and high schools throughout the State of Hawaii.

"Mr. Speaker, what we are doing, I believe, is investing in our children's future. And if cost comparison is to be the basis of this investment, you compare that to the cost of keeping them in jail and rehabilitation treatment in later years, this would be a wise investment indeed. Because for every teenager saved from a life of drug abuse and crime would be worth all the help that we could provide now, not later.

"I urge you to support this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1555 HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADOLESCENCE SCHOOL-BASED SUBSTANCE ABUSE TREATMENT," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 237, HD 2; 632, HD 3; 702, HD 2; 1041, HD 2; 1310, HD 1; and 1555, HD 2 had passed Third Reading at 1:51 o'clock p.m.

At 1:51 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 1:52 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 771) recommending that H.B. No. 1671, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1671, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, this bill basically follows what I think was a good move some years ago to provide for the development of standards by the teachers for the teachers, and I think that that has proved to be a positive development. However, what this bill does is to take another step and to provide to the teachers licensing responsibilities as well.

"Now I know that the testimony uniformly seems to be in favor, but I have some basic dispute with the fact that essentially, at this point under this bill, teachers would be developing standards, developing licensing, and essentially pretty much totally controlling that profession. I really do

think that there needs to be a more independent and detached responsibility as well, within the Department of Education.

"I note from the testimony that there are sixteen states now with standards boards, but only eleven of those states actually give to those boards, as well, the duty of licensing. And I think there's probably some reason for that.

"Essentially the testimony appears to have been that the concern was with the Department of Education being both the licensing authority as well as the hiring authority, and what the testifiers note is inherent conflict of interest in that situation. I just frankly don't see where the conflict of interest is with the Department of Education administering the teacher profession in such a way as to provide for adequate licensing and also to provide for the hiring practice. So, some perhaps incomplete thinking on my part...but the overall concept seems to have some inherent dangers. Thank you."

Representative Yoshinaga rose to speak 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:

"I see a part of my role as a visionary as engineering the future of our youth and ensuring a quality of life that encourages the creativity and imagination needed for a safe environment and high quality of life. By establishing and implementing standards and removing any conflict of interest by a standards board for teachers and students, we are creating a learning environment that is caring and conducive to learning. This benefits all the people of Hawaii and raises our standards of living, not only in economic success but in a quality of life that appreciates what it means to live in our island state.

"This bill transfers authority from the Department of Education to the Hawaii Teacher Standards Board to issue, renew, revoke, suspend, and reinstate licenses, approve all teacher training and credentialing programs, and to adopt rules pertaining to such duties, effective July 1, 2002. It expands membership on the Board from nine (9) to thirteen (13), including not less than six credentialed current teachers, the Superintendent of Education or designee, and a representative of independent schools. This bill requires any member of the Board designated by the Dean of the University of Hawaii College of Education to be chosen from member institutions of the Teacher Education Coordinating Committee. These and other requirements set forth by the bill ensure that all concerns and points of view are met regarding teacher licensing standards."

Representative Ito 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 Ito continued, stating:

"I just want to say something. The purpose of this bill is to make the Teachers Standards Board rather than the DOE responsible for the licensing of teachers. This bill will strengthen the teacher profession by making itself accountable for those who become licensed to teach in Hawaii. It's like professional counterparts the Board of Medical Examiners for doctors, and the Hawaii State Bar Association for lawyers. The Hawaii Teachers Standards Board would be authorized to issue, renew, revoke and suspend and reinstate licenses for individuals designed to teach in our State."

Representative Ito's additional remarks are as follows:

"Mr. Speaker, the purpose of H.B. No. 1671, HD 2, is to make the Hawaii Teacher Standards Board (HTSB) rather than the Department of Education (DOE) responsible for the licensing of teachers. This bill will strengthen the teaching profession by making it self-governing and accountable for those who become licensed to teach in Hawaii. Like its professional counterparts – the Board of Medical Examiners for doctors and the Hawaii State Bar Association for lawyers – the Hawaii State Teacher Standards Board will be authorized to issue, renew, revoke, suspend and reinstate licenses for individuals desiring to teach in our State. HTSB is guided by the philosophy that educators will create higher standards for preparation, practice and conduct for their profession and that they will work rigorously to uphold these standards.

"Additionally, HB 1671, HD 2, will transfer the licensing duties from the DOE to the HTSB, thereby removing the inherent conflict of interest faced by the DOE in its current roles as employer and licensing agent. Currently, the DOE not only hires teachers, but also licenses them. This creates an inherent conflict of interest within the DOE because it must serve as both employer and licensor. As employer, the DOE is obligated to get teachers into vacant classrooms. However, as licensor, they must also ensure teachers are meeting the licensing standards set forth by the HTSB. The HTSB meanwhile, sets the licensing standards, but has no authority to license them. The entity that sets the standards should also issue the licenses.

"There are sixteen states with teacher standards boards. Of those sixteen, eleven require their teacher standards boards to perform the duty of licensing teachers. This is the direction we need to go to eliminate the inherent conflict in having the DOE both hire and license teachers."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1671 HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 45 ayes, with Representatives Garcia, Kanoho, Saiki, Schatz, Stonebraker and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 772) recommending that H.B. No. 1685, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1685, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I would like to incorporate the veto message of the Governor on a similar message dated June 5, 2000 on S.B. 2706. Thank you," and the Chair, "so ordered".

"EXECUTIVE CHAMBERS
HONOLULU

June 5, 2000

STATEMENT OF OBJECTIONS
TO SENATE BILL NO. 2706

Honorable Members
Twentieth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my

approval, Senate Bill No. 2706, entitled 'A Bill for an Act Relating to Taxation.'

The purpose of Senate Bill No. 2706 is to provide a two percent refundable income tax credit to lessees of an aircraft for lease rent paid to a lessor for a stage 3 aircraft under an operating lease during the taxable year. The credit may be claimed for tax years beginning after December 31, 1999, for lease rent paid after June 30, 2000.

The objections to this bill center on the fact that there is no jurisdiction for providing an income tax credit to lessees of an aircraft for rent paid to a lessor. In addition, there is no justification to single out the airline industry for this tax benefit, much less a single airline; every business that rents equipment should be equally deserving of a tax credit if that is the tax policy call. The approval of this tax credit is bad tax policy and sets a precedent for other taxpayers to seek similar tax benefits for their industries that have no justifiable bases.

For the foregoing reasons, I am transmitting Senate Bill No. 2706 without my approval.

Respectfully,

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2706, entitled 'A Bill for an Act Relating to Taxation,' passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2706 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2706 with my objections thereon to the Legislature as provided in said Section 16 of Article III of the Constitution.

DONE at the State Capitol,
Honolulu, State of Hawaii,
this 5th day of June, 2000.

/s/ Benjamin J. Cayetano

BENJAMIN J. CAYETANO
Governor of Hawaii"

Representative Kawakami rose to disclose a possible conflict of interest, stating:

"I was a former employee of the airlines."

The Chair ruled, "no conflict."

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

"I fly the planes constantly between Maui and Honolulu."

The Chair ruled, "no conflict."

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

"Thank you very much. Mr. Speaker, I wish to speak if you don't mind for this bill, in support. I just want to mention a paradoxical problem that we have here. Currently the Tax Office will not charge any GET tax for the purchase of an airplane. However, when you lease an airplane or lease an engine for the airplane, you need to pay the 4% tax. So it does seem kind of contradictory and paradoxical that the kind of situation does happen. For this reason, and for the reason to keep the airlines viable so it can continue with our tourism business and inter-island travel for all of it's citizens, I am voting for this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1685 HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 43 ayes, and 2 noes, with Representatives Rath and Thielen voting no and Representatives Garcia, Kanoho, Saiki, Schatz, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 773) recommending that H.B. No. 1221, HD 1, as amended in HD 2, 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. 1221 HD 2, entitled: "A BILL FOR AN ACT RELATING TO CYBERSQUATTING," passed Third Reading by a vote of 45 ayes, with Representatives Garcia, Kanoho, Saiki, Schatz, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 774) recommending that H.B. No. 538, HD 1, as amended in HD 2, 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. 538 HD 2, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Third Reading by a vote of 45 ayes, with Representatives Garcia, Kanoho, Saiki, Schatz, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 775) recommending that H.B. No. 683, HD 1, as amended in HD 2, 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. 683 HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS PENALTIES," passed Third Reading by a vote of 45 ayes, with Representatives Garcia, Kanoho, Saiki, Schatz, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep.

No. 776) recommending that H.B. No. 690, HD 1, as amended in HD 2, 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. 690 HD 2, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES FOR NATURAL RESOURCES," passed Third Reading by a vote of 45 ayes, with Representatives Garcia, Kanoho, Saiki, Schatz, Stonebraker and Whalen being excused.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 777) recommending that H.B. No. 691, as amended in 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. 691 HD 1, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES FOR THE STATEWIDE TRAIL AND ACCESS PROGRAM," passed Third Reading by a vote of 45 ayes, with Representatives Garcia, Kanoho, Saiki, Schatz, Stonebraker and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 1671, HD 2; 1685, HD 1; 1221, HD 2; 538, HD 2; 683, HD 2; 690, HD 2; and 691, HD 1 had passed Third Reading at 1:59 o'clock p.m.

Representative Hamakawa, for the Committee on Judiciary and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 778) recommending that H.B. No. 135, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 135, HD 2, pass Third Reading, seconded by Representative Lee.

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

"My only hope is that we can improve safety for children by also keeping them out of pick-up trucks. Perhaps the Senate may consider that option. Thank you."

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

"It's a well intended measure, but I think we're beginning to go a little too far with regard to all this back seat seatbelts and what not. And as one of my colleagues said in a somewhat private meeting, he said, 'Before you know it we're going to be requiring children in the back seat to wear bicycle helmets.' And I think that's where we're headed. Thank you."

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

"This is a good bill, I would prefer to have it left at age 6 instead of age 8 for requiring a booster seat. 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. 135 HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD PASSENGER SAFETY," passed Third Reading by a vote of 45 ayes, and 3 noes, with Representatives McDermott, Rath and Whalen voting no and Representatives Garcia, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 779) recommending that H.B. No. 1678, 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. 1678 HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Garcia, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 780) recommending that H.B. No. 1391, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1391, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Takai 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 Takai continued, stating:

"Just briefly, our efforts in the past two years have attempted to bring the arts and the education curriculum together not only as an accommodation, but also as a partnership. Entertainment happens to be based on what's already known and arts have been based on nothing you know. And you don't know unless you reflect and arts can help you develop that. This bill is a gift we give to education and through this bill we're going to be engaging and creating a new kind of curriculum."

Representative Takai's remarks are as follows:

"For the average Hawaii resident, the arts are not a priority. But every great society had or has a strong arts component. Without strong and living arts, we die.

"Take a moment to reflect on your art experiences. For me, my experiences have been limited, at best. Only after being exposed to he many wonderful opportunities as Vice Chair of the Committee on Culture and the Arts for two years, then as Chair for four years have I begun to comprehend the importance of vibrant and healthy arts.

"Our efforts in the past two years have attempted to bring the arts and the education curriculum together—not only as an accommodation, but in partnership.

"If you believe that the arts experience is valuable, you understand that working with the arts develop important skills—such as the ability to solve problems and to think analytically and critically. In addition, the arts improve students' verbal and nonverbal communication skills as well as their imagination and ability to be resourceful and pragmatic.

"Most importantly, the arts connect people across time, culture, and place because they are both universally and culturally specific.

"Eric Booth, the Faculty Chair of the Empire State Partnership, the largest arts-in-education project in the nation, has said that we focus too much on nouns. "It is the verbs," he said, "that we are trying to awake."

"Entertainment happens to be based on what is already known. Arts happen based on nothing we know. You don't learn unless you reflect—arts can develop this. This bill is a

gift we give to education. Through this bill, we're going to be engaged in creating a new kind of curriculum.

"Because of our economic crisis, arts programs in the Department of Education have been nearly eliminated. Without the State Foundation on Culture and the Arts, arts programs throughout the State would be non-existent.

"Today the State Foundation on Culture and the Arts funds nearly \$1 million from its general fund budget; the Works of Art Special Fund; Arts in Education Grant of the National Endowment for the Arts for arts education opportunities statewide through its foundation grants program; the Arts in Public Places Artists and Residence Project; the annual School Arts Excellence awards; the schools arts exhibition shown year round at the Hawaii Convention Center; and partial underwriting of the Artist in the Schools Program.

"The successful incorporation of any comprehensive arts in education program for Hawaii's public school children has begun with a systematic assessment of the fine arts content and performance standards for grades K-12 and the development and implementation of a strategic plan to incorporate these standards into the classrooms in a logical and beneficial manner.

"The bill calls for the continued working collaboration of the State Foundation on Culture and the Arts, Department of Education, the Hawaii Alliance for Arts Education, the College of Education and the College of Art and Humanities at the University of Hawaii at Manoa, the Hawaii Association of Independent Schools and others. While the approach proposed in this bill may be unprecedented across our nation, the major stakeholders in the arts education arena, along with the others from the arts education community, strongly believe that our shared mission can be successfully completed in a timely manner. Given the State's other difficult challenges, I believe that this public/private partnership approach will bring to fruition an arts education program that students of Hawaii deserve.

"U.S. Secretary of Education, Richard Wiley, wholeheartedly endorsed the arts in his 1999 State of the American Education address. He said, "We live in a world that is so much more visual and our young people see the world around them bursting ideas. We need to foster their creativity and give them that sense of excitement that comes with true search for knowledge. The arts are not a frill, but essential in this information age. There is a fusion coming, for example, between arts and the computer and we need to be ready for it."

"If this legislation is approved, we'll have important opportunities to leverage additional funds from national sources to assist in the implementation of arts education standards. For instance, the National Endowment for the Arts has a specific category for the efforts increases standards-based learning in the arts.

"This bill keeps arts alive! In 1999, We passed SB 1011, which became Act 80.

"In Act 80, (1) we directed the State Foundation on Culture and the Arts to oversee the review, revision, and completion of the Hawaii content and performance standards for the fine arts for all students in grades kindergarten through high schools; (2) we asked for the development of a statewide arts education strategic plan; (3) we called for the creation of the Hawaii Arts Education Partners; and (4) we designated the SFCA as the lead agency for the arts education in Hawaii.

"Mr. Speaker, I'm proud to say that we have very good news.

"First, working collaboratively, the Department of Education has produced the fine arts standards. Second, the arts education strategic plan has been developed and was presented to all of us in this august body.

"Our efforts have gone far in bringing the arts community together. Today, the group called the Hawaii Arts Education Partners (comprised of the State Foundation on Culture and the Arts, the Department of Education, the Colleges of Education and Arts and Humanities of the University of Hawaii at Manoa, the Hawaii Association of Independent Schools, and the Hawaii Alliance of Arts Education) has done well...well enough to legislatively mandate the continuation of this partnership in perpetuity.

"I understand that our efforts have gained much national attention in the arts community. As a matter of fact, significant increases in grant awards and partnerships with private foundation and the business community have come about because of our initial efforts.

"So I ask my colleagues to support this bill."

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:

"This bill is to support fine arts as a fundamental component of a child's education and directs the State Foundation on Culture and the Arts to fully implement the terms of the Hawaii Arts Strategic Plan.

"I strongly support this measure because I believe that arts education may be the key to solving many of the problems we face in public schools.

"The arts, especially theater and the performing arts such as band and orchestra, develop the qualities in students that help them succeed in other academic endeavors, as well as in life skills. These are self-discipline, self-esteem, self-confidence and self-reliance.

"The arts foster the mastery of skills that have lifelong value and implications. My own son, Thomas, was involved in theater starting out in his seventh grade English class at Wheeler Intermediate School. I went to school one day to see the class production of Romeo and Juliet, and lo and behold, Thomas was transformed into a Shakespearean character.

"Thomas' love for the theater never ended. He graduated in Fine Arts from Carnegie Mellon University and now is a professional actor in New York. He chose a difficult and demanding career, but he absolutely loves his work. A parent could not ask for more. At some times in his life, Thomas questioned his own abilities to succeed, but it was the strengths he developed in his junior high and high school arts experiences that have made him successful.

"I urge my colleagues to support this bill. Thank you Mr. Speaker."

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

Representative Chang's remarks are as follows:

"This bill is the first step toward implementing the six-year Hawaii Arts Education Strategic Plan 2001: Arts First, mandated by the Legislature Act 80, 1999. This partnership, known as the Hawaii Arts Education Partners, has begun the work on the strategies of Advocacy, Research, Teaching and Standards. It includes the State Foundation on Culture and the Arts, UHM College of Education, UHM College of Arts & Humanities, Hawaii DOE, Hawaii Association of Independent Schools, and Hawaii Alliance for Arts Education.

"This group has established goals and visions to promote arts education and the Fine Arts Standards. One part of the plan recognizes a strong need to provide teachers, especially the elementary school teachers, staff development to implement the Fine Arts Standards.

"Implementing these positions recognizes that children respond in various ways to their creative impulses. With these specialists available to Hawaii schools, more avenues for creativity and appreciation of the arts will be opened to our children, enhancing their lives and our communities in the future. The 1999 State Legislature that mandated the Arts First plan recognized that the arts are a vital component in every life, whether it is spent as an active participant in some art format at the professional level, or as a spectator. The presence of these arts people in our schools gives weight to the idea that the arts of whatever kind enrich our lives, makes us aware of ourselves as persons who appreciate others' creativity and our own, and nurtures in us ways to enhance our lives and the life of our community as a whole."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1391 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ARTS," passed Third Reading by a vote of 46 ayes, and 2 noes, with Representatives Rath and Whalen voting no and Representatives Garcia, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 781) recommending that H.B. No. 1640, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1640, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Basically, regarding our transportation infrastructure, we have many problems not only on Oahu but on the Neighbor Islands as well and we need to continue looking at alternative modes of transportation that our future generations may be able to use. This measure keeps alive the idea of a ferry system and it will allow not only intra-island but also inter-island and I hope the colleagues in this House will support this measure. Thank you."

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

"Mr. Speaker, yesterday or on Friday, all members of this House should have received a report from the Department of Transportation on the demonstration project of the Wikiwiki Ferry. Well I understand from the comments of the previous speaker that we should explore all of our options. We do not necessarily need to pursue every option if it's going to be a money-loser and not fiscally sound.

"Mr. Speaker, the report on the Wikiwiki Ferry Demonstration Project clearly shows that a ferry is viable in

terms of the alternate route, it is viable in terms of providing the passengers safety as well as comfort. What it also demonstrates is how it is not fiscally sound. The report shows that even under the best case scenario, even if everything worked out, 90% ridership charging people three times the rate of the bus service, this program would still cost the state taxpayer \$2 million a year. Translated on a per person basis, that means it would cost us almost twice as much to transport an individual based on this Wikiwiki Ferry than it would on the bus system.

"So, Mr. Speaker, while I commend and believe that the idea in trying to find solutions with an intra-island water ferry transport system is a creative idea that I'd like to see. And unfortunately, I find that it is not a fiscally sound idea that should be funded and that is why I am rising in opposition. Thank you."

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

Representative Espero rose in rebuttal, stating:

"Brief rebuttal, Mr. Speaker. The West Oahu area, particularly Kapolei, Ewa Beach, has been slated by government as "the second city". The growth in that area is going to be tremendous in the next ten, twenty, thirty years. You are going to see probably one of the most diverse communities business-wise, socially, recreationally in that community. And there's going to be a lot of traffic, Mr. Speaker, going into town, going into the airport. And we need to be creative – and we're not looking at a system that will be fully subsidized or even completely subsidized. It's possible we might be able to find the private vendor, Mr. Speaker. It's possible that that private vendor can have a commercial route and commercial businesses. In mornings and afternoons he may be able to help the communities that would utilize the ferry system.

"Of course, not all communities would benefit from the ferry system; however, we need to keep the idea open. We have to look at all avenues out there and the ferry system is a very viable system at this time. As a matter of fact, the federal government currently has \$30 million appropriated for both Hawaii and Alaska. However, we don't have a master plan or vendor who's available to access this money. So there is federal money in the millions available and we need to pursue that and see what we can come up with, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker, in support with reservations. I happen to live in that city out there called Kapolei and I know that coming in each day to the Capitol is a horrendous job for us. Anybody that works downtown knows that. We need an alternate means of transportation. If we can't have a ferry; maybe we can do what the Florida Keys did and build a series of causeways. Maybe we can have a light rail, we have to do something, we cannot do it over surface transportation. So let's look at all alternate means of transportation. Thank you, Mr. Speaker."

Representative Meyer rose to in opposition to the measure, and asked that her remarks, as well as the remarks of Representative Djou be inserted into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Meyer's remarks are as follows:

"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.

"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 different.

"I can think of no reason why this ferry project would be any more successful than last year's experiment or the ones before that.

"I am aware that these projects are highly financed with federal funds but do require 5 to 10% state funding.

"Just yesterday, March 5, 2001, we received the DOT Report on the Express Commuter Ferry Demonstration Project (Wikiwiki Ferry) required by Act 221 of 1998. This report was due thirty days before the start of the 2000 session. I have no idea why this report was delayed over a year. It is very distressing that both the Transportation Committee and the Finance Committee passed on this bill before we had even received the report required by law on the past demonstration projects.

"The DOT report states that permanent intra-island operations will require a subsidy. Estimates indicate a subsidy of between \$3.48 to \$5.34 per passenger will be necessary for a minimum of \$156,000 per month.

"The financial analysis in the DOT report are based upon some very optimistic assumptions. The first is that the ferries (3 in number) will have 90% ridership, or about 180 people on each trip. As I remember this is about what the total daily ridership was in past demonstrations with one ferry. The second questionable assumption is that each rider will spend \$1 in the snack bar on each trip. On board sales are forecast to be about 20% of total revenues. Finally, taking the ferry will cost more than twice as much as taking the bus (\$2.10 each way). The ultimate stumbling block to the success of this ferry may be that people will be reluctant to pay twice as much for the same commute.

"I fear we are throwing good money after bad. The fact that most of the money is federal tax dollars makes no difference - it is still taxpayer dollars."

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

"Mr. Speaker, I wish to speak in support of the measure. Here in Hawaii, we're an island state. As an island state of course, we're separated by water. Unlike the Seattle area where many islands in the Puget Sound area is surrounded by water, they have a ferry system there, Mr. Speaker, a very successful ferry system. I would like to see that we have a ferry system that hooks all of the islands together, from the Big Island to Maui to Molokai to Lanai to Oahu and Kauai. I believe this is possible where families can bring their families and their automobile and move island-to-island.

"I believe that our, Congress people and members in the past..."

Representative Meyer rose to a point of order, stating

"Mr. Speaker, is the Representative speaking to this bill? I don't think we're talking about ferries of that magnitude?"

The Chair responded: "I believe he's sticking to this bill, so Speaker Emeritus, you may proceed on."

Representative Souki continued, stating:

"Yes, thank you very much. This bill provides a basis for the continuation and expansion of the ferry system and I believe that for the future of Hawaii, we need to have a system that will interconnect not only intra-state but inter-state, within the state here. So for this measure, Mr. Speaker, I support this bill."

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 Third Reading by a vote of 42 ayes, and 6 noes, with Representatives Davis, Djou, Halford, Meyer, Ontai and Rath voting no and Representatives Garcia, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 782) recommending that H.B. No. 1044, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1044, HD 1, pass Third Reading, 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:

"This bill is intended to implement certain recommendations in the State Auditor's Report No. 00-13, "Comparison of the Salary Structure of Educational Officers in the Department of Education". I hope you have all read your copy.

"The study resulted from Section 36 of the General Appropriations Act of 1999 (Act 91, Session Laws of Hawaii 1999). Section 36 directed the Auditor to conduct a study comparing the salary structure of the Department of Education employees to other state employees who perform similar work functions.

"Legislators and those involved in civil service reform had become concerned about whether various state personnel systems were "in alignment." The Department of Education, the State civil service system and the University of Hawaii are three personnel systems of particular interest. The concern centers on whether pay schedules are equitable and whether the three personnel systems should be more independent of each other or more integrated.

"Positions in the DOE generating the most interest have been the educational officers. Educational officers are principals, vice-principals, and professional employees at the Department's state and district levels except for those classified in the civil service system. The state and district educational officers include public relations specialists, fiscal specialists, data processing specialists, personnel specialists, and various other professional employees. The Department has close to 800 educational officer positions, of which about 300 are state and district professional employees.

"It was found that the DOE's classification and compensation of educational officers raises questions of fairness. The classification system is outdated and the

Department lacks a formal job evaluation methodology to ensure that employees' duties and responsibilities are accurately reflected.

"The Department's classification and compensation system is inequitable. Although the Department's classification plan shows 17 separate classifications for principals and 8 separate classifications for vice-principals, there was no actual class specifications for these. Also, several classification series lack entry and journey levels; some supervisory positions do not actually supervise; and descriptive terms in class specifications are unclear and inconsistently defined.

"Minimum qualification equivalencies for many positions are inconsistent with the job level. For example, for an entry-level fiscal specialist position, five years of experience as a school principal or vice-principal are considered equivalent to the position's minimum qualifications of a bachelor's degree in accounting and two years of professional work experience in the financial area. It was also found that some positions are inaccurately classified.

"It was found that overall, educational officers at the DOE are paid more than University of Hawaii or state civil service employees in similar jobs even though the educational officer jobs do not entail a greater level of complexity. Both union negotiated formal salary ranges and actual salary ranges are higher in the DOE than at UH and in the civil service system. For example, formal minimum salary ranges for the Department is approximately 34 percent higher than the minimum salary ranges for the University and the civil service system.

"Section 36 of Act 91 also asked for private sector information. It was found that some DOE classes appear to be compensated at a higher rate than that of the private sector.

"HB 1044 will implement two of the Auditors conclusions: (1) requiring the Board of Education to adopt a classification and compensation structure for educational officers that more accurately reflects the level of work being performed; and (2) requiring that the DOE obtain the assistance of the Department of Human Resources Development in correcting the inequities identified in the report."

The motion was put to vote by the Chair and carried, and the report of the Committee 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 Third Reading by a vote of 48 ayes, with Representatives Garcia, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 783) recommending that H.B. No. 1216, 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. 1216 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE KOREAN CENTENNIAL CELEBRATION COMMISSION," passed Third Reading by a vote of 47 ayes, and 1 no, with Representative Djou voting no and Representatives Garcia, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 784) recommending that H.B. No. 1318, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1318, HD 1, pass Third Reading, 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:

"Presently the Public Employees Health Fund has a "one size fits all" policy for its members. What this bill proposes to do is allow different benefit options to retirees. A benefit such as drug coverage is essential to a retired person whereas the younger population sees other needs as a higher priority.

"The Labor Committee agrees with the intent of the bill and would like to have continued discussion on making more options available for the people who have worked so hard to serve this State. A purpose section was added to this bill to explain the Committee's reasoning.

"This bill should be passed on to keep the discussion alive and the options open to help the many people who can benefit from an idea like the one proposed in this bill. This bill represents a step in my visioning for the good of the people of Hawaii and the engineering of a high quality of life that encourages the creativity and imagination needed to secure the health of our present working force, the future of our youth and the care of our elderly *kupuna*."

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

"I think we all recognize by now that we have a looming crisis in the Public Employees' Health Fund. There are three to four good bills before us today, for which I commend the Labor and Finance Committees. This bill is one of them, a realistic look at the problem and how to address it in this particular context with the retirees. As we get to the other bills, my reservations will simply be an extended effective date, which essentially, is not going to solve the problem. But this bill doesn't suffer from that deficiency. 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. 1318 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Third Reading by a vote of 48 ayes, with Representatives Garcia, Schatz and Stonebraker being excused.

The Chair directed the Clerk to note that H.B. Nos. 135, HD 2; 1678, HD 1; 1391, HD 1; 1640, HD 1; 1044, HD 1; 1216, HD 1; and 1318, HD 1 had passed Third Reading at 2:10 o'clock p.m.

At 2:10 o'clock p.m., the Chair declared a recess, subject to the Call of the Chair.

The House of Representatives reconvened at 3:12 o'clock p.m.

SUPPLEMENTAL CALENDAR #1

STANDING COMMITTEE REPORTS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 872) recommending that H.B. No. 200, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Takamine moved that the report of the Committee be adopted and that H.B. No. 200, HD 1 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

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

"I really don't even know what is in this budget, so before I provide any unqualified support, even on Second Reading, I prefer to reserve support and vote with reservations. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 200, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGE," passed Second Reading, and was placed on the calendar for Third Reading with Representative Rath voting no and Representatives Garcia, Halford, Hiraki, Leong, McDermott, Meyer, Moses, Ontai, Schatz, Stonebraker and Takumi being excused.

Representative Takamine, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 873) recommending that H.B. No. 1000, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 873 on H.B. No. 1000, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1000, HD 1, were made available to the members of the House.

Representative Takamine, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 874) recommending that H.B. No. 1100, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 874 on H.B. No. 1100, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1100, HD 1, were made available to the members of the House.

ORDER OF THE DAY UNFINISHED BUSINESS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 785) recommending that H.B. No. 1361, 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. 1361 HD 1, entitled: "A BILL FOR AN ACT RELATING TO A HAWAIIAN AFFAIRS TASK FORCE," passed Third Reading by a vote of 48 ayes, with Representatives Meyer, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 786) recommending that H.B. No. 869, 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. 869, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Third Reading by a vote of 48 ayes, with Representatives Meyer, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 787) recommending that H.B. No. 870, 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. 870, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 48 ayes, with Representatives Meyer, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 788) recommending that H.B. No. 925, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 925, HD 1, pass Third Reading, 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:

"The agriculture industry has long been a key component of Kauai's economic stability. Amfac sugar helped sustained the industry for many, many years. In the past few years, however, as you all know, Mr. Speaker, members, the sugar industry has begun a steady decline, which eventually led to closures. The Hamakua plantation on the Big Island closed a few years ago. Last year, the Pioneer Mill on Maui, and now, Amfac has closed Kekaha and Lihue sugar operations in Kauai.

"As a result, the Island of Kauai is faced with yet another enormous economic and employment crisis as hundreds of residents, who are trained and worked solely in the agriculture industry, are left without jobs, and no immediate potential for employment. These are hard facts, not just statistics, Mr. Speaker, members.

"The purpose of this bill is to authorize the Department of Agriculture to make loans from the Agriculture or Aquaculture Loan Revolving Fund to provide much needed capital for new ventures as well as for the expansion of existing agriculture and aquaculture enterprises in Kauai.

"This bill requires no appropriation from the general fund, Mr. Speaker, and members. We have currently \$5million available in the Agriculture Loan Revolving Fund, which we intend to use for this purpose.

"I believe this to be a very pro active/pro business measure, Mr. Speaker. Many in the agriculture industry such as seed corn producers, aquaculture ventures, as well as other diversified agri-businesses would be interested in using vast agricultural lands that are now available in the Kekaha and Lihue areas.

"Mr. Speaker, members, I am asking for your support of H.B. 925, HD1. Passage of this bill would help to create new jobs to restore many of the jobs that have been lost due to the closing of Amfac sugar. And in the bigger picture, passage of this bill is critical if we are to maintain an agriculture industry as an integral part of not only Kauai's economy, but also of the State as a whole. Thank you."

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

"Thank you, Mr. Speaker. I believe this bill would be better drafted. It was applying to all aquaculture enterprises, rather than just aquaculture enterprises specifically on Kauai. Thank you."

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

Representative Kawakami's remarks are as follows:

"The closure of the sugar industry has had grave consequences for many people. On Kauai, families and individuals whose livelihood depended on this industry have endured much hardship and suffering.

"Mr. Speaker and colleagues, this bill will provide some greatly needed financial assistance to agricultural and aquacultural enterprises on Kauai. These loans will help the Island's ailing economy and give it a much-needed boost. I strongly urge you to support this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 925 HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOANS," passed Third Reading by a vote of 42 ayes, and 6 noes, with Representatives Auwae, Davis, Djou, Fox, Ontai and Rath voting no and Representatives Meyer, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 789) recommending that H.B. No. 695, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 695, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I'd like to record a vote with reservations. I'd like to point out that the reason I have reservations is that in the Committee Report from Water and Land Use, it says, 'Your Committee was particularly concerned about the impact that the proposed relocation of the Produce Center will have on displacing Kapalama Military Reservation Permittees. In this regard, your Committee was disappointed over the apparent lack of consideration demonstrated by State agencies for the well being of the permittees in terms of offering relocation assistance or advance notification.'

"Mr. Chairman, I support the intent of this bill but I'm very much concerned that the Department of Land and Natural Resources will not do the proper thing by the other tenants. And therefore I hope that this reservation will call to their attention that they should act in a more responsible way. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker, I'm rising to speak against the same measure which will relocate the Produce Center out of Kaka'ako. I agree with the comments of the former speaker. I go further and oppose this measure. It sets into place a scheme, which I think, is very questionable. There's a letter we have from one of the small business people and I'd like to

read you just a small part of that, 'To evict us because you want to use the land that the produce market sits on to build an aquarium and a medical school is beyond me. Is the aquarium so important that the State has to resort to putting some of us out of business or putting us in such a huge financial strain? The schoolteachers are asking for a raise, students need books, school supplies, etc. The State says there's no money and yet the State can come up with the money for an aquarium and to move the medical school.'

"At the last hearing, a certain amount of money which was suggested to build these two items, was mind boggling. Mr. Speaker, I have little faith, if any, in the Department of Transportation, and unfortunately, they're the ones that are going to make the major decisions of how to deal with these tenants they are displacing. DOT is known for pouring concrete over things, and in this instance, they're pouring concrete over small businesses and they're going to force them to go out of business.

"I really, strongly disagree with this bill. It's tied in with a number of other things, one which we dealt with earlier which was funding to move someone into the Kakaako area. We're coming about this piece meal from a whole lot of different directions with this whole grand scheme to have a world-class 'fish bowl' and move the medical school there; and in a time when we can't afford to have adequate textbooks in our schools. It doesn't make sense, Mr. Speaker. Thank you."

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

"Mr. Speaker, I wish to speak in support of this measure. I wish to indicate appreciation to the previous two speakers for expressing their concerns, which demonstrate a lot of aloha in their hearts for a tenant. However we need to remember that these were month-to-month tenants and they assumed those leases on that basis.

"It's also been destined for many years that the Produce Center would be relocated to Kapalama. Mr. Speaker, and members, DLNR, DOT, and HCDA are all involved in trying to find suitable accommodations for those tenants including relocating some of them within the Kapalama area and to the airport near Ualena Street vicinity. Additionally, Mr. Speaker, this bill contains provisions which would enable DOT, at its discretion, in lieu of relocation benefits to the Kapalama month-to-month tenants, to waive monthly rent up to a period of three months. And that can amount to a tidy sum for some of these tenants who are paying rent of something like \$25,000 a month. 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. 695 HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPLACED LESSEES," passed Third Reading by a vote of 33 ayes, and 15 noes, with Representatives Auwae, Bukoski, Davis, Djou, Gomes, Halford, Jaffe, Leong, McDermott, Moses, Ontai, Pendleton, Rath, Thielen and Whalen voting no and Representatives Meyer, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 790) recommending that H.B. No. 860, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 860, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Yoshinaga's remarks are as follows:

"A nation's strength has always been measured by the quality of its army, and the USA has the best army in the world. Members of the armed forces do a tough job serving this country and should be rewarded for their commitment to keeping us all free. They ensure a quality of life that encourages the creativity and imagination needed to secure the future of our youth and care for our elderly *kupuna*.

"This bill is a reward for those who have served our country and have gone on to serve the state. The purpose of this bill is to provide qualified retirants of the Employees' Retirement System who served in the armed forces of the United States, military credit of up to four years.

"Act 385 allowed current employees to get credit for their years of military service. For eleven years the Legislature has been toying with the idea of giving the same benefit to those who served in WW2 to the Korean War. This bill represents a final resolution and humbly asks for support in passing and keep the discussion alive is how to repay the great debt that we owe all these people that have secured our freedom."

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

Representative Kawakami's remarks are as follows:

"I speak in support of HB 860, HD 1 because I believe in honoring those who rendered honorable active military service in the armed forces of the United States. Those veterans affected by this bill are now in their more senior years, and somehow, were not employed at the time that other veterans could buy back their military time.

"This bill seeks to correct that inequity, and only allows them to purchase back their military years as follows: 10 years = 2 years; 20 years = 3 years and 25 years = 4 years. I feel that this is a token repayment to these men who gave so many years of their life serving our military in the armed forces of the United States.

"I urge you to vote in favor of HB 860 HD 1 and honor these elderly veterans. Mahalo."

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

"Thank you, Mr. Speaker, I'm rising in opposition to Stand. Com. Rep. 790 and just a brief comment, Mr. Speaker. This is a good idea, I like it, but I question whether or not our State can afford it. I don't think it's a good time to pass this bill. Thank you."

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

"Mr. Speaker, reservations for the reasons articulated by the previous speaker. Thank you."

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

Representative M. Oshiro's remarks are as follows:

"Mr. Speaker, I rise to speak in support of this measure, specifically to the provision in the bill that repeals the mandatory loss of pension benefits received by a surviving spouse or partner, should pension benefits received by a surviving spouse or partner, should that person either remarry or enter into a new reciprocal beneficiary relationship.

"During a less enlightened time, Mr. Speaker, it was often customary for mourners in India to throw a surviving widow on her husband's funeral pyre. Women, of course, weren't allowed to hold property in their own right, so it only logically followed that her life was also considered over when her husband's time on earth expired. Because a widow without any assets and no way of supporting herself would undoubtedly be a burden on someone, such an act was often rationalized as a humanitarian gesture.

"In today's more enlightened age, Mr. Speaker, the issue of continued receipt of pension benefits, addressed by HB 1113, is really one of simple fairness. Currently, should the surviving spouse or partner of a deceased state employee remarry or enter into a new reciprocal beneficiary relationship, that person will lose his or her right to any pension benefits accrued through their late partner's employment with the state.

"Although today our public work force is far more gender-balanced than in previous decades, the previous inequity that existed currently means that any loss of pension benefits through remarriage negatively affects many more women than men. Any minor children still dependent upon that surviving spouse may be placed at risk financially as well.

"Under State law, Mr. Speaker, marriage is a lawfully recognized partnership, and unless legally specified otherwise the assets or debts accrued during that period of marriage are often considered to be jointly held. If a surviving spouse cannot shirk a jointly acquired debt simply through the act of remarrying, then why must the State require a person to disgorge an already-accrued asset like pension benefits, simply because that person chooses to legally formalize a new personal relationship? 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. 860 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 40 ayes, and 8 noes, with Representatives Auwae, Djou, Fox, Leong, Marumoto, Moses, Ontai and Rath voting no and Representatives Meyer, Schatz and Stonebraker being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 791) recommending that H.B. No. 1113, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1113, HD 1, pass Third Reading, seconded by Representative Lee.

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

"With reservations. Cost, cost, cost. Thank you."

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:

"The purpose of the bill is to provide a surviving spouse or reciprocal beneficiary whose benefits from the Employees'

Retirement System were terminated because of remarriage or entry into another reciprocal beneficiary relationship subsequent to the member's death, to apply for reinstatement of the pension or benefit. In addition, this bill clarifies ambiguities relating to the purchase of military credit by qualified members of the Employees' Retirement System.

"Your Committee finds that the termination of pension benefits to surviving spouses due to remarriage or entry into another reciprocal beneficiary relationship has often caused major economic hardship and other financial problems, placing surviving minor children at risk. For older retirees living on fixed income, the loss of pension benefits has a significant impact on their ability to adequately meet the medical and additional health care costs associated with aging.

"Your Committee has also heard testimony from the Employees' Retirement System of an undetermined cost impact on the system. This bill has been amended by limiting the reinstatement benefits to ten years from date from reinstatement. This period of time should accommodate circumstances of the presence of young children and older retirees, by allowing a window for finances to catch up with the needs of the surviving spouse.

"In addition, this bill has clarified ambiguities relating to the purchase of military service credit by qualified members of the Employees' Retirement System. Employees with any active military service that is acquired or for which a refund was made to the member in accordance with this bill is to be credited as class C service at the rate of one and one-fourth per cent for each year of credited service. This measure allows contributory members the option of purchasing their active military service in order to raise the member's base credit to a level equal to their contributory allowance status, or to receive a refund for previously purchased military service credit, if the member elects to have this credit changed to class C service.

"As a visionary we need a vision to engineer what is good for the people of Hawaii. I see this as a bill to ensure a high quality of life that encourages the creativity and imagination needed to secure the future of our youth and care for our elderly *kupuna*."

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 Third Reading by a vote of 38 ayes, and 10 noes, with Representatives Auwae, Davis, Djou, Jaffe, Leong, Marumoto, Moses, Ontai, Rath and Whalen voting no and Representatives Meyer, Schatz and Stonebraker being excused.

The Chair directed the Clerk to note that H.B. Nos. 1361, HD 1; 869; 870; 925, HD 1; 695, HD 1; 860, HD 1; and 1113, HD 1 had passed Third Reading at 3:25 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 792) recommending that H.B. No. 1595, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1595, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker, I rise in opposition, and wish to incorporate remarks previously provided on H.B. 852, by reference. Thank you."

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:

"This bill is an example of doing what is good for the people of Hawaii. There might be some misunderstanding that this measure is inconsistent with pay for performance for excluded employees under Act 253, but the effective date for Act 253 is 2002 and it will take time for the Department of Human Resources to set up goals. In effect it will be 2003 before pay for performance benefits could be implemented.

"The Committee is open to accelerate the effective date for the pay for performance process, i.e. to have the goals implemented for merit pay increases in 2002 and to cover the interim period. The Department of Human Resources and Development (DHRD) has stated it could set up the goals this year to have pay for performance implemented in 2002. DHRD needs adequate time to implement a comprehensive compensation and incentive program that will provide for pay for performance benefits.

"This bill requires that wage and salary adjustments for certain excluded employees within a comparable group shall be not less than those negotiated for professional and scientific employees bargaining units. This money could be allocated in a lump sum for distribution by management. Management for merit pay could allocate the total pay increases into a merit based resource allotment based on performance. By accelerating the time for goals setting a package for pay and benefits based on pay for performance can be assured."

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 Third Reading by a vote of 45 ayes, and 5 noes, with Representatives Bukoski, Case, Djou, Marumoto and Rath voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 793) recommending that H.B. No. 296, 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. 296 HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Third Reading by a vote of 50 ayes, with Representatives Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 794) recommending that H.B. No. 644, 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. 644 HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," passed Third Reading by a vote of 50 ayes, with Representatives Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 795) recommending that H.B. No. 654, 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. 654 HD 1, entitled: "A BILL FOR

AN ACT RELATING TO SAFE DRINKING WATER," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 796) recommending that H.B. No. 666, 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. 666 HD 1, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL WASTEWATER SYSTEMS," passed Third Reading by a vote of 49 ayes, and 1 no, with Representative Halford voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 797) recommending that H.B. No. 626, 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. 626 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 798) recommending that H.B. No. 627, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 627, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, I rise in support of Stand. Com. Rep. 798, H.B. 627, HD 1. First of all I'd like to thank this body and for your support too, Mr. Speaker, of this measure. The purpose of this bill, Mr. Speaker and colleagues, is to support the Hawaii indigenous people in their effort to gain greater self-sufficiency. It also affirms the federal trust relationship between the federal government and the indigenous people of Hawaii. And also allows for the delegation of authority from the Department to a homestead community self-governance organization.

"Mr. Speaker, and colleagues, this bill was created basically in response to a Mr. Barrett and Mr. Carroll challenge of Article 12 of the State Constitution. Article 12 housed the Department of Hawaiian Homelands, Office of Hawaiian Affairs and also the gathering rights of the indigenous people. Mr. Speaker and colleagues, all of you know the history of Hawaii. The contact with the European is the date called 1778. In 1778 the Hawaiian Islands were discovered by Captain Cook lost in the Pacific Ocean, his men dying of scurvy and syphilis, and that is the milestone of the European contact.

"Mr. Speaker, the First Constitutional Monarch was created in 1848, it's called the Great Mahele. In this Great Mahele Act, one-third of the land was set aside for the indigenous people. Today we call those lands "public lands". And as you all know, since the time of the European contact, many people came, visited these islands, and many of them wrote a lot of books. One book in particular I'd like to recognize talks about is what's written in 1874 by Isabella Bird, and she's from Europe. And in her book, she was here when Lunalilo died and she expresses all of what she saw as she went from island

to island. And what was intriguing is that she also affirmed on my paternal side, my grandmother, was a good horseman.

"I was told stories that she could ride horseback, bareback and pick up a dime from the ground. Also grab a chicken and pluck the feathers off while riding without even holding onto the horse. And in this book, she describes all these women and she also said that she was 'astounded that these people could be such great horsemen when it was just the first generation when horses were introduced to these Islands.'

"But nonetheless, she experienced the first elected monarchy and that was between Queen Emma and Kalakaua. And in her book she talks about Queen Emma's men going down and basically 'licking' the people who were at the poll, and that's how you all know, Kalakaua was elected.

"Now in 1893, Kalakaua's sister, Queen Liliuokalani took the throne. In 1893, Mr. Speaker, in her so-called legislation, she had the vote and basically our kupunas got elected. Her mistake was letting her cabinet know that she was planning to amend the Constitution and give the Monarchy back a lot of the powers, which the cabinet took. As you all know, in 1893 the provisional government overthrew the Queen. It took them five years to reconstruct the Constitution. In 1898, that is the Constitution that we all fall under, it's called the Constitution of 1898. That Provisional Government went to America and in 1900, the Organic Act was passed. The Organic Act made way for a relationship between the United States and the Sandwich Isles.

"Twenty years after that Organic Act, Mr. Speaker, I believe is the first apology bill to the indigenous people. It's called the Hawaiian Homes Commission Act. And there within is what this bill is addressing. Mr. Speaker, the Hawaiians paid a high price as people for the coming of other ethnic groups to the Islands - disease, decimated, their people, their system of land tenure was removed, and their government was overthrown. In an effort to assist the Hawaiians as a group, programs were..."

Representative Magaoay rose to yield his time.

Representative Kahikina continued, stating:

"Thank you. One of these was the Hawaiian Home Commission Act, which was enacted by Congress to rehabilitate the native Hawaiians. Mr. Speaker, as you and I know, there was a great movement in this world to colonize nations. And may I say that in our effort from monarchy to democracy, the homogenized milk doesn't necessarily have to be white milk, it can be chocolate milk too. But we have the leadership; we have the intelligence towards self-determination.

"This bill, Mr. Speaker, and colleagues, is reaffirming all of what we did on the first day of session when we raised our right hand and the Chief Justice swore us in. And we said that we would swear that we would uphold the Constitution of the United States and the Constitution of the State of Hawaii. There within, Mr. Speaker, although the challenges in court do cite, in the U.S. Constitution, the 14th Amendment, and the people Mr. Carroll and Mr. Barrett claiming they have rights to this so-called race-based program, it's really a birthright. And so within that we are reaffirming that Hawaii's indigenous people, that we support the effort towards self-sufficiency.

"Now, Mr. Speaker, I'm not going to stand here and say that there were people that were opposing this bill because we are divided within that federal Act. Because within that federal Act there's a blood quantum to qualify and it says that you

will have to prove yourself here prior to 1778 contact of European and be 50% of the blood quantum. Now was that the initiated effort? I say no because the proponents who created this act really wanted all Hawaiians to be take part.

"But may I say that in this process of re-qualifying the Federal Act, that this 'little' native Hawaiian is only a part of the bigger picture which is the 'capital' Native Hawaiian which is identified when we created the Office of Hawaiian Affairs in 1978 through Con-Con. And that is another element of Article 12 of our State Constitution. But because of these deep roots with the United States I believe that this is a movement going in the direction of rehabilitating the Hawaiian people. Now, this bill, although it's giving some management powers over to the Hawaiian community, we recognize that some communities are not ready. But there are some Hawaiian communities that are, one in particular is Waimanalo, whose homestead is not only taking on the task of building a community center, they're also building a kupuna housing. And they're the first prototype where we see Hawaiian Homes, Office of Hawaiian Affairs and other State agencies collaborating and addressing this issue.

"So, Mr. Speaker, again, this reaffirms that the native Hawaiian people are the indigenous people and we are reaffirming that the Congress has given us this Act called the Hawaiian Home Commission Act. And it's just a small segment of pushing forward, a people with much love and aloha for everyone. And I pray that all of you will support this measure."

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

"Thank you, Mr. Speaker, I rise in support of this measure. Just continuing on with the comments of the previous speaker, I think that this is a very important bill and that it does allow greater autonomy, control and responsibility to the local level for the Hawaiian homesteads. While in some ways it's a smaller step, it's significant in many others because it moves the responsibility and the autonomy, as I said, to the grass roots level, to the Hawaiian people.

"And the part that I think is most notable, is that it's another significant step to get the State out of the business of the Hawaiian people. It's part of the process I think and I see in terms of letting the rehabilitation of the native Hawaiians to continue and also that renewal. So for those reasons, Mr. Speaker, I strongly support this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 627 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 1595, HD 1; 296, HD 1; 644, HD 1; 654, HD 1; 666, HD 1; 626, HD 1; and 627, HD 1 had passed Third Reading at 3:37 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 799) recommending that H.B. No. 516, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 516, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker, I'm rising with reservations on the Stand. Com. Rep. 799. My reservations are, Mr. Speaker, that we are creating, yet again, another special fund as it might be a good program. But I think there are too many special funds; the Legislature is delegating too much of it's power away. 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. 516 HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Third Reading by a vote of 46 ayes, and 4 noes, with Representatives Jaffe, Meyer, Moses and Rath voting no and Representatives Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 800) recommending that H.B. No. 166, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 166, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker, I rise in opposition and I'd like my comments from the Journal from last session regarding minimum wage recorded for this session. My opinion hasn't changed."

Representative Rath: Floor Remarks on Stand. Com. No. 855-00 and H.B. No. 2984, HD 2, on Third Reading on Tuesday, March 7, 2000.

"There is a time to raise minimum wage and that's during 'boom times,' not during the recession. We're now in our tenth year of recession. The statistics that were referred to by our Minority Leader are true, but let me bring it into focus for right here in Hawai'i. Let's say, for example, you have a small business. You know bankruptcies for small businesses have been sky high. The ratio for closures for actual bankruptcies is 10 to 1. For every one business that goes bankrupt there's ten businesses that just closed their doors and say I just can't do it anymore.

"Now the small business person is the only person by law who is allowed to work for less than the minimum wage. If they are going bankrupt and out of business, then I submit that they are working, in many cases not only for less than minimum wage, but they're reaching into their own pocket and paying for the privilege for being in business.

"Now let's take a small business person with five minimum wage employees and let's talk about what this raise would do. The cost to that employer for just those five people, at minimum wage, cumulatively with all the taxes and other costs associated, is over \$16,000 a year. This doesn't sound like a lot but that means that business person with five employees, he's going to have to come up \$16,000 more every year. He can't raise his prices otherwise he would have already done so. Marginal small businesses who use minimum wage employees, are not exactly your boot ship companies. What you are going to cause them to do is say it's just not worth it. They're either going to lay off one or two of their employees or they're just going to close shop like many other companies and businesses have in Hawai'i.

"There is a right time to do it, Mr. Speaker, this is not the time. We're in our tenth year recession and this only makes matters worse. Thank you."

Representative Rath then rose to speak in rebuttal, stating:

"When you talk about the statistics that point out that a lot of these people are adults, that's true. Now let me tell you where they work. They work for non-profits, that's where they work. The people who are disabled or don't have the abilities like other people, and guess what non-profits cannot raise prices. They just simply lay one or two of them off to pay the rest.

"Additionally, I think it's been lost here. It's not that we're just talking about those people, we're talking about the ratcheting effect. It's like lifting the bottom rung of the ladder. If you lift the bottom rung everybody else's go up.

"So the person that goes from \$5.25 to \$5.75 will eventually lead to the person who's making \$5.75 to go up by 50 cents to \$6.00 and it goes on and on. The worker making \$10.00 an hour, he wants his 10 percent raise which will bring him to \$11.00. So it has a ratcheting up effect and it becomes the causal area for people going in and saying I want my pay raise too.

"So you can't just look at it under a microscope. When we quote statistics, we have to look at the real life realities of who really is affected. I know many people in Kona that work for non-profits that wouldn't be employed any place else. And indeed those people, if they get a raise, a couple of them are going to be not working anymore and I think that's wrong. Thank you, Mr. Speaker."

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

Representative Marumoto continued, stating:

"Last year I voted no but this year I'm voting with reservations; the economy is a little bit better this year. This well intended legislation raises the minimum wage of Hawaii's employees, which has remained constant since 1993. What this bill does not take into account is the adverse effect a wage increase has on employers. What is needed to balance the benefit to workers is an increase in the tip credit for employers, which has not changed since way back in 1969.

"A tip credit is the amount that employers may deduct from the hourly minimum wage of tipped employees in lieu of the tips they will receive. Back in 1969 when 'dinosaurs roamed the Earth', and some of you were not born yet, the minimum wage was \$1.60 an hour and the state allowed employees of tipped – employers of tipped employees – to take a credit of \$.20 paid to a tipped employee if that employee received at least \$20.00 a month in tips. In other words, tipped employees in '69 received a base pay of \$1.28 per hour and made at least \$.32 an hour on tips. Back then, 20% of the tipped employees' income came directly from the customer while 80% was paid by the employee.

"Well, the minimum has increased 328% since then, the tip credit has remained unchanged. Today, it has shrunk to 3.8%

of the minimum wage so employers in Hawaii pay 96.2% of tipped employee's wages, raising their cost proportionately.

"Raising the minimum wage will directly benefit non-tipped employees, while a higher tip credit will allow employers to absorb some of the increased cost by decreasing the base pay minimally and allowing tips to make up the difference. Raising the pay for the workers in our State is a good and worthy aim, but passing on the total cost to a floundering private sector already faced with higher taxes and greater regulation than its mainland counterparts, is not sound economic policy. Federal laws are already in place to benefit businesses and ensure their wages for employees. Like businesses, the Legislature must understand that adding increases in one column of the balance sheet necessitates decreases in another. Let's increase the minimum wage, but let's also add a mechanism to help small businesses – the backbone of our economy – absorb some of the cost. There is no better time than to do this now. I propose that the Legislature this Session amend H.B. 166, HD 1 to incorporate the provisions to raise the tip credit as outlined in H.B. 319."

Representative Marumoto's additional remarks are as follows:

"A survey of other states' tip credit laws found that employers could pay tipped employees between \$1 and \$3 per hour less than the state minimum wage. These states have a median minimum wage of \$5.15 and most states set the tip credit at 20-50% of the minimum wage. The Federal Fair Labor Standards Act mandates that employers to tipped employees pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tip combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, then the employer must make up the difference. The federal law already has a built in provision that protects employees affected by tip credits from making less than minimum wage.

"Raising the tip credit does more than just bring a 1969 provision up to date and align Hawaii's laws more closely with the rest of the nation – it makes good business sense. The number one objection of small businesses to raising the minimum wage is that a wage increase does not generate more wealth, it only moves resources from one column of the balance sheet to another. Higher rates of employee compensation take away from investment capital and raise the cost of production without changing output. A higher tip credit, however, along with a higher minimum wage allows employers to keep the "wages" column of their balance sheets within reason."

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

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:

"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.

"Although the separate tip credit bill was not seen by the Committee on Finance, the Committee on Labor is still open to the idea of balancing out the increase in wages with a greater tip credit."

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

"I do want to add some comments because I am aware of the impact this might have on businesses, especially small business. But I look at it on the other side what the impact would be on our families and I doubt if this increase would put anybody out of business. But in terms of the families, it may mean the difference between having a meal for a child or having a shelter to live in.

"When you look at the top end of what we're proposing which takes effect in 2003, at \$6.00 an hour we're still looking at \$960 a month. And if we're talking about a single parent, you know how many of us can raise a family or even survive on \$960 a month? That's \$11,520 a year? We make \$32,000 a year as legislators. We make almost three times that amount and supposedly we're just part-time here. And so when you look at \$960 a month, you look at the cost of housing, the cost of child care, food...all these things a family has to pay for. You know, \$960, the minimum wage which is proposed here is just that, a minimum wage, it's not even a living wage. And I think a lot of us are aware that at the end of this year, anywhere from 800 to 2000 welfare recipients will be mandated off of the welfare roles by the State and by Congress. And the question is, what will we have for them except for minimum wage jobs? What do we have for them to live on? And that's the question we need to face. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker, I rise in support with reservations. Briefly, I support the minimum wage increase in this bill, I think it's reasonable, I think it's necessary. However, I wish to adopt the reservations set forth by the Representative from Waialae-Kahala with respect to the tip credit. I think it should have been included, I hope it is down the road. Thanks."

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

"Thank you, Mr. Speaker, I rise in opposition to this measure. A national Minimum Wage Study Commission found that raising the minimum wage reduces employment by one to three per cent, by narrowing business' profit margins. Raising minimum wage is the beginning of a "domino effect" that raises costs to businesses across the board. Minimum wage increases cause wage compression. Increasing compensation to lower paid employees often demands an equivalent raise for upper level positions. The cost of mandated benefits such as workers' compensation, unemployment compensation, prepaid health and temporary disability insurance, which employers pay as a percentage of wages, increases.

"Employers must match social security and Medicare, pay taxes and vacation, sick leave and holiday pay as well as pensions and retirement. All of which increase with wages. Ultimately, these increases only serve to increase the production price of goods and services – something that a struggling economy cannot afford. Any increase in the minimum wage should be driven by and supported by a healthy economy. States with higher minimum wages such as California, Washington and Oregon, have stronger economies not because they have higher minimum wages. Those wage increases come as a result of economic prosperity.

"When there's a surplus, workers should benefit but raising wages when the economy is struggling is shortsighted and

does not address the problem at hand. I would just want to echo the remarks of the Representative from Waialae. The lack of any increase in the tip credit, is something that was probably overlooked but really needs to be handled. When you talk about 12,000, or whatever the number is for minimum wage employees, a very large percentage of those are involved in the restaurant industry are waiters and waitresses, bartenders. These folks are included in that group of minimum wage earners. But in reality they earn \$20 to \$25 an hour. The major impact is on their employers so as we raise that and give them no relief in the tip credit, some of those people are going to lose their jobs.

"The National Federation of Independent Business has documented lost jobs. Unfilled vacancies and an increase in technology displacing even more workers and opening the door for more frequent mergers and acquisitions, as a result, artificially increased wages. Hawaii should strive to make its economic environment more business-friendly. Good business policies strengthen the economy and ultimately benefit all the workers. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in support of this measure. Since I'm the eighth speaker, I'll keep my remarks to a minimum. But as we heard this measure, there's one thing that struck me and that is that this bill should not be viewed strictly on economic terms, but it should really be construed as a bill that will bring fairness and parity to the working women of Hawaii.

"Less than 3 per cent of the work force in Hawaii earns a minimum wage, but of that amount, around two-thirds are women. And according to the Bureau of Labor statistics, these women work in areas such as retail sales, cashiering positions, as pre-school teachers and in food service. And as my colleague from Kalihi already alluded to, this bill, the bottom line is that this bill will benefit women who are single parents with kids, and who are working two or three part-time jobs as well as the thousands of women who will be time-limited off of their welfare benefits. Thank you."

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

"Thank you, Mr. Speaker, I rise in opposition to this measure. And the reason why, Mr. Speaker, is just simply not so much the impact that this may or may not cause business, maybe it's negligible, maybe not. I think that's irrelevant. I think this is just an attempt to basically tinker at the edges with some real structural issues in our economy. And in some regard, it's kind of a 'tease' and it's sort of a political 'feel good' because it really doesn't provide any sort of substantive or meaningful relief to single moms or families and people with real needs in our economy.

"And we still have a real chance to help those people. And I think as we already know and have learned that the chief cost that we all pay in life is taxes - and it's government. And I think that's the way that we need to strike this demon, this cost of living, this 'price of paradise'. The ones that are poor are most affected by it, and including our lower and upper middle class salaries and people. And I think that's the way to go and I think we need to look at again and again and again. What we're doing as government and not just put it back into the marketplace as some mandated cost. But again, look at what we do and what we charge the poor and the middle-class, and I think we're charging too much.

"Notwithstanding whatever efforts we maybe making in this body now as we try to pass our budget and try to reconcile

things, but we need to continue to look at that. And I think that's the way to address this and not by imposing artificial costs onto the marketplace. Thank you very much."

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

"Thank you, Mr. Speaker, in favor of the same measure. I would just like to briefly say that one of the arguments in favor of this measure, actually I think, is a false economy or false perception and I'd like to point that out. It's been pointed out that raising the minimum wage would somehow help some that are currently unemployed, but are transitioning soon from welfare to work. Well, actually, Mr. Speaker, raising the minimum wage, certainly will not cause any new jobs to occur. If anything, some fewer minimum wage jobs will exist because of the increase - however small that number will be - we can expect a smaller number. That fewer number of jobs is not going to help people who are soon to transition from welfare to work. Thank you."

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

"Mr. Speaker, if the bill goes through to the Senate and then through it's process, there is an opportunity to put in the, to increase the tip credit. And I think that that is essential. Otherwise, we're going to end up with a bill that is going to lose jobs for our employees. I think that's really the easiest way to say it and the clearest way to say it. I have a letter from a small businesswoman. She's saying:

In our industry, we need a tip credit that is a reasonable percentage of the minimum wage so that the owner/operators can pay better wages to employees who do not get tips. These employees are dishwashers, janitors, cooks, cashiers, hostesses and management persons. We need your help. Those are the people this bill is hurting, not the employees who work for tips but the employees who are dishwashers, janitors, cooks cashiers, hostesses.

"She goes on to say:

The restaurants are the cornerstones of our community, the harder you make it for us to survive, the fewer jobs we can create. Bigger grease traps that take up one to two parking stalls and cost \$50,000 or more, mandatory employer paid health care which the employer pays 98.5 per cent of the premium cost and minimum wage increases are just some of the challenges facing restaurants. As more restaurants are forced to closed because of these kinds of governmental burdens, Hawaii would lose its jobs.

"The real concerns that I have, Mr. Speaker. The bill is unfair in that it does not get an increase in wages to the people who should really have it. It mandates the minimum wage increase but by not increasing the tip credit, the employer is unable to share some of that income through bonuses or whatever with the 'back of the shop' workforce. And from experience, Mr. Speaker, those are the people that work extremely hard but don't get the remuneration. I think the bill is anti-employee as it stands now in it's practical effect. Thank you."

Representative Moses rose to speak in support of the measure with reservations and asked that the remarks of Representatives Marumoto and Thielen be entered into the Journal as his own, and the Chair "so ordered". (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 166 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MINIMUM WAGE," passed Third Reading by a vote of 42 ayes, and 8 noes, with Representatives Ahu Isa, Bukoski, Gomes, Jaffe, Meyer, Ontai, Rath and Whalen voting no and Representatives Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 801) recommending that H.B. No. 139, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 139, 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 Djou rose to speak in opposition to the measure, stating:

"Mr. Speaker, we've been telling the State to make do with less and I think we as a legislative body should be doing the same. I don't think it's wise to raise our legislative allowance by 50%, particularly as we are trying to find raises for the rank and file and the workers here in the State.

"I realize that the absolute fiscal impact of this raise is not that much, but the appearance is not good. If this is a good idea, this is not a good idea this year and we should vote it down now."

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

"With the \$5000 limit, our budget for both Chambers is approximately \$380,000 and by adding \$2500 more to this limit we're adding on \$160,000 to our budget and this is a total of about \$540,000. Now there's no question that we need a legislative allowance and we have learned to use it appropriately for legitimate legislative allowances and this we have done well.

"But like the previous speaker, who is against the Korean Centennial Commission, oh, I'm sorry wrong bill. This is not the time for it, Mr. Speaker, we need to take care of all of the people first and therefore we can wait. The budget is before us and we need to make hard decisions on a balanced budget as to whether or not we will say "yes" or we will say "no" to many requests. For those that we say "no" to our \$160,000 increase for ourselves would not be at an appropriate time and I think we can wait for an appropriate time when we can ask for that increase in the future.

"Hopefully, Mr. Speaker, this is only Crossover and cooler heads will prevail and we'll see the situation through and in turn will turn this bill down. Thank you."

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

"The prior two speaker's logic has some inherent appeal, and certainly I have agreed with that approach in other situations today and otherwise. But I think we have to look beyond that and ask if this is a worthy expenditure of state monies, and I submit the answer is "yes". Essentially, most of us use this legislative allowance to communicate with our constituents. Most of us use it for newsletters, town meetings and other means for which we can reach out to our own constituents and ask them what they think and tell them what's going on.

"Although a \$160,000 total increase is a lot of money, I would submit that, with the decisions that we are making down here, which run into the hundreds of millions, billions, where we can reach out to our constituents and find out what they think and try to communicate to them why we are doing what we are doing, the more communication the better.

"Last year I sent out one newsletter and that newsletter cost me \$3,327.71 and that came out of the legislative allowance. Now before somebody jumps on me for it being a pretty expensive newsletter, please remember that I have a lot of registered voters in my district, I think more than most other districts in the state. Therefore, it costs me a lot to get in touch with them.

"Now, what that essentially means is that at present I can send out one and a half newsletters a year, and that's what I've been doing over recent years. I send out one newsletter in the beginning and I split a postcard with my Senate counterpart, which announces a town meeting which is quite well attended. Last year, my half of that town meeting postcard cost \$1,188.41. If you add those two up, I spent \$4516.12 for one newsletter and half of a postcard, and that left me no ability to communicate with my constituents at the end of the session as to what happened in the Legislature and to inform them as to what happened.

"I think that that is a legitimate expenditure of funds to be able to ask your constituents at the beginning at the Session what they think and to report to them at the end on what happened. I submit that it will make for better decisions throughout the State and within these chambers and that it is a legitimate worthwhile expenditure of monies that will probably save millions of dollars over the long run as we have a much more informed constituency.

"So, I strongly support this increase. Thank you."

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

Representative Souki continued, stating:

"Members, if we wait for the good days to come, it may never come. Thank you very much, Mr. Speaker."

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

"Like my colleague from Manoa, I have a large district. With the current legislative allowance I am unable to send a survey at the beginning of the session and an answer at the end. I can only send one mailer per year so for me I cannot communicate with my constituents. Thank you, Mr. Speaker."

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

"One of the reasons for having this bill is to discourage the members from commingling State funds with their campaign funds and one of the opinions that came out from the Campaign Spending Commission last year, which was conflicting with the Ethics Commission, was the subject of whether you can commingle the legislative allowance with the campaign spending amount.

"I think when the Committee on Legislative Management heard this bill, one of the criticisms that came from the League of Women Voters was that they didn't want us to commingle

our legislative spending amount with the legislative allowance which is State money and we need to be a little bit more accountable.

"This is also to crack down abuse of postage amounts by members, so I want to remind the members that if you oppose this measure and the bill, you don't have to use the \$7500. You don't have to use any of it. This could also save money too. If you personally do not agree with the use of legislative allowance or the increase, you personally don't have to use it."

Representative Yonamine rose on a rebuttal, stating:

"We can wait, because one of the things we need to do is look at the Reapportionment Commission. In 1990 we represented 19,000 people, less those under 18 and less the military dependants. Now under this reapportionment that is going to come about, some of us will no longer be in that 19,000 range. Because population moves quite a bit, you have a large increase in respect to districts.

"But under reapportionment, we go back to a basic formula that we represent. It means that we are not spending more money. What it does mean is we have to budget more efficiently. In terms of sending out letters, newsletters, reports, etc., and I've been able to do it without commingling too. So I think for us, we have a budget that we can handle, so let's budget ourselves too."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 139, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE ALLOWANCE," passed Third Reading by a vote of 46 ayes, and 4 noes, with Representatives Djou, Fox, Jaffe and Yonamine voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 802) recommending that H.B. No. 143, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 143, HD 1, 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".

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 Third Reading by a vote of 47 ayes, and 3 noes, with Representatives Djou, Jaffe and Thielen voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 803) recommending that H.B. No. 1667, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1667, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Ito's remarks are as follows:

"I rise in support of HB No. 1667, HD 2, A Bill For an Act Relating to Student Loans For Teachers, which is part of the

National Commission on Teaching and America's Future (NCTAF) Hawaii policy group's legislative package.

"HB No. 1667, HD 2, established the Hawaii Education Loan Program And Special Fund to be administered by the University of Hawaii for the purpose of providing financial support to students who graduate with a baccalaureate degree in education and who agree to teach for ten years in the Hawaii public school system.

"Hawaii is experiencing a critical teacher shortage that is expected to extend over the next ten years. Many young people are deterred from the teaching field because it is not a highly paid profession. Additionally, the burden of outstanding student loans, forces many of our best and brightest students to choose their careers. By instituting a loan forgiveness program, we can attract Hawaii's students into education while addressing the teacher shortage issue. And, since the qualified applicant must remain within Hawaii's public education system in order for loans to be forgiven, everyone benefits.

"Twenty-seven states offer prospective teacher college scholarships or forgivable loan programs with budgets totaling \$81 million dollars nationwide in 1999. These state programs are part of the arsenal of tools to address the teacher shortage problem."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1667 HD 2, entitled: "A BILL FOR AN ACT RELATING TO STUDENT LOANS FOR TEACHERS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 804) recommending that H.B. No. 212, HD 1, as amended in HD 2, 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. 212 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE WATER CODE," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 805) recommending that H.B. No. 861, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 861, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, this measure, and the other before it, addresses the needs on State lands. We're talking about irrigation and the very complex drainage systems that affect State lands. These irrigation systems that are very intricate and very expensive and need to be maintained otherwise its deterioration will not only affect the ability to preserve and promote agriculture, but without proper maintenance could result in tremendous cost. 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. 861 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE OPERATIONS AND MAINTENANCE OF CERTAIN

AGRICULTURE-RELATED INFRASTRUCTURE ON KAUAI," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

At 4:07 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 4:07 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 516, HD 1; 166, HD 1; 139; 143, HD 1; 1667, HD 2; 212, HD 2; and 861, HD 2 had passed Third Reading at 4:08 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 806) recommending that H.B. No. 1074, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1074, HD 2, pass Third Reading, 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:

"The purpose of this bill, as amended, is to allow an income tax credit of 4% for construction of a new drought mitigating water storage facility, or repair or reconstruction of existing water storage facilities.

"Mr. Speaker, members, we all know about the serious drought conditions in the State, and its impact on surface water resources and on the ranchers and farmers who depend on rainwater for irrigation. This constant threat of drought, as I am sure you are aware of, has negatively affected the agriculture industry, especially farmers and ranchers in Upcountry Maui and the Big Island.

"This is a priority issue in agriculture that I as Chair of the Committee feel very deeply committed to. It has been two years ago that members of the Agriculture Committee and I visited farmers and ranchers on Maui and there we saw personally what water or the lack of it could do to crops and livestock.

"This bill which aims to encourage private investment to build new or repair or expand existing water storage infrastructure has gone through a lot of discussions and scrutiny. We encouraged input from the Hawaii Farm Bureau Federation and its island chapters, the commodity groups, ranchers, farmers, as well as positive discussions with the department of taxation.

"Mr. Speaker, members, I believe that we have crafted a bill that is appropriate and reasonable. The four-percent income tax credit that this bill would allow is similar to what the high technology industry and Continental Airlines received from the State. The amendment to remove the credit on ancillary structures was made because these structures already qualify for capital goods credit of up to \$25,000.

"Last session, the Legislature passed H.B. 2023 which would have allowed for a 10% income tax credit. The Governor vetoed that bill because the 10% rate was deemed too high and unreasonable. For us to push for the same bill, which I am sure would meet the same fate in the executive

chamber, is unreasonable, serves no purpose, and benefits no one.

"Although this does not entirely solve our agricultural water problems, the potential construction of additional water storage tanks created by this bill would lessen the impact of drought conditions on our agriculture industry. It would seem more prudent for us, as a policy-making body, to therefore emphasize the benefits that this bill would have on the ranchers and farmers, and to the agriculture industry as a whole.

"I urge your support on H.B. 1074, HD 2. Thank you."

Representative Halford rose in support of the measure, stating:

"Mr. Speaker, this good bill is just one example of how we too often short change our legislative branch of government and short change our people and communities.

"Mr. Speaker, this good bill offers a 4% tax credit for a very good purpose. A year ago we passed a very similar bill to this with a 10% tax credit. It was a good bill. Every member of the House of Representatives and Senate voted "yes" and our Executive, I believe, was misguided in his veto. Our form of democracy allows for the Executive to make mistakes from time to time and gives our branch of government the mechanism to correct that error by overriding that veto.

"The way we short change ourselves, and this bill is just one of many, as an example, is that before we will commit to a bill as we did now with 4% instead of 10%, we go and ask the Executive what he will accept and not veto, rather than doing what we know we can do. We have 100% of the votes and we can deliver for our people the 10% credit.

"We should have overridden that veto last year, among other vetoes that were passed by this body, not just by two-thirds, Mr. Speaker, but by 100%."

Representative Souki rose on a point of order, stating:

"I believe the good Representative from Kihei is stressing more on the veto and not the merits of the bill. So, if he would speak on the merits of the bill."

Representative Halford continued, stating:

"Mr. Speaker, point well taken. I'm commenting that the specific fact of the bill is 4% instead of 10% and I am explaining how we got to that small number and expressing the remedy on how we can have a good number like 10%.

"I know, Mr. Speaker, that our branch of government is the best of the three branches of government. We have both parties represented here, we have men and women, we have people from every province and from every place in the State of Hawaii in this room. We have the ability to make better decisions and impact our communities better than any other branch of government and we are conceding our hand. Thank you, Mr. Speaker."

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

"Mr. Speaker, I believe it is my responsibility as your Chair of the Committee to educate the colleagues as to what we have done in this bill. And so if I may I would like to give some comments aside from my insertion I had mentioned earlier.

"Mr. Speaker, and colleagues, the purpose of this bill as amended, like what the Representative was saying, is to allow an income tax credit of 4% for construction of new a drought mitigating water storage facility or repair or reconstruction of existing water storage facilities.

"Mr. Speaker, and colleagues, we all know about the serious drought conditions in this state and the impacts on surface water resources and how ranchers and farmer depend on rain water for irrigation. This constant drought, as I am sure you are aware of, has negatively affected the agriculture industry, especially farmers and ranchers in upcountry Maui and the Big Island.

"Mr. Speaker, like I was saying awhile ago, this is a priority issue in your Committee on Agriculture and as your Chair, the Committee felt very deeply committed to. It has been two years since the member of the Agriculture Committee had visited farmers and ranchers in Maui, and this is including of course the county of our good friend from Maui. And they told me so, personally, what the lack of water could do to crops and lifestyle.

"This bill which encourages private investment to build new, repair or expand existing water storage infrastructures that has come to a lot of discussions and scrutiny. We encourage input from the Hawaii Farm Bureau Federation and its island chapters the Commodity Groups, renters, farmers, as well as, positive discussions with the Department of Taxation. This is my explanation to the comments of our colleague, Mr. Speaker.

"Members, I believe that we have crafted a bill that is appropriate and reasonable. The 4% income tax credit that this bill will allow is similar to what the high technology industry and Continental Airlines received from the State. The amendment to remove the credit on ancillary structures was made because these structures already qualifies for capital goods credit of up to \$25,000. So the Legislature later passed that bill H.B. No. 2023, which would have allowed for a 10% income tax credit. The Governor had vetoed the bill because the 10% rate was deemed too high and unreasonable.

"For us to push for this same bill, which I am sure would meet the same fate, is unreasonable, serves no purpose and benefits no one. Although this does not entirely serve our agriculture water problems, the potential construction of additional water storage tanks created by this bill would lessen the impact of drought conditions on our agriculture industry. It would seem more prudent for us, as a policymaking body, to therefore emphasize the benefits that this bill would have on the ranchers, farmers and to the agriculture industry as a whole. So, for those reasons, Mr. Speaker, I urge for your support on this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1074 HD 2, entitled: "A BILL FOR AN ACT RELATING TO DROUGHT MITIGATING FACILITIES," passed Third Reading by a vote of 48 ayes, with Representatives Meyer, Schatz and Suzuki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 807) recommending that H.B. No. 1282, HD 1, as amended in HD 2, 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. 1282 HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY CONSERVATION TAX CREDITS," passed Third Reading by a vote of 48 ayes,

with Representatives Meyer, Schatz and Suzuki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 808) recommending that H.B. No. 840, HD 1, as amended in HD 2, 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. 840 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Meyer, Schatz and Suzuki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 809) recommending that H.B. No. 572, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 572, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This is not the original bill that was passed out of the Labor Committee."

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 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Third Reading by a vote of 46 ayes, and 2 noes, with Representatives Moses and Whalen voting no and Representatives Meyer, Schatz and Suzuki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 810) recommending that H.B. No. 596, HD 1, as amended in HD 2, 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. 596 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Third Reading by a vote of 45 ayes, and 3 noes, with Representatives Djou, Fox and Moses voting no and Representative Meyer, Schatz and Suzuki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 811) recommending that H.B. No. 850, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 850, HD 2, pass Third Reading, seconded by Representative Lee.

Representative Djou rose to speak in opposition of the measure, stating:

"Mr. Speaker, this bill is a good idea but I don't believe it should be mandated by the force of law here in our State. The sick leave provision is something best left between the employee and the employer, and I don't believe our State Legislature should be in the business of regulating what happens in that area. Thank you."

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

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

"This is a responsible bill. This is what I call a bill with a heart.

"As you know a typical modern family in Hawaii supported by two full-time wage earners, who are working class, juggling their family lives and at least one job which is difficult enough when everyone is healthy. It becomes impossible when children, a spouse or other family members, especially the elderly need help, who maybe sick, injured or need some kind of medical care. Since most employers do not permit workers in this situation to take sick leave, employees are forced to use their vacation time to care for ill children or parents.

"This is unfair. Vacation time is for relaxing, recuperating from the stresses of work and spending quality time with family. Caring for someone who is sick or injured, even a loved one, is certainly no vacation. It is hard physical labor with no pension or special benefits. That is why we should pass H.B. No. 850, which allows employees to take their accrued sick leave, ten days in one year only, in a case of a family in need.

"This bill allows workers to take time off to care for their families without penalizing them for using up this precious vacation time. Thank you."

Representative Ahu Isa rose to speak in support of the measure with strong reservations, stating:

"I agree that we should not be mandating a lot of these things of our small business people, but I really would want you to look at it from a different perspective. That be from the owner of the business. I as a business owner would want to be the one to give my employee who's worthy of it, a raise, or give him the privilege of taking the time off when a parent is sick. I would not want the government or somebody else telling me what to do. This way the employee thinks, 'Wow, I don't have to work hard or I don't have to this or that because somebody will always take care of me.' Sometimes I think that's the problem with our kids today, they're spoiled. Thank you, Mr. Speaker."

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

"If you look at this measure, Mr. Speaker, it's plain and simply a pro-family bill. It's a pro-employee bill, which assists us in our daily task in terms of healthcare, childcare or elder care. It allows an employee to take their accrued vacation, as our Representative from Pearl City said. Something that has already been earned. And allows that individual to take care of an elderly parent, somebody that might be getting over pneumonia or a bout of dementia. It allows us to take care of our children who may have serious health problems and of course the important people in our lives, our spouses and those reciprocal beneficiaries.

"Hawaii, Mr. Speaker, has been at the forefront of employee health benefits in this nation and this measure just continues that. This allows us to take care of our immediate family members and these are in situations where we are dealing with only serious health conditions and it's closed-ended. We are looking at a maximum of ten days or two weeks.

"Mr. Speaker, I hope that everyone will see the good of this bill. It is not anti-business, it is not us getting involved with collective bargaining. This is a good bill which supports families. 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. 850 HD 2, entitled: "A BILL FOR AN ACT RELATING TO SICK LEAVE," passed Third Reading by a vote of 40 ayes, and 8 noes, with Representatives Auwae, Bukoski, Djou, Jaffe, Moses, Ontai, Rath and Whalen voting no and Representatives Meyer, Schatz and Suzuki being excused.

At 4:23 o'clock p.m. Representative Moses asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:24 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 1074, HD 2; 1282, HD 2; 840, HD 2; 572, HD 2; 596, HD 2; and 850, HD 2 had passed Third Reading at 4:25 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 812) recommending that H.B. No. 1589, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1589, HD 1, pass Third Reading, seconded by Representative Lee.

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

"This bill seeks to close up a potential loophole in the current application of the Transient Accommodations Tax. The provisions of this bill are simply to require the TAT to be assessed on a portion of the value of a hotel rental that is currently escaping the TAT assessment.

"Let's take a very simple example to illustrate the point. Let's first take a look at the scenario of a room booked with the hotel. A couple calls up a hotel and books a room for \$100 and they pay their \$100 to the hotel and the State collects the TAT of \$7.25 which is subsequently distributed to the Hawaii Tourism Authority and the various county governments.

"Now let's look at the scenario of a room booked through a wholesaler. The same couple purchases a package from a wholesaler for \$100 and it turns out that the wholesaler only paid the hotel \$60 for the hotel rental. The hotel receives \$60 and the TAT collected amounts to \$4.35. This is a loss of \$2.90. In the meantime the \$40 mark up in hotel rental price between the wholesaler and the final customer escapes the TAT assessment.

"Why should we address this problem now, Mr. Speaker? Multiply that loss by the millions of visitors that arrive in Hawaii daily and the amount of days they stay. Also consider the fiscal impact that could easily be in the tens of millions of dollars. If the Legislature does not act now to solve this problem it could get worse. The wholesale business is growing as a share of Hawaii tourism does. This percentage of visitors who are using package arrangements continues to increase, in fact this trend seems to be increasing throughout the country.

"There are many reasons why the wholesaling business may be expanding. However as long as the application of the current law continues, we may be providing a significant

incentive for more businesses to go through wholesalers rather than directly to hotels.

"The potential for abuse is very real. An increasing number of hotels operate through related wholesaler reservation services, owned by common parent companies. If more hotels had this type of relationship with wholesalers, the State could face a situation where business is booming, but the TAT revenues are shrinking as more and more businesses exploit the existing loophole to avoid paying the full TAT.

"The bigger the margin between the wholesale discount and the ultimate selling price of the room, the greater the TAT loss to the State. This amendment to the TAT law is necessary to guarantee that everyone pays their fair share of the industries cost and by collecting the TAT on the full value of room prices ensure that a major source of funding for industry infrastructure are maintained.

"For those who claim that business will be stifled by extending the base in this manner, the data indicates differently. The TAT rate increased from 5 to 6% in 1994. Visitor arrivals increased from 6.3 million to 6.5 million and the TAT increased from 6% to 7.25% in 1999. Visitor arrivals increased from 6.7 million to 6.9 million. Even when the TAT rate was increased there were increases in visitor arrivals for the State. This bill does not seek to increase the TAT rate, it only attempts to shore up the TAT base.

"I urge Members to pass this bill on for further discussion. Mahalo."

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

"I'm quite concerned by the remarks from my good friend from Hilo, the Chair of the Tourism Committee. I don't think they are informed by close conversations with the people in the hotel industry themselves.

"The example he gave, one is a \$100 room bill paid to a hotel and the other is a \$40 room paid to the hotel, the TAT is a tax imposed on the hotel room and it is proper that that should be so. The wholesaler is going to have pay the GET tax like anyone else who's dealing in the market other than a hotel room. The TAT is the price that is reserved for the hotel room and if the hotel is getting much less for its room then it should be paying a smaller TAT. That's the logical way to go.

"Mr. Speaker, all of us in this body should remember how we arrived at a higher TAT. It was a bargain with the industry in which the industry understood that it would have higher revenues to promote travel to Hawaii. It realized immediately and tried to communicate to us that the down side of what it was doing with the TAT was raising the price of its hotel rooms. This bill proposes to raise the price of hotel rooms. We're in a highly competitive market. We're competing with other areas that don't tax wholesalers this way. If we insist on taxing our wholesalers this way we're driving business away from Hawaii to other destinations.

"I think the union that is behind this effort is 'cutting its nose to spite its face'. I could only think back, as can all of us who have grown up in Hawaii and have long memories here, of the days when we were proud that we had the highest paid agricultural workers in the world. Now, those people don't work in agriculture.

"If we give our hotel industry some of the highest taxes in the world for a resort area, we may find ourselves sometime in the future, looking back on the days when this Legislature got into the business of imposing such taxes on the activity of

tourism in Hawaii that we had basically drove away business and caused unemployment in the tourist sector that compares to what we have seen in the agriculture sector. Let's keep our economy competitive and let's remember what brings money into this State, and that's a competitive hotel industry and let's stay away from raising taxes on tourist activity in Hawaii. Thank you, Mr. Speaker."

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

"The Minority Leader has adequately stated the opposition on the merits. Despite the arguments of the Representative from Hilo, there is no way that we are closing a loophole. There is nothing in the legislative history that has to do with the transient accommodations tax that in any way indicates that this Legislature or anybody else intended to treat wholesalers as owners and operators of hotels.

"This bill does not accomplish a closing of a loophole despite its advocates. That is confirmed by the testimony of the Department of Taxation, which clarified the origin of the TAT, and is very adequately described in the tax bill summary of this bill by the Tax Foundation.

"I want to go a little bit more into why we have this bill in front of us, because I think it is important that as we consider major issues such as this we should also consider the motivations behind those issues so we can be fully informed. I think that there are probably two motivations.

"The first and primary motivation is that this bill proposes to raise an additional \$30 million of taxes that is not being taxed to anybody right now. Obviously this bill is an attempt by some members of the majority to balance a budget on the revenue enhancement side and I think we have to stay away from that. That's what this bill is. Why do I suspect that? Well, primarily because the Hawaii State Teachers Association stands in support of this bill and I think the reason why they stand in support of this bill is because it provides for additional revenues with which to fund pay raises. I have no problem with their pay raises, but I don't think the pay raises should be funded out of the increase of tax revenues particularly on an industry which is paying its fair share of taxes and to which this would be an additional tax.

"Now the second motivation for this bill is what the minority leader alluded to. This bill arose out of a labor dispute. A labor dispute between a private union, the ILWU, and an owner-operator of a hotel on Maui, the Royal Lahaina Resort. This owner-operator happens to be the largest wholesaler in this State. That fact, that the owner-operator was a wholesaler, I believe, led the ILWU to target a tax increase on the wholesale industry. Why do I think that? Because I don't think the ILWU would have any motivation whatsoever to increase the tax rate on wholesalers who also happen to be employers of their union members overall. That is, as the Minority Leader stated, 'cutting off your nose to spite your face'. But certainly in the context of the specific labor dispute which continues to this day, it is understandable. I think that is a misuse of the legislative process.

"Finally I wish to address the support of the counties, which has been trumpeted by some, for this bill. They have basically said, well look at the counties, they're in support of this bill, and certainly the testimony shows that the City and County of Honolulu and the County of Hawaii executive branches as well as some of the members of the County of Maui County Council have supported this bill. Here's the bottom line: I don't think they mind holding the line on their own taxes, but if we want to increase the transient accommodations tax and pass some of the revenues along to them, they certainly won't

object if we do it. I consider that hypocritical and 'cutting off your nose to spite your face' as well.

"This is a bad bill, it comes from a bad place and it has a purpose that we should simply acknowledge, to raise revenues and if that's where we're going, then I suggest that the members that want additional revenues simply say so. Thank you."

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

"First let me say that I agree with the previous two speakers and they already covered the motivation so I won't go there. But I would just like to share with the Speaker a simple concept and that's buying in bulk. These wholesalers don't buy one room as I would if I was buying retail at \$100. They buy five hundred rooms at a time, a thousand rooms at a time, and to say that they can't be given a discount is similar to going to Costco and buying ten pounds of hotdogs. Well you're buying ten pounds and you know what, you get a cheaper price. Should we charge the full value of the hotdogs if we sold them one pack at a time at Costco for tax purposes? That's the convoluted logic behind this. This is just to search for money and we're penalizing one particular vendor, Pleasant Hawaiian Holidays, and this is just totally unfair and is a terrible bill and I disagree. Thank you."

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

"You know I appreciated the subject matter Chairs describing what this bill is all about and what it does. I think it is important, especially in the light of the nature of the discussion that has been going on here for the past several minutes. I believe the subject matter Chair stated very explicitly that this is not about increasing taxes. This is about providing for greater tax equity by plugging a loophole.

"I think we've heard allegations that this increases taxes and I think we really need to understand what this bill does. As it had been stated earlier by some of the opponents to the measure, there have been all kinds of concerns about whether this will scare off visitors, whether we will be able to continue to retain our competitive advantage, whatever the nature of that may be. I guess I recall hearing these arguments previously and I'd like to point out first of all that in testimony submitted to the Committee to consider this legislation, it was pointed out by an economist that the increase on a tour package might be in the neighborhood of 1-3%. Given that their opinion was that the impact in terms of the industry would be insignificant.

"Now, I think that has to be supported by further evidence and I think that evidence is there. I believe that the subject matter Chair did point out that the TAT was increased on July 1, 1994, from 5% to 6%, now that's an increase. That's not an application to areas where the tax is currently being avoided. This was an increase in the rates. I recall the testimony at that time to be similar, we would lose our competitive advantage, visitors would go elsewhere. What happened, Mr. Speaker? When we actually increased the rate by 1% in 1994 to 1995, the year after the increase took effect, visitor counts went up. They went up by 200,000 visitors.

"Mr. Speaker, the following year it went up again another 200,000 visitors. Mr. Speaker, the last time the increase of the TAT occurred was back in 1999 and that's when the rate was increased by 6% to 7.25%, now this is an increase in rates, it's not an application to areas that are avoiding the tax. This is an actual increase in rate and I recall hearing similar contention by the opponents. This would scare away visitors and we

would lose our competitive advantage. Well we know all the new stories that have indicated what had happened to the visitor industry last year and the year 2000.

"Mr. Speaker, just to explicitly indicate that again, the visitor count actually increased. Now from the financial point of view this is especially of concern. Because when we look at the evidence and the numbers provided by DBEDT, they track the visitors and how the visitors arrive on Oahu or the Neighbor Islands in the State of Hawaii. Their numbers actually indicate that actually there has been, if you want to call it, sort of an increasing trend, in terms of the numbers of visitors that actually arrive in the State that arrive as result of a package deal. And the numbers that the Department has provided indicate that in 1998, 44.1% of all visitor arrivals resulted from a package tour. In 1999, 47.6% of all visitor arrivals resulted from a package tour. If this is any kind of indication in growth this is the group that currently is involved in the avoidance of the TAT from that \$60 discounted rate up to the \$100 value of the hotel room that the subject matter Chair talked about. If the trend continues then of course the fiscal impact will be even greater.

"Mr. Speaker, you know there was discussion about the inconsistency of the original intent. The original intent was merely to tax the operator or the owner of a hotel. That's true, when the TAT was passed in 1987, that was the original intent. But we as a Legislative body knows..."

Representative Hamakawa rose to yield his time.

Representative Takamine continued, stating:

"But we as a legislative body realizes that from time to time if the circumstances and the reality changes then the law has to respond to that. In 1998 the Legislature did exactly that. When the TAT was adjusted in its application to timeshares that was a change in application, and in part that was because when the law was passed in 1987 the percentage of timeshares was not what it grew into in 1998. We saw that change occur and we made the adjustment.

"Mr. Speaker, I submit to you that if the amount of the TAT that is being avoided, the loophole that this bill is attempting to address, applies to 47.6% of all of the arrivals here, then it should be a policy call of the Legislature and we should consider whether the circumstances warrant, whether it's tax equity, fairness or whatever reason you want to call it, for us to look at the choices and options and make a call.

"I think that is the choice that this bill is providing to this body. I've heard allegations that it's for the wrong reasons and it started as a labor dispute and we shouldn't get involved with it and the allegation that maybe it's something that is sinister. I realize that this was brought to our attention and it did arise out of a labor dispute. But if it was brought to our attention and these are the facts as it is laid out, then I am glad that it was brought to our attention. I think we should have that call because if there is leakage, we should be looking at whether or not that leakage should be stopped.

"For all of these reasons, Mr. Speaker, I'd like to point to one other note or observation and that is, throughout the public hearings at the Finance Committee level, it is interesting because those members who came to testify from the public and testified in support of the measure, talked about the bill providing for tax equity and providing more for the general public. Those entities who appeared and testified against the measure appeared to be those trying to protect a narrow special interest. For all of these reasons, Mr. Speaker, I believe this measure warrants support. Thank you."

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

"I really didn't know very much about this measure and I have to admit that my two colleagues from the Big Island have given some very good reasons.

"I'd like to state categorically that I don't know whether the insinuations about labor prompting are true or not. Since I didn't get endorsed by any major labor union, they don't approach me. I'd like to say that my reason is that I think this is a very innovative way for us to tackle the revenue problem. We all realize that we can't get all the things that we want. I've just been trying to read the Finance Committee Report on the budget while all of this is going on and am disappointed to see that some of my priorities are not in there. But the problem, Mr. Speaker, is that there isn't enough money to go around and I think that's what we're all faced with.

"So, if there are creative ways to get more revenue without going and raising taxes on the general public then I am all for it. Furthermore, I don't believe it is going to affect the tourist industry. The tourist industry in this State, in my opinion, is affected by the global economy. When Japan and the East went down, we lost tourists. When the recession in the mainland takes place, we're going to lose tourist. I don't care how much money the tourist authority spends on advertising, if the people don't have the money, they're not going to come. If they have the money they will come. That's why we've had an increase in our tourist industry.

"So, to me it's a way to solving some of these new amendments that we are going to have that want money for computers and textbooks and all of the other things that aren't in the budget today. If we can find money then maybe we can do those things. Thank you."

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

"One reason I am not voting down on this measure is because of deference to the good Chairman who I believe is doing this for the good of the State of Hawaii.

"But good people can have differences, Mr. Speaker, and members. The difference I have is that I believe that this is a tax. It's a tax on the middle person, on the wholesaler. When you get \$30 million dollars in addition to what we have now, you won't get it through the air. You will get it in an increase in some form of taxation. A tax is a tax. If you want to tax, raise the excise tax. I've never been afraid to raise the excise tax. If we don't have enough money, then let's do it that way, and let's go to the public and tell them why. Tell them why we need to raise the tax, because we don't have enough money to give children, for the health systems, to take care of the education, etc. We may have a good case.

"But to tax an entrepreneur, a middle person, who's doing his job and bringing the tourist into Hawaii, bringing thousands of tourists when he can block a room for 1,000 and is able to get a discount because of that, and we tax him for that, is treating him unfairly. This tax of course, is going to be passed on to the consumer.

"So, Mr. Speaker, in deference to the Finance Committee that passed this, I wish that as this bill goes along we will consider some of these factors and also consider that if we don't have enough dollars then we must do it the right way, Mr. Speaker. Thank you, very much."

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

"It has been mentioned before that the increase in the price of the room discourages tourism activity and we've already seen that the tourism count has increased. I'd like to compare the facts, quoting from what I received from the *State of Hawaii Data Book 1999* and the Parnell Kerr Foster, *Trends in the Hotel Industry*. In the year the tax increased from 5% to 6%, the room rates increased about 5% and the room rate at that time was \$105. In 1999, the average room rate was \$145 and we still have seen increases in the visitor count, and I think it is a fact that the increase to 7.25 % in the TAT has not discouraged tourism.

"From 1999 to 2000, the room rates increased another 4.8% from \$145 to \$152 and we've seen a dramatic rise in the TAT from \$153 to \$175 million, an increase of \$22 million. So I don't think there is any basis that the increase in room rates will discourage tourism.

"Mr. Speaker, another matter regarding the leakage. We've heard in testimony in the Tourism and Finance Committees, which I am a part of, that there is occurring some leakage. I will admit that some of the increase that the wholesaler gets from the discounted purchase to the ultimate sale relates to his marketing effort. But there is a way to stop leakage that relates to transactions between the related parties and this is common in tax law. You have a subsidiary of a hotel where the tax is measured, that is a marketing arm, a wholesaler of that room, besides other items in the package. We can devise a law as this bill moves forward or change the wording in this bill to stop that kind of leakage where the sale by the wholesaler that is controlled or owned by the hotel operator is attributable by some measure of ownership, maybe 80%, is attributable to the sale by the hotel and therefore we can collect on that sale, the full 7.25%.

"I urge members to vote for this bill because we can fine tune this bill as it goes along and this bill has a lot of merit. Thank you."

Representative Djou rose to speak in opposition to the measure and asked that his additional remarks be inserted into the Journal, and the Chair "so ordered".

"This measure represents, according to testimony, a \$39 million increase in tax."

Representative Djou's additional remarks are as follows:

"First, this bill represents a \$30 million dollar tax increase. Comments by the Representative from the Fourth District are exactly correct; this is nothing more than another route for the Legislature to fund a "back-door" method to increase government revenues. At a time when Hawaii needs tax relief, this Legislature should not be increasing taxes.

"Second, aside from being a blatant tax increase, this measure warps the Transient Accommodations Tax, the TAT, to apply it in a way that was never intended. The Department of Taxation pointed out in testimony that the TAT was devised to tax the hotel owners, not whole-sellers of tourist packages. To the best of the Tax Department's knowledge, no other state or jurisdiction in the nation twists their hotel or room tax in such a fashion as this bill will do. This is an anti-business measure that will hurt our state's largest industry.

"Third, this bill is structurally flawed. Tour wholesalers often sell their product in air, room, and car packages thus yielding cost savings to the consumer. Testimony clearly demonstrated that it is nearly impossible to break out the cost of the room in a wholesale transaction.

"Mr. Speaker, this bill is nothing but a back-door tax increase, anti-business, and bad legislation and should be rejected by this body. Thank you, Mr. Speaker."

Representative Ahu Isa rose to disclose a possible conflict of interest, stating:

"I am employed by the Hilton Hotels."

The Chair ruled "no conflict".

Representative Ahu Isa then rose to speak in support of the measure with strong reservations and asked that the remarks of Representative Souki be entered into the Journal as her own, and the Chair "so ordered". (By reference only.)

Representative Case rose and stated:

"The three speakers from East Hawaii all made reference to the problems of tax equity. Whose equity are we talking about here? I think what we are talking about obviously is that if anybody felt that they were being shortchanged or treated in an inequitable manner by the situation as it now exists, it would be the owners and the operators of the hotels, not anybody else.

"So, let me read the testimony from the Hawaii Hotel Association, which was by the way opposed to this bill. They state: 'This bill would change the way in which the State uses the TAT. Heretofore the TAT was the tax on the providers of the accommodation unit. This bill would broaden the definition to include retailers or wholesalers. It appears that the impact on the wholesaler would be to raise cost and thus prices. The net effect would be to help make a Hawaii package less price competitive and less attractive for the wholesalers to promote'. So, clearly the owners and the operators of the hotels have no problem with the situation as it exists, and believe that overall it reduces tourism in the State and thus enhances the overall TAT revenues which, we all know, have been increasing over the last couple of years.

"So, let's not kill that off by applying a tax simply for revenue generation purposes. Thank you."

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

"In the interest of time I would just like to give you the 'fruit of the loom' version of my comments and keep it brief.

"I think that it is true that the original intent of the TAT when it was implemented was intended to be levied upon hotel room occupants and not hotel room wholesalers. But, Mr. Speaker, times change and conditions change and laws need to reflect those changes.

"As alluded to by one of the speakers we changed the formula two years ago whereby the funding to the counties was cut in half and over half of the TAT went into the Tourism Special Fund and the Convention Special Fund. Again, it was also alluded to that we started to tax timeshares.

"So, we responded to the changes in the industry and similarly when the TAT was passed, only 20% of the tourist market was in package tours and today it is almost half. The bill before us attempts to address this growing trend and this is why I support it. Thank you, Mr. Speaker."

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

"I would just like to point out that it was the Tax Department who said that this measure is contrary to the original intent of the law which was enacted to tax the taxpayer who owned and operated the hotel. Thank you."

Representative Marumoto's additional remarks are as follows:

"This bill wrongly seeks to extend the Transient Accommodation Tax (TAT) base to include travel agencies and tour packagers. The TAT was never intended to be a tax on travel agencies or tour operators. In fact, the State Tax Department submitted testimony that this bill, 'is contrary to the original intent of the law which was enacted to tax the taxpayer who owned or operated the hotel.'

"Extending the TAT will have negative consequences for Hawaii's visitor industry. This bill essentially amounts to a tax increase, and that will be passed on by the travel agencies making it more expensive for people to travel to Hawaii. With our State's economy just now starting to show signs of a possible recovery, it would be foolish of us to pass a bill that increases a tax on our number one industry. Not only that, but the State Tax Department expressed the view that this bill would be very difficult to administer.

"In my view, this is not a time to be raising taxes, and increasing costs to our visitor industry. We should instead be doing everything we can to support tourism in Hawaii. Whatever additional money that might be raised by taxing tour operators and travel agencies isn't worth the negative effect this bill will have on tourism and our State's economy and image. The TAT was never meant to apply to the customers of travel agencies and tour packagers.

"This bill doesn't close a 'loophole' in the law, it is a tax increase on Hawaii's number one industry and we should recognize it for what it is.

"Mr. Speaker, thank you for the opportunity to speak in opposition of HB 1589, HD 1, and I urge my colleagues to vote against 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. 1589 HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," passed Third Reading by a vote of 29 ayes, and 21 noes, with Representatives Auwae, Bukoski, Case, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Morita, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 813) recommending that H.B. No. 213, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 213, HD 2, pass Third Reading, seconded by Representative Lee.

Representative Abinsay rose in strong 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:

"The purpose of this bill is to allow the Agribusiness Development Corporation (ADC) to continue to serve its mandate by extending its sunset date from July 1, 2001 to July 1, 2005.

"Mr. Speaker, members, ADC was established with the intent of helping to facilitate the transition from big old plantations to new smaller diversified farming. Two years ago, the Legislature passed House Bill 1280, (Act 117) to restructure the composition of the ADC Board, giving it more flexibility and authority.

"Since then, the board has worked with other agencies such as the Department Of Agriculture (DOA), the Department of Business, Economic Development, and Tourism (DBEDT), and the Department of Land and Natural Resources (DLNR). This partnership has enabled the board to pursue many of its goals.

"Currently, ADC is heavily involved in various important agricultural projects. In Kauai, for example, with the closing of the Kekaha plantation, ADC is working on a plan to maintain and operate the Kekaha irrigation and drainage systems. It is also involved on leasing or subleasing the Kauai tropical fruit disinfection facility. This is a very important a facility, one that the papaya growers will continue to need.

"Furthermore, ADC is also pursuing its efforts toward developing agricultural subdivisions in the Hamakua district on the Big Island. When completed, this project will put additional acreage into intensive agricultural production, which will provide economic opportunities in that area.

"Additionally, the take over of the management of the Waiahole ditch on Oahu is also currently being planned.

"Mr. Speaker, I continue to believe that ADC has the unique powers to lead the on-going transition of the agriculture industry. Today, the new Board, which was confirmed just six months ago, aspires, and has the commitment to provide this leadership. Already it has begun to oversee various new projects and programs. We, as a legislative body, must recognize the great effort that the new ADC Board is putting forward in redeveloping the state's agricultural industry. Therefore, we must give this Board sufficient time and resources to carryout its mission and help it to succeed.

"For these reasons, I hope you will join me in supporting 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. 213 HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 814) recommending that H.B. No. 169, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 169, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Hamakawa's remarks are as follows:

"There is a growing perception in the general public that the existing campaign finance system is flawed. There is a belief that only the wealthy or persons with access to money are able to run competitive campaigns for elected office. This in turn dissuades many of our best and brightest citizens from seeking public service, regardless of whether they have a viable message or community appeal.

"A solution to this problem is to create a publicly-funded finance system that will allow any person wishing to seek office the means of running an effective campaign.

"House Bill No. 169, House Draft 2, is a giant step in this direction by establishing a public-funded pilot program for the City and County of Honolulu Council elections of 2002.

"Under this scheme, certified candidates for City Council would be able to expend up to \$40,000 for each special election for defraying expenses that are directly related to the candidate's campaign.

"To qualify, candidates would need to collect qualifying contributions of two dollars (\$2) from at least two hundred fifty (250) registered voters in the district in which the candidate is running. This requirement is intended to ensure the legitimacy of the candidate's campaign – that a meaningful pool of registered voters acknowledges and supports the candidate's efforts.

"To ensure equity, the bill restricts private contributions and expenditures made to public-funded candidates. It also requires public-funded candidates to reimburse the State if the candidate's expenditures exceed one hundred and three percent (103%) of the total amount of public funds received.

"From testimony received by the Hawaii Election Project, your Committee has learned that four (4) states – Arizona, Maine, Vermont, and Massachusetts – have enacted public-funded election laws. Of these, three (3) have implemented them in 2000.

"According to the Hawaii Election Project:

- "In Arizona, twenty-six (26) out of thirty (30) races had at least one public-funded candidate. Currently, twelve (12) of thirty (30) legislative districts are served by a public-funded elected official. Of the forty-four (44) public-funded general election candidates who ran in 2000, seventy percent (70%) stated they would not have run without public funding.

- "In Maine, one-third (1/3), or one hundred sixteen (116) of Maine's legislative candidates participated in the public-funded program. Sixty-two (62) or more than one-half of these candidates won either a primary or general election. As the result, one-third (1/3) of Maine's legislature is now served by public-funded legislators.

- "In Vermont, Gubernatorial candidate Anthony Pollina of the Progressive Party ran with public funding against Democrat and Republican candidates who each spent more than \$1 million from private contributions. With public funding, Pollina earned an impressive ten percent (10%) of the statewide vote.

"Mr. Speaker, I believe that no legislation is a panacea, but House Bill No. 169, House Draft 2, is a bold and decisive stride toward meaningful campaign finance reform.

"I urge my colleagues to support this important measure."

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:

"The purpose of this bill is to encourage viable candidates to run effective public campaigns. The Institute For Women's Policy Research released, "The Status of Women in Hawaii Report" this year - an important milestone for Hawaii. The report ranked Hawaii in comparison to other states on issues such as wages, education, economic participation, voting power, and health. Overall enlightened public policy in Hawaii has led to high ranking in some areas, however Hawaii did poorly in the following:

"Ranks 50th among all the states for women's voter turnout. Ranks 49th among all the states for women's voter registration. Only 22% of elected officials are women, which ranks in the low middle.

"Nationwide, the data show that women have a more difficult time raising money than men, and as a result may hold fewer elective offices.

"Mr. Speaker, this bill will help 'level the playing field' for women in politics, and I urge our members, both men and women to support it. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 169 HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 48 ayes, and 2 noes, with Representatives Djou and Gomes voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 815) recommending that H.B. No. 857, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 857, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This bill appropriates a half a million dollars for this position and I don't think it is really necessary. 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. 857 HD 2, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Third Reading by a vote of 34 ayes, and 16 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Leong, Marumoto, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen and Whalen voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 816) recommending that H.B. No. 719, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 719, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I will be voting for this but I have some reservations on it.

"I would like to read some of the comments from the Tax Foundation:

What this measure basically broadens is that it clarifies the tax incentives for qualified high technology businesses in the State. It should be remembered that high technology is not the only game in town. These tax incentives have the look and feel of being implemented on an ad hoc basis rather than as part of a coordinated strategy to attract high tech jobs and investors to the State. Lawmakers need to remember that tax incentives are nothing more than back door appropriations of public funds. Monies that are being asked of other taxpayers who are not so favored.

Given the numerous other tax incentive proposals before lawmakers this year, one can only begin to wonder where lawmakers will get the money to afford all of these giveaways. The plethora of new credits and expansion of those activities which will qualify for the high technology credit should prompt lawmakers to ask how much will this cost and what taxes will have to be raised if spending cannot be cut to accommodate all of these tax incentives while substantial energy and effort are directed to attract high technology businesses in this state. Efforts should also be made to keep existing businesses from leaving the state.

"So says Mr. Kalapa.

"Though I always vote for tax credit and deductions, breaks and incentives, I strongly support more broad based tax help for all the people of Hawaii that would be fair. 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. 719 HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 47 ayes, and 3 noes, with Representatives Djou, Halford and Rath voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 817) recommending that H.B. No. 171, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 171, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I do hope the discussions can be carried during this session and hopefully we will be able to bury this bill if cooler heads prevail.

"Now when this matter of compulsory arbitration was brought before the Legislature about four or five years ago, before the Labor Committee, I was ready to hold this bill because I felt like so many people that the unions should never give up their right to strike that ultimate weapon because that is after all the "heart and soul" of the union.

"Given the history of the capitalist system and you know the history of it between the employer and the unions you knew that some sort of the right to strike was absolutely needed. So, what happened four or five years ago was, after the UPW came in with that bill HGEA at the very last minute came in and said, 'Hey, we want to go through a compulsory arbitration.' So reluctantly with the Legislature passing it, we

put in the compulsory arbitration bill which we are trying to repeal.

"Now, I think in this bill we are eliminating about twenty-eight pages as you can see through all of these sections where we are talking about eliminating impasse, cooling off period, fact finding, arbitrator and arbitration panel and their decisions. We're striking out a sizable part of a very good collective bargaining law. I would suggest that no one wants to strike and what we are doing by giving them or forcing them to take it is their right to strike. You know what happens when we strike, everyone loses. The employee, employer and the public loses and no one wants to strike.

"We're forcing them to go ahead by saying, 'If you don't like it strike.' I think this is totally unfair given the fact that we have put into law the right for compulsory arbitration for these two units. So, Mr. Speaker, all I am saying is that if the union wants to have compulsory arbitration and the membership wants it, I think we should respect that like we would respect the wishes of employers with their respective interests when they come before us.

"I hope that with this reservation we can discuss this even further and hope that something more suitable comes out of it than forcing the unions to go on to strike. Thank you."

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

"Like the previous speaker on whose committee I served when we made the decision in that committee to move to binding arbitration, I have regretted that vote.

"The arbitration system has not worked in this context. It's not that it cannot work, and it's not the results contrary to what the public employee unions sometimes say. It's that the arbitrators are not faced with the same picture when they are required to make a decision, as for example the executive branches are asked to face where they are having to deal with an overall fiscal situation and fitting a particular raise or non-raise or set of benefits into the big fiscal picture. It's not the same situation that we have to face when we sit on the floor and decide whether to oppose or disapprove a contract.

"We could in fact improve the arbitration system by altering those standards so that they would be facing the same situation. Last year in the civil service reform bill we took a 'baby step' in that direction. There are bills before us this year, which would have in fact moved us much closer to a realistic approach to be followed by the arbitrators. Had we decided to proceed in that direction, I would have supported that, but the Labor and Finance Chairs chose not to go in that direction and they have chosen to recommend to us the right to strike and I support that.

"My reservations really are with the effective date of this bill. The effective date of this bill is 2010 and that is not going to do anybody good. Now some people say that it's for the purposes of further discussions, and my response to that is, let's make the decision right now. Let's go ahead and lay it down that this is to take effect as of the next set of bargaining items that are two years hence. Let's just go ahead and make the decision. Either we improve a flawed arbitration system or we move to the right to strike right now. Thank you."

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

"Let me comment that in 1994, before either HGEA or the UPW brought this issue to the Legislature, I supported arbitration.

"It was earlier said today that perhaps the right to strike may be the 'heart and soul' of unions. However, arbitration works as exemplified by years of police and fire arbitration.

"Mr. Speaker, strikes are hard on all aspects of our community. Not just the workers that aren't being paid in the interim, but all of the people that need or expect the services provided by government. Mr. Speaker, I believe that the executive doesn't like recent developments. He should ask us to change specific rules of arbitration rather than switch wholesale back to strike. Rather than put us at risk of shutting down our government with public workers strike.

"Mr. Speaker, arbitration is much better for our whole community. Thank you."

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

"This measure is really not taking away any rights but it is really becoming more like the private sector which is basically a reflection that unless it's an essential worker position, people in collective bargaining have to make reasonable decisions in good faith negotiations. Thank you, Mr. Speaker."

Representative Yoshinaga's additional remarks are as follows:

"This bill repeals mandatory arbitration and returns a vision of our past to the people of Hawaii. As Hawaii places the plantation era into its historical archives, the right to strike by the toiling sugar and pineapple workers cannot be forgotten.

"This is right to say no by the workers in Hawaii meant the beginnings of an identity and beginnings of pride in the place generations later would call their first home. HB 171, returns the right to strike and repeals mandatory arbitration.

"Arbitrators that are not from Hawaii and not sensitive to the present economic situation in Hawaii have not considered the ability of the employer to pay their awards. This has resulted in an unbalanced decision-making process that is not fair to the many sides involved. The right to strike not only has cultural implications, but allows the employees to decide for themselves and for their co-workers what is in their best interests. Last session, the 2000 Legislature had two civil service reform bills: the House version HB 2518 and the Senate version SB 2859.

"The Senate version resulted in Act 253 and included in its provision criteria for mandatory arbitration that was meant to further guide arbitrators not sensitive to Hawaii economic conditions. However, the Senate rejected the House position that would have repealed mandatory arbitration. The conference draft, then, did not include the repeal of mandatory arbitration and this is the version the Governor did not sign. The recent 11% agreement by UPW signifies the cost of maintaining mandatory arbitration, and additional \$58 million to the City next year, and the need to repeal it.

"The Committee on Labor and Public Employment strongly urges the passing of HB 171, Relating to Public Employment."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 171 HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Third Reading by a vote of 45 ayes, and 5 noes, with Representatives Arakaki, Halford, Kahikina, Takai and Takumi voting no and Representative Schatz being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 818) recommending that H.B. No. 620, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. 620, HD 2, pass Third Reading, seconded by Representative Lee.

Representative Case offered the following amendment to H.B. No. 620, HD 2:

House Bill No. 620, H.D. 2, is amended by deleting its substance and inserting the contents of H.B. No. 620 to read:

"SECTION 1. The purposes of this Act are to: (1)

Address and resolve the uncertainty that the Hawaii Supreme Court's decision in *Konno v. County of Hawaii*, 85 Haw. 61 (1997), generated regarding government's ability to rely upon the private sector for services government needs or is required to provide; (2) Make government more efficient and economical; and (3) Renew efforts to revitalize Hawaii's economy to ensure the continued well-being of our community.

In *Konno*, the Hawaii Supreme Court ruled that the State's civil service law precluded the State and its counties from relying on contractors and other non-civil servants to perform any service government needed or was required to provide, when the service had "historically and customarily" been performed by civil servants and the legislature had not expressly excepted the service from the requirement or otherwise expressly authorized an agency to secure the service from a contractor. In a nutshell, the extent to which government could rely upon the private sector to provide "public services" without violating the civil service laws was called into question by the *Konno* decision.

Since then, although the legislature enacted Act 230, Session Laws of Hawaii 1998, to temporarily allay the near crippling effect *Konno* initially had on government, by creating a committee and directing it to develop a managed competition process for determining whether it was more efficient or economical to use a civil servant or an out-of-house contractor to deliver a public service, and authorizing agencies to enter into contracts for services without limitation during the two-plus years the committee and the legislature worked on managed competition, no long-term solution for squarely addressing the persisting uncertainty *Konno* generated was devised.

In 2000, the Act 230 managed competition committee submitted its final report and a proposed bill to provide for a statutorily prescribed managed competition process to the legislature. The bill received one hearing in the House but was not reported to the floor. In the Senate, a nearly verbatim version of the committee's bill was introduced by one of its members but was not heard in committee and, thus, was not reported to the floor of that chamber either. During the same session, although the legislature re-formed the State's civil service, collective bargaining, and public employee benefit laws to achieve greater efficiencies and economies by coordinating them and making them more consistent, nothing was done to release government from the continuing uncertainty *Konno* generated or to even permit government to rethink the wisdom of continuing with the civil service laws' requirement that services "customarily and historically performed by a civil servant" could not be obtained from a contractor. Even though the *Konno* court expressly acknowledged that "[w]hether or not, as a policy matter, private entities should be allowed to provide public services entails a judgment ordinarily consigned to the legislature[.]" there has been no real debate since the one which preceded the

enactment of Act 230, and Act 230's approach for addressing *Konno* has borne little fruit. The practical reality is, no apparent effort is currently being made to address *Konno* squarely and for the long-term.

To compound all of this, almost at the same time that the Supreme Court issued its decision in *Konno*, Hawaii's economy was slowed by the Gulf War, the United Airlines strike that followed, and the collapse or near collapse of the economies of Hawaii's Asian neighbors - Japan, Thailand, and Hong Kong, and we were forced to acknowledge that Hawaii had not kept up with the many changes that had taken place in the world. Hawaii was reminded that there were more players competing for capital, technology, labor and other resources, in fewer, larger, and more fast-moving markets. To encourage and support Hawaii's businesses in this now global marketplace, government had to provide more value for the State's businesses' and citizens' tax dollars. To provide more value, government needed to be more efficient and economical. Government had to do more to provide Hawaii's businesses and citizens with the highest quality services, for the lowest possible cost. If this effort was not made, the promise of Hawaii's newly reinvigorated but still struggling economy would be short-lived, and the continued vitality of this community and its people, and the very future of this special place threatened.

Today, there is a clear consensus that government needs to be as efficient and economical as possible, and that serious thought needs to be given to developing a new service delivery system which not only maximizes government's existing resources but acknowledges and uses the private sector's resources if using them allows government to be more efficient and economical. Hawaii cannot hope to achieve this, however, if any member of the community reluctant to confront and finally resolve the issues the *Konno* decision raised.

Nothing requires that *Konno's* "historical and customary" standard continue as the law with respect to the civil service in Hawaii.

Statutory authority for government's managers to exercise discretion and to continue to capitalize on all of the community's resources, without being hamstrung by categorical prohibitions must be enacted. Public managers are capable of recognizing when it is more efficient and economical, and therefore in the public's interest, for a contractor to provide a service government needs or is required to provide. They are also capable of appreciating that after factoring in risk, mid-contract replacement and re-start costs, today's low price for a service from a private contractor, may well cost government more in the long run, and be less efficiently or effectively delivered.

The civil service reforms the legislature enacted last session provided benefits and incentives for protecting civil servants affected by government's efforts to restructure government to enable it to achieve the efficiencies and economies most of everyone recognizes as critical to Hawaii's long-term general welfare and well-being. The legislature has already committed to a course. Government cannot afford to continue denying Hawaii's businesses and citizens the best value for their tax dollars that government can offer. *Konno* must be squarely addressed, its confusion unraveled, and its questions answered, so that Hawaii may move on.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER PRIVATIZATION

§ -1 **Scope and application.** This chapter is intended to preempt and supersede all other state law with regard to determining whether services, including services obtained in conjunction with the procurement of goods and construction, funded by the State or any of its counties, should be provided exclusively by government or obtained through government

contracts from the private sector. After this determination is made pursuant to this chapter, procurement laws shall be applied, as appropriate, if an agency determines that a service should be obtained by contract from the private sector.

§ -2 Standards for determination. (a) Notwithstanding any law to the contrary, including chapters 46, 76, 77, and 89, any state or county official in whom appropriate authority is vested by law shall be allowed to enter into a contract with a private entity financed by public funds, to obtain services, including services provided in conjunction with the procurement of a good or construction, from a private entity, when there is a reasonable basis to believe that the service can be provided at lower costs and in equivalent to or better quality than that which could be provided by a government agency.

(b) In the determination made pursuant to this section, a state or county official shall consider whether contracting with the private entity will jeopardize the government's ability to provide the service in the event that the private entity fails to perform, or the contract becomes unprofitable or impossible for a private entity to perform.

(c) For purposes of this chapter, a "private entity" is any individual, company, or organization that is not an employee or agency within the federal, state, or county government.

(d) Nothing, including chapters 46, 76, 77, and 89 or other applicable civil service law, and customary or historical past practices, shall be deemed to prevent, restrict, diminish, condition, limit, or otherwise qualify the authority of the State or a county to enter into a contract with a private entity for the provision of services, including services provided in conjunction with the procurement of a good or construction, that customarily or historically may have been performed by persons or positions in the civil service, or functionally attributed to a government agency or program."

SECTION 3. The authorization to contract conferred upon state and county agencies by the provisions of the chapter added to the Hawaii Revised Statutes by section 2 of this Act, may be invoked as authorization for a contract in effect on the effective date of this Act, notwithstanding any provision of Act 230, Session Laws of Hawaii 1998, or any other law conditioning the continued effectiveness of a contract entered into before the effective date of this Act. Any contract existing on the effective date of this Act that does not qualify for the authorization conferred by the provisions of the chapter added to the Hawaii Revised Statutes by section 2 of this Act shall be terminated as soon as its provisions permit the State or county to terminate the contract without adverse consequence.

SECTION 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect on July 1, 2001."

Representative Case moved that the amendment be adopted, seconded by Representative Suzuki.

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

"As a matter of general policy, I believe that full privatization authority leads to greater government efficiency, whether or not services are actually privatized, and thus allows scarce fiscal resources to be better utilized on expenditures such as legitimate pay raises. I also believe that decisions on when and how to privatize should be left to executive branches rather than micromanaged by legislative action.

"By way of background, for those who were not here at the time, in 1997 the Supreme Court of Hawaii issued what we refer to as the Konno decision, which essentially held that the

State and county governments could not privatize services customarily and historically provided by civil servants absent legislative authority. This decision had sometimes been construed as having a basis in the State Constitution, but that is not true. The decision very specifically stated that the Legislature could in fact authorize privatization of these services by its own actions.

"Our response in Act 230 in 1998 was not to provide that privatization authority but to establish a committee to develop a so-called managed competition process. It also provided limited and conditional authority to contract out services subject to Konno and that authority expires on June 30th of this year.

"So we face a basic choice as we stand here today: whether we are going to continue with this managed competition process that we set up some years ago and which has now been recommended to us by a committee that is ready to dissolve notwithstanding the statements by some that the Committee will continue, the Committee has finished its work or whether we proceed once and for all with full authorization to privatize.

"In my mind managed competition was always an unworkable compromise and a poor alternative to privatization. Moreover the problems created by the Legislature's failure thus far to provide this clear authorization suggested in Konno have become more acute with the worsening fiscal situation.

"Additionally, I do not believe that the concerns voiced by the employee unions with full privatization authorization will come to pass because it is not in the best interest of any State or county executive branch to administer its resources in a way which detracts from its overall mission. Furthermore, any concerns by State and county employees with respect to potential privatization consequences such as transfers or layoffs can be adequately dealt with and are being adequately dealt with in the collective bargaining process.

"At this point, rather than continue on the managed competition path, we need to make a clear policy choice in favor of full privatization authorization and flexibility and leave it to the executive branches on how to implement it.

"Now over the last couple of years this has become somewhat of a partisan issue. This is not a partisan issue from the perspective of the executive branches in this State. The amendment that lies before the members today is the original bill offered by the State administration under Governor Cayetano, who has come to believe that only by providing full authority to privatize can that administration administer the State government efficiently. This amendment is also supported unconditionally by the Mayors of the City and County of Honolulu, who I believe is a Democrat, the Mayor of Kauai, who I believe is a Republican, notwithstanding non-partisan affiliations, and by the Mayor of Hawaii. It is also supported with some conditions, by the Mayor of Maui. So what we've got is a pretty clean sweep here, along the lines of the executive branches in terms of moving forward with outright privatization.

"Now I want to end by addressing comments specifically to my colleagues in the majority caucus who are being asked by the relevant chairs to vote against this amendment. I want to say this. This is offered as a Democrat. This amendment is offered because of my sincere belief, as a Democrat, that government efficiency and reform, and moderate and responsible budget practices, are essential to accomplishing the Democratic core goals that we have of providing for the poor and needy and of truly protecting the environment, and as

otherwise protecting those people and ideas that we have advocated for over a series of decades in this State. But we have to be able to provide the resources to do so. If government is operating inefficiently, if government 'leakage', to borrow the term from a prior debate, is occurring at a rate where monies are being spent that are raised from hard tax-paying families and businesses but are being spent inefficiently because those services can be provided more efficiently by the private sector and if an executive branch is operating in good faith makes that determination, if we can save 10% to 15% on our total budget on a more efficient government, that's just 10% to 15% that can go in to supporting some of these programs that we hold so dear. I include in this category providing reasonable pay raises for public employees.

"So, although this amendment falls into the category of bills which the public employee unions have opposed (and that's why we are here today because they have opposed it and nobody else.) the general concept is this: if you want raises, help us to find a way to operate government more efficiently to provide those raises for you. Thank you.

"Mr. Speaker, also, at the appropriate time, I would like to request a roll call vote. Thank you."

Representative Yoshinaga rose to speak in against the amendment, stating:

"I think that we should, as the previous speaker alluded to, get away from rhetoric and other kinds of discussion. This measure is not a partisan issue. It's not a union issue. It's not a business issue, nor is it a management administration issue.

"This issue is about how do we want to set the course of the twenty-first century utilizing the most effective resources we have to deliver government services. That being through the sometimes thankless task of being, in what I have termed as a 'noble calling', which is that of public service.

"Public service is not just about profit. It's about a balance. It's about people. Privatization is just a word. Managed competition is just another term of art. But what we are really after, aren't we, is the utilization of our people in delivering the highest quality of services. Because it's really our communities that these people serve. We need to instill loyalty, trust and the kinds of incentives that Act 253 set the course for, for this body last Session.

"We've heard rhetoric today, I think, in terms of assuming that privatization as a model is cost efficient and yet prior to the adoption of Act 230 in 1998, our own Legislative Reference Bureau completed a study on privatization and I would like to take the time to go into some depth because I think for the new members these become words but it really is based on a lot of information and I think this debate is useful. I quote and the study states that:

In determinations for contracting out assuming reduced costs associated with contracting out these types of reductions may not necessarily result from increased efficiency. But rather, may come when private contractors exploit labor and/or provide for few, if any at all health and retirement benefits and shifts financial responsibility onto society at large.

"This was not a partisan report. This was from *Contracting Out by Urban Governments*, a review in the Urban Affairs Review.

"This is about charting the course in fairness in terms of giving the people that provide these services the opportunity to

demonstrate in fairness to participate in the process to demonstrate that the services that they are providing and the cost that is generated by these provision of these core services are cost effective.

"This bill, Mr. Speaker, some members may say doesn't go far enough in terms of establishing change. This bill guarantees change."

Representative Kahikina rose to yield his time.

The Chair stated:

"Representative Yoshinaga we are addressing the floor amendment."

Representative Yoshinaga continued, stating:

"Mr. Speaker, thank you, I am dramatic but I think it is important to convince members that this bill, without the amendment, incorporates privatization. But it does so in a fair manner to assure that the people who are going to be affected most by privatization in the event that they are given an opportunity first to be an asset for change. To be involved in the process in terms of coming up..."

Representative Pendleton rose on a point of order, stating:

"Would the speaker address her remarks to the Speaker of the House."

The Chair responded, stating:

"Representative Yoshinaga could you address your statements to the proposed floor amendment which deals in privatization only to the rostrum."

Representative Yoshinaga continued, stating:

"Thank you, Mr. Speaker. This measure then guarantees that it's not going to then eliminate privatization, but it guarantees that change will come because after a time certain, privatization as proposed by the administration will then be implemented. That's the critical part that it guarantees change unlike the Senate proposal, which guarantees further study. Our bill without this floor amendment that is being proposed guarantees that type of change and yet it provides an incentive for the people to then be motivated and it establishes a clear 'bright line' time certain deadline within which to establish managed competition as a process.

"We've heard some remarks today about cost models and budget process. The Senate's position is that it just guarantees further study of cost processes. Davis Yogi at an informational briefing before your Committee on Labor and Public Employment, indicated that he is ready to effectuate those kinds of discussions on cost modeling and determinations of appropriate scenarios in terms of budget processes. He is willing to discuss that, to continue the dialog, because frankly Act 253, Mr. Speaker, permitted and enabled the Office of Collective Bargaining to implement managed competition without any type of further discussion. Whether the Office of Collective Bargaining adopted the Managed Competition Task Force Review Committee's recommendations it can do so immediately. However due to the certain changes in the office and the consolidation with DHRD, Mr. Yogi has not yet been able to finalize and implement that.

"What this bill does, without the amendment is to accelerate that process because this measure, without the amendment provides the guidelines whereby he can then effectuate and

determine which jurisdictions and agencies are best able to implement a managed competition review immediately.

"For all of the foregoing reasons, Mr. Speaker, I hope that all of the Members clearly understand that this floor amendment is a word of privatization, but is really about promoting and supporting cost effective modeling and determinations in a fair manner. Many people may look at it as being just about costs, it's not just about money but it is empowering our people to prove that they are worth the money that we pay them. Thank you, Mr. Speaker."

Representative Case rose in rebuttal, stating:

"First of all, the Labor Committee Chair makes the point that there are some dangers inherent in privatization as reported by the LRB. I would acknowledge that in some cases privatization has led to some dangers, but they are nothing like the consequences of what is resulting from the current system on our State in which there is no authority in the part of the executive branches to provide outright privatization where they believe it is necessary.

"This amendment is really about allowing our executive branches to do their job. Allowing our executive branches to operate efficiently, effectively and to be accountable. To paraphrase the testimony on this bill from the executive branches: 'Quit being so paternalistic with us, you think we're going to try to do a bad job?' You think we don't feel the accountability for operating government in a way that provides services in the most optimum way?"

"Let's cut them loose. Let's let them do their job. Let's not micromanage them anymore. It's hurting them. It's hurting us and it's hurting our ability to deliver the services effectively and at a low enough cost to be able to provide these services over a broad range.

"The second point that the Labor Chair tries to make is essentially that we're better off under the original language of the bill in going with managed competition. I would like to make this point. Would any executive branch faced with a voluntary decision by the public employees to do a better job, wouldn't they in fact keep it in-house? Wouldn't in fact those public employees be the first people that any executive branch would think about to provide the job? The problem here is that there is no alternative. The problem here is that we have hamstrung our executive branches and we are not delivering services effectively and that is why we are sitting here looking at tax revenue increase bills. Thank you."

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

"I speak in opposition to the measure with great reluctance because as you know I have always been a strong proponent of privatization. I think it is absolutely necessary and for the most part I do agree with the amendment that has been submitted.

"My opposition lies with the preferred approach. I do know that the Senate bill has already been transmitted to the House, SB 706. I would prefer that we act on that Senate bill which would extend the sunset provision on Act 230. Act 230 as has been referenced, would allow unequivocal privatization in the absence of implementation of managed competition, which is in Section 3 of Act 230.

"So, with the assurance that SB 706 will be given consideration by the House Labor Committee I would prefer that we take action on SB 706. Thank you, Mr. Speaker."

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

"I think I am the only one here that was involved in the Konno decision. I did vote at that time to support the privatization at the landfill because my experience in dealing with the county of the many years previously, I just did not feel confident that the county, under its supervision could actually fulfill the mandates that were put upon us by the EPA to open another landfill.

"So, one of the very few times that I voted with the Chairman at that time, was to vote for Konno. To vote for the privatization which resulted in the Konno decision. As a result of that I lost my seat on the County Council. But being that I had lost many other seats and gained other seats it didn't really matter because here I am back with this august body and I am much happier.

"But I would like to support this because the argument that my colleague of this side of the aisle made that this directly addresses the Konno decision is very important. The County of Hawaii really got into difficulties with this, with the lawyers' fees and everything. I think that I for one, would like to see this cleared up once and for all so that we take a position that the executive has the right when necessary, and this will always of course be subject to public outcry and public input hopefully.

"But for these reasons, Mr. Speaker, I do speak in favor of this amendment."

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

"In due respect to the maker of the amendment, who I believe has done it in good faith.

"I wish to speak against the Konno decision. It states that it cannot replace any existing department or services that the county is doing. I agree, it should not. The ERTF of 1997-1998 made up of various kinds of people from the society. Rich people, poor people, Democrats, Republicans, laborers, major executives, and small executives all sitting in there and agreed to one thing: that the Konno decision which was asking for a change in the law was necessarily the way to go.

"But managed competition, as it was done in California and some other States is the way to go where there can be competition between the private and the public and the determination they made thereof. Let me state that this way not a partisan board. You had people from both sides of the aisle that sat on the ERTF. I believe we should continue after this amendment is done with and look at the managed competition and make it fulfill its dream that it was supposed to do. Thank you, very much."

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 to adopt the amendment to H.B. No. 620, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," 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, Chang, Espero, Garcia, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 23: Auwae, Bukoski, Case, Davis, Djou, Fox, Gomes, Hale, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Morita, Moses, Ontai, Pendleton, Rath, Stonebraker, Suzuki, Thielen and Whalen.

Excused, 1: Schatz.

(Main Motion)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Representative Bukoski then rose and asked the Clerk to register and aye 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 the proposal. 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 long-term 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, which 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 through 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, 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 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 will 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.

"Through visioning we can make the best choices for the future and continue moving to a better government that does not take so much of the people's income in taxes and still provides livable wages for its employees and quality services for the citizens that they serve."

Representative Halford then rose and asked the Clerk to register and aye 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 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 48 ayes, and 2 noes, with Representatives Case and Rath voting no and Representative Schatz excused.

The Chair directed the Clerk to note that H.B. Nos. 1589, HD 1; 213, HD 2; 169, HD 2; 857, HD 2; 719, HD 1; 171, HD 1; and 620, HD 2 had passed Third Reading at 5:42 o'clock p.m.

At 5:42 o'clock p.m., the Chair declared a recess, subject to the Call of the Chair.

The House of Representatives reconvened at 5:43 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 819) recommending

that H.B. No. 554, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 554, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This bill authorizes the issuance of \$20 million in special facility revenue bonds to construct an Ocean Science Center in Kaka'ako.

"Let me clarify, Mr. Speaker and members that special facility revenue bonds are financed by private lending institutions and are not in any way obligations of the State. Furthermore, debt service for this bond issue will be assumed by a private sector group headed by and composed of the most prominent names in Hawaii's business and labor communities.

"At the door step of our world famed capitol city of Honolulu, Kaka'ako is destined to be a world class center for cultural, recreational, commercial, educational and research activity. The construction of the Ocean Science Center is the key development of Kaka'ako Makai.

"The Ocean Science Center will showcase Hawaii's accomplishments in ocean science, serve as an example of what can be accomplished by public/private partnerships and enhance our ocean State image. In addition, this center will contribute more than its fair share to our economy. Initially an estimated 700 construction jobs will be created and the center will add 150 new permanent new jobs to our economy and 600 to 1000 collateral jobs. And it is expected the center will generate visitor expenditures of \$60 to \$80 million dollars.

"Mr. Speaker and fellow members, I urge you to join me in making the Ocean Science Center at Kaka'ako Makai, a first class attraction by supporting this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 554 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote of 32 ayes, and 18 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Thielen and Whalen voting no and Representative Schatz excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 820) recommending that H.B. No. 1156, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1156, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This measure started out and exited the CPC Committee as a very good measure which acknowledged the fact that since the Hawaii Hurricane Relief Fund was created in 1993, it has fulfilled its function. It stopped selling policies for hurricane insurance in November 30, 2000, and we anticipate that it will no longer be providing insurance coverage to property owners in Hawaii after December 1, 2001.

"So, the question that has obviously arisen is what are we going to do with the \$150-plus million?

"Advocates on one side have argued, and perhaps will argue today, that they should be provided back to the policy holders, while advocates on the other side have implied in some form that we should utilize this for other purposes. My own feeling is that we should lock these up and put it away for a 'rainy day', and that's what the CPC Committee felt that we should do.

"Somewhere between CPC and Finance this 'morphed' into a different creature and what it essentially amounts to at this point is that these funds remain ready and able to be utilized for whatever reason we so choose. In the case of this particular bill, we are proposing to appropriate \$10 million dollars for a pilot project to provide for hurricane resistant improvements on a matching grant basis.

"I don't have a particular problem with that motivation, but what I think we have really done indirectly is provide a general fund appropriation to an area where we probably shouldn't have done it. We should have locked this up and not touched it until we actually had some kind of a disaster, when we should allocate these funds.

"I don't think this is the proper use of these monies and I don't think we've really provided the proper insulation for these monies and are still too ready to be utilized for general fund purposes. Thank you."

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

"I believe that the money should be returned to the policy holders.

"Second fall back position would be that we place it into an 'icebox' that can only be used and only can be tapped in case another hurricane or natural disaster. I think the funds are attractive to various members of the House and probably the Senate and they're looking at scooping them for a number of purposes. Basically that is wrong. Thank you."

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

"Mr. Speaker, these funds should most definitely be returned to the policy holders and rate payers that created this fund. With regard to the 'rainy day', issue once again, I've spoken to that, I don't think it is appropriate for our State to create such a fund.

"However, if we are going to initiate the release of funds for a 'rainy day' event, my goodness Mr. Speaker, we have it before us and that's the drug abuse and drug use problem that plagues our adults, children, families, schools, workplaces, government, private, public, you name it.

"It's 'raining cats and dogs' and we need to address that issue. For those reasons, I do not support this. Thank you."

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

"Mr. Speaker, as time goes by, memories fade and our colleagues who are proposing to dismantle the Hurricane Relief Fund and return it to whatever contributors might desire should be reminded about why we created this Fund.

"When Hurricane Iniki hit less than ten years ago, Mr. Speaker, it left behind nearly \$1.6 billion dollars in insurance

claims. At that time it was the third most costly disaster in the United States history. All the claims were paid but it wiped out over thirty years of profit of the local insurance companies.

"One company in fact, Mr. Speaker, HIG, went insolvent and had to be taken over by the State. A couple more simply left town and most of the rest refused to issue or take new applications. Mr. Speaker, what happened back then is that real estate couldn't be processed, transactions couldn't be processed through and banks couldn't process mortgages. Commercial leases couldn't be finalized and the State's economy was put into a temporary stand still.

"The Hurricane Relief Fund was a unique situation and solution. The Legislature at that time had the courage and foresight to pass it. More than a year of intensive effort was required to set it up. The remaining insurers stuck it out just as it hoped it would work as promised. It did, Mr. Speaker, just twelve months after the Fund issued its first policy, the insurance markets were stabilized and consumers found coverage freely available.

"A little more than three years later, the market was so competitive, Mr. Speaker, that insurers were talking about taking back the hurricane risk as a way of steal fines from each other. Setting up the Fund took time, money, hard work and a lot of courage. I'm not sure all of the stars will be there in alignment to allow this to happen again, Mr. Speaker, for instance, the single most important factor in the success of this fund is the federal tax exemption. The previous insurance commissioner, Linda Chu Takayama, just recently shared this with me the fact that Hawaii was fortunate enough to receive the federal tax exemption is probably one of the most important reasons to keep the fund intact.

"In other words, Mr. Speaker, the State's Fund gets to keep all of the revenue it raises instead of handing over the biggest chunk to the IRS. This means that there is more money to pay claims when a hurricane does hit. Mr. Speaker, other states have modeled their funds according to what Hawaii has done. But some..."

Representative Lee rose to yield her time.

Representative M. Oshiro continued, stating:

"...have not been able to get the same IRS tax exemption. If the Hurricane Relief Fund was to close now there would be no guarantee that our Senators and Congress the way it is, be able to get the same exemption.

"Mr. Speaker, another reason why we need to keep the Hurricane Relief Fund in place is the acceptance by the secondary mortgage market. All of our local banks sell most of their homeowner and small business mortgage loans to organizations like Fannie Mae and Freddie Mac. Freddie and Fannie have strict requirements, including, a solid carrier to protect the loans. There are circumstances from individuals that in place at the time of the Hurricane Relief Fund formation that encouraged both Fannie and Freddie to accept these policies. There is no guarantee that a new start up with inadequate capital can pass muster in the future. Without these assurance, Mr. Speaker, these homeowner policies would be useless.

"Finally Mr. Speaker, the Hurricane Relief Fund is proven success. It has been emulated in other coastal areas in other states and it is true that it has met its objectives of bringing down and bringing back the insurance industry to reassure the hurricane risks facing all of us in Hawaii.

"Mr. Speaker, returning the Hurricane Relief Funds surplus to its policy holders would be logistically difficult and costly at best. It may also be unfair and inequitable. The hurricane surplus is not only made up of insurance premiums, but also mortgage recording fees and assessments on every workers' compensation, liability, and property and casualty insurance policies over the last seven years. To be fair, Mr. Speaker, any refund should include all who paid into the fund.

"Mr. Speaker, this bill established a pilot program to provide grants to the homeowners for the installation of hurricane protection devices. In the long run these kinds of initiatives will provide greater security and protection to all Hawaii's residents in return of just a few dollars a piece.

"The fact is, Mr. Speaker, there will be another hurricane whether we like it or not. We just don't know when. We are lucky enough to find a solution. Mr. Speaker, let us not tempt faith and let all of our hot air blow it away. 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. 1156 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Third Reading by a vote of 32 ayes, and 18 noes, with Representatives Auwae, Bukoski, Case, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Thielen voting no and Representative Schatz excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 821) recommending that H.B. No. 71, HD 2, as amended in HD 3, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 71, HD 3, pass Third Reading, 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:

"Men and women end up in prison for different reasons, and therefore prison programs should be tailored to meet the gender specific needs for women offenders. If we do not focus on rehabilitation, we will only see repeat offenders. As it is, since 1986 the female prison population in Hawaii has grown an astounding 159%. If we do not do something to halt this trend, those numbers will only grow even higher.

"The nation's former top law-enforcement officer, Janet Reno, recognized the need to cure the problem with women's prisons. She believed that we need to change our focus back to rehabilitation and restorative justice. Drug use is often the cause of women's incarceration. Until we address this problem by providing drug treatment, we will be doing nothing to stop the cycle of re-arrests and re-incarceration, in effect branding many women, prisoners for life.

"Additionally, many violent women who become incarcerated are violent because they themselves have been victims of abuse. By addressing the underlying cause of their violence, we can prevent huge numbers of women from becoming incarcerated again. Currently the therapeutic community tends to the needs of only 10% of the female prison population, when really the need is much higher.

"Hawaii's prison system is uniquely in need of change in that 1/3 of women offenders are based on the mainland,

separating these women from the families and children, and making a return to non-prison life that much more difficult. Many of these women, unfortunately, are victims of the "war on drugs" - first time offenders in prison due to mandatory drug sentencing guidelines. We need to allow courts more flexibility in dealing with first-time offenders, by instead of incarcerating, mandating drug-treatment. It is only by treating the problem, will we be able to eliminate the problem of repeat-offenders.

"How many times have we heard sociologists conclude that prison merely makes better criminals? Incarcerating a young woman and then providing no treatment and no attempt at rehabilitation, we are in effect sentencing this young woman to a dead-end life.

"Prison programs for men include job training, drug treatment, and counseling. Men also are housed based on a classification system. Hawaii's women prisoners have no similar classification system, and enjoy very few gender-specific programs. We need to support this measure, additionally, because it will provide for more women guards. Women prisoners should be supervised by other women.

"While we talk about parity for "women" prisoners, it is important to bear in mind, those first-time offenders are usually teenagers. This bill isn't necessarily about treating men and women equally in the prison community - but it is also about restoring integrity in our corrections system. We need to encourage "correcting" the problem at the early stages of a woman's life before it is too late. The prison setting can be a unique and valuable tool for society. It is the one place where we have the guaranteed "captive audience" in which we can give these female prisoners the much-needed treatment they have been missing in society."

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 3, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," passed Third Reading by a vote of 50 ayes, with Representative Schatz excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 822) recommending that H.B. No. 603, HD 1, as amended in HD 2, 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. 603 HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY PARTNERSHIPS," passed Third Reading by a vote of 50 ayes, with Representative Schatz excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 823) recommending that H.B. No. 1273, HD 1, as amended in HD 2, 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. 1273 HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 48 ayes, and 2 noes, with Representatives Djou and McDermott voting no and Representative Schatz excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 824) recommending that H.B. No. 725, as amended in 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. 725 HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATEWIDE TRANSPORTATION PLANNING," passed Third Reading by a vote of 50 ayes, with Representative Schatz excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 825) recommending that H.B. No. 1256, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1256, HD 2, pass Third Reading, seconded by Representative Lee.

Representative Bukoski rose to declare a possible conflict on the measure, stating:

"I currently serve as a consultant to a recycling company."

The Chair declared "no conflict".

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

"The Finance Committee has amended this bill to blank out the fee and deposit amounts. But in my following remarks, I am going to refer to the amount proposed in the original bill because it is safe to assume that at some point these blanks will be filled in with an amount and it probably will be the amount proposed in the original bill.

"Bottle bills are normally aimed at reducing litter, an idea we all can support. However, only ten states found it necessary to impose a bottle bill and bottle deposit on the public. Is Hawaii more littered more than the other forty states that do not have a bottle bill?

"Most of the litter I see is wrappers from fast food restaurants, convenience stores, snack food bags, cans, refrigerators and styrofoam cups. This bill does nothing to address the vast bulk of litter in our State and will do little, if anything, to keep Hawaii clean, green and beautiful.

"To add to this strange focus, H.B. No. 1256, appears to declare that some bottles and cans are litter and others are not. For example, a beer bottle is litter and the consumer is charged a deposit to encourage them or others to not litter and to recycle. However, an identical bottle that contains milk or a dairy derived product is deemed not to be litter and apparently we could care less with beaches and highways if they are lined with milk containers.

"The applicability of this bill is too narrow and the definitions too illogical to achieve any noticeable reduction of litter.

"My second major concern is that this bill creates another special fund and increases the size and cost of State government. The voters will see the five cent deposit on each can or bottle. What they will not see, what is hidden from them, is the two cent per bottle or can tax to support the expanding program at the Department of Health.

"I find it almost impossible to believe that two cents per can is needed to fund a State agency to monitor collecting a five cent per container deposit. The only possible good thing about this bill is that it might, and I repeat might, stimulate new businesses to get into the recycling business. It surely will create more cans and bottles that will be collected at various locations. These new recycling businesses will face the hard

cold realities of economics and the economic reality is that most bottles and cans are produced on the mainland and shipped to us.

"I sincerely doubt that very many bottles and cans will be collected here and sent to the mainland to be reused. There will, when there is a sufficient amount, be shipped off to the mainland for recycling so that they can take advantage of being added to other peoples recyclables and waiting for the market to go up and down which is what goes on now in order to get the very best price. Many of the other bottles and cans will still end up in the dump.

"My final concern, and probably the greatest, is the impact this bill will have on consumers. We are imposing by law a seven cent per bottle or can price increase on most beverages. Each store that sells beverages, except the very smallest, will have to invest in space and manpower to handle returned containers. They will also have to provide security as well as certain sanitary measures to accommodate this mountain of empties.

"All this adds to the overhead of the store that must be recovered by the customers in higher prices on groceries. The ultimate burden of this bill will fall on the consumers. The same people who are taxpayers and voters. It is bad enough that a majority of this body has refused to eliminate the 4% GET on food and now we are adding even more in taxes to the cost of almost all beverages.

"At some point we have to look at how we are spending taxpayer dollars and not just imposing new tax or fee to fund every program that sounds worthwhile. We need to establish priorities in government spending. I would much rather see this money go to providing textbooks for students then to establish a brand new State recycling agency.

"Mr. Speaker, this bill significantly and directly affects every member of the public. Everyone of us will pay more at the store than we do now and will have to store empty containers at home, lug them to the store, wait in the return line and on and on. The impact of this bill on the general public would be substantial. In other States these bottle bills were submitted to a direct referendum vote by the public. At the very least we should hold a series of public hearings throughout the State before we hoist this measure on our unsuspecting electorate. Thank you, Mr. Speaker."

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

"First of all I would like to thank the Judiciary Chair and the Finance Chair for allowing this measure to move forward.

"Although the industry does not support the method proposed in H.B. No. 1256, the industry does understand the importance of recycling and the need to divert from our landfills. The industry wants the opportunity to propose a solution and we all want a solution that everyone can embrace and is cost effective and will produce the desired results.

"As your Chair of EEP I'm working with all the interested parties to that end. Unfortunately time and deadlines haven't allowed us sufficient time to come up with a proposal that is excepted and supported by everyone.

"When the disposal fee was passed in 1995, the Hawaii Food Association, which includes retailers and distributors, advocated for voluntary measures. Unfortunately voluntary measures are not giving us the results that we are trying to achieve. HRS, 342J, sets an overall recycling goal of 50%. Let me emphasize, this still doesn't only deal with litter. It

deals with recycling and diverting solid waste away from landfills.

"Our recycling rate is presently at 24%. In the 10 states and 1 city that has beverage container deposits, there is an average recycling rate of 80% in comparison the national recovery rate for containers is 38%, on Oahu existing community recycling programs capture only 20%.

"Although beverage containers comprise of only 4% of the waste stream, it's probably the most visible trash making up 40-60% of the total litter nationwide. The trend in the beverage industry is towards single serve containers, which are not consumed in the home and thereby making curbside recycling very difficult. Sports drinks, bottled water, iced teas, fruit drinks and soft drinks are now packaged for people on the move. Such a trend make curb side recycling an ineffective and expensive for a small recapture rate.

"Just think, if 1 out of every 6 million visitors to Hawaii drinks one beverage while sight seeing at our beaches or in our parks, that's 6 million beverage containers not captured by curb side recycling. However, through a bottle or beverage container deposit it provides an incentive of \$300,000 for someone or some organization ambitious enough to gather and redeem those containers.

"In trying to address our solid waste problem, our Neighbor Islands rely on landfills to manage solid waste. Oahu has H-Power, but when H-Power is not producing electricity the trash is diverted to the Waimanalo Gulch landfill. We live on islands and landfilling is becoming more costly and difficult. Each Island is facing a landfill crisis.

"A recent proposal of the City and County of Honolulu to expand the present landfill to accommodate another fifteen years of waste will cost Oahu taxpayers about \$90 million dollars over the next fifteen years. This cost does not include the monitoring required after closure."

Representative Lee rose to yield her time.

Representative Morita continued, stating:

"I'm asking the support of this body to allow this measure to go forward so that we can continue to work out a measure that is acceptable and not only benefits the consumers but one that the industry can support on recycling and diversion from our landfill. Thank you."

Representative Souki rose to declare a possible conflict on the measure, stating:

"I am a member of the board of directors of Maui Soda Company."

The Chair ruled "no conflict".

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

"Again I am not speaking down on this bill only because Chairman is continuing to speak with the providers and I think it is a very good thing that we are doing this. You're bringing all of the parties together and hopefully you can come to some kind of resolution.

"My reservations with this measure is that being a member of a beverage company I know how tenuous the profit margin is. The history of the bottle deposit with Maui Soda goes back some years. When they had the deposit they were getting about 4-7% rather than the 70-80% as it is in the mainland.

"So if this continues what is going to happen is that you will have an increase beverage cost that is passed on to the consumer. The basis of elasticity may guide the consumer to buy other items and there will be the potential of these kinds of businesses going under. In fact the President and Manager of Maui Soda did state, and I can affirm to that, that an additional cost like this on a basis of a lesson of elasticity and the price would put them under and there are others like them to adhere. Yes, we may create other recycling companies on the backs of the beverage companies, but you may have other people out of work.

"This is the fear that I have so hopefully the Chairperson will be able to work out some kind of resolution for all parties. Thank you very much, Mr. Speaker."

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

"When I was a little kid in New York we used to pick up the bottles to turn them in for two cents for a nickel to be able to go to the show on Saturdays. The point is that they were on the ground and available so the deposit didn't stop people from throwing them away. I suspect it would probably be the same if we pass this and all it would become is another tax.

"I vote against this with reservations because there really is something, having been on the County Council with my colleague from Puna, I realize we have a very critical problem in the islands with the landfills. I sincerely believe we can divert somewhere between 40-70% of our waste drain to other uses.

"However, I really believe that this is a county problem. Our counties have different sizes and demographics and I think this is something with the waste drain that is specifically better dealt with by the counties. I think that the Big Island is probably under precedence of leading the way in this diversion. We have the landfill that has to be closed and I think we are under the precipice of coming up with some really ingenious ways to handle our waste stream.

"So, I think that an additional tax is not the way we want to go. We want to look at the problem and solve it long term. Not only for the 3% that's represented in beverage containers but for the rest of the trash stream. Thank you, Mr. Speaker."

Representative Moses rose and asked that the remarks of Representative Meyer be entered into the Journal as his own, and the Chair "so ordered".

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

"I also believe it is a county problem and I do believe we have a problem with the landfills and we have to deal with it, but this is not the way."

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

"I would just like to address some of the comments that were made by the previous speaker.

"First, one of the only good things that they saw was possibly the fact of creating new recycling businesses. For that I would like to refer to one of the comments made by Representative Espero which was, either you get or you don't. There is just an inherent value in recycling. When you live in an island state where we are two thousand miles away from

anyplace else, we are an isolated place and whatever we bring in we have to deal with.

"So, there is an inherent value in recycling in it of itself. I think if something someone else has said, you either get it or you don't. Hearing all of the public testimony from the little children and teachers, they all seem to get it and for some reason some people in this body don't.

"I was also talking to some of the recyclers and I posed to them to me there are two basic concepts that work, convenience or value. If it's convenient we all know we should do it. If there is a recycling can next to us, what do we do, we'll throw it in because it's convenient. That's what the advantage is of curbside pick-up. In some cities curbside pick-up can work, but for us it can't, because there are too many disparate communities where curbside pick-up just won't work.

"In terms of convenience we all had lunch together, amazingly enough, in the Majority Caucus room and there are a bunch of people who drank soda and there were about 35 cans of soda that were just thrown in the rubbish can. We all know that recycling is the right thing to do, but are we going to do it, "no" because it's not really convenient. So what do we have to do to make sure that it's going to work? We have to provide value to these recyclable items. That's what this bill attempts to do.

"It's trying to say that if can't have the convenience model, then what we can do is try to place some value into it and from there we can be able to compel some kind of industry. I really must commend the Chair of EEP, because what she has been doing is trying to work with all of the interested parties and some of the things she brings up are very important.

"In the last ten years there has been no movement by the industry to get something in place. In Chapter 342G-3, the goal of recycling. By January 1, 2000, we were supposed to be at a 50% level and we're not nearly there. If we are not going to be taking steps to reach these goals, then what are we going to do. I think the Chair is doing an admirable job and I'd like to fully support her and for those reasons I stand in support of this measure. Thank you, Mr. Speaker."

Representative Bukoski rose and asked that the remarks of Representatives Morita and Souki be entered into the Journal as his own, and the Chair "so ordered".

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

"In regard to curb side recycling, Maui made a bold forward movement towards implementing a very comprehensive curb side recycling program and it was stalled or basically killed because of the privatization issue that came out directly out of the Konno decision. Maybe we can all think about that."

Representative Thielen rose to speak in very strong support of the measure and asked that her additional remarks be inserted into the Journal, and the Chair "so ordered".

Representative Thielen continued, stating:

"Not only have we not reached the year 2000 goal of recycling 50% of our waste stream, we have not even reached the 1995 goal. Six years behind and moving backward rather than forward, I really congratulate the Chair of Energy and Environmental Protection Committee Mr. Speaker, She has been able to bring very differing groups to the table and that's a major accomplishment.

"When this bill started, we saw men with suits flying in from the mainland to just kill anything relating to this bill. It was quite surprising to see this sort of coterie, or whatever you would call it, of people from the mainland in the beverage industry flying in and saying, hey wait a minute we don't want to anything move forward.

"Well as we heard the measure, and you'll see that in the Committee Report, we received testimony in support from the Department of Health, Office of Environmental Quality Control, the Environment Council, the Mayor of the County of Hawaii, the City and County of Honolulu Department of Environmental Services, the Recycling Coordinator of the County of Maui, Solid Waste Division, the League of Women Voters, the Sierra Club - Hawaii Chapter, Life of the Land, and the Estate of James Campbell. These were the people among other individuals that came in that were saying support this. We also had an incredible group of school children that came in and testified. The public out there wants this but the opponents were six kinds of bottle industry executives coming in and saying don't do it.

"The Chair of Energy and Environmental Protection Committee was able to get the commitment from these opponents to participate in a facilitated discussion to work out a solution to this. That's major and it's not going to really cost the State much of anything. It is going to be something that will benefit all of us because I believe that at the end of these hearings those folks from the mainland realized that we were really committed to move forward with this. I heard from one of the lobbyist, who will remain nameless, "yes", we are going to move on this.

"So there is movement. We will then be able to move from only being able to move ahead with 25% of our 1995 goal and move ahead, Mr. Speaker, to clean up Hawaii's environment. We're lagging behind the public. The public's ahead of us on this one. With this bill I believe we can begin to play catch up. Thank you."

Representative Thielen's additional remarks are as follows:

"Mr. Speaker, I rise in support of HB 1256, HD 2. This is the "Bottle Bill." All amounts for fees and deposits have been deleted to facilitate further discussion. This bill could significantly increase the recovery of aluminum, glass and plastic recyclable beverage containers that currently fill Hawaii's waste stream and litter Hawaii's landscape.

"Hawaii State law established a goal of recycling 50% of the waste stream by the year 2000. We have not yet reached the 1995 goal of 25% Statewide. Hawaii is capturing only about 20% of its waste for recycling. HB 1256 has been amended through a collaborative effort among the recycling industry, State and county government, and local environmental organizations into HD2. The groups will work during the interim to come up with solutions to eliminate waste from our environment.

"Also very significantly, once we implement a bottle bill, Hawaii can anticipate a drastic reduction of litter as Department of Health estimates put beverage containers at contributing 40-60% to all the litter in the State. In other bottle bill jurisdictions, 80% of beverage containers are recovered.

"This bottle bill is not something that we are pioneering. It is established procedure in 10 states, and no bottle bill has ever been repealed. They have only been strengthened.

"Along with reducing the amount of material entering Hawaii's landfills, a bottle bill can have the added benefit of

reducing all costs associated with collecting and hauling to the landfill site. Private recycling companies would be dealing with greater volumes of product because of deposit-encouraged collection. As the commodity of beverage containers becomes valuable to consumers, the volume amounts of them passing through recyclers will jump. More material diverted out of the waste stream will spark a recycling industry that has always been plagued in the State by low volumes. Struggling businesses could become profitable.

"HB 1256, HD 2 is the best way for Hawaii to meet the recycling goals set years ago and still attained. Thank you, Mr. Speaker."

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

"Just to set the record straight, the previous speaker mentioned many 'male folks in suits coming from the mainland' and I believe that there was some 'she' lobbyists as well that came down for the bottle industry.

"At any rate, I do agree and concur with the remarks from the speaker from Laie. I find it interesting, Mr. Speaker, that as long as I've been here at the Legislature maybe I had missed some of the memos that we ourselves don't have a recycling program implemented as far as I know in regard to bottles and cans.

"Maybe that's the place to start. Perhaps instead of a program of the sort that we may be implementing under this measure, we could implement a small pilot program here at the Capitol and include some fees on the various soda cans and bottles that we as Legislators and staff purchase and see how the incentive works in regard to that and see where that goes.

"I do commend the Chair of the Energy and Environmental Protection Committee and it seems that she's working very diligently in bringing everybody to the table and I think that's the way to go, not only this measure but lots of other measures.

"At any rate, Mr. Speaker, for those reasons I am opposed and thank you."

Representative Moses rose and stated:

"My children do a little things with cans at home. We keep a little bag in the kitchen and we put all of cans in it and maybe that's what we can do in the Caucus rooms.

"I still don't get it evidently, I've learned a great deal in the Finance Committee over this measure. We don't want to just recycle these goods; we want to re-use them. I think the person who told me that is sitting up in the gallery right now.

"We don't have a way of re-using those containers here in Hawaii. Are we going to put milk in the bottles? Are we going to put soda in the bottles? We don't do that. We import those things. So, now what we're going to do is collect these bottles and what are we going to do with them. We're going to ship them off to Asia or the mainland. We're not going to send them to H-Power and make electricity out of them.

"So, I think we're being 'penny wise and pound foolish' here. We're not using the materials here in Hawaii that are already here. We're going to send them off to somebody else. Thank you, Mr. Speaker."

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

"My concern, Mr. Speaker, is for the families living in the three-story walk-ups in Kalihi. My wife and I lived there one time when I first got out of the Marines and I can tell you with three kids there is no place to store these bottles and cans.

"These cans already have value. I must have drank about six of them today that's why I keep going to the back so much. But these cans keep going in the trash. We're not recycling them. These cans already have value you see people at Sand Island picking them up. Who's going to bear the increased cost of this? It's going to be the families, and poor families don't have any place to store them. When you talk about the single mom who's raising the kids, does she have time to collect bottles and cans and store them in the back of her little apartment? Of course not.

"Those are the ones that are going to get hit by this. Most of us can afford this, but some of those low income ones can't. I would just like to remember the working families. Thank you."

Representative Ahu Isa rose in support of the measure and asked that the remarks of Representative Souki be entered into the Journal as her own, 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. 1256 HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE MANAGEMENT," passed Third Reading by a vote of 42 ayes, and 8 noes, with Representatives Auwae, Djou, Gomes, Leong, McDermott, Moses, Ontai and Rath voting no and Representative Schatz excused.

The Chair directed the Clerk to note that H.B. Nos. 554, HD 2; 1156, HD 2; 71, HD 3; 603, HD 2; 1273, HD 2; 725, HD 1; and 1256, HD 2 had passed Third Reading at 6:24 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 826) recommending that H.B. No. 1561, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1561, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Ito's remarks are as follows:

"As stated by the Honorable House Speaker Calvin Say in his address to the 21st state legislature, 'two great possibilities exist for Hawaii's students in the New Economy schools that have fully integrated workforce readiness proficiencies in their curricula and realization of the full potential of private/public partnerships.

"House Bill 1561 incorporates a purpose for change, paints a picture of how the new students' outcomes will look, lays out a step-by-step plan for phasing in career development in each school, and gives the larger community a part in the planning process.

"In addition, this bill is a proactive approach in providing a variety of learning options for all students through a Career Development System which will allow students to:

- Apply learning at school to life outside the classroom

- Gain on-site "hands-on" experiences
- Connect with people, business and industry
- Attend an integrated classroom where teachers and business/community partners will educate students across curricular, project-based environment that is academically rigorous and is facilitated through a business-based instructional model.

"The five focus areas of this bill includes:

"First, career pathways development in which we will encourage schools/districts to develop and implement academies, smaller learning communities and expand on their learning center. Models that are being shared with the schools include:

"The CART: Center for Advanced Research and Technology-a charter school put together by 2 school districts and the business community in Fresno, California to address economic development needed to attract hi-tech business to their community. The CART will provide the employees these hi-tech companies will need to operate their businesses. Students attend the CART for a 3 hour block of time and receive four credits-English, technology, and 2 career cluster course credits. All four courses are integrated through project-based learning. We want to go a step further and make these courses "running start" courses to our students so they can graduate from high school with as many as 24 credits.

"Vancouver School District's model where students are able to move from school to school to the learning lab of their choice; i.e., Legal Magnet Lab where business law, English and social studies are integrated through academic/applied learning, project-based learning, internships, student entrepreneurship and technology skills. Students' learning environment is an actual courtroom. Also in this district is a skills center which combines the voiced program in one site for financial reasons. Students at the center earn "running start" credits and our goal is for our students to graduate from high school with an Associates degree at the same time.

"Monies for this effort will be matched by the STW grant and additional funding will be sought from other sources.

"Second, career development centers in each high school which will provide group career activities, individual career guidance, information on post-secondary training and educational options, and coordination mentorships and internships.

"Third, project-based learning where learning experiences are designed as complex, authentic (real-world) projects. Projects emerge from the needs of the community or home, they arise from social issues, or from authentic industry or business activities.

"Fourth, business partnerships at a higher level to support the academies, smaller learning communities and project-based learning. Internships have a new meaning as business partners become involved with students in authentic learning projects.

"Fifth, post secondary connections using the "running start" law where students will be able to graduate from high school with as many as 30 college credits giving them a "running start" on their college degrees.

"In addition, this bill will provide monies not only to accomplish the above initiatives, but will also provide the vehicle for combining all career focused programs in the Department of Education to work together in one office to

help schools develop a Career Development System that will provide the State of Hawaii with a workforce prepared for the economic development opportunities associated with the information era.

"Passage of this bill will help students combine school and work and earn postsecondary credits, credentials and skills simultaneously. These best practices support a more personalized education that enable students to discover and develop 'something that they are good at.'

"I urge my colleagues to support this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1561, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 827) recommending that H.B. No. 179, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 179, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Case offered the following amendment to H.B. No. 179, HD 1:

House Bill No. 179, H.D. 1, is amended as follows:

1. By deleting lines 4-10 on page 2.
2. By amending section 2 to read:

"SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$27,500,000 or so much thereof as may be necessary for fiscal year 2001-2002 for computers in the public schools. The sum appropriated shall be expended by the department of education for the purposes of this Act."

Representative Case moved that the amendment be adopted, seconded by Representative Fox.

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

"Mr. Speaker, let me provide a synopsis of this amendment and why this amendment is being brought, and let me provide a little synopsis for the members' edification of the budget debate that we are about to have that this amendment relates to.

"As we all know we have to provide a balanced budget for the next two years, beginning July 1 of this year. As we all know we have some increasing revenues, although they are extremely uncertain. There is certainly a strong possibility that the revenues will not continue to increase.

"But we all know that we have increasing demands on the expense side. That presents us with a really basic problem because the problem that we have is that for the most part we want to find ways of funding lots of programs and other items that we feel are important whether they range from education, teacher's salaries, other public employee pay raises to other needy programs. Yet I think we have made the decision overall not to try to balance the budget on the tax increase side, although we have certainly very heavily debated tonight tax revenue proposals.

"We have by our actions tonight evidenced a complete disregard of the third option which is to provide increased government efficiency through items such as further civil service reform or privatization. So, that leaves us on the expense side.

"Now the Governor comes along and says, we cannot afford to provide \$600 million dollars worth of public employee pay raises and this executive branch believes that there are programs that we have neglected for the last couple of years that we should fund. Those for the poor, those for the needy and those for the environment.

"Now the response from the Legislature and this House which appears to be focused more on paying for the public employee pay raises is, okay, we're going to whittle down the Governor's..."

Representative Souki rose on a point of order, stating:

"Is the Representative speaking on the amendment or the budget that is yet to come?"

Representative Case stated:

"I will assure the Speaker Emeritus that I am speaking to the amendment and I'm rapidly arriving at the point."

The Chair responded, stating:

"Okay, will you please confine your amendment to the \$27.5 million dollars of the general fund for computers?"

Representative Case continued, stating:

"Yes, I will do that.

"Now one of the problems that we have is that one of the ideas put forward by the Governor that we all think is a great idea is to appropriate \$27.5 million dollars to provide for the computers in the schools and we certainly don't want to say no to that part of the Governor's message.

"But, the problem is, that's \$27.5 million out of the general fund. That's \$27.5 million dollars less that could be allocated to other things that we want to do such as public employee pay raises. So, where is this solution that we come up with? The solution that we come up with, is to take this out of the 'rainy day' fund. Out of the Emergency and Budget Reserve Fund.

"My objection is that it is an incorrect use of the Emergency and Budget Reserve Fund. My contention is, if you're going to put \$27.5 million dollars up on the priority list, then let's deal with it in the general fund. Right up front honestly and take our medicine in terms of the consequences of that to other programs.

"Now, let's look at the Emergency and Budget Reserve Fund and the purposes for which we provided for it. We set it up some years ago using the tobacco settlement monies. So it's certainly for many perhaps the new 'slush fund' out there. It's certainly something they want to get at and get in the bill to which this amendment is addressed.

"Under the reserve fund statute, for example, we've supposed to use the 'rainy day' fund. We're trying to provide for counter cyclical economic and employment programs in periods of economic downturn. Well that doesn't really fit the situation here at appropriating monies from that fund for \$27.5 million in computers.

"Another purpose of the fund is to restore facilities, destroyed or damaged, or meet other emergencies when declared by the Governor or determined to be urgent by the Legislature. Well I guess someone can maintain that the \$27.5 million is urgent, but I don't think it is urgent.

"But we know that we are restricted from using the Emergency and Budget Reserve Fund for certain items, one of which is to fund cost items in any collective bargaining contract. So, we can't take the money out of the reserve fund to fund these pay raise, but we can certainly take the money out to fund other provisions, thus freeing up money to provide out of the general fund for pay raises, except I think that is an improper use of the Emergency and Budget Reserve Fund.

"So this amendment simply says, okay, you want to pay this \$27.5 million, leave the 'rainy day fund' alone. This isn't a suitable use of the fund, but if you really want the computers, but let's appropriate the \$27.5 million out of the general fund. So, that is the purpose of the amendment."

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

"On Second Reading which we had on February 13th we had a lot of discussion regarding textbooks and computers. Also with the Governor's State of the State Address the need called for spending \$21 million, but this bill calls for \$27.5 million for new computers and to bring down the ratio of students to computers from 6 to 1 to 4 to 1.

"The Governor also introduced to the Chamber that day, the students from Kapolei Elementary School and their Technology Coordinator, Michael O'Connor, for their achievement in a national computer competition called Inquest Junior. They won a top simulation award in the nation with their interactive sight entitled: 'Values, making choice for life'.

"Everyone recognized the value of this technology, but in order for these students to be proficient in the use of computers we need the master, the teachers, to teach and we need to fund collective bargaining as a whole entity. This includes the teachers, principals, vice principals, etc.

"Until the Governor informs the Finance Committee or the Legislature that a settlement has been reached or not, the process continues. I hope there's some kind of indication prior to Final Decking on fiscal bills on April 28th.

"The source of funding revenues for this program can be determined whether it is emergency, budget or general funds. As the Speaker from Manoa indicated, regarding Act 304, which he explains about the tobacco fund, funds to appropriate this bill should be from the general fund. But what we have is a 'work in progress' budget document that is a way the funding for now is to be appropriated out of the emergency and budget reserve fund for fiscal year 2001-2002.

"This is a one time cost item. Therefore, Mr. Speaker, I'm asking my colleagues to vote down this amendment. Thank you."

Representative Hale rose to speak in opposition of the measure, stating:

"The point is, Mr. Speaker, I have a niece who is married to the superintendent of schools in Ashland, Oregon and he happened to be visiting us the first week of the Legislature and this bill was pointed out to him. He warned me and said, be sure that if you're going to buy computers you make sure that you have money to repair them. Because in his school district

they had hundreds of computers that broke down and there was nobody to repair them.

"So, that is one of my objections. I think this bill does not address the real problem and therefore I will vote against it. Thank you."

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

"I would like to say that H.B. No. 179, is for computers in public education.

"Mr. Speaker and colleagues, for all of you this is a priority for education because informational technology is an enabling technology that affects both the future of education and the economy of our performance. With this measure we are making students our priority definitely, but providing the necessary tools and the funding to update the entire system of technology.

"Let us enhance our children's education and not leave their future to chance. There is a question because we are using emergency and budget reserve revenues, let me say that this infusion of cash for the computers is a one time cost item in order to maintain the level of service for a priority need. The funding base numbers for the computers are \$3,628,915 already in the base and this proposal adds \$27.5 million. So there's enough money for computers for the entire system.

"I think because this is a one time cost item to maintain this priority we are in favor of it. Thank you very much, Mr. Speaker."

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

"One of the previous speakers talked about the current bill prior to the amendment being a "work in progress" and for that matter it should simply be rather than a 'rainy day' appropriation or a general fund appropriation they can put a dollar amount in it.

"I support appropriating money for computers in schools, "motherhood, apple pie and all of the good things" out of the general fund because we do rate them as priorities. They are important and that's the discussion we should be having. It's just the measure that we're trying to amend which chills me when it comes to the "rainy day fund". We can talk all we want about whatever item being a one-time cost. Every worthwhile and noble idea and program that we have to appropriate funds for can be a one-time cost.

"I think the way to pay for this is out of our general fund and I go back to the Emergency Budget Reserve Fund and the problem there, although it requires a super majority approve an appropriation even though it may fit into the description of the statute for what the appropriation is for, is in itself illusory because that law itself can be amended by a simple majority.

"So, there's really no 'safeguard' when it comes to that Emergency Budget Reserve Fund and again, as I have been saying all day, it's an inappropriate use of our resources. With regard to textbooks and computers and everything in our schools, let's look at it from the general fund and let's put it on a list and have a good discussion and decide what our priorities are. That's our task. Thank you."

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

"Couple of high schools were mentioned in the 'Think Quest Program' and it is very new and innovative and I'm for computers. In fact I have five personal computers all networked together. I thoroughly support computers and I always have.

"In fact I helped invent the internet so I've been very involved for many years. I don't think this is the way to pay for this. First of all, I have schools in my district that are brand new. Kapolei High School, Kapolei Elementary School and Kapolei Middle School, they all have computers and they use them. I also have some of the oldest schools in my district, sixty years old. I have another one that is thirty-five years old, they don't have computers and they don't have the wiring to support it. They can't even put in the air conditioners that we got them as donations because they can't afford anyway to put in the wiring to run them. They don't have the electricity. They don't have room for the computers.

"So, I'm all for the computers. But, first we have to fix the school buildings. We have to wire them, upgrade them, keep the termites out, keep the flies out. We have to make the schools good for our children. We have to give them books to read. Then we can get the computers and we have to provide those computers out of the general fund and we have to show we mean business. Not talk about it, we have to do it. We have to give them everything they need before that. They have to be able to be supportable. They have to have teachers who understand how to use them and can instruct the students on how to use them. Thank you."

Representative Thielen rose in support of the amendment and asked that the remarks of Representative Moses be entered into the Journal as her own, and the Chair "so ordered".

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

"I believe that the money should come out of the general fund."

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

"I'll keep it brief, Mr. Speaker, actually most of the discussion that we heard on this amendment if you listened carefully was out of order.

"The amendment before us isn't whether to fund or not, it's basically the funding mechanism. As the Speaker will note we are dipping into what has been commonly termed as the "rainy day fund". Earlier in this long session we had another bill addressing this and one of the statements from the Member from Kahului was that, don't worry about putting money into the "rainy day fund" it will take strong catastrophic reasons before we would use the money.

"Mr. Speaker, I do not see this as strong catastrophic reasons. Whether or not to fund computers is a subject that we are all in agreement. But whether or not to dip into the "rainy day fund" to do it is another. This need has been before us in the past and there have been bills in the past to fund it, textbooks have been an ongoing problem for a long time, it's nothing that suddenly befallen us that we are in need to dive into this Fund that is supposedly set aside for emergency situations that are catastrophic and dire and we need it to stay afloat.

"The fact to the speeches that I have heard in opposition to this motion to amend don't even deal with that. Merely talking about the need to support education and for the computers is exactly my fear in establishing this fund and it basically

becomes another area where we stash funds and use it for what we want to.

"The point of this, Mr. Speaker, is that we need to ask ourselves, is this issue strong catastrophic, something that has happened to us that we could not predict, could not deal with, without going into this fund, this life saving fund, to keep our State afloat? Is this one of those issues? If the answer is "no" then the amendment should pass and we should fund this out of our general fund. Thank you, Mr. Speaker."

At 6:42 o'clock p.m. Representative Fox asked for a recess and the Chair declared a recess, subject to the call of the Chair.

Upon reconvening at 6:55 o'clock p.m., the Vice Speaker took the rostrum.

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 to adopt the amendment to H.B. No. 179, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 28: Abinsay, Cabrereros, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 22: Ahu Isa, Arakaki, Auwae, Bukoski, Case, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen.

Excused, 1: Schatz.

At 6:58 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 6:59 o'clock p.m.

(Main Motion)

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

"Madame Speaker, I rise in opposition not because I don't believe we need computers, I believe we do. I rise on a very principled reason, and that is that we passed a law earlier that said this "rainy day fund" would require a two-thirds vote of the House before we would make any expenditures.

"If you look at the numbers, our Members can clearly see that there are not two-thirds of the vote to pass this bill out. If that was what the discussion was about during the recess, discussing whether or not it took a two-third majority or whether it was a simple majority to dip into the "rainy day fund" and the House attorneys feel that it's just the majority and that's how it's going to be done.

"However, those in the House who voted for the "rainy day fund" and who vote for it in the past, one of the reasons that was given to us was that it would take a two-thirds vote. But the reasons for it was given in my prior speech so I will not reiterate them. But for those of you who have any ounce of

integrity or courage to stand up for what you've given your word for will do this besides that fact. Because it is obvious that there aren't two-thirds vote to pass this bill.

"It was promised that before we would expend any of this money that we would require a two-thirds vote. Although legally, and I'm one of them so I'm not pointing any fingers and don't bounce back at me, if we follow the lawyers, we don't need to keep our promise, we'll spend it with the simple majority because that's all we need. Who cares about the law we passed.

"Go ahead and vote for this bill. If you have the character and conviction to stand up and follow what we said we were going to do, then as a matter of principle your vote should be "no" on this bill. Not because computers aren't important, but because we told our constituents in our newsletters and in our compilation of the last session is that the "rainy day fund" is something that we will reserve for emergencies. We could not foresee something that will keep us afloat when basically the roof caves in and the rain is pouring down on our heads and we did not have any idea that this was going to happen and even to spite that, it would take two-thirds vote in the House before we can reach into that fund to spend the money.

"I urge my colleagues to have the integrity and the courage, although legally we can just pass a law with a simple majority, to have the courage and the conviction to stand by what we said and look at the numbers and realize that there is not a two-thirds vote to pass this and vote "no" as a matter of principal. Thank you."

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

"Madame Speaker, two years ago we passed a law that says the "rainy day fund" can't be touched unless two-thirds of the people vote to take money out of it. In the first test to that law we blow it away. I cannot imagine something that would be more clear to demonstrate to the public that there is cynicism about the way the Legislature operates is warranted. The law says, it takes two-thirds to appropriate money out of this fund and this whole body knows that a two-thirds vote doesn't exist to remove money from the "rainy day fund".

"The way to finance textbooks is through the general fund and I just can't imagine that in the face of such a clear thing, something in print, that specifically says, this is the law of the State of Hawaii. It takes a two-thirds vote to tap this Fund. Two-thirds does not exist and yet the Legislature proceeds to go ahead as if we have no memory, as if we cannot read, it is truly unimaginable. Thank you, Madame Speaker."

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

"I will be casting a "no" vote on this measure and not because of the computers, but basically because of the method of funding.

"I think as your Health Chair, I would like to remind everyone about the genesis of the Fund. It took a lot of work, not necessarily by me, but by my predecessor and his counterpart in the Senate, to put together the formula and to devise a compromise that everyone could accept took a lot of work. It took two years and there was a purpose for creating this "rainy day fund" as well as a purpose for creating funding for other programs as well.

"I would like to remind everyone that the genesis of this Fund, tobacco settlement, was because of the enormous health cost that was being incurred by the States and because of the

settlement against the tobacco companies. Right now if we talk about a crisis, I think the crisis is in health care. I think there is a better nexus between funding some of our health needs rather than computers.

"A few weeks ago I argued against using the funds for substance abuse programs that the previous speaker proposed. Even at that there was a better nexus between utilizing this fund for that purpose. So, Madame Speaker, to be consistent and again, like the previous speaker has said, to hold integrity of not just this body, but previous Legislatures who worked so hard on these measures. Let's uphold that principle. Thank you, Madame Speaker."

At 7:06 o'clock p.m. Representative Case asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 7:50 o'clock a.m.

Representative Takamine moved that H.B. No. 179, HD 1 be recommitted to the Committee on Finance, seconded by Representative Kawakami.

The motion was put to vote by the Chair and carried, and H.B. No. 179, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was recommitted to the Committee on Finance, with Representatives Arakaki, Espero, Kahikina, Marumoto, Nakasone, Schatz, Souki, Stonebraker and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 828) recommending that H.B. No. 180, HD 2, as amended in HD 2, pass Third Reading.

Representative Takamine moved that H.B. No. 180, HD 1 be recommitted to the Committee on Finance, seconded by Representative Kawakami.

The motion was put to vote by the Chair and carried, and H.B. No. 180 HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was recommitted to the Committee on Finance, with Representatives Marumoto, Nakasone, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 829) recommending that H.B. No. 1056, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1056, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I spoke earlier about a number of Public Employee Health Fund reform bills, which I felt adequately and forthrightly addressed the problem in the Public Employee Health Fund, and this is one of those. I again commend the Labor and Finance Chairs and their committees.

"My reservations have to do with the effective date of July 1, 2010, I know it is depicted as a matter of assuring further discussion. But again, I hope at one point this House would stand firm in terms of actual implementation of these quite good reforms and convert some ideals into actual action. 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. 1056, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," passed Third Reading by a vote of 47 ayes, and 1 no, with Representatives Rath voting no and Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 830) recommending that H.B. No. 594, HD 1, as amended in HD 2, 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. 594 HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTINUING EDUCATION COURSES AND COURSE PROVIDERS FOR INSURANCE LICENSEES," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 831) recommending that H.B. No. 614, HD 1, as amended in HD 2, 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. 614 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 832) recommending that H.B. No. 638, as amended in 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. 638 HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 1561, HD 2; 1056, HD 1; 594, HD 2; 614, HD 2; and 638, HD 1 had passed Third Reading at 7:54 o'clock p.m.

LATE INTRODUCTION

The following late introduction was made to the members of the House.

Representative Say introduced Mr. David Rolf who was seated in the gallery.

ORDER OF THE DAY UNFINISHED BUSINESS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 833) recommending that H.B. No. 1076, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 1076, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Garcia's remarks are as follows:

"This bill works in concert with the administration's proposal to divert low-level drug possession offenders into treatment. This bill would increase available substance abuse treatment to offenders who need treatment while incarcerated. Thereby strengthening the continuum of care required if a substance abuser is to have seamless access to care. This continuum is crucial to help maximize public safety.

"I would also like to thank the Chair and members of the Committee on Finance who have amended the original bill to include an appropriation for substance abuse treatment services at the women's community correctional center. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the Committee was adopted and H.B. No. 1076, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF PUBLIC SAFETY," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 834) recommending that H.B. No. 862, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and H.B. No. 862, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Representative Garcia's remarks are as follows:

"This bill will fund three social worker positions to staff intake assessment posts at out-island correctional facilities.

"The National Institute of Corrections recommended this step be taken. Currently the assessments are being done by line staff who are not professionals in social work. To help the Department better determine which inmates are at risk for suicide, having professional social workers are desirable.

"Furthermore, these same positions are also the first step in the process of determining what substance abuse treatment, if any, a newly-arrived inmate may need. 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. 862, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ESTABLISHMENT OF SOCIAL WORKER POSITIONS," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 835) recommending that H.B. No. 551, as amended in 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. 551 HD 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Third

Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 836) recommending that H.B. No. 282, HD 1, as amended in HD 2, 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. 282 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE COUNCIL ON DEVELOPMENTAL DISABILITIES," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 837) recommending that H.B. No. 1669, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1669, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Ito's remarks are as follows:

"I rise in support of HB 1669, HD 1, a bill for an act relating to National Board Certification for Department of Education teachers, which is part of the National Commission on Teaching and America's Future (NCTAF) Hawaii policy group's legislative package.

"This bill authorizes the Hawaii Teacher Standards Board (HTSB) to develop, implement and administer a support program for National Board Certification candidates in the Department of Education (DOE), and provides reimbursement of the \$2,500 application fee along with a bonus of \$5,000 every year the certificate is valid.

"Research shows that the most cost effective way to improve student achievement is to invest in the education of teachers. Many professions offer board certification for practitioners who demonstrate high levels of professional accomplishment. The National Board for Professional Teaching Standards, an independent, non-partisan organization, has established high and rigorous standards detailing what accomplished teachers should know and be able to do.

"Twenty-four (24) states and eighty-five (85) school districts recognize National Board Certification as a mark of high quality teaching. Many attach financial rewards. The NCTAF Hawaii policy group found there is a direct correlation between the incentives for board certification offered by a state, and the number of board certified teachers that state has. North Carolina has the highest number of board certified teachers with 2,407. Along with paying the application fee up front, they also provide a twelve percent (12%) annual increase to teachers who become National Board Certified.

"Hawaii now has five (5) National Board Certified teachers who have undergone the arduous process on their own. This bill will provide the incentives and support for Hawaii's teachers to participate in the National Board Certification process."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1669, HD 1, entitled: "A BILL FOR AN ACT RELATING TO NATIONAL BOARD CERTIFICATION FOR DEPARTMENT OF EDUCATION TEACHERS," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 838) recommending that H.B. No. 11, HD 1, as amended in HD 2, 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. 11 HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 839) recommending that H.B. No. 73, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 73, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's remarks are as follows:

"The purpose of this bill is to provide for homeless assistance. I urge my colleagues to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 73, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 48 ayes, with Representatives Marumoto, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 1076, HD 2; 862, HD 1; 551, HD 1; 282, HD 2; 1669, HD 1; 11, HD 2; and 73, HD 2 had passed Third Reading at 7:56 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 840) recommending that H.B. No. 175, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 175, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I must confess that I don't think I fully understand this bill. There is a tax credit in here that seems to be a 100% of all the high technology business ascertained to be worthless. It seems that the value of this is something like \$5 million dollars and this is two separate credits. One is worth \$5 million and this worthless thing is \$100,000 per year per company.

"It seems like a tremendous right off and a tax credit that's totally reimbursed to the company that is incurring this

worthless debt is a tremendous expenditure on the part of the industry and treasury to support and industry. I hope this was subject to a very full debate in Committee. I was not in Committee and was rather stunned by this bill. Thank you."

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

"I would like to summarize the words of Seiji Naya, the Director of DBEDT regarding this bill: "Some of this bill's provisions go too far. Although the State must do what it can to encourage high technology businesses and indeed other types of businesses it must do so in an economically and fiscally sensible manner. For example under Sections 2 and 5, the State would essentially cover the operating losses and bad debts of high technology firms. This provides bad economic incentives and can prove very costly to the State as well to the long-term health of Hawaii's economy. I would urge you to move cautiously in this area. We have already made significant errors in attracting high technology investment. The challenge we face is to encourage high technology activity without adopting excessive risk".

"Madame Speaker, I don't think I could have put it better myself. Thank you."

Representative Djou 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".

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 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 47 ayes, and 2 noes, with Representatives Halford and Rath voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 841) recommending that H.B. No. 118, HD 2, as amended in HD 3, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 118, HD 3, pass Third Reading, seconded by Representative Lee.

Representative Leong 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. 118 HD 3, entitled: "A BILL FOR AN ACT RELATING TO FAMILY CHILD CARE," passed Third Reading by a vote of 43 ayes, and 6 noes, with Representatives Bukoski, Davis, Djou, Halford, Moses and Ontai voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 842) recommending that H.B. No. 1339, as amended in 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. 1339 HD 1, entitled: "A BILL FOR AN ACT RELATING TO WATER SUPPLY BOARDS," passed Third Reading by a vote of 48 ayes, and 1 no, with Representative McDermott voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 843) recommending that H.B. No. 1385, HD 2, as amended in HD 3, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1385, HD 3, pass Third Reading, seconded by Representative Lee.

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:

"This bill requires our regulated electric utilities to buy, at retail prices, all power generated by "eligible consumer-generators." The purpose of this bill is to encourage renewable energy generation systems by guaranteeing them they can sell their excess power to the electric utilities.

"The flaw with this bill is that our electric companies are required to buy this power at the highest cost – the retail price. The utilities pass all their costs on to consumers, with a profit markup as allowed by the Public Utilities Commission. The net affect of this act will be to increase everyone's utility bill. Everyone of us will pay more in order to encourage renewable energy systems.

"Whenever we pass a law that increases the cost to consumers, we should view it as a tax. Although encouraging renewable energy systems is attractive to me, forcing our constituents to pay the highest possible price for electricity is the wrong thing to do in our current economy."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1385, HD 3, entitled: "A BILL FOR AN ACT RELATING TO NET ENERGY METERING," passed Third Reading by a vote of 48 ayes, and 1 no, with Representative Kanoho voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 844) recommending that H.B. No. 568, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 568, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Another very good Public Employee Health Fund bill. Probably in the future what the Public Employee Health Fund will look like when we have a joint union-employer trust fund. Certainly the best overall option for arriving at some minimally acceptable and effective solution that is satisfactory to both public employees and to the State and the counties as employers.

"So, I have no problems and commend again the Labor and Finance Chairs for taking some leadership in this area. Wrong effective date again; 2010 obviously doesn't cut it. We need this in place no later than one to two years from now to really avoid the financial consequences that we otherwise face. Thank you."

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

"As a taxpayer and an advocate for workers rights, I support House Bill 568, House Draft 2 Relating to the Public Employees' Trust Fund. There is no doubt that the current Public Employee Health Fund will be extremely expensive in the years ahead. It is estimated that, if trends continue, the taxpayer's cost will be \$953 million dollars in the year 2012. To insure taxpayer's ability to support the Fund, creating an administrative board would be the first important step to initiate much needed reforms recommended by our Legislative Auditor.

"According to the Legislative Auditor, the current Public Employees Trust Fund should: 1) consolidate the health fund program and union programs, 2) give the Board of Trustees more flexibility and power; and 3) assure that the Board of Trustees has equal representation of employees and employers. In compliance with the Auditor's recommendations, House Bill 586 HD 2 will take these steps to improve the administration of public workers' health benefits while seeking the most cost effective plan for their services.

"House Bill 568 HD 2 will create a new governance system for health benefits that is more flexible and fair for workers and employers. It will be a single, unified health benefit system with a board of trustees that has more authority and flexibility. This will permit the proposed employer-union trust fund to respond to the quickly changing conditions of the health care market. The new board of trustees, as proposed in House Bill 568, will have equal representation for public workers and State and city officials.

"The bulk of the interested parties have all given their approval to this measure. The Department of Budget and Finance, United Public Workers, the City and County Department of Human Resources, and Government Employees Association all testified in support of this bill. They feel, as I do, that House Bill 568 will provide the needed reforms to keep the Public Employee Health Fund both affordable and effective."

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

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

Representative Leong's remarks are as follows:

"Mr. Speaker, I rise in opposition to HB 568, HD 2. The replacement of the Hawaii Public Employees' Health Fund with the Employer-Union Health Benefit Trust Fund that this bill accomplishes, misses the point of the real problem in providing health fund benefits. The problem remains that the employer controls the purse and the employer decides the coverage in the name of the employee.

"For a solution to this problem that is fair and responsive to the person it was set up for, the employee, the benefits need to be provided by someone working in the employee's best interest. The Hawaii State Teachers Association also opposes HB 568, HD 2, for this reason. As in the private sector, the employer must get out of the business of providing health fund benefits to its employees and allow the union to provide benefits to its members.

"HB 568, HD 2, has the 'mongoose guarding the henhouse'. Only when the union members have their union representatives providing benefits will this situation change. I will be voting no on HB 568, HD 2."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 568, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEE HEALTH BENEFITS," passed Third Reading by a vote of 48 ayes, and 1 no, with Representative Leong voting no and Representatives and Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 845) recommending that H.B. No. 733, HD 1, as amended in HD 2, 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. 733 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 846) recommending that H.B. No. 1058, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1058, HD 1, pass Third Reading, 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:

"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 worker's compensation. Now as medical care leaps forward in advancement so do the costs. Health benefits are now considered an extremely important part of a worker's 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 or raising taxes.

"The purpose of this bill is to create an Employer-Union Health Benefit Trust, a system and as a definite budget within 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 type 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.

"Specifically, this bill provides for a ten-member Board of Trustees, five representing employee organizations, including one retiree, and five members representing public employers,

including the Directors of Human Resources Development and Finance and one representative of the counties on a rotational basis. The Board is required to provide quality health and other benefit plans at a cost affordable to both public employers and public employees.

"It is always a hard choice to change things in an institution, but as the needs of people are changing so must the organizations that serve them. This bill is taking a step in the right direction to allow better use of the funds monies and more flexibility in cost management. This needs to be passed on Third Reading to keep the discussion alive to help the State and its workers meet the challenges of the new millennium. Only by being visioneers can we make the State a better place than when we came here. Let us look forward on how are actions will be seen by the future and let them remember us with pride for doing bold action and not in shame for continuing to do nothing when we clearly saw the problems ahead."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1058 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC EMPLOYEES HEALTH FUND," passed Third Reading by a vote of 48 ayes, and 1 no, with Representative Souki voting no and Representatives Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 175, HD 2; 118, HD 3; 1339, HD 1; 1385, HD 3; 568, HD 2; 733, HD 2; and 1058, HD 1 had passed Third Reading at 8:03 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 847) recommending that H.B. No. 544, as amended in 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. 544 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 46 ayes, and 3 noes, with Representatives Jaffe, Meyer and Rath voting no and Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 848) recommending that H.B. No. 633, as amended in 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. 633 HD 1, entitled: "A BILL FOR AN ACT RELATING TO FUNERAL ASSISTANCE PAYMENTS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 849) recommending that H.B. No. 647, HD 1, as amended in HD 2, 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. 647 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DISABILITY AND COMMUNICATION ACCESS BOARD," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 850) recommending that H.B. No. 689, as amended in 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. 689 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FOREST STEWARDSHIP PROGRAM," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 851) recommending that H.B. No. 663, as amended in 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. 663 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATEWIDE NEWBORN HEARING SCREENING PROGRAM," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 852) recommending that H.B. No. 502, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 502, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Allow me to thank the Finance and EDB Committees, the ILWU, Pacific Resources Partnership and especially Speaker Say for his personal involvement on this measure which has enabled this bill to move forward and to come to the Floor for Third Reading. Thank you very much on behalf of hundreds of small businesses in Hawaii.

"This bill simply exempts the 4% GET tax on payroll which is processed by an intermediary professional organization. Please keep in mind that normal payroll is not subjected to the 4% GET. This is a bill that would help hundreds of small businesses to continue to operate efficiently and cost effectively and at the same time ensuring that these businesses will comply with rigid State and Federal reporting mandates, such as payroll and FICA taxes, workers' comp and unemployment and insurance premiums, health care deductions, including, medical, hospital, dental, vision and drugs, retirement contributions, sick leave, etc.

"There are actually more than 700 small businesses in Hawaii where their payroll and payroll related activities are prepared by a professional management organization. Each business averages nearly ten workers for a total of seven thousand employees. Annual payroll is conservatively estimated at more than \$100 million.

"With the passage of this bill these numbers are expected to dramatically increase. Meaning that efficiency and cost effectiveness as well as the overall productivity and prosperity of Hawaii's small businesses will continue to increase. In fulfilling its contractual payroll responsibilities the professional management organizations renders all payments from its own financial accounts. The client company, that is the small business being served, subsequently pays a professional management organization for the services performed as well as the payroll disbursements to its employees.

"This bill simply clarifies that the payroll reimbursement will be exempted from the 4% GET. This is most appropriate because: 1) the payroll would not have been subjected to the 4% GET tax if paid by the employer; and 2) precedence has already been established by exempting hotels, communications and other operations utilizing intermediary management organizations from the 4% GET tax on payroll pass through.

"The 4% GET is applied to the fee for the services performed. This bill does not exempt the payroll of contracting temporary employees, such as 'Kelly Girls', where the full amount including pay is subjected to the 4% GET. Another very important point is that this bill does not diminish, but in fact enhances collective bargaining arrangements. It also provides additional protection for the involved employees through the umbrella of the professional management organization.

"In addition to operating efficiency and cost effectiveness this arrangement relieves the small businesses of all the headache, time consuming and worrisome paperwork. Time and effort can be focused on the work itself.

"I need to clarify that most of the GET taxes on the payroll pass through are not now being paid. But if required to do so by the letter of our law, it would kill this entire concept. Because the GET tax itself would exceed the fee for the payroll services being performed. Clearly, Members, this bill is one of the important small business measures of this session and I ask your support in ensuring its passage. Thank you, Madame Speaker."

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

"My objections or reservation relates to the language in the bill that has nothing to do with the purpose of this bill which grants a general excise tax exemption to professional employment organizations. My objection is especially to the 'draconian penalty' that voids a tax exemption of any PEO based on, and I am reading from the bill, "written notification of any violation of this section to the Department of Taxation by any union or the Department of Labor and Industrial Relations shall be sufficient to make this exemption inapplicable". This means that any PEO by mere receipt or a written notification has their tax exemption void. My understanding per testimony from DOTAX that's it is a void from the very beginning.

"DOTAX stated in their testimony that this section of the bill causes them great concern in the Administration of this provision on the mere receipt of written notification which may or may not have any basis in fact. As this bill moves forward I wish we can continue working on it and get this provision removed. When it went to the first subject matter Committee, we amended this bill by removing this and other language that has absolutely nothing to do with the general excise tax exemption. But in the final committee it was inserted back in because the proponents of this bill feared the opponents of this bill. Thank you."

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

"I would concur with the remarks from the previous speaker and his comments certainly raised my eyebrows. I am curious with regard to the 'draconian' nature of the penalty provision and in particular it is a curiosity as to why the Department of Labor and Industrial Relations seems to have some say in a tax riveted issue. Thank you."

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

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

"It's on the grounds of the matters that the previous speaker brought up. I haven't located that in the bill, but it is referenced on page 2 of the Standing Committee Report, item number 4.

"If in fact that remains in the bill, I may actually vote "no" at some future point. But that is of grave concern. Thank you."

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

Representative Marumoto rose to in support of the measure and asked that the remarks of Representatives Kanohe and Suzuki entered into the Journal as her own, 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 2, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYMENT ORGANIZATIONS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 853) recommending that H.B. No. 1666, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 1666, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Again, this is yet another example of yet another bill creating another special fund and putting another big chunk of our budget on 'auto pilot' and I believe we are ceding too much control away from the Legislature and that is why I am standing in opposition to this bill. Thank you."

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

"Madame Speaker, this bill relates to the repair and maintenance of schools. Right now there is a backlog of repair and maintenance projects for public schools across the State and it is estimated at more than \$640 million.

"In recent years the average of only \$22 million a year was appropriated for the upkeep of the elementary, intermediate and high schools, even though they required estimated \$66 million in maintenance each year. The consequence has been that the deterioration and digression of each campus compound with each passing year.

"This bill addresses this problem by establishing a school level minor repairs and maintenance special fund. Taxpayers may donate through a check-off on their tax return to the special fund. Some may ask why there needs to be a special fund. A special fund is needed for a mechanism for deposit and appropriation of funds. If there were no special funds the

check-off would go to the general fund and not be dedicated to the school repair and maintenance fund. H.B. No. 1666 allows taxpayers who would not be able to donate time or sweat equity to help directly with the R&M Program. There are about 787,000 single and joint tax filers and if half use the check-off or about 425,000 the special fund could be about \$850,000 in the first year. I urge the members to support this measure. Thank you."

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

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

"As you heard it's another special fund. I'm also concerned that once we have a special fund I'll hear, well if the people don't care enough about it to donate their two dollars then we don't have to take money out of the general fund to fix the schools. Again it's just a way out.

"As you heard from the previous speaker, we are \$640 million behind in repairs. How long will that take at two dollars a piece before we can fix our schools? Thank you, Madame Speaker."

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

"First of all, this bill is augmenting any additional general funds that we appropriate for the renovation of schools. In addition, to this one important point on page 5 of the HD 2, any general fund or special funds appropriated for this purpose shall be re-credited in the subsequent fiscal year to each of the respective accounts. I think we've heard from all of our schools telling us that the \$8,000 that they get every year they need to keep it in. There is some concern of having it lapse into the general fund and this bill would fix that problem. 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. 1666 HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE REPAIR AND MAINTENANCE OF SCHOOLS," passed Third Reading by a vote of 47 ayes, and 2 noes, with Representatives Djou and Ontai voting no and Representatives Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 544, HD 1; 633, HD 1; 647, HD 2; 689, HD 1; 663, HD 1; 502, HD 2; and 1666, HD 2 had passed Third Reading at 8:17 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 854) recommending that H.B. No. 730, as amended in HD 1, pass Third Reading.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 730 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 855) recommending that H.B. No. 685, as amended in 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. 685, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF VESSELS BY

THE DEPARTMENT OF LAND AND NATURAL RESOURCES," passed Third Reading by a vote of 47 ayes, and 1 no, with Representatives Meyer voting no and, Representatives Rath, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 856) recommending that H.B. No. 584, HD 1, as amended in HD 2, 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. 584 HD 2, entitled: "A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 857) recommending that H.B. No. 636, as amended in 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. 636 HD 1, entitled: "A BILL FOR AN ACT RELATING TO REIMBURSEMENT FOR NONINSTITUTIONAL PROVIDERS OF MEDICAL CARE FOR SERVICES," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 858) recommending that H.B. No. 301, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 301, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I am in opposition to the public display fireworks bill. You've heard me countless times that through this law the consumer area fireworks get into the State legally is but one reason I am voting no.

"Another is that we are allowing through this bill, the storage of a twenty-four month supply, not a six month supply but a two year supply, of fireworks. Now, I know that there is some reference to the amount of inventory that someone is expected to sell in that period. This bill does not refer to the time one can store fireworks but the amount that one can store and sell.

"So, if I'm a dealer, importer, wholesaler or retailer I could show the fire department one case or one or two container loads and say that this is my six or twenty-four month supply. The amount hardly matters since the fire department will probably will not come around after that period to check on how much of the firework were sold.

"We hardly need this bill to control inventory because we cannot easily determine what is someone's six months supply from a twenty-four month supply. I would like to point out that there is a discrepancy that we are creating with this measure. The State gives out licenses for importation or wholesaling and storage for one year. But now we are allowing for a three year inventory. So the Fire Department suggest that we allow only a one year inventory to correspond to the license period.

"When it comes to fireworks I will listen to the Fire Department. Thank you, Madame Speaker."

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

"I'm concerned too that we are storing firework aerals. They could be used long beyond the period the importer or the store is licensed. I'm concerned about improper use of fireworks. As I mentioned before my son was hit in the eye with an aerial and he is going under an operation in about two day. This has ruined his military career. He was going to be a pilot.

"I think it is very, very dangerous and I have no opposition for the proper use of fireworks but I do when we're talking about the improper use. With this measure we can no longer assure the proper use. Thank you, Madame Speaker."

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

"While I agree with most Members that the public displays are beautiful and that they are done in a safe manner, my problems are with the storing, and when you allow the storage of a twenty-four month supply to be stored you compound the problem. It's like a bomb that is just waiting to go off.

"Most fire departments feel that this is where the problem areas are, in terms of storage and not too much in terms of display. There are a lot of unsafe practices and some of the places that these fireworks are stored in we don't even know about until we get dispatched by alarm. For those reasons I will be voting No. 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. 301, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC DISPLAY," passed Third Reading by a vote of 32 ayes, and 16 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, McDermott, Marumoto, Meyer, Moses, Pendleton, Stonebraker and Thielen voting no and Representatives Rath, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 859) recommending that H.B. No. 432, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 432, HD 2, pass Third Reading, seconded by Representative Lee.

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

"The Millenium Workforce Training Program is a good one, but it's just my own opinion that these monies would be better directed toward increasing teachers salaries or for textbooks rather than this program that's why I am voting No. Thank you."

Representative Ahu Isa rose to speak in strong support of the measure, stating:

"The Millenium Workforce Development Program is part of the whole picture of getting our expatriates back to Hawaii. We always complain about the 'brain drain' from Hawaii. This program shall provide education and training at the post high school to graduates levels and shall include public, private and for profit educational institutions.

"We should have this program as I said before. As an apprenticeship interim program where our students in high tech at the graduate level and post-high school level can work with the high tech companies, and it can go hand-in-hand with what my Representative here from Kaneohe says is important. 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. 432, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE MILLENNIUM WORKFORCE DEVELOPMENT PROGRAM," passed Third Reading by a vote of 45 ayes, and 3 noes, with Representatives Djou, Fox and Jaffe voting no and Representatives Rath, Schatz and Whalen being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 860) recommending that H.B. No. 469, HD 1, as amended in HD 2, 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. 469 HD 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL PERSONNEL," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 730, HD 1; 685, HD 1; 584, HD 2; 636, HD 1; 301, HD 2; 432, HD 2; and 469, HD 2 had passed Third Reading at 8:25 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 861) recommending that H.B. No. 472, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 472, HD 2, pass Third Reading, seconded by Representative Lee.

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

"It seems to be very difficult for the Majority to get their hands around the idea that the private sector might in fact support something. What we come into is something that's some sort of weird animal that is created for the sole purpose of carrying out this program. It's actually constituted in the law. This is called the 3 "R". Let's call it an organization. The 3 "R" organization. They become the sole beneficiary of the State's contract to work on this repair and maintenance trust and then the 3 "R" outfit goes out and decides who they want to give the money to that's administered under this program.

"This really gets away from the idea of working directly with the companies to bring them into the school. The model was actually in your area, it was Roosevelt School, and you got some private companies that came into the area and they fixed up the school. Somehow when we moved to that we get this unbelievable 3 "R" organization which operates as the 'middle man' and looks very much like a political thing to make sure that the right people are involved, the right people get rewarded and the whole thing is kept away from the private/public partnership that one should really be supporting.

"This is a very weird looking animal and therefore I have very grave reservations about it. Thank you, Madame Speaker."

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

"Madame Speaker, this house bill represents an unprecedented partnership of State and federal government, private businesses and individuals who share the belief that Hawaii's youth need and deserve safe and decent facilities as a part of their learning environment.

"If we believe that the future of Hawaii rests in the well-being and education of our youth, then we must all invest in the repair and maintenance of our schools. Under this bill, a program will be established under the Department of the Accounting and General Services to work with a truly innovative and non-profit organization called the Hawaii 3-R's. 3-R's stands for 'repair, remodel and restore' our schools.

"This fund will be managed by the Hawaii Community Foundation. Together with America's Promise, Hawaii 3-R's will coordinate community, businesses and government resources to tackle the backlog. This bill also provides for an appropriation for federal funding and private contributions, both in dollars and 'sweat equity'. Every person in our State has something to contribute.

"In addition this bill provides for a tax credit for donated in-kind services of contractors, architects, engineers and a technical engineer coordinator at DAGS. The bill is needed to ensure that the job standards of DAGS, even if the work is done by volunteers and professional volunteers, meets with DAGS requirements. The new position is also needed to help ensure that resources of both Hawaii 3-R's, DOE and DAGS are used efficiently and effectively for the greatest possible returns.

"To perpetuate the spirit of "ohana" that distinguishes our community from the rest of the world, we must take action together to maximize all of our available resources, financial and otherwise, and reduce the repair and maintenance deficiencies that currently exist in our schools. State government can't do it alone. This bill brings all of the resources of our "ohana" to bear on the problem so vital to our keiki's in our schools.

"I ask and urge your full support on this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 472, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOLS," passed Third Reading by a vote of 46 ayes, and 3 noes, with Representatives Djou, Jaffe and Rath voting no and Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 862) recommending that H.B. No. 1287, as amended in 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. 1287 HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 863) recommending that H.B. No. 1089, HD 1, as amended in HD 2, 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. 1089 HD 2, entitled: "A BILL

FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 864) recommending that H.B. No. 369, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 369, HD 2, pass Third Reading, seconded by Representative Lee.

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

"This bill deals with special purpose revenue bonds for an environmental recycling technologies company. This is a company that proposes to build a plant to re-refine used motor oil.

"We do have a problem with what to do with used lubricating oil. In the past most, waste oil was burned by various sugar mills, but as the mills shutdown there were fewer place to dispose of waste lubricating oil. It has reached an epidemic or problem right now. Of course you know that if you pour oil on the ground it is considered a hazardous waste and you can't do it. We don't want find it in our streams and beaches. We don't want people to drop their used oil on the ground and letting it seep into the ground.

"My concern on this bill is that they are asking for \$2.5 million which is not going to build a very big plant. I think we all like the idea of taking a resource and using it over and over again like a perpetual use and no waste and you take something that is a problem and turn it into something positive. If we're looking to solve our used oil problem with this plant, I think we are putting 'all of our eggs into one basket' and that could be a problem, because: 1) they may never build it; and 2) it may not be able to use or re-refine the oil that we have. We have a lot of oil sitting in 55 gallon drums in various places and we can't count on it all being handled at this particular facility.

"What we really need is a multi-pronged approach to address the millions of gallons of waste lubricated oil that we generate every year. What I'd like to see is that we go back to letting some of the sugar plantations, Wailua is one that they have been trying for about five years to get a permit, to go ahead and burn used motor oil to create electricity. This is something that they did when they were in full operation, but they have not gotten a permit up to this date. I have a document here from Willie Nagamine from the Department of Health that says, that AES is serious about burning used oil and will be changing the burner tip or adding a new one to start burning possibly in May. There are a number of electric facilities on Maui that are using used oil. Of course, they all burn their own oil because they know where it comes from. They are concerned about liability if they are to take oil from an outside source, they have in the past and it's something that they could do again.

"I guess what I'm trying to say is in the Energy and Environmental Protection Committee we heard of a lot of bills dealing with used oil, and I was somewhat disturbed because it seemed like the Department of Health, or at least the people that testified, seem to come from a point of view that this oil is just a huge problem and we must find a way to re-refine it or we're just going to drown in it. When in truth there are many other places and burning it is one of the things we can do and it will create electricity and take care of a very large problem. 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. 369 HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Third Reading by a vote of 47 ayes, and 2 noes, with Representatives Auwae and Bukoski voting no and Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 865) recommending that H.B. No. 542, as amended in 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. 542 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FEE SIMPLE RESIDENTIAL REVOLVING FUND," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 866) recommending that H.B. No. 786, as amended in HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 786, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's remarks are as follows:

"The purpose of this measure is to make an appropriation for a donated dental services program for the elderly, persons who have a disability or mental illness, or are homeless, through the Foundation of Dentistry for the Handicapped."

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

Representative Meyer's remarks are as follows:

"This bill appropriates funds for a statewide donated dental services program by the National Foundation of Dentistry for the Handicapped. This program will provide dental care to a neglected sector of the population - the elderly, those with a disability or mental illness, and the homeless. These people often have no dental benefits, and cannot afford routine dental care. They wait for a dental problem to become a medical emergency - for which they can seek treatment. The result is often pain, infection, and the loss of teeth.

"The National Foundation of Dentistry for the Handicapped runs a donated dental service program - volunteer dentists donate their time and expertise to provide dental care to those without access to such care. The cost to the State should be minimal, and the benefit to those without dental care should be enormous. This program will not take business away from dentists, since the population to be served are those who cannot afford routine dental care.

"To fully implement this program we may need to examine our dental licensure laws to make sure dentists licensed by other states can participate without having to take our dental examination."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 786, HD 1, entitled: "A BILL FOR AN ACT MAKING AN

APPROPRIATION FOR DONATED DENTAL SERVICES," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 867) recommending that H.B. No. 533, HD 1, as amended in HD 2, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 533, HD 2, pass Third Reading, seconded by Representative Lee.

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

"My opposition makes me anti, antitrust, trust fund.

"Madame Speaker, this yet another special fund and I have complained about this a number of times. Too much of our budget is going on 'auto pilot' and this is yet another special fund and I don't think it should be in here. I think it should be funded instead out of our general fund. 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. 533, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ANTITRUST," passed Third Reading by a vote of 30 ayes, and 19 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker, Thielen and Whalen voting no and Representatives Schatz and Takamine being excused.

At 8:38 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 8:39 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 472, HD 2; 1287, HD 1; 1089, HD 2; 369, HD 2; 542, HD 1; 786, HD 1; and 533, HD 2 had passed Third Reading at 8:39 o'clock p.m.

LATE INTRODUCTION

The following late introduction was made to the members of the House.

Representative Lee introduced former Representative Kenny Goodenow who was seated in the gallery.

ORDER OF THE DAY UNFINISHED BUSINESS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 868) recommending that H.B. No. 77, as amended in 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. 77 HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 869) recommending that H.B. No. 177, HD 1, pass Third Reading.

Representative M. Oshiro moved that the report of the Committee be adopted and that H.B. No. 177, HD 1, pass Third Reading, 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:

"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 supporting 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."

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

"This gives the Governor the prerogative to choose the site and that I disagree with. That's been an item of controversy on our Island for quite a while and I cannot go along with that bill. Thank you."

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

"The bill is a good bill and I think it is a very innovative one. The Chair did a good job in providing for this bill."

"My concern is that there is no appropriations for the capital improvement in building the prison and I may have missed it in the budget, but in a cursory manner going through it, I didn't see any money in the budget for a prison."

"So, what good is the bill if there is no money to build a physical facility? To put 'all of the eggs in the basket' and say that the private industry is going to be building it, may be wishing a little too much considering the players in the Senate. 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. 177, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATELY-OPERATED CORRECTIONAL FACILITIES," passed Third Reading by a vote of 45 ayes, and 4 noes, with Representatives Arakaki, Hale, Takai and Takumi voting no and Representatives Schatz and Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 870) recommending that H.B. No. 917, 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. 917 HD 1, entitled: "A BILL FOR AN ACT RELATING TO CLINICAL SOCIAL WORKERS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 871) recommending that H.B. No. 815, HD 1, as amended in HD 2, 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. 815 HD 2, entitled: "A BILL FOR AN ACT RELATING TO GASOLINE DEALERS," passed Third Reading by a vote of 38 ayes, and 11 noes, with Representatives Bukoski, Davis, Fox, Gomes, Halford, Jaffe, Leong, Meyer, Moses, Pendleton and Rath voting no and Representatives Schatz and Takamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 77, HD 1; 177, HD 1; 917, HD 1; and 815, HD 2 had passed Third Reading at 8:42 o'clock p.m.

THIRD READING

H.B. No. 585, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 585, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

H.B. No. 589, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 589, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ARCHITECTS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

H.B. No. 590, HD 1:

Representative M. Oshiro moved that H.B. No. 590, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I think essentially let's just leave it to the marketplace to take care of the caps that this bill seems to address. Thank you."

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 590, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 48 ayes, and 1 no, with Representative Gomes voting no and Representatives Schatz and Takamine being excused.

H.B. No. 593, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 593, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

H.B. No. 595, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 595, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

H.B. No. 896, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 896, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REVISED UNIFORM COMMERCIAL CODE ARTICLE 9 - SECURED TRANSACTIONS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

H.B. No. 1134, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1134, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTION AGENCIES," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

H.B. No. 1231, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1231, HD 1,

entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Takamine being excused.

The Chair directed the Clerk to note that H.B. Nos. 585, HD 1; 589, HD 1; 590, HD 1; 593, HD 1; 595, HD 1; 896, HD 1; 1134, HD 1; and 1253, HD 1 had passed Third Reading at 8:44 o'clock p.m.

At 8:44 o'clock p.m., the Chair declared a recess, subject to the Call of the Chair.

The House of Representatives reconvened at 8:45 o'clock p.m.

H.B. No. 518, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 518, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Rath being excused.

H.B. No. 601, HD 1:

Representative M. Oshiro moved that H.B. No. 601, HD 1, pass Third Reading, seconded by Representative Lee.

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

"This is the trademarks and service marks bill. I would like to just read three brief statements from the attorney in town who really does most of the work in trademark law: 'The bill gives Hawaii's residents no rights that are not already available under the Federal Lanham Act. The bills create a State trademark registration process that will be time consuming and expensive to the applicant and the bill will be costly to the State. The cost must be recouped either by application fees or increased in the DCCA budget.'

"Although the Director of DCCA thinks that this can be administered with just one more person, that is dead wrong. Unless the processing time for applications is expected to be years instead of months.

"I hope this bill does not survive. Thank you."

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

"When we had the hearing on the bill all of the testimony was in favor. Where these comments are coming from are absolutely new to me.

"Your Committee finds that the purpose of this bill is to have Hawaii join the rest of the United States, 46 other States, that have adopted this International Trademark Association model state trademark bill. It's designed to protect trademark holders, promote uniformity with the laws of the other States and facilitate the free flow of commerce between Hawaii and the other States.

"I know that people are going to object to it because they want protectionist legislation, they want to protect their turf. But the whole intent of this bill and other bills that we have been trying to pass out of Committee is for us to join part of the rest of the continental United States and adopt legislation that promotes free trade. Thank you."

Representative Thielen rose and stated:

"I just wanted to pass on the copy of the e-mail to the Chair of the Consumer Protection and Commerce Committee. I also believe that the attorney who had raised these concerns had tried to contact him. I'm not sure if they spoke. But that was all done before today's session.

"The concern that I see that will face us later is the added cost. For the attorneys who are practicing in this area and the applicants for a trademark, the added length of time to process these applications. If he's correct and it's going to take a lot more money. We'd have to increase DCCA's budget and then they will come in after the fact asking for more money and then the second thing will be the lengthy time.

"So, we will have created more bureaucracy. The protections under the Lanham Act are there according to this attorney, and I certainly would take his word for that. He is extremely credible. Thank you."

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 601, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRADEMARKS," passed Third Reading by a vote of 47 ayes, and 2 noes, with Representatives Thielen and Gomes voting no and Representatives Schatz and Rath being excused.

H.B. No. 602, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 602, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM SECURITIES ACT," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Rath being excused.

H.B. No. 204, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 204, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Third Reading by a vote of 49 ayes, with Representatives Schatz and Rath being excused.

H.B. No. 271, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 271, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL INDUSTRY," passed Third Reading by a vote of 47 ayes, and 2 noes, with Representatives Morita and Thielen voting no and Representatives Schatz and Rath being excused.

H.B. No. 761, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 761, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNACCREDITED DEGREE GRANTING INSTITUTIONS," passed Third Reading by a vote of 47 ayes, and 2 noes, with Representatives Bukoski and Fox voting no and Representatives Schatz and Rath being excused.

At 8:50 o'clock p.m. Representative Gomes asked for a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 8:51 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 518, HD 1; 601, HD 1; 602, HD 1; 204, HD 1; 271, HD 1; and 761, HD 1 had passed Third Reading at 8:52 o'clock p.m.

H.B. No. 1173, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1173, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LODGING OR TENEMENT HOUSES, HOTELS, AND BOARDINGHOUSES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Rath and Schatz being excused.

H.B. No. 1552, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1552, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Rath and Schatz being excused.

H.B. No. 1115:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1115, entitled: "A BILL FOR AN ACT RELATING TO THE ADMISSIBILITY OF PAID BILLS IN COURT," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Rath and Schatz being excused.

H.B. No. 384, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 384, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Rath and Schatz being excused.

H.B. No. 321, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 321, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Rath and Schatz being excused.

H.B. No. 703, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 703, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Third Reading by a vote of 48 ayes, with Representatives Arakaki, Rath and Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 1173, HD 1; 1552, HD 1; 1115; 384, HD 1; 321, HD 1; and 703, HD 1 had passed Third Reading at 8:53 o'clock p.m.

H.B. No. 1526, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1526, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOGS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

H.B. No. 390, HD 1:

Representative M. Oshiro moved that H.B. No. 390, HD 1, pass Third Reading, seconded by Representative Lee.

Representative McDermott offered the following amendment to H.B. No. 390, HD 1:

SECTION 1. House Bill No. 390, H.D. 1 is amended by inserting the following line 15 on page 1 to read as follows:

"The legislature further finds that pedophilia is not only a hate-crime against children, but also a sexually motivated one. Further, the legislature finds that pedophilia is an exponentially hateful act since it combines sexual exploitation of an individual's body with the targeting of minor children. As such, it deserves the same type of punishment as other hate crimes."

SECTION 2. House Bill No. 390 H.D. 1 is amended by amending page 1, line 17 to read as follows:

"sentencing for the perpetrators of hate-motivated crimes, including pedophiles."

SECTION 3. House Bill No. 390 H.D. 1 is amended by inserting the following on and after line 15, page 5 to read as follows:

"disability of any person; or
(c) The defendant committed the act of pedophilia. For
the purposes of this section, "pedophilia" is the act of
having sex with a minor."

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

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

"I rise in support of this amendment, Madame Speaker, if we're serious about hate crimes and punishing people because of an act that we as society feel is truly hateful, it truly is despicable, is truly despised, what could be more hateful than an act or crime against a child? To exploit a child for two reasons because of their age, they're defenseless and a minor; and secondly for one person's own sexual gratification using that other individual's body for their own sexual gratification. This is doubly hateful.

"So, if we look at the concept of hate crimes out of an act of hate, this is doubly hateful. It's exponentially hateful. In fact there is no crime more hateful than taking advantage of a defenseless child for sexual purposes. The language that I have and I will refer you to line 16, page 1, states: "the Legislature further finds that pedophilia is not only a hate crime against children but, also a sexually motivated one". Again there are those two criteria that make it doubly hateful. I continue to quote: "further the Legislature finds that pedophilia is an exponentially hateful act since it combines sexual exploitation of an individual's body with the targeting of minor children". As such deserves the same type of punishment as other hate crimes.

"Quite frankly, Madame Speaker, I think it deserves a harsher punishment, a stiffer penalty, but this is the vehicle that we have, a hate crimes bill, so what crime could be more hateful than exploiting a little child? What crime could be more hateful? I don't know, Madame Speaker.

"Again the two issues that make pedophilia exponentially hateful is the exploitation of a child combined with the exploitation of someone based on their sex. Madame Speaker, if we could move two pages over to section five, it states: "the defendant isn't the defender against the elderly, handicapped or a minor child under the age eight." I am sure a Member of this body is going to get up, and I don't know who, but will say it already covers minor children. But eight years old and under they're protected. We leave out nine, ten, eleven, twelve, thirteen year olds and so on and so forth.

"Now, a minor which is seventeen and below. I thought that somebody a long time ago established as the age of majority and it wasn't me it was probably somebody a lot wiser. I would rather be safe than sorry. If someone could stand up here and tell me that a child who is nine years old who is victim of a sex crime and who is exploited for two reason, because of their age is defenseless and a minor and secondly because of their sex. Most pedophiles are men preying on young boys. This makes it a sexual act and there are the two components to it.

"If someone can explain to me why that's not hateful against a nine year old, and this bill does not cover nine year olds, but this amendment will protect nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen and seventeen year olds. Someone might say that a seventeen year old, well that's not pedophilia, well like I said a long time ago some people wiser than I said that eighteen is the age.

"But imagine a seventeen year old boy who weighs 170 pounds is accosted, beaten up and sodomized and then killed. Is that a hateful act? I think so. I think it is a hateful act.

"Now I'm going to read to you three separate crimes that exist. These are things that happened today in our society. We have all heard about Matthew Shepherd but we haven't heard about these less publicized incidences. In Waterbury, Connecticut, ..."

Representative Moses rose to yield his time.

Representative McDermott continued, stating:

"In Waterbury, Connecticut, thirteen year old Stanley Edwards was lured into his neighbor's back yard, how old was he? Thirteen. Not covered under the bill but covered under my amendment, was bludgeoned to death so the murderer could satisfy his sexual urges. In Jackson Town, New Jersey, Eddie Warner was selling candy door to door to raise money for his school was pulled into a house, sodomized, raped and murdered. Not covered under the bill, covered under my amendment. Now I guess some people are going to stand up and say, well that really wasn't hateful. That really wasn't a hateful act. I think it was hateful.

"Also, on October 1st in East Cambridge, Massachusetts, ten year old, not covered by the bill, but covered by my amendment, ten year old, Jeffrey Curly was lured into a car by two young men who promised him fifty dollars and a new bicycle. The criminals, Salvador Sacari and his homosexual lover, Charles James, were mechanics and petty thieves. They spent months soliciting Jeffrey's trust and once they had him in the car James repeatedly tried to force sex on Jeffrey. When the child resisted his three hundred pound assailant, James, sat on him and suffocated him with gasoline soaked rag. Sacari and James then drove to New Hampshire where James abused the boy's body before putting him into a barrel with concrete and dumping him in the river of Southern Maine.

"Madame Speaker, there are going to be speakers that will probably urge this Body to..."

Representative Souki rose on a point of inquiry, stating:

"I believe the Representative is deviating from hate crimes and he is not speaking on it."

At 9:01 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 9:02 o'clock p.m.

Representative McDermott continued, stating:

"Madame Speaker, I was describing crimes that are covered under my amendment, that are protected under my amendment that aren't protected under the underlying bill. And I said someone would stand up and say that, that wasn't a hate crime but we just saw that. That is a hate crime. It's a hateful crime and it makes people uncomfortable to hear it and that's why I said it. Because we're going to have Members in this body who are going to stand up and defend the underlying bill, but they are going to say vote down the amendment because that doesn't protect children or it's a hate crime.

"These crimes are as hateful and despicable as anything on earth and shame on the Members who don't vote for this amendment."

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

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

"I think the amendment being offered by the Representative is worthy of further discussion and I see his intent.

"However, the way the amendment is worded for the purpose of this section pedophilia is the act of having sex with a minor and would include an eighteen year old having sex with a seventeen year old and minors having sex with minors and I don't believe this is pedophilia. Thank you."

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 to adopt the amendment to H.B. No. 390, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HATE CRIMES," 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, Cabrereros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine, Takumi, Thielen, Yonamine and Yoshinaga.

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Rath, Stonebraker and Whalen.

Excused, 1: Schatz.

(Main Motion)

At 9:06 o'clock p.m., the Chair declared a recess, subject to the Call of the Chair.

The House of Representatives reconvened at 9:06 o'clock p.m.

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

"We just saw that if you can't protect the most innocent among us, if you can't protect the children then what's the

sense of the hypocritical hate crime bill. So I can't vote for this. Thank you."

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

"This measure will protect, Matthew Shepherd, the twenty two year old man who was a victim of a despicable crime, but it won't protect my ten year old son, Patrick.

"Shame on everyone who votes for this pile of political correctness and doesn't have the guts to stand up and do what's right."

Representative Djou rose to speak in opposition of the measure, stating:

"Madame Speaker, I don't want to vote against this bill. I recognize that bigotry, hatred and racism is a sad and unfortunate aspect of our society, nation and our State. I realize that the intention of this bill is to seek those wicked parts of our society.

"Nevertheless, Madame Speaker, the reason I oppose this bill is because I believe that one of the fundamental principals of American jurisprudence is that we punish acts, we do not punish thought. I believe that the America's justice system, you can believe and possess the most violent repugnant ideas, you can be a nazi, Marxist, anarchist or a monarchist, but we as society will not punish you for those thoughts. Only if you act upon them are your actions punished.

"Madame Speaker under this legislation if you have two criminals, criminal A and criminal B, who commit the identical crime but criminal A is somehow motivated by his wicked thoughts, we are giving him an enhanced sentence. We're punishing him extra because of what he/she thinks. I believe that this is wrong.

"For these reasons, Madame Speaker, even though I have taken positions supporting and stating that we can do more to combat racism and bigotry even though I have taken positions in support of domestic partnership and doing more in the gay rights area, I never less must vote no on this measure. Thank you."

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

"I just would like to respond to some of the comments that were previously made about the fact that we didn't go with the amendment.

"I would just like to address the fact that ..."

Representative Rath rose on a point of order, stating:

"He's not addressing the bill before us, he's addressing the amendment."

The Chair instructed Representative B. Oshiro to continue, stating:

"I was just responding to what some of the previous speakers said on this particular bill, the objector included actually.

"I'm just trying to identify the fact that what we are trying to do with this bill is to address a specific concern. What it is, is a penalty enhancement for somebody who is already committed an underlying crime.

"In the examples that were previously used, there was a crime, there was a murder. There was a murder of the victim and I admit that those acts are despicable. I completely admit that but at the same time there was a crime. There was a kidnapping, an assault and there was a murder and for these reasons they could be punished. I don't see why we need to be throwing in a vague definition, which relates to sex and the actual of definition of sex is not included.

"I will now speak to the specific bill and why I am a proponent of it. The real distinction that we need to make is there is a difference between thoughts and acts, and I agree with that. The distinction is clearly made by the United States Supreme Court, I think they have spoken to this very well when they had two case before them. The first one was RAV v. the City of Saint Paul. In that case what they said was that yes, you cannot punish someone for their thoughts because that's freedom of speech, that's the First Amendment. You can't be trying to regulate cross burning, Nazi swastikas, or whatever symbols they want to be expressing because that is the clear core of freedom of expression.

"However, later in Wisconsin v. Mitchell, what the United States Supreme Court said was, you can make a distinction between conduct and free speech because the First Amendment does not protect someone's acts. What penalty enhancement, statutes do, similar to what this one does, is it regulates the acts.

"You really need to look at what are the prima facie elements that are required by this bill. This bill requires that the State prove the crime beyond a reasonable doubt and they also have to prove that there was an intentional selection of the victim because of hostility towards their classification, whatever that classification may be.

"So there is an additional burden that the prosecutor has to prove that there is an intentional selection of this victim because of a hostility towards whatever classification they have. I think there are safeguards within this bill to make sure that what we are regulating is the act. Here the burden is very high and this is a discretionary tool to be used by the judge. It is not something that they have to do in penalty enhancement, it just clearly offers them the option. When somebody's acts are so egregious, perhaps the examples that were sighted by the Representative from Foster Village, perhaps not. But that is left up to the discretion of the judge and here they can analyze what the factors are. Once all of the elements have been proven by the prosecutor.

"So, I think there are safeguards within the bill and I would request that the other Members of this body support it. Thank you, very much."

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

"The Constitution allows us to think the way we want to think and under this term of a hate crime, that would limit a person's free speech.

"Now, I am included in this bill. On page five of the bill is says, "the defendant intentionally selected a victim or in a case of a property crime, the property was an object of a crime because hostility toward the actual perceived race, color, religion, ancestry, national origin, gender, transgender, sexual orientation, age or disability of any person.

"I have chosen my religion and my sexual orientation. So I would be covered under this bill, and as one who would be covered under this bill I am opposed to it. As a person who has the freedom to choose their religion, I can take the heat

and I am a victim of hate crimes. People hate me for what I believe.

"So, in the case of that, all those who so choose their religion or they're sexual orientation should be able to take the heat. So we don't support hate crimes bills and I'm lobbying you Madame Chair, and all of the Members of the State House. We don't like this bill and so we're opposing it."

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

"To me all crimes are very hateful. If you kill somebody, isn't that hateful?"

"This bill does not protect our children. The Honolulu Police Department was opposed to this bill and so this is my opposition to it. Thank you."

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

"Madame Speaker, it's not for issues that we are creating special rights or any of those issues, but I think the problem is the bill itself among other things. As I understand it, the bill just provides for enhanced penalties for the so called hate crimes and I understand what we're trying to get at and that's appropriate. I think that conversation should continue in terms of how to fashion an appropriate penalty, if we can come up with it.

"But the bill itself is sort of half baked. Because initially it started out in addition to the enhancement penalties with the reporting provisions and that part has been deleted from the bill. Madame Speaker, the bill itself on page one, line ten it states: 'The Legislature further finds that Hawaii is one of the distinct minority states in the Nation that does not have laws addressing hate motivated crimes.' The bill goes on to say: 'Additionally Hawaii is one of only four States in the country that does not participate in the hate crimes data reporting program created by the federal Hate Crimes Statistics Act.'

"This bill doesn't do anything to bring us among the majority of State's that are participating in that federal hate crimes statistics act. I think Madame Speaker, that we should at least have a provision for that and it is apparently clear that we don't know how deep a problem we have here in Hawaii with hate motivated crimes.

"In addition, as we are all aware, Hawaii has a unique overlay of different races and cultures and how that bears on hate crime and hate motivated crimes may be quite different on how these types of crimes play themselves out in the mainland States.

"These are tough issues and I'm not opposed and certainly don't shy from tackling and deciding on tough issues, but I just think that this particular bill needs a lot more work and the effort on the discussion needs a lot more work, and frankly I think we should go back and put I the appropriations that are needed to come up with the training for our police who apparently are opposed to this provision, to bring them online and bring them up to the speed in terms of the various nuisances and subtleties that are involved with these types of acts that we are trying to address. Just like we did with regard to domestic violence issues.

"I think that is the way to go and so for those reasons at this point I am opposing this bill. Thank you."

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

"My reservations are that out of my seven children only two are protected, the two that are under eight years old. All the rest, anybody between the ages of eight and sixty are not protected.

"As if this laws is going to stop crime, of course it doesn't do that. But I'm also going to rest very well tonight, if I ever get home, because I know now that "kill haole day" is illegal in the State of Hawaii. Thank you, Madame Speaker."

Representative Djou rose in rebuttal, stating:

"I hear the comments made by the Vice Chairman of the Judiciary Committee and I too understand the case law from RAV and the Wisconsin cases, but I just like to remind this august body that just because the United States Supreme Court says it's okay it doesn't mean it's a good idea.

"For example the United States Supreme Court states, that it's certainly okay to enact the death penalty, but that doesn't necessarily mean we should or must enact the death penalty. Similarly just because the United States Supreme Court says it's okay to enact the hate crime law it doesn't mean it's necessarily a good idea. Thank you."

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

"Madame Speaker, I'm listening here and it sounds like there's a motion about to repeal the statute. Because if one will look at the statute that is currently on the books we only extended terms for imprisonment for a certain types of convicted defendants.

"Just for the body's information, already on the books we have enhanced sentencing for those who are persistent offenders. In other words, for those who have persistently offended the public, and if convicted, they shall receive an enhanced sentencing. That also applies to the professional criminal which is decided by the court. There is also a provision on the books regarding ..."

Representative McDermott rose and stated:

"Madame Speaker, can he speak to the bill before us please?"

Representative M. Oshiro continued, stating:

"I am speaking to the bill before us. I'm just showing that this particular bill before us is adding another item to the list that is already on the books regarding enhanced sentencing.

"Already on the books, it allows enhanced sentencing for a defendant who is a multiple offender and whose actions show that it is necessary for the protection of the public. Already on the books, a defendant who is an offender against the elderly, handicapped or a minor person. So we're just adding another item, Madame Speaker, that deals with enhanced sentencing by the courts for those who would exhibit hate and have that found on the record beyond a reasonable doubt in a conviction case.

"Madame Speaker I think all of us can probably create some kind of description of a crime and I think in our 'heart of hearts' we know that certain crimes are more despicable than others. A crime is a crime. A murder is a murder. A rape is a rape. A death is a death. So all of us as independent judges if we look into our 'heart of hearts', there are certain crimes that are more egregious than others.

"Somehow we should recognize that in our courts of law and in a sense of justice in this community. I think this bill 'cuts to the chase' of that and addresses the very fact that we need to punish those who violate basic principals of law and order. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 390, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HATE CRIMES," passed Third Reading by a vote of 36 ayes, and 13 noes, with Representatives Ahu Isa, Bukoski, Djou, Gomes, Ito, Kahikina, Leong, McDermott, Meyer, Rath, Souki, Stonebraker, and Whalen, voting no and Representative Schatz being excused.

H.B. No. 629, HD 1:

Representative M. Oshiro moved that H.B. No. 629, HD 1 pass Third Reading, seconded by Representative Lee.

Representative McDermott rose to state a possible conflict to the measure, stating:

"I am a foster parent."

The Chair responded, "no conflict".

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

Representative Kahikina's remarks are as follows:

"The purpose of this measure is to authorize foster parents to sign school forms and recreational permission slips for their foster children who are under the department's custody."

The motion was put to vote by the Chair and carried, and H.B. No. 629, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AUTHORITY OF FOSTER PARENTS TO PROVIDE CONSENTS FOR THE FOSTER CHILD'S EDUCATIONAL AND RECREATIONAL NEEDS," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

H.B. No. 202, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 202, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Third Reading by a vote of 49 ayes, and 1 no, with Representative B. Oshiro, voting no and Representatives Schatz being excused.

H.B. No. 597:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 597, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Schatz being excused.

At 9:25 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 9:26 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 1526, HD 1; 390, HD 1; 629, HD 1; 202, HD 1 and 597 had passed Third Reading at 9:25 o'clock p.m.

H.B. No. 299, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 299, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CHILD SUPPORT ENFORCEMENT AGENCY," passed Third Reading by a vote of 49 ayes, with Representatives Rath and Schatz being excused.

H.B. No. 534:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 534, entitled: "A BILL FOR AN ACT RELATING TO FUNCTIONAL PLANS," passed Third Reading by a vote of 49 ayes, with Representatives Rath and Schatz being excused.

H.B. No. 567:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 567, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Third Reading by a vote of 49 ayes, with Representatives Rath and Schatz being excused.

H.B. No. 571:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 571, entitled: "A BILL FOR AN ACT RELATING TO THE SHORT-TERM INVESTMENT OF STATE MONEYS," passed Third Reading by a vote of 49 ayes, with Representatives Rath and Schatz being excused.

H.B. No. 574:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 574, entitled: "A BILL FOR AN ACT RELATING TO THE AUTHORIZATION OF SPECIAL PURPOSE REVENUE BONDS," passed Third Reading by a vote of 49 ayes, with Representatives Rath and Schatz being excused.

H.B. No. 696:

Representative M. Oshiro moved that H.B. No. 696 pass Third Reading, seconded by Representative Lee.

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

Representative Thielen's remarks are as follows:

"Mr. Speaker I rise to speak against HB 696.

"The bill proposes to delete the requirement of having the Procurement Officer maintain a record of all procurements for goods, services, or construction of \$25,000 or more made under sections 103D-102(b)(4), 103D-304, 103D-306, and 103D-307. This record is normally given annually to the Legislature and is available for public inspection in one place.

"The justification is that this is duplicative as the records are required to be kept by DAGS and that all awards for professional services under 103D-304 be posted electronically.

"However, I believe it is in the public's interest to have the information gathered in one archive so that it is more readily accessible to the public."

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

"When I looked at the bill and saw that we were eliminating the whole provision for the Chief Procurement Officer to maintain a record of all procurements, goods and services, construction of \$25,000 or more, then it goes on to say what it would include, the contractor's name, amount, type, and the listing of goods and services. A copy of the record shall be submitted to the Legislature on an annual basis and the record should be available for public inspection.

"This was put into the law in 1993. I looked in my office and had my staff ask other offices, I've been in office since 1995, and I couldn't find any of these reports and we were supposed to receive one every year on an annual basis. I was concerned when I saw this because this is a lot of important information. Tonight we will be looking at some campaign reform law that makes a point of saying that if you received a contribution from someone that person could not contribute to you if they had a contract with the State within the last year, or whatever the time limit is.

"My concern is that if we get rid of this provision and the Office of Procurement does not have to keep the records we will have a heck of the time finding out. This is an administration bill and it was put forth by the Lieutenant Governor's Office as part of her SWAT Program. Because in the year 2000 we passed Act 141, which required the Office of Procurement to put this information up on the internet. This is a good thing, it makes it more easily accessible to ourselves the public and everyone. Except when I looked at that bill last night, it says that they only have to keep it on there for a year.

"Again, I go back to the fact that we need a record, especially if we're going to keep that provision in the campaign spending law. This is public information and it shouldn't just be discarded within a year's time.

"That's what I am concerned about. That this kind of information should be available to the general public and I don't want to see made harder to get to. There was another statement in the justification here that much of this information is in the archives. Well it's not easy to get anything in the archives over at DAGS. So I would like to see it in a report and I didn't have time today, the person to contact at DAGS was not in, but it's very curious that we are not getting these reports when the law has required it. The only one we could come up with, after my staff went to LRB, they looked through their files and found one report that was for fiscal year 1994-1995 and they had no reports for any other year.

"So, I think we shouldn't be so quick to get rid of this provision number one. Procurement hasn't been following the law which doesn't make me feel real confident. I think it is important that we be able to put our hands on this information and the general public has the right to know it and I don't want to see us do anything that will make it almost impossible to get. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 696, entitled: "A BILL FOR AN ACT RELATING TO REPORTS," passed Third Reading by a vote of 38 ayes, and 11 noes, with Representatives Auwae, Bukoski, Davis, Gomes, Halford, Jaffe, Marumoto, Meyer, Ontai, Pendleton and Thielen voting no and Representatives Rath and Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 299, HD 1; 534; 567; 571; 574; and 696 had passed Third Reading at 9:33 o'clock p.m.

H.B. No. 715:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 715, entitled: "A BILL FOR AN ACT RELATING TO THE INTEGRATED TAX INFORMATION MANAGEMENT SYSTEMS ACQUISITION BY THE DEPARTMENT OF TAXATION," passed Third Reading by a vote of 48 ayes, with Representatives Gomes, Rath and Schatz being excused.

H.B. No. 723:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 723, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC SERVICE COMPANY TAX," passed Third Reading by a vote of 48 ayes, with Representatives Gomes, Rath and Schatz being excused.

H.B. No. 863:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 863, entitled: "A BILL FOR AN ACT RELATING TO A COMPREHENSIVE MASTER PLAN FOR KOKEE AND WAIMEA CANYON STATE PARKS," passed Third Reading by a vote of 48 ayes, with Representatives Gomes, Rath and Schatz being excused.

H.B. No. 1400:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1400, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Third Reading by a vote of 48 ayes, with Representatives Gomes, Rath and Schatz being excused.

H.B. No. 506, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 506, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE IRRIGATION PROGRAM," passed Third Reading by a vote of 48 ayes, with Representatives Gomes, Rath and Schatz being excused.

H.B. No. 569, HD 1:

Representative M. Oshiro moved that H.B. No. 569, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I have risen a number of times this evening complaining about the number of special funds. I think this emergency appropriation highlights exactly the problems when we have proliferation's of too many special funds, and when we are required to suddenly 'raid' emergency appropriations and when we raided the special fund to pay for the convention center. Thank you, Madame Speaker."

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

"When I voted against this measure on Second Reading, the Chair of Finance pointed out that what he believed to have been a misunderstanding on my part. He was correct and I apologize."

The motion was put to vote by the Chair and carried, and H.B. No. 569, HD 1, entitled: "A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION FOR HEALTH FUND PREMIUMS," passed Third Reading by a vote of 45 ayes, and 3 noes, with Representatives Djou, Leong and Ontai voting no and Representatives Gomes, Rath and Schatz being excused.

The Chair directed the Clerk to note that H.B. Nos. 715; 723; 863; 1400; 506, HD 1; and 569, HD 1 had passed Third Reading at 9:34 o'clock p.m.

H.B. No. 608, HD 1:

Representative M. Oshiro moved that H.B. No. 608, HD 1 pass Third Reading, seconded by Representative Lee.

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

"My reservations are concerns I have about the Department of Health running out of funds at the end of March, so I have been told by the Director.

"I'm very concerned that if we don't have the funds in this bill that the Department may not have the resources that they need. Basically, the funds that are needed are for school based treatment programs as well as residential treatment programs.

"I suppose they could beg and borrow within the resources that they have. I'm just hoping that this is not taken as a challenge, especially to the courts. I know there's a lot of dissatisfaction about how the funds are being managed and the enormous sums of money that are being spent and the way that the, I guess because it comes in a form of an emergency measures, the Members should realize that in terms of funding for special education as we were compared with the rest of the nation, we're still underfunded in terms of special education programs.

"Basically we're just 'paying the piper' right now. We're 'paying the piper' for the tremendous neglect that we've had over the years. In fact I pulled up the Journal and I found in the 64th Day, back in 1991, and this is a comment that I made back then, forgive me and if you could indulge me for quoting myself, but what I said was: "an interim task force on mental health for children and adolescents identified \$24 million as the cost of establishing comprehensive system of care that would adequately provide treatment for those who are most in need. The estimated 10,000 children and adolescents in need are mental health services. This budget will provide \$2.5 million in additional resources which is just a fraction of what is needed. But nevertheless a step in the right direction to develop a system of care to hopefully treat the most disturbed".

"I'm talking about ten years ago. We knew what the problems were, and we didn't take care of it, and so we are 'paying the piper'. We're still looking for a system of care and this is what Judge Ezra has mandated. That the Department of Health and the Department of Education develop a system of care and the original deadline that he gave us was June 2000.

"We didn't meet that deadline. But because we were making progress, he gave us until the end of this year to come into compliance. I'm hoping we can reach that goal of developing a system of care. Of course it's going to cost a lot more than the \$24 million that we originally identified, but I'm just hoping that by not funding this emergency measure it will not be seen as a challenge or as a message that we do not want to develop this system of care.

"So I support this measure but I hope we can provide the needed funding. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 608, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR EDUCATION," passed Third Reading by a vote of 48 ayes, with Representatives Whalen, Rath and Schatz being excused.

H.B. No. 511, HD 1:

Representative M. Oshiro moved that H.B. No. 511, HD 1, pass Third Reading, seconded by Representative Lee.

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

"We're asking people to put up a bond and during testimony I heard that nobody in this State does these types of bonds, that may be incorrect information, but that's what I heard.

"Also the amount of the bonds are left blank, if you look at page two of the measure. So we don't know how much they're going to be charged. It says at the beginning that we understand if we make it too hard people won't protest and then we go and leave these numbers blank.

"Again from what I understand, there's nobody that gives these types of bonds. So a bidder could always give up property in lieu of a bond. But I think we're going to find that this is really making it hard for anybody to protest. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 511, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REMEDIES OF PART VII, CHAPTER 103D, HAWAII REVISED STATUTES," passed Third Reading by a vote of 37 ayes, and 11 noes, with Representatives Bukoski, Davis, Djou, Fox, Halford, Leong, Marumoto, Meyer, Moses, Ontai and Pendleton voting no and Representatives Rath, Schatz and Whalen being excused.

H.B. No. 512, HD 1:

Representative M. Oshiro moved that H.B. No. 512, HD 1, pass Third Reading, seconded by Representative Lee.

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

"This bill is entitled, "State Art Museum". It's really about keeping the palace that's located at No. 1 Capitol Center. Those of you who visited the Hemmeyer Palace are aware that it has a very spacious ground floor which leads to a swimming pool. It has an exercise facility and a potential of a restaurant. On the second floor is another grand hallway. These rooms are not suitable to a State office building. They are suitable to a palace.

"Madame Speaker, we happen to be the only State in the United States with a palace already in our possession. It's Iolani Palace and it used to be the home of Hawaiian royalty. It's very embarrassing that the State of Hawaii is acquiring an additional palace in this stage of our history when we are basically struggling. Hawaii families are struggling to maintain their basic existence, families are leaving for the mainland, we have a highly inadequate education system that is in part inadequate because it is underfunded. It is truly an embarrassed that we are retaining this palace.

"Now how do we maintain the palace with these floors that are totally unsuitable for government offices? Well, we come up with the idea of creating a State art museum. It is very important to vote against this bill. By voting against this bill

we can defeat the rational for acquiring a second palace in downtown Honolulu where we seem to concentrate most of the wealth of the State.

"We can develop a rational for disposing of this palace. Selling it back into the private sector where it belongs. In this incredible embarrassment for all of you who vote to keep a palace in the possession of the State of Hawaii, I really think that someday the people are going to catch up with your vote and I urge you to vote against this. Thank you, Madame Speaker."

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

"First of all I would like to discuss some of the points that were previously made by the Minority Leader.

"The State of Hawaii purchased the building last year. As a matter of fact Madame Speaker, the financial arrangement that we made is in total benefit as what we will see as part of the State financial plan. We were paying lease rent for that particular facility. The lease rent has now turned into a mortgage payment, so after a certain number of years of paying the mortgage payments on that building we are going to own it. So, instead of paying lease rent which we have paid for many years, we're now paying a mortgage on the building.

"Let me get to the point of the State Art Museum. In 1968, 33 years ago, Hawaii's community leaders took bold steps in the development of what they call the Warnecke Master Plan for the Capitol District and Civic Center. Their vision sought to assure the preservation and acquisition sensitive urban design and development that we enjoy today. The master plan also emphasizes the dignity, beauty, social and cultural aspects of the district. The master plan recommended the development of a coordinating agency with the facilities in the civic district to encourage cultural activities. It also stated that a place should be provided for a museum of the very ethnic traditions that characterizes and enrich our culture.

"The Warnecke Plan recommended the historic YMCA building to be used for the expansion of government and for the use of cultural facility with galleries and a restaurant. That was 33 years ago. As leaders today, we're taking the next bold step to continue that vision. We need to recognize that we have an opportunity to build a stronger and more vibrant capitol district with the State's purchase of the YMCA building last year, we have the opportunity to implement those visionary recommendations with the creation of the State Art Museum and the Capitol District Visitors Center.

"These two items will provide educational opportunities for our children and residents. Each year we see children of all ages visiting the Capitol District. These daily visits include the Capitol, Washington Place, Iolani Palace and the Judiciary History Center. To catch glimpses of Hawaii's political history and government. The planned State Art Museum will share the story of Hawaii's visual art history. Art created in our times by our people. The State Art Museum will also host the annual Department of Education's National Student Scholastic Art Competition and other special showings that will highlight Hawaii's cultural past and present.

"As with any great civic district, Hawaii should be proud to share and nurture our heritage. We should be proud to share it with our children and preserve it for future generations. The Art in Public Places collection is a recording of Hawaii's history and reflects our society through the visual arts. We need to celebrate the accomplishments of our talented artists in a museum where all of Hawaii and the world can view them. The State Art Museum will compliment and strengthen the

cultural and historic offerings in the Capitol District. We will be responsible to share our culture and the arts for the enrichment for all of Hawaii's people and to create a great cultural gathering place.

"Madame Speaker, the Warnecke Plan was based upon policy that was developed through the input of a citizens advisory committee that was made up of many community leaders, and I would like at this time to insert into the Journal a list of citizens and organizations that participated in the development of this plan 33 years ago.

"Finally, no general funds would be needed for the museum and the visitors center renovations, I repeat no general funds. The renovations funded by the Works of Arts Special Fund is in keeping with the intention of the statute. I ask for your support of the measure. Thank you."

Representative Takai's additional remarks are as follows:

"By Federal definition, a museum exhibits its own collections or holdings. A gallery exhibits collections from other entities. Since the State Foundation on Culture and the Arts has a collection that will be the primary user, it will be called a museum. In the future, the museum can apply for federal grants to assess operations, collections management, or visitor services. These competitive grants are administered through the Institute of Museum & Library Services.

"Additionally, the Warnecke Plan was based upon policy that was developed through the input of a citizens' advisory committee made up of many community leaders. The members of the committee were as follows (the members with asterisks were no longer active):

Chairman, Aaron Levine
 Vice-Chairman, LeRoy C. Bush
 American Institute of Architects
 George J. Wimberly
 Robert Law (Alt.)
 Frederick Furer
 Roger P. Benezet (Alt.)
 American Institute of Planners
 Aaron Levine
 Ted Damron (Alt.)
 American Society of Landscape Architects
 Richard Tongg
 George S. Walters (Alt.)
 Chamber of Commerce (City Beautification Committee)
 Stephen Oyakawa
 Mrs. Ruth N. Denney (Alt.)
 Chinese Ethnic Group
 Henry C. H. Chun-Hoon *
 Edward Z. Y. Chong (Reg.)
 Franklin Y. K. Sunn (Alt.)
 City and County of Honolulu, Hawaii
 Councilman Ernest N. Heen *
 Councilman Clesson Y. Chikasuye
 Councilman Herman G. P. Lemke
 Conservation Council
 Ted Damron
 Dr. Roland Force (Alt.)
 Daughters of Hawaii
 Mrs. John C. Plews
 Miss Eleanor Prendergast (Alt.)
 Downtown Improvement Association
 R. Alexander Anderson
 Roger S. Craig (Alt.)
 Filipino Ethnic Group
 Barney Menor
 Fred C. Blanco (Alt.)
 Hawaii Visitors' Bureau

Peter Fithian
 Norman Lee (Alt.)
 Hawaiian Civic Club
 Gordon May
 Mrs. Gladys K. Brandt (Alt.)
 Hawaiian Historical Society
 Colonel Harold Kent
 Edward H. Joesting (Alt.) *
 Honorary Member
 Mrs. Liliuokalani Morris
 Wilmer Morris (Alt.)
 Hawaii Arts Council
 Mrs. Helen Gilbert
 Edward M. Brownlee
 Health Facilities Planning
 Council of Hawaii
 Edward W. Colby, M. D.
 Omar A. Tunks (Alt.)
 Japanese Ethnic Group
 Shinsuke Nakamine
 Dr. Ken Kuwata (Alt.)
 Junior League of Honolulu
 Miss E. Alison Kay
 Mrs. Robert W. Guild (Alt.)
 Kawaiahao Church
 George Kahoiwai
 William Kea
 Korean Ethnic Group
 Edward Y. N. Kim
 Dr. Jonah Park (Alt.)
 League of Women Voters of Honolulu
 Mrs. Edward Sullam
 Mrs. Alred Boeke (Alt.)
 House of Representative
 The Hon. Elmer Cravalho
 Outdoor Circle
 Mrs. Harlan Benner
 Mrs. Robert O. Thompson (Alt.)
 Oahu Development Conference
 Aaron Levine
 LeRoy C. Bush
 Leo S. Wou (2nd Alt.)
 Senate
 The Hon. Mitsuyuki Kido
 State Capitol Advisory Committee
 George M. Koga
 Robert R. Midkiff
 Policy Committee

Chairman & Comptroller, State of Hawaii – Valentine U. Marciel
 Department of Planning and Economic Development, State of Hawaii-Alfred Preis
 Director, Department of Planning, City and County of Honolulu – Fredrick K.F. Lee (Retiring Director), Frank Skrivanek (Director)
 Regional Administrator, U.S. General Services Administration, Region 9-Thomas E. Hannon (Harry R. Quintal, Representative)
 Chairman, Citizen's Advisory Committee-Aaron Levine
 Project Administrator-Hideshi Iwamoto

John Carl Warnecke and Associates:
 John Carl Warnecke
 Robert Lamb Hart, Director of Planning and Partner in Charge
 Michael Painter, Director of Landscapes Architecture
 Charles R. Sutton, Project Manager
 Donald F. Fairweather
 Ian Gordon
 Elizabeth Lord
 Richard R. Lowe
 Mark B. Mitchell

William D. Stubee

"I again urge my fellow colleagues to vote in support of this bill. Thank you, Mr. Speaker."

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

"First I'd like to give some historic perspective on the YMCA building. When Chris Hemmeter purchased this building back in 1987 he paid \$11 million dollars for it. He then spent about \$20 million dollars in renovations. That is a total of \$40 million dollars. Several years later, a Japan entity purchased it from Chris Hemmeter for a little over \$80 million dollars in 1990. Ten years later, which was last year, the State purchased the building for \$22.5 million dollars. That's a \$57.5 million dollars less."

Representative Gomes rose on a point of order, stating:

"With all due respect to the current speaker, I think he's diverting from the purpose of the measure which seems to be whether or not we're going to acquire this building as an art museum."

The Chair responded, stating:

"I think the Chair gave some latitude about the acquisition of the Hemmeter Building, so therefore we will proceed."

Representative Chang continued, stating:

"Last year the State purchased the building for \$22.5 million dollars which is \$57.5 million dollars less than what the previous purchaser paid for it. Prior to this purchase the State was leasing this building for about \$2.6 million dollars annually. With the purchase of the Hemmeter Center, using the financing method called COPs, a Certificate of Participation, which is similar to bond financing, we are now currently paying \$1.95 million a year in payments, saving \$600,000 per year and building equity every year till the year 2020 when the State will own the building free and clear of all debts.

"Madame Speaker, I think even our Members on the other side of the aisle will agree that this is a great real estate investment. I also believe that the magnificent structure presently known as the No. 1 Capitol District Building, offers the State a unique opportunity to establish a focal point of community arts and cultural enjoyment that downtown Honolulu unlike many great cities of the world has always lacked.

"To achieve the full potential of Hawaii's Capitol District the amenities will include the Capitol District visitors information which will provide information, retail and food services. I think you will agree, Madame Speaker, that the facilities to be created to market educational materials and giftshop merchandise and event tickets, and to disseminate information will have substantial spin off benefits to other agencies across the downtown area.

"The State Foundation of Culture and Arts will collaborate with the Capitol District cultural organizations to conduct walking tour orientations, disseminate information and brochures, and encourage statewide cultural activities for students, residents and visitors alike. The ancillary improvements will be funded by the Works of Art Special Fund which has a current balance of about \$7.5 million dollars. This Fund was created over 30 years ago by our then Governor Burns and Legislature. One percent of all capitol improvements project dollars has been earmarked to this

special fund to display our local artists works of art in public places.

"Madame Speaker we should not be using this special fund for any other purpose than for what it was intended. At last, Madame Speaker, the State art collection will have a permanent home for appropriate displays accompanying educational programs as recommended in the 1995 statewide public arts master plan. Thank you."

Representative Fox rose on a rebuttal, stating:

"A plan done 33 years ago for the YMCA has a small problem referring to that and that is the fact that Hemmeter stepped in between and turned a perfectly normal downtown building into a palace. What we have done is acquired the palace not the YMCA building.

"So, all references to where that building was 33 years ago is pretty inappropriate at this time. If we made a financial killing then let's take advantage of it. Let's sell that building and use the money to support things that this State really needs. References to the first and second floor keep omitting what's going on in the floor above where we have palatial offices for the Director of Budget and Finance and the Director of DBEDT. It's really quite embarrassing how these officials are in such great comfort. You think this was a prosperous State maybe sitting on a pile of oil or something and not the State of Hawaii struggling through a decade of extreme economic difficulty. Thank you, Madame Speaker."

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

"I agree with my Vice Chair of the Health Committee as well as the Chair of the Tourism Committee that this is a wonderful legacy to leave for our children. But when we talk about legacy for our children I can't think, and it really bothers me right down to my "na'au", that maybe it's more symbolic and emotional but when we have kids whose teeth are falling out and kids that are homeless, and we're going to see a lot of kids that are going to suffer because their parents are going to be kicked off welfare. At the same time we're going to offer them a nice museum that they can walk through to see all the great art work.

"I don't know how much satisfaction they're going to get out of that. I appreciate the fact that we're getting a great deal on the building. We'll figure out financing for the artwork, but I guess all I ask is that to balance things out, is that we be creative and look at how we can finance some of the real needs of our children. Because they're the real legacy that we need to take care of.

"I know art work will last forever, but our children are only children for a short period of time. We need to make sure that they're healthy and taken cared of. Thank you, Madame Speaker."

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

"The only I comment I have is that I'd rather see the Works of Art Special Fund to be used to put artistic sculptures into our elementary school playgrounds so that children can actually touch, feel and climb on real pieces of art. It seems to me that brings it much more to the children's level and benefits them and gives them a love of art from an early age. Thank you."

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

"I would just like to say that you've heard other speakers say that we should sell the building, sell all the art, take all the art out of our offices and sell all of that, get enough money to fix our schools, buy our computers, buy our textbooks and to take care of our children's teeth. Thank you, Madame Speaker."

Representative Ahu Isa rose and asked the Clerk to register and aye vote with reservations to her, and the Chair "so ordered".

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:

"Last week, I was fortunate to hear Eric Booth, Faculty Chair of the Empire State Partnership, the largest arts-in-education experiment in the U.S. It was an uplifting experience and one I am sorry many of you missed.

"His message was one I know well: how arts education is so very valuable to our youth and how we must encourage it in all aspects of life. He encouraged us to develop our strategic plan for arts education.

"For me the arts is such an important part of life; to see the Hemmeter building used for the purposes of the State Art Museum is a positive thing. I was shocked to hear the statement that somehow this is taking something away from our children----this is for our children and our children's children.

"The State Art Museum will build upon the philosophy of the State to promote art in public places for the benefit of every resident in the State.

"Recently, I received a letter from Sandra Pohl, whose husband, Louis, was a well-known artist whose work may well be hanging in one of your offices. She wrote that one of Louis Pohl's 'pet peeves' was the fact that there is no permanent collection of Hawaii's fine art accessible to the people of Hawaii. The state collection visually documents Hawaii's multicultural history from the perspective of local residents like Madge Tennent, Jean Charlot, Hon Chew Lee, Toshiko Takaezu and Louis Pohl to the new generation of local artists.

"She went on to say "our local fine artists are housewives, teachers, union members, sales personnel, business owners, and architects. They are students of life who have honed their skills and have been recognized by their peers. The State Art Museum will showcase our own human experience as a people and will provide Hawaii residents the opportunity to develop the one-on-one relationship between the artist and the viewer."

"Throughout the year, I receive many visitors from my district. They are school children, teachers, boy and girl scouts, senior citizens and families returning to Hawaii. Most would love nothing better than to be escorted to the State Art Museum where they could view more of the culture of our beautiful state after touring the State Capitol. When I read to schoolchildren or visit the schools I am amazed sometimes at how many have not yet visited the Capitol District. The State Art Museum will give them another reason for being here.

"We have spent much money over the past several years on projects that provide for the physical education of our children and our people. Let's give them the gift of the continued existence of local art. Members, please support this bill."

The motion was put to vote by the Chair and carried, and H.B. No. 512, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ANCILLARY FACILITIES FOR THE STATE ART MUSEUM IN THE NO. 1 CAPITOL DISTRICT BUILDING," passed Third Reading by a vote of 37 ayes, and 11 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Moses, Ontai, Pendleton, Stonebraker and Thielen voting no, and Representatives Rath, Schatz and Whalen being excused.

H.B. No. 573, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 573, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REPEAL OF OUTSTANDING AUTHORIZED BUT UNISSUED SPECIAL PURPOSE REVENUE BONDS," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 718, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 718, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX ON NONPROFIT ORGANIZATIONS," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 1026, HD 1:

Representative M. Oshiro moved that H.B. No. 1026, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I would just like to thank the Finance Committee for finding additional money for this very important project. We started out with the information that it would be \$1,750,000 dollars in the fund. When it went to the Finance Committee we discovered that the interest of that fund had taken it up to \$2,500,000. On behalf of the people of Hawaiian ancestry and my district, Kalapana, who waited over nine years, I would like to thank and hope that this will move through the Senate and the conference committee, so that we can finally get the Kalapana people back into their native area where they can practice their gathering and access to the ocean, which they have done for many centuries. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1026, HD 1, entitled: "A BILL FOR AN ACT RELATING TO KIKALA-KEOKEA," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 608, HD 1; 511, HD 1; 512, HD 1; 573, HD 1; 718, HD 1; and 1026, HD 1 had passed Third Reading at 9:59 o'clock p.m.

H.B. No. 407, HD 1:

Representative M. Oshiro moved that H.B. No. 407, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Magaoay's remarks are as follows:

"The local construction industries have long sought to have this bill implemented. The construction industries have three major vehicles of revenue to draw their income from: 1) municipal (State and City and County); 2) federal government; and 3) private sectors.

"The private sector market has dwindled throughout the years. Federal government projects has sustain and increase throughout the years, through the help of our Hawaii congressional delegates in Washington D.C. Example of some of the construction projects: a) \$83 million – Camp Smith Pacific Command Headquarters; 2) \$1 billion – Ford Island; and 3) \$75 million – Housing projects at Schofield Barracks and Kaneohe Marine Corp Station.

"This bill requires the Department of Taxation to devise a system to determine starting and completion dates for mainland contractors working on federal projects and enforce GET collection. This bill requests U.S. Government to provide information on mainland contractors on federal projects in Hawaii. This bill authorizes the Director of Taxation to contract for collection from mainland contractors of delinquent GET or other collection provisions. This bill requires the Director to report to Legislature or needed Legislation before 2002 regular session and authorizes Director of Taxation to adopt rules.

"This is a very good bill."

The motion was put to vote by the Chair and carried, and H.B. No. 407, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 937, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 937, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL SERVICE CONTRACTS," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 1245, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1245, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 1288, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 1288, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 424, HD 1:

Representative M. Oshiro moved that H.B. No. 424, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Case offered the following amendment to H.B. No. 424, HD 1:

House Bill No. 424, H.D. 1, is amended by inserting section 2 of House Bill No. 1416 to read as follows:

"SECTION 2. Section 235-51, Hawaii Revised Statutes, is amended by amending subsections (a) to (d) to read as follows:

"(a) There is hereby imposed on the taxable income of (1) every taxpayer who files a joint return under section 235-93; and (2) every surviving spouse a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 1998:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.60% of taxable income
Over \$4,000 but not over \$8,000	\$64.00 plus 3.90% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$220.00 plus 6.80% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$764.00 plus 7.20% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,340.00 plus 7.50% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,940.00 plus 7.80% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,564.00 plus 8.20% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$4,204.00 plus 8.50% of excess over \$60,000
Over \$80,000	\$5,904.00 plus 8.75% of excess over \$80,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.50% of taxable income
Over \$4,000 but not over \$8,000	\$60.00 plus 3.70% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$208.00 plus 6.40% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$720.00 plus 6.90% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,272.00 plus 7.30% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,856.00 plus 7.60% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,464.00 plus 7.90% of excess over \$40,000
Not over \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,680.00 plus 7.20% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,256.00 plus 7.60% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$4,044.00 plus 8.20% of excess over \$60,000
Over \$80,000	\$5,684.00 plus 8.50% of excess over \$80,000

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000

Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,680.00 plus 7.20% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,256.00 plus 7.60% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$3,776.00 plus 7.90% of excess over \$60,000
Over \$80,000	\$5,356.00 plus 8.25% of excess over \$80,000

(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 1998:

If the taxable income is:	The tax shall be:
Not over \$3,000	1.60% of taxable income
Over \$3,000 but not over \$6,000	\$48.00 plus 3.90% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$165.00 plus 6.80% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$573.00 plus 7.20% of excess over \$12,000
Over \$18,000 but not over \$24,000	\$1,005.00 plus 7.50% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,455.00 plus 7.80% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,923.00 plus 8.20% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$3,153.00 plus 8.50% of excess over \$45,000
Over \$60,000	\$4,428.00 plus 8.75% of excess over \$60,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$3,000	1.50% of taxable income
Over \$3,000 but not over \$6,000	\$45.00 plus 3.70% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$156.00 plus 6.40% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$540.00 plus 6.90% of excess over \$12,000
Over \$18,000 but not over \$24,000	\$954.00 plus 7.30% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,392.00 plus 7.60% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,848.00 plus 7.90% of excess over \$30,000

Not over \$3,000	1.40% of taxable income
Over \$3,000 but not over \$6,000	\$42.00 plus 3.20% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$138.00 plus 5.50% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$468.00 plus 6.40% of excess over \$12,000
Over \$18,000 but not over \$24,000	\$852.00 plus 6.80% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,260.00 plus 7.20% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,692.00 plus 7.60% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$3,033.00 plus 8.20% of excess over \$45,000
Over \$60,000	\$4,263.00 plus 8.50% of excess over \$60,000

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
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Not over \$3,000	1.40% of taxable income
Over \$3,000 but not over \$6,000	\$42.00 plus 3.20% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$138.00 plus 5.50% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$468.00 plus 6.40% of excess over \$12,000
Over \$18,000 but not over \$24,000	\$852.00 plus 6.80% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,260.00 plus 7.20% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,692.00 plus 7.60% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$2,832.00 plus 7.90% of excess over \$45,000
Over \$60,000	\$4,017.00 plus 8.25% of excess over \$60,000

(c) There is hereby imposed on the taxable income of (1) every unmarried individual (other than a surviving spouse, or the head of a household) and (2) on the taxable income of every married individual who does not make a single return jointly with the individual's spouse under section 235-93 a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 1998:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.60% of taxable income
Over \$2,000 but not over \$4,000	\$32.00 plus 3.90% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$110.00 plus 6.80% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$382.00 plus 7.20% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$670.00 plus 7.50% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$970.00 plus 7.80% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,282.00 plus 8.20% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$2,102.00 plus 8.50% of excess over \$30,000
Over \$40,000	\$2,952.00 plus 8.75% of excess over \$40,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.50% of taxable income
Over \$2,000 but not over \$4,000	\$30.00 plus 3.70% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$104.00 plus 6.40% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$360.00 plus 6.90% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$636.00 plus 7.30% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$928.00 plus 7.60% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,232.00 plus 7.90% of excess over \$20,000
Not over \$2,000	1.40% of taxable income
Over \$2,000 but not over \$4,000	\$28.00 plus 3.20% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$92.00 plus 5.50% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$312.00 plus 6.40% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$568.00 plus 6.80% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$840.00 plus 7.20% of excess over \$16,000
Over \$20,000 but	\$1,128.00 plus 7.60% of

not over \$30,000	excess over \$20,000
Over \$30,000 but not over \$40,000	\$2,022.00 plus 8.20% of excess over \$30,000
Over \$40,000	\$2,842.00 plus 8.50% of excess over \$40,000

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.40% of taxable income
Over \$2,000 but not over \$4,000	\$28.00 plus 3.20% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$92.00 plus 5.50% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$312.00 plus 6.40% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$568.00 plus 6.80% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$840.00 plus 7.20% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,128.00 plus 7.60% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$1,888.00 plus 7.90% of excess over \$30,000
Over \$40,000	\$2,678.00 plus 8.25% of excess over \$40,000

(d) The tax imposed by section 235-2.4 on estates and trusts shall be determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 1998:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.60% of taxable income
Over \$2,000 but not over \$4,000	\$32.00 plus 3.90% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$110.00 plus 6.80% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$382.00 plus 7.20% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$670.00 plus 7.50% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$970.00 plus 7.80% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,282.00 plus 8.20% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$2,102.00 plus 8.50% of excess over \$30,000
Over \$40,000	\$2,952.00 plus 8.75% of excess over \$40,000

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.50% of taxable income
Over \$2,000 but not over \$4,000	\$30.00 plus 3.70% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$104.00 plus 6.40% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$360.00 plus 6.90% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$636.00 plus 7.30% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$928.00 plus 7.60% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,232.00 plus 7.90% of excess over \$20,000
Not over \$2,000	1.40% of taxable income
Over \$2,000 but not over \$4,000	\$28.00 plus 3.20% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$92.00 plus 5.50% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$312.00 plus 6.40% of excess over \$8,000
Over \$12,000 but	\$568.00 plus 6.80% of

not over \$16,000	excess over \$12,000
Over \$16,000 but	\$840.00 plus 7.20% of
not over \$20,000	excess over \$16,000
Over \$20,000 but	\$1,128.00 plus 7.60% of
not over \$30,000	excess over \$20,000
Over \$30,000 but	\$2,022.00 plus 8.20% of
not over \$40,000	excess over \$30,000
Over \$40,000	\$2,842.00 plus 8.50% of
	excess over \$40,000

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.40% of taxable income
Over \$2,000 but	\$28.00 plus 3.20% of
not over \$4,000	excess over \$2,000
Over \$4,000 but	\$92.00 plus 5.50% of
not over \$8,000	excess over \$4,000
Over \$8,000 but	\$312.00 plus 6.40% of
not over \$12,000	excess over \$8,000
Over \$12,000 but	\$568.00 plus 6.80% of
not over \$16,000	excess over \$12,000
Over \$16,000 but	\$840.00 plus 7.20% of
not over \$20,000	excess over \$16,000
Over \$20,000 but	\$1,128.00 plus 7.60% of
not over \$30,000	excess over \$20,000
Over \$30,000 but	\$1,888.00 plus 7.90% of
not over \$40,000	excess over \$30,000
Over \$40,000	\$2,678.00 plus 8.25% of
	excess over
	\$40,000"

Representative Case moved that the amendment be adopted, seconded by Representative Pendleton.

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

"First of all, Madame Speaker, let me clear up any potential misunderstanding of what this amendment proposes. The bill as it lies before us for Third Reading is a bill to increase the standard deduction. That is a worthy goal that I support. This amendment does not replace the increase in the standard deduction, but supplements this bill to accelerate the current personal income tax cuts, which are being phased over a four period of which we are in the third year at present, for all but the top two income brackets.

"So what this amendment proposes to do is to take the personal income tax cuts, which would otherwise be implemented during this year and next year, and compress them into the current year for all but the top two income brackets. This amendment is clearly designed to target lower income tax payers. Since we have very compressed brackets, you will see that this actually applies to many people who are supposedly in the lower income levels, but are essentially families who are filing jointly under \$60,000 of income and for individual income tax payers under \$30,000.

"Now the purposes of this amendment are two or three-fold. The first purpose is to fully implement the House Democratic Majority's agenda, as published at the beginning of this session, which called for us to "reduce taxes for those who are most in need". The two bills that we have been tracking along these lines are a food tax credit, and an earned income tax credit which has blank amounts. We don't know how much that earned income tax credit is, and that will be the subject of another amendment.

"But, clearly when we're talking about increasing the standard deduction in the underlying bill, we are talking about a revenue or benefit break to lower income taxpayers of only

an aggregate of \$10 million dollars over the next two years. So that's the sum total of the majority's allocation to lower income tax relief at present, and I submit that that is totally insufficient to accomplish the goals that the majority seeks to pursue.

"The second reason for putting this amendment forward at this time is to establish clear budget priorities for this Legislature. We're facing a budget bill that passed Second Reading tonight and we are facing a vote on it two days hence. That budget already has priorities built into it, and we will hear what those priorities are as we go through that debate. That's really putting the 'cart before the horse'. My submission is that we should start with our tax structure and decide what we want to do with the tax structure and then adjust the rest of the budget on the spending side to our tax structure. Our goal here should certainly be to accelerate and provide income tax relief for lower income people.

"The third reason for accelerating the personal income tax cuts for lower income people is to address the shaky economy that we face. We're all flying high because our revenues are up this year, but don't forget that over the next couple of years, the out years of the budget including the next two fiscal years, we face probably an overly optimistic revenue projection. These are dark clouds on the horizon both on the mainland and Asia that could easily hit our shores. Now the question is what do we do about it? I submit that what we do about it is to accelerate tax relief, especially at the lower income level, pump more money back into our economy through that tax relief, and that that is the proper policy call for us to make.

"Now, no doubt some will say either on the floor or otherwise that we cannot afford to provide for this relief. By the way the cost of this relief is an acceleration of \$51,000,000 into the current tax year which would otherwise be phased into the next year. So we're not talking about a reduction in the long term, we're talking about an acceleration or a movement by one year of \$50,000,000. No doubt somebody will stand up and say that we cannot afford that. That's a question of priorities, that's a question of what we decide to afford.

"For example if you were to ask me if I wanted to pump \$51,000,000 into lower income tax relief this year in order to provide for economic recovery and to assist lower income people and would I do it at the expense of funding all public employee pay raises as requested, I would be very easily able to tell you that I would rather initially provide for the tax relief and then take the balance and allocate it as I saw fit over the sum total of the budget including partial pay raises."

Representative Takai rose to yield his time.

Representative Case continued, stating:

"This is purely a question of priorities. It's what we choose to afford, and what I choose to afford is tax relief at the lower income both through this amendment and through others and to adjust in other areas of the budget to the goals that I'm trying to set in this amendment.

"I would urge my colleagues to consider that this is the most fiscally appropriate course. This is the proper level of priorities, this is assistance to taxpayers who are most in need, and this is necessary for continued for economic recovery. Thank you."

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

"Madame Speaker the floor amendment before us is not unlike the previous attempt to put the exemption on food

before this body. Let me deal first with some of the procedural concerns and then I will deal with some of the substantive concerns and I realize that we are late in the day so I'll try to summarize.

"First of all, Madame Speaker, the measure before us, unlike the bill, has not gone through the regular public hearing process. In fact when this measure was scheduled for public hearing in the Finance Committee there was no attempt by the sponsor of this floor amendment to contact and discuss the matter with the Committee. When the bill was heard, again, there was no attempt by the sponsor of this floor amendment to deal with the issues with the Committee.

"As a result at this point it seems as though that it is substituting a member's judgement and otherwise sort of circumventing the hearing process. With respect to the substantive ground, Madame Speaker, again, as indicated by the previous speaker the cost of the floor amendment is in excess of \$51,000,000 and it does not fall within the financial plan. Basically we talked earlier about the fiscal responsibility and our duty to balance the budget. For all of the foregoing reasons I would suggest that we vote down the amendment. Thank you."

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

"This is a really interesting amendment because it amends my bill which is to increase the standard deduction. At first I thought it was 'gutting' my bill, but it's an amendment and is adding to the increasing the standard deduction.

"The intent of this amendment is to stimulate the State economy by allowing taxpayers to keep more of their earnings, thereby increasing consumption as well as to promote investment in this State. The financial impact of the first phase of the income tax cut has been minimal in terms of tax revenue to the State treasury. The impact of the first phase of the rate reduction was reflected in lower withholding on salary and wage income beginning in January 1999. Therefore we put more money in our taxpayers' pockets.

"The personal income tax generated \$1.084 billion in 1998, \$1.069 billion in 1999 and \$1.06 billion in fiscal year 2000. Increases in the personal income as a result of the recovery of the visitor industry and capitol gains income offsets the lowering of these income tax rates.

"The State Council on Revenues, September 2000 projections for personal income tax collections, include a \$61.3 million reduction in 2002 and a \$105.8 million reduction in 2003. Accelerating the tax cut by a year as the Representative from Manoa said would move forward the revenue loss projected for 2003 to 2002 while we are still enjoying a slight increase in our economic recovery.

"I recommend that we adopt these accelerated tax rate schedules. Thank you."

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

"To put it very simply, Members I don't think we can afford it. In the past years this body here has been very generous to the people of the State of Hawaii and naturally we must continue to be so. We're provided cuts in taxes that is going to be amounting to almost \$2 billion within the next four or five years.

"We will have a difficult enough time trying to maintain the viability of our budget, providing the dollars for Felix v.

Waihee. The money for our schools, textbooks, computers, health systems, for our children as the Representative continues to bemoan that we don't have enough money for children's health and dental care, for the adult dental care.

"All of these things that we need, but we don't have the sufficient funds for. Now we're going to make additional cuts in the revenue base. This reminds me of President Bush when he called it "voodoo economics". The trickle down theory may work for a little while, but here in Hawaii and as a State where we cannot print our own money, it will eventually come to roost where we won't have enough dollars to pay for what we need.

"For the last eight years during my term as Speaker, the revenue picture has gone down. It went up for a little while, but all indications point it going down again. We just heard over the news that in Japan they're raising the yen up to 150 yen. But this means is that there will be less Japanese tourists coming to Hawaii because it would be more expensive coming over here. There is a recession going on in the mainland, or about to.

"All these things is going to affect the tourist industry that we have right now. To provide a cut at this time, in due respect to the two great Representatives and my neighbor here, I think it is the wrong time to do it. Thank you, Madame Speaker."

Representative Case rose on a rebuttal, stating:

"First of all, as to the Finance Chair's comments, first the procedural concern that this was not brought to the attention of the Finance Chair. The amendment is identical to a bill which I introduced and was referred to the Finance Committee and was not scheduled for a hearing. I surmised and believed, correctly, that there was no interest in taking that bill up in the Finance Committee and therefore it needed to be addressed on the floor, if at all.

"Second, the Finance Chair makes the comment that we can't afford this because "the cost doesn't fall within the financial plan". Whose financial plan? Is that his financial plan? If that's true, that is an opinion by the Finance Chair of what the financial plan should be. I submit that the financial plan is to be put together by the members of this Legislature acting collectively. So the financial plan should reflect priorities of this Legislature, and if the priorities of this Legislature are to provide further tax relief to the low income taxpayers, then that's what the financial plan should be and the rest of the financial plan should adjust. So I'm not prepared to accept this financial plan to which he has referred.

"Third, the Speaker Emeritus continues to make the observation that we cannot afford it. We cannot afford it if we do not adjust other items. We cannot afford it for example, if we choose to not provide for efficiencies in government through either privatization or effective civil service reform. That's an effective, efficient approach which is a reasonable option, but members of this body seem to not want to go in that direction. They seem to want to assure an inefficient government, thereby providing no alternative but to maintain a highly inefficient and costly system.

"We cannot afford it because we have not chosen to prioritize government spending over the last years. We have not had the guts to prioritize government spending over the last years. So, of course we can't afford it. Because we assume a high cost, inefficient government, and I'm not talking solely about the matters that we have to fund as a matter of "non discretionary funding".

"So, there's lots of options, but what I'm saying here, here is a priority if this body wants to go in this direction and create this as a priority, then here is the opportunity, and the rest of it has to fall in place. I think it is the right priority and I don't accept the priorities forwarded by the speakers in support. I believe this is the right priority. Thank you."

Representative Souki rose on a rebuttal, stating:

"The Representative from Manoa speaks about efficiency and privatization to bring in more revenue to the State of Hawaii. It may, but over the long term and the problem that we have is right now. We have a problem right now to balance the budget. Yes, we need to be more efficient and possibly we need to privatize some services, but all of this is long term. By making an employee more efficient is not going to put dollars into the State coffers."

"Now yes if you want make the hard choices, let's make it. Ask the Representatives here where we're going to cut. I'm talking about cutting into the base. Where are we going to cut into the base? Raise taxes? Either one of those two things. But, we cannot be here talking about efficiency and privatization as if it is going to resolve all of the economic problems. It won't. For the long term, "yes", for the short term "no"."

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

"Members of this House I think the Speaker Emeritus is absolutely correct. For all of us who have been here for the past seven years, you have seen the cuts, you have seen the restrictions, you have seen whatever resources we can fund."

"This particular House amendment that we have on the floor, to me is an amendment that is uncalled for at this point and time. Each and every one of you had the opportunity of introducing measures and communicating it with the Chair or Members of the Finance Committee. It is not a priority of this House this evening, Madame Speaker, and the reason why is that there are other measures that were part of the priority of this House that was developed by the Chair and Vice Chair and the Members of the Finance Committee."

"When I say that we have other tax measure before us in exemptions, credits etc., but also on the bigger picture it will on the budget which we will be addressing this coming Thursday. To cut a \$50,000,000 appropriation this evening would create a tremendous havoc on the Finance Committee's responsibility in trying to balance their budget. Because they would have to make the decision of where they are going to cut the \$50,000,000 of loss in revenues which is now being used to provide services to the general public at large."

"I say this in all fairness to all of you that for the Finance Committee Members who have communicated it to their colleagues, which I tried to share with the Minority Leader and Floor Leader and a Member of the Finance Committee members from the Minority Caucus, that one of the biggest issues that we have today is in the "must fund" categories. The "must fund" categories are your debt service. I'm very, very proud and elated that we've appropriated over a quarter billion to the "Second City", in general obligation bonds. I'm very proud of the \$100 million that we've spent for West Hawaii and the schools that we have built and I'm very proud of the National Energy Lab, (NELHA), the high technology section of West Hawaii. These are all general obligation bonds that is tied to debt service, Madame Speaker, and this is just one category which I share with the Members this evening."

"This evening this House has made some historical movement in the area of the Public Employees Health Fund, in trying to control the cost, the spiraling cost, of the employers health fund contribution to active employees and retirees."

"It is very exciting and scary, to be very honest with you, that this category I'm about to mention, we don't have any control over. We discussed this matter on the floor of this House, and it is the Employees' Retirement System on the pension accumulation contributions by the employer."

"Madame Speaker, what would you like to do in exchange of cutting \$50 million? Would it be in recommitting maybe seven or eight measures which are tied to the financial plan? There is no sinister operation going on with the Finance Committee and the Members. I believe the Chair and Vice Chair have been very open in their deliberations and discussions. Where would you want to make cuts to accommodate this loss in revenue? I think all of us know at this point this evening that the Senate would take a contrary position to this particular proposal that has already arrived. Like I said to the media and the press, I would be very honored if the Finance Chair would schedule a hearing as quickly as possible for the public input."

"So Madame Chair, when I look at this particular amendment it is just reflects one of our colleague's priorities, compared to the many measures that we have adopted this evening. That's why I ask all of you in sincere honesty, are we playing politics or are we being fair and honest to the people that we represent?"

"I am here, Madame Speaker, to the people's work and to balance a budget. But I am also not trying to hurt the general populace at large. Do we have any measures in this House to suspend this personal income tax deduction? "No". If we did maybe it would have been considered. We had bills accelerating it, but knowing what the financial conditions are today, which I shared with the Majority Caucus, that March 15th when the Council comes back with its revised Council projections, the growth of a 6.0 growth will probably drop to a 4.5. A 4.5 maybe equivalent to a \$45 million dollar loss in the financial plan that was developed in December."

"So, Members I ask all of you to look into your hearts and ask yourself if we can stand a cut of \$50 million dollars. Thank you, very much."

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 to adopt the amendment to H.B. No. 424, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INCOME TAX," was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 30: Abinsay, Arakaki, Cabrerros, Chang, Davis, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 18: Ahu Isa, Auwae, Bukoski, Case, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen.

Excused, 3: Rath, Schatz and Whalen.

Main Motion

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

"I would just like the members to know that this is work in progress like many of our tax measures.

"At the time we received testimony from the Department of Taxation and it was on a version of a bill that we had up for hearing. This bill is an amended version and it had some changes. But I'd like to give the members an idea of what this bill does.

"To estimate the effects of this bill on our taxpayers we can compare the provisions in this bill to H.B. No. 716 on which testimony was provided by DOTAX that would result in the years affected with \$13 million of tax deductions. That bill provided for increase standard deductions in 2001, 2002 and 2003. With that type of tax reduction the bill before us is estimated to, based on the number provided by DOTAX, result in an \$11.2 million in tax deductions.

"But let me go into what the \$13 million meant in form of tax returns and the effect on our taxpayers. The Department of Taxation estimated that H.B. No. 716, with \$13 million of deductions, would result in 17,000 fewer returns that need to be filed, and approximately 37,000 more returns that will be filed without having to go through the pain of itemized deductions.

"This measure, HB No. 484 with our HD 1 amendment, offers an additional alternative that benefits those taxpayers most in need who are in the lowest tax brackets as does the measure that offers the \$70 food tax credit. Also compared to the mechanics of implementing another bill on the agenda, the earned income tax credit bill, this bill appears to facilitate easier tax compliance requiring less returns to be filed.

"Additionally, those somewhat less than 37,000 returns that benefit from the increased standard deductions would be simpler to prepare. I urge my members to support this bill that promotes the financial well-being of many of our taxpayers and it will also promote their mental well-being by the reduction of the burden of compliance cost. Thank you."

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

"I want to thank the Finance Chair for passing this bill out.

"This bill increases the standard deduction which will help the poorest of the poor in our State. To offset the revenue loss, the tax base is broadened by eliminating economically unproductive deductions. The standard deduction exists to shield a basic portion of income for the income tax, traditionally this threshold was set as a minimum standard of living. However, inflation erodes the value of this threshold.

"I just want to point out that the federal standard deduction is way greater, 187% higher than the State's amount for married filing joint and married filing separate. The federal deduction is 279% higher and for head of household the differential is 185%. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 424, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INCOME TAX," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 269, HD 1:

Representative M. Oshiro moved that H.B. No. 269, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Chang's remarks are as follows:

"I stand in support of HB 269, HD 1.

"This is the Hawaii Tourism Authority (HTA) "Omnibus Bill" which does a number of things which I will discuss, but first I'd like to share some historical perspective for some of our new members, in 1999, when the HTA was created by the Legislature with the support of the ERTF, and the visitor industry, we were able to establish an Authority that would be mandated to develop and implement a strategic tourism plan for our State. At the onset, the HTA was tasked to focus on the immediate sales and marketing needs of our then slumping industry. As a result of these efforts by several dedicated professionals on the Authority, initial reports would indicate that 2000 was indeed a better year for Hawaii's visitor industry. This bill will allow the HTA to continue to implement the various facets of their plan and to broaden their scope to other activities that will improve the quality of our visitor experience.

"HTA's impact has been proven to be significant and real. The visitor industry is improving; visitor numbers are up 3% for 2000 and more important last year the Legislature gave HTA the responsibility of the Authority expenditures which are up over 10%

"The HTA now needs the flexibility to operate and negotiate contracts for the use of the HCC, and a Convention Center Enterprise Special Fund will allow the HTA to effectively operate and manage the HCC in a very competitive market place. In order for the HCC to compete effectively, it must have immediate access to sufficient resources to satisfy the demands of its business clients who maintain high levels of service expectations. Monies from the Fund will be used for operating and maintaining the Convention Center as well as for paying for future capital improvements by depositing monies into the Convention Center Facility Reserve Special Fund.

"In order to prepare for times of unforeseen major repairs, maintenance, and improvements of the HCC, the Convention Center Facility Reserve Special Fund is established and will be used for such purposes as necessary.

"Presently of the thirteen (13) HTA board members, eleven (11) have the ability to vote. This bill provides for the appointment of an additional public voting member and gives voting authority to the nonvoting public member. It is appropriate that the HTA community member has full voting privileges, just as all other appointed members do."

"This bill also calls for revenues deposited into the Tourism Special Fund which exceed the Hawaii Tourism Authority appropriation to be used for: (1) expanding Hawaii business tourism; and (2) investing in Hawaii's natural environment.

"This bill, Mr. Speaker, recognizes the nexus between the visitor industry and our natural environment. Part of the reason people visit our State is to experience our spectacular natural and scenic resources. We cannot simply spend money on marketing to attract visitors without making sure that we have a good product to sell. Further, the quality of life of our residents will be enhanced if our beaches and parks are kept in

good repair. This bill will help fund the protection, care and maintenance of these areas.

"We also need to expand Hawaii's image beyond our present "sun and surf" image and brand Hawaii as more than a leisure destination. This broader market image should reflect the business opportunities that exist here. We need to promote our unique location and strategic advantages, our multi-cultural assets, and our technology resources.

"We must emphasize our technology and business resources as much as we do our natural resources. We must advertise changes in our tax laws and regulatory climate that have made it easier to do business in Hawaii.

"Hawaii is well-known as a leisure destination. We are not known for our business advantages. Most visitors to our islands are unaware of the wealth of technology resources available here.

"For example, our health care industry has some of the most advanced equipment and technologies available. The telescopes on Mauna Kea regularly uncover new information about our universe. The volcanoes and the ocean environment provide excellent opportunities for research. Diversified agriculture is using biotechnology to improve productivity. We are also one of the most connected places in the world with a vast global telecommunications network. And our info-tech industry is growing rapidly. We must ensure that when potential investors think of Hawaii, they consider the vibrant growth in 21st century industries and to just hotel and real estate development.

"So Mr. Speaker, this is a comprehensive bill that is supported by our tourism industry and I ask for the members' support."

The motion was put to vote by the Chair and carried, and H.B. No. 269, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 407, HD 1; 937, HD 1; 1245, HD 1; 1288, HD 1; 424, HD 1; and 269, HD 1 had passed Third Reading at 10:32 o'clock p.m.

H.B. No. 163, HD 1:

Representative M. Oshiro moved that H.B. No. 163, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I realize it is late in the day but because of the concerns that was expressed earlier discussions, I beg the indulgence of the Speaker and our colleagues to briefly go over some of what this bill would result in.

"The economic indicators reflect that we are entering a period of expansion. We've been able to accomplish much to restructure our income and general excise tax system over the past three years, however much remains to be done. After many years of severe budget cuts it's time to assist those who were perhaps hurt the most by legislative action to balance the budget.

"H.B. No. 163, HD 1, represents one piece of the puzzle that will assist the most needy taxpayers in our society. Just a few years ago the Legislature was forced to reduce and subsequently eliminate a food excise tax credit that has been

on the books for many years. The time is right to revisit those elements of our income tax structure and see if we can improve on them. This bill reflects just such a purpose. H.B. No. 163, HD 1, proposes a graduated food tax credit in designed to assist those with adjusted gross incomes of \$30,000 or less.

"Keeping in mind that there is a current income tax credit already on the books, this food credit is designed to work in conjunction with the low income tax credit and is on top of that tax credit. During Second Reading of this bill the benefit levels of this bill were described as being "manini".

"Let's examine the facts. Before 1995 a person with \$29,000 adjusted gross income qualified for a \$10 tax credit per exemption. They would qualify for a \$20 credit per exemption under this proposal. Before 1995 a person with a \$15,000 adjusted gross income qualified for a \$20 credit, they would qualify for a \$40 credit, \$40 credit per exemption that is, Madame Speaker, under this proposal. Combine that with the effect of the low income tax credit and they would qualify for a \$65 credit per exemption, more than triple the benefit in 1995. Before 1995 a person with an adjusted gross income under \$8000 qualified for a \$45 credit, they would qualify for a \$60 credit per exemption under this proposal and a \$95 credit per exemption when combined with an existing low income tax credit.

"As you can see the benefit levels are not "manini". Madame Speaker, the Center on Budget and Policy Priorities conducted a study on various food credit schemes nationwide and this is what the Center has to say about Hawaii's tax credit structure: "At times in the last fifteen years a few states offered exemplary credits. Notable among these states was Hawaii."

"Madame Speaker, the federal government estimates a bare minimum amount of spending necessary for a family to purchase what the government considers an adequate diet, they call this figure "the thrifty food plan". According to the Center, "Hawaii food excise tax credit schedule covered 80% of the tax on groceries paid by a family of four abiding the thrifty food plan for Hawaii, despite the extraordinarily high cost of groceries in that State."

"The tax credit proposal offered by this bill when combined by existing credits, exceeds the credit schedule studied by the Center. Some have argued that most people, especially the needy, don't file taxes or tax credits. Once again the Center has some insight and this is what they said: "New Mexico and Hawaii have had considerable success encouraging participation in their rebate programs. Hawaii conducts and extensive outreach and information for its credits."

"Data indicates that the State had an 85-92% participation rate. Admittedly Hawaii's exemplary credit schedule has been down-sized over the past few years. One of the casualties of severe budget shortfalls.

"Madame Speaker, it's easy to criticize a portion of a plan in isolation. It is easy to lose sight of the bigger picture. It's easy to get free press. It's much more difficult to make the tough choices that will balance the budget and at the same time provide assistance to those who have the greatest needs.

"The Tax Foundation probably put it best during the public hearing of this bill. The Tax Foundation testified: "Using tax credits based on the income of the individual filer is more precise than the blanket exemption of food and medical services from the general excise tax. Of the income tax credit structures discussed, the inversely graduated structure is far

more efficient in addressing the regressive issue of the general excise tax.

"It is important to realize and acknowledge that this bill, HB 163, HD 1, is one element of a comprehensive package of bills designed to assist those who are still struggling..."

Representative Lee rose to yield her time.

Representative Takamine continued, stating:

"It is only one element of a comprehensive package of bills designed to assist those who are still struggling in this period of economic extension. A society is judged by how it treats its most disadvantaged. The objective of this bill is to provide support to those who have the greatest needs. Thank you, Madame Speaker."

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

"This is a very 'wimpy' tax credit. The way to see how 'wimpy' it is, is to look at a family of four, making at the poverty level which is about slightly over \$20,000 a year. Their food bill according to the Department of Taxation is that an average food bill is about \$440 worth of taxes over the course of the year. The credit for that family of four is \$80, so that leaves them \$360 short of what they really need in terms of a credit to offset the tax on their grocery bill.

"So, we're a long way from really helping a poverty level family. We do nothing for the families that are in a bracket above \$30,000. This is in contrast to the credit that we had before 1995 which was a \$55 a year credit for everybody in the State and that would truly pump money into the economy and would help people at the lower end of the scale, because by its very nature the tax that we're providing credit on is regressive. It's regressive because it hits poor people the hardest who have food as the largest part of their budget. To eliminate a regressive tax is a progressive act. Thank you, Madame Speaker."

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

"This is a good bill Madame Speaker, but I think a better bill was the bill as original drafted by the Representative from Liliha. An even better bill would have been an exemption of the general excise tax and grocery food. Thank you."

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

"I support this house bill which offers up to a \$70 tax credit per qualified exemption.

"However, evaluation of tax measures should not be made on a piecemeal basis, as was pointed out by the Finance Chair. This bill has no relationship to the amount of meals consumed by the tax payer or his qualified exemptions.

"It is just another morsel on the menu of bills that targets tax benefits to those individuals most in need. It is important to note that a previous version of this bill, as mentioned by the previous speaker, which proposed a \$55 credit, with no progress, took a \$53 million per year bite out of our financial plan.

"We will be working with DOTAX for updated figures that can be digested into our financial plan. As one ingredient of the recipe for a balance approach to providing tax relief, this credit will need to be measured against other measures,

including its effect on the existing plan to continue to phase-in the tax rate reductions that was discussed in the amendment.

"As this bill moves along in the legislative process, I hope, this will not result in its elimination as an extravagant hors d'oeuvres and we will find the means to include this measure as part of our total financial plan. Thank you."

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

"With regard to the comments from the previous speaker about this being a morsel of a bill. I think it's a small sushi of a bill with just rice and no fish. It's a nice little step but we've got a long way to go. Thank you, Madame Speaker."

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

"I just want to add a token of appreciation to the Finance Committee Chair. I thank you for this \$70. My mother thanks you for the \$70, instead of the \$35 and the senior citizens thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 163, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FOOD TAX CREDIT," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 165, HD 1:

Representative M. Oshiro moved that H.B. No. 165, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Case offered the following amendment to H.B. No. 165, HD 1:

House Bill No. 165, H.D. 1 line 16, page 2, through line 1, page 3, to read as follows:

"(1) For taxable years beginning after December 31, 2000, and ending before January 1, 2002, forty per cent of the federal earned income tax credit determined under section 32 of the Internal Revenue Code and reported as such on the resident individual's federal income tax return; and

(2) For taxable years beginning after December 31, 2001, fifty per cent of the federal earned income tax credit determined under section 32 of the Internal Revenue Code and reported as such on the resident individual's federal income tax return."

At 10:42 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 10:49 o'clock p.m.

Representative Case moved that the amendment be adopted, seconded by Representative Meyer.

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

"Perhaps I can quote what the earned income tax credit is all about.

"Since its enactment in 1975, the federal current income tax credit has proven to be one of the nation's most effective, anti-poverty programs for working families. The federal earned income tax credit has encouraged people to work,

supplemented earning and has assisted nearly five million people out of poverty each year, approximately half of them children. The federal earned income tax credit has also resulted in significant gains in the overall labor force. A Hawaii earned income tax credit would build upon the federal program by cutting taxes for families struggling to provide for their children, reducing child poverty and making Hawaii a better place to live, work and raise a family. A Hawaii earned income tax credit would also support local welfare-to-work efforts. Since the implementation of federal welfare reform legislation in 1996, a growing number of Hawaii families on welfare have made the transition from public assistance to work. Often beginning in low-wage, entry-level positions. A Hawaii earned income tax credit would assist these families by supplementing their incomes as they move away from public assistance and they work towards economic independence.

"This is a beautiful description of the earned income tax credit in Hawaii, not from some out-of-state or other quotation, but straight out of HB No. 165, as it lies before us unamended. The only problem with that bill is that the amounts are blank.

"Now usually when I see the amounts blank, what I think to myself is, nobody's really taking this particular bill seriously. Either that, or it falls down on the list of priorities in terms of some financial plan.

"So the purpose of this amendment is to fill in the blanks and to provide, as a matter of policymaking in this House, that it is one of our priorities to provide a Hawaii earned income tax credit to assist working families and to comply with our majority package which states that one of our primary agendas is to reduce taxes for those who are most in need.

"The figures used in the amendment is 40% for the next tax year and going up to 50% for the following tax year. So we're phasing in the earned income tax credit at 40% and 50% of the federal income tax credit. The cost: \$32 million for the 40%, going up to roughly \$40 million for the 50%, as quoted by the Department of Taxation.

"So the bottom line here is that by expending \$32 to \$40 million per year we can provide an incredibly important and valuable asset to our working families and thereby fulfill what we all want to accomplish.

"Now let me jump forward to the comment that again I am sure we will hear, which is, "we can't afford it", and to answer the question posed by the Representative from Palolo on the previous amendment to accelerate personal income tax cuts. What do we exchange for this Hawaii earned income tax credit? I'll give him a couple of examples of areas where I believe we could easily afford this Hawaii earned income tax credit. First of all, in response to the comments of the Representative from Maui on the previous amendment, privatization and/or civil service reform would effect immediate savings which we would phase in over the next fiscal year in which this earned income tax credit would come into effect.

"So we could certainly phase some savings in, in terms of efficiency in government.

"That is something that we seem to have taken off the table and I believe that it should go back on the table. I would certainly exchange some efficiency in government to be able to afford this earned income tax credit.

"A second area I think we could probably prioritize and do something in exchange is in public employee pay raises. Because I think what the majority caucus is prepared to do, if

I'm not mistaken, in the financial plan which is being offered to us, is to fund all public employee pay raises at all amounts requested by public employee raises. Those total amounts are in the hundreds of millions of dollars. I would certainly prioritize the Hawaii earned income tax credit at \$32 million over a portion of those pay raises. That is a prioritization I am willing to make, and I don't agree that we should fund those pay raises in total, right up front, and then move back and say we cannot afford a Hawaii earned income tax credit. So, I choose to help our working families at the low income level rather than fund all of those pay raises.

"A third area that we can accomplish the earned income tax credit and do an exchange, in response to the Representative from Palolo's concerns, for this earned income tax credit is to provide some meaningful reform in some of the fixed cost to which he referred. For example, the Public Employees' Health Fund, and he accurately depicted the fact that we have major fixed cost in public employee health fund to which we have provided some starts in terms of meaningful reforms. Unfortunately, as I've noted earlier, the effective dates of the primary bills are 2010. So obviously we don't seem to be serious about accelerating these reforms into the next fiscal year."

Representative Takai rose to yield his time.

Representative Case continued, stating:

"But if we did accelerate those reforms into the next fiscal year, we could then certainly afford to provide for an Hawaii earned income tax credit.

"So please don't stand here and say that we cannot afford to do this. It's a question of priorities. It's a question of commitment. I believe that our priorities should be placed in terms of tax relief to our working families from a real Hawaii earned income tax credit, I also incorporate some of my other comments in terms of the value of this, from the point of view of economic recovery, the comments which I made to the prior amendment having to do with the acceleration of the personal income tax cuts. Thank you."

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

"Madame Speaker, I guess for essentially for the same reasons as discussed on the previous measure, I stand in opposition to the floor amendment.

"I did want to use the opportunity to thank the advocates and for the subject matter Committee Chair for bringing this measure before the Finance Committee. I think the previous speaker indicated that this is the direction that we wanted to move in. This is the group of people, the ones who have the greatest needs that we wanted to address to the extent that we can.

"Therefore, without the advocates and without the preliminary work being done, it would not have gotten this far. Despite fiscal constraints, we wanted to show support for this measure and we wanted this to be part of the discussions go on beyond First Crossover. That's why the measure was brought forward with the blanks in it.

"The previous speaker was accurate to place the 40% in the first year which would have resulted in \$33 million and the 50% in the second year would have resulted in about \$41 million. So you are talking about essentially \$74 million over the two-year period. Again, because of fiscal responsibility concerns I would suggest that we vote down the amendment. Thank you."

Representative Suzuki rose to speak in support of the amendment with reservations, stating:

"At this point I think that everybody should realize what the mechanics of the earned income tax is because it is based on the federal tax law.

"Just to give you an example, at the highest benefit to the taxpayer, let me read what the amount of the credit will equal. For a taxpayer with no dependants, income tax bracket of \$4,600-\$5,800 the federal tax credit is \$353 and you can compute the 10% and the 40% on that amount. But assuming it's 40% the credit with the federal combined is \$494 on an income level of \$4,600-\$5,800. So it's well above 10% of the worksheet item, because it's not based on adjusted gross income it is based only on self employment income or income subject to the FICA tax.

"If the taxpayer has one dependant the maximum credit is achieved when that worksheet income is \$6,900-\$12,700. The tax credit at 40% is \$941. Combined with the federal tax credit of \$2,353, we're saying that an individual is entitled to \$3,294 of credits at a low of \$6,900, that's almost 50% and a high of \$12,700. If this taxpayer has two dependants in the tax bracket of \$9,700-\$12,700 the 40% credit is \$1,555. You combine that to the federal credit of \$3888, the combined credit to the taxpayer is \$5,443. Again, let me compare that to \$9,700 of worksheet income to the high of \$12,700.

"So, this is something new and different if we were to apply it to the Hawaii tax law. I think as this bill moves forward, whether this amendment passes or not or if the underlying measure passes or not, we have to consider, does this approach to providing benefits what we want in our overall tax policy, considering all the credits, rate reductions and other types of tax reductions we have and total tax system. Thank you."

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 to adopt the amendment to H.B. No. 165, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," 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, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Souki, Suzuki, Takai, Takamine, Takumi, Yonamine and Yoshinaga.

Ayes, 18: Auwae, Bukoski, Case, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen.

Excused, 3: Rath, Schatz and Whalen.

Main Motion

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

"This bill is truly a work in progress and will offer another alternative in packaging a comprehensive tax structure that accomplishes a goal of implementing a progressive tax policy that benefits those most in need.

"The first version of this bill was merely a tax reduction scheme that already is an integral part of the reduction policy

begun several years ago and bore no relation to earned income. The present version, of course, is related to earned income because of its tie in to the federal earned income tax credit. The current phasing in of tax reduction approaches policy from two directions. One dealing with the widening of the bracket and the second dealing with rate reduction.

"The food tax credit takes the number of the personal exemptions approach coupled with a credit adversely related to the adjusted gross income. This bill takes the approach, because of the tie in to the earned income tax credit, of using wages and other income subject to self employment and having qualifying children as a major determining factors in the computation of the credit.

"This approach can be labeled a minimum wage approach to taxation policy. Because unlike the feds, our policy by this bill, does not target the offset of FICA and Medicare taxes.

"For those reasons, I support this measure as part of the basket of alternatives we have positioned as this bill moves forward in our legislative process. Thank you."

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

"I appreciate the information the Representative from Salt Lake gave to us about the federal earned income tax credit. I just wanted to echo what he said about minimum wage. I believe that this is the way we should be moving to help single mothers. I think 40% is certainly probably too generous but something around 10% added to the earned income tax credit at the federal level would be a tremendous help to single parents and people in the lower income bracket and I would prefer to see us move in this direction, rather than going with the minimum wage. Thank you."

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

"Not that I am opposed to tax credits. But my major concern is that during the course of the day and possibly on Thursday we have been looking at a lot of tax credits for business, high technology and for food and etc., on tax brackets.

"At the same time, we have not been looking at areas to offset those cuts. Whether it is to cut into the base a little bit or to raise revenue to offset. It does give an impression of a "Pollyanna" that everything is going to be alright. We can continue to provide these tax cuts and continue to provide all of the services that we want and we'll live "happily ever after" and life goes on. But the real life is not like that. In real life we have to make adjustments as we go along and until now have not made that much.

"I just took a cursory look at the budget here and there's been some adjustments made and I am sure there is more. Again, we cannot continue to maintain this "Pollyanna" attitude. This is my concern with the members here that we continue to look at the bright side and continue to look for cuts, but we're not willing to make the hard choices that it will take. At some point and time we are going to have to do that, Madame Speaker and members. Thank you very much."

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

"Not to belabor the point but I think there is a proven track record in terms of earned income tax credits, especially for the low income people. This is one of the "boot strap" strategies for pulling people off of dependency into self sufficiency.

"I just want to say that we hope and pray and put a lot of faith into our Finance Chair and Vice Chair and Committee to really maximize the percentages on behalf of Hawaii's neediest families. Thank you, Madame Speaker."

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

"We've heard a lot tonight about the so-called base, and what we are going to do about that and how we are going to deal with it if we implement many of these cuts if they go deeper then they're presently proposed."

"It seems to be a mythological creature, the base, I think that the proponent of the earlier amendment, the speaker from Manoa, has already provided this for conversation starters, many areas in which we can endeavor to look at these so-called, cuts or maybe reductions, but it all 'boils down' to priorities and what we want to do and don't want to do as a body."

"I would take a slight exception to a comment that was made earlier that this budget and these products are solely the work of the Chairman of the Finance Committee and the Committee members themselves. Although I know they put in a lot of work, time and heart but, Madame Speaker, this is our bill. This is our House. We make decisions. We're perfectly capable to make different accommodations to hear arguments here on the floor and to illuminate one another on the various issues at stake and the various priorities that we are all trying to accommodate and deal with."

"So to that extent I certainly want to take ownership and I look forward to participating in that discussion in terms of the question that was posed earlier, about which cuts and where and some of those discussions. Again, we've got a lot of sharp minds, a lot of sharp pencils, and I'm sure we will come up with something pretty good. So I do support with reservations. Thank you, Madame Speaker."

Representative Ahu Isa rose to speak in strong support of the measure and asked that the remarks of Representative Suzuki be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

Representative Kahikina's remarks are as follows:

"The purpose of this bill is to reduce taxes and supplement wages for low-income taxpayers by allowing them to claim an earned income tax credit of 10% and 15% of their tax liability."

The motion was put to vote by the Chair and carried, and H.B. No. 165, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 1131, HD 1:

Representative M. Oshiro moved that H.B. No. 1131, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I've tried to insert remarks and refrain from speaking for most of the evening, but this particular measure I have to speak out in opposition and I hope perhaps some of my remarks persuade others to also oppose this measure."

"I think the intent behind this measure is good but if you read the standing committee report it's more of an indictment rather than a report that would persuade someone as to the merits of this measure."

"Madame Speaker, the H.B. 1131, HD 1, is attached to HSCR 700, and if you look at the purpose paragraph at the very beginning it states: 'The purpose of this bill is to provide that a lease rent appraisal based on fair market value that is less than the rental amount being paid at the time of rent renegotiations, shall prevail over an existing lease contract provision that bars the lowering of lease rents upon renegotiations.'"

"Now, it seems to me that either this measure tries to allow certain people to get out from leases which seem to be to their disadvantage at a future date or it overrides the lease as it stands. Now I don't understand how we can pass a law without violating the Contracts Clause of the federal Constitution. It seems to me that if it doesn't override the provisions of the contract or the lease then this bill is of no effect. If it does override the provisions of the lease, then it would seem to me that it would violate the Contracts Clause of the federal Constitution that prohibits impairments of contracts."

"If you look at the testimony in opposition, the bottom paragraph of the first page of the standing committee report, it is an impressive list of people who have some major opposition to this measure. Opposition to this measure include the Department of Business Economic Development and Tourism, the Appraisal Institute, the Estate of James Campbell, Gentry Pacific LTD., The Hawaii Association of Realtors, The Hawaii Bankers Association, The Hawaii Reserves Inc., The Institute of Real Estate Management, The Kamehameha Schools, The Land Use Research Foundation of Hawaii, The Mark E. Robinson Trust, The Maui Land and Pineapple Company and the Small Land Owner's Association. This is quite a few people who have some serious concerns, in fact it's listed as having provided testimony in opposition. If you turn the page to the record of votes of the Committee, it is very instructive, Madame Speaker, because I don't think I've ever seen a list of votes like this."

"If your record of votes looks anything like mine, there's only one person on the Committee who supports this measure straight up as it is, It's the Chair. Everybody else either had reservations, voted no or was excused. What kind of a measure is that? That provides some very important 'food for thought', Madame Speaker."

"Again, we feel sorry that people have entered into lease and circumstances have changed and now the contract for the lease they are involved in, is to their disadvantage. But that's what happens when you enter into a lease. If the market drops, if you're renting property, those are the risks that you take. You can always approach the landlord and try to renegotiate, but I think it is inappropriate for the State to try to jump in and say we're going to override somehow these leases. We're going to come in with a heavy hand and step in there. That's just the way life is when you enter into contracts and leases. Sometimes you may win and sometimes you may lose but if you signed a contract or lease, you're in there and it's up to you as a private individual to negotiate with your landlord and to work it out. Not for you to come to the State and say, please pass some legislation that will allow me to back out legally out of this contract or this lease."

"So, for those reasons, Madame Speaker, I am rising in opposition to this measure which is H.B. No. 1131, HD 1. Thank you."

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

"This measure may be well placed and it may be going overboard, but it's no different from the previous bill that we heard this evening. If the law contract is to be applied here then it should be allowed to apply in other areas.

"For example Madame Speaker, when people enter into contracts with the State, maybe a short-term month-to-month contract, they know that they are getting the benefit of the bargain at that time so they should be content to live with the conditions that exist at that point of time when the contract is not extended. Thank you, Madame Speaker."

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

"This bill will alter the way lease rents are negotiated in the State. This bill, Madame Speaker, specifies that when lease rent based on the appraised fair market value is less than the rent paid, the lower rent will prevail even though there may be a contractual provision that prohibits a reduction in rent.

"Madame Speaker, this bill will allow any disagreement between a lessee and a landowner over fair market value to be settled by an appraisal process selected by the lessee and conforming to the uniform standards of professional appraisal practice.

"The purpose of this bill is to provide a measure of relief to lessee who enters into a long-term lease contract during the 'go-go' period of the 1980's, when land values were inflated to artificially high levels by foreign investors. Once these investors were forced to sell their investment properties, there was this corresponding downward adjustment to these inflated land values in Hawaii.

"However, this downward adjustment in the market did not alter the terms of the lease contracts entered during those times. Many of those contracts contained the provision prohibiting the reduction of lease rent and continue to hold the lessee to their artificially high lease rents that they were locked to in the 1980's.

"These contracts provide windfall level of income to specified landowners. At the same time Madame Speaker, the inflated rents are injuring lessees and through them Hawaii's economy and the welfare of the general public. These contracts drastically limit the business alternative of lessees, and leave them with choices of either defaulting on their contracts and abandoning their properties, defaulting on their loans or literally declaring bankruptcy.

"The problems of lessees that the measure seeks to alleviate do exist and are worthy of further consideration and discussion. These contracts are not the outcome of usual and competitive negotiation and it is unlikely that these lessees could have reasonably anticipated for the problems that they encountered under their contracts. We must recognize, Madame Speaker, that these contracts were made possible, at least in part, by the disproportion concentration of lands essentially an oligopoly in this State.

"As a result it is unlikely that lessees had many alternative open to them when they entered into these high rent leases. Madame Speaker, there are those that will argue that this bill

is unconstitutional taking somehow, but the reasons that will probably be given are the same reasons that opponents argued that the Hawaii Land Reform Act, which the Supreme Court found constitutional.

"As we all know Madame Speaker, eminent domain constitutes the governments power to take property for public use. If taking occurs from the government transfers property from an individual to either the government to another individual. The Fifth Amendment provides that private property should not be taken for public use without just compensation. The government's eminent domain power is subject to basically two conditions. One, the taking must survey public use and, two, that the taking entity must provide just compensation to the former owner.

"Historically courts have developed two definitions of public use. One, use by the public and two, use for the public benefit. Use by the public in narrow view, sanctions the taking of property only for a use that opens the condemned property to the general public. And the use of the public benefit represents a broader view of that concept. This formulation allows takings for the purpose of promoting the general welfare, even though the condemned property is not opened to the general public.

Representative Hamakawa rose to yield his time.

Representative Hiraki continued, stating:

"In HHA v Midkiff, in 1984, the U.S. Supreme Court upheld the constitutionality of the Hawaii Land Reform Act of 1967, which provided for the transfer of residential lots from landowners to lessees. The court found that the use of eminent domain to break up a land oligopoly is permissible under the Fifth and the Fourteenth Amendment which requires the land be condemned only for a public use. Here the Court applied a rational basis test to a land reforms scheme.

"In HHH the Court found that the State used the power of eminent domain to condemn fee simple property interest of lessors for sale to residential lessees. The Legislature's concern was reducing the perceived social and economic evils of a land oligopoly, thereby constituting a legitimate public purpose. The passage of the Hawaii Land Reform Act alleviated these concerns and the Court found that the Hawaii Land Reform Act be comprehensive and rational approach to identifying and correcting market failure. That's satisfying both the national basis and the public use requirement.

"The Court has upheld private transfer takings that promotes substantial public purposes in Block v Herch and other U.S. Supreme Court cases. Congress had to relieve a war time housing shortage in the District of Columbia by allowing lessees to hold overpass of the expiration of leases thus taking the lessors right to use a property.

"In a present case in Hawaii, where a land oligopoly prevents social and economical fairness, HB 1131 only seeks to provide that a lease rent appraisal be based on a fair market value rather than an existing lease contract provision that bars the lowering of these rents upon registration.

"In Lucas v. South Carolina Coastal Council, another Supreme Court case in 1992, the Supreme Court of the United States upheld that any regulation of land that leaves an owner with no economic use will in all likelihood require compensation as a regulatory taking. However, the Court also held that any regulation, however onerous, which leaves the viable economic uses of land intact, fall outside the takings analysis of this case.

"Here HB 1131 will not deprive a lessor of all economic use, instead it will merely bring down artificially high ground rents. Thus HB 1131 will not constitute my opinion an unconstitutional taking subject to judicial intervention. In fact, the court in HHA found that these types of cases, judicial deference was required because legislatures are better able to assess what the public purposes should be advanced through the use of its powers. Thus judicial authority should not be exercised until the legislature's public use determination is shown to involve an impossibility.

"Where the exercise of eminent domain is rationally related to conceivable public purpose, the courts will defer to the wisdom of the state legislature.

"Madame Speaker, I support this measure because it allows us to seek a workable balance between contractual rights and the interest of the community. I ask for your support on this measure as a vehicle bill for further discussions on this issue and the problems that it seeks to address. Thank you."

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

"Madame Speaker, the State of Hawaii has acquired a reputation as a bad place to do business. One of the reasons is because we pass bills like this.

"Madame Speaker, what this bill does is one, inserts the State government into what is otherwise a private contract which makes things more difficult for investors to conduct business here in the State and two, we're picking favorites here. In this instance where we have leases between commercial operators, we are favoring one over the other. This is not something the State should be doing. Three, this is a bill that is going to be manipulating the marketplace. The lease negotiations are best left to the market, not to the Legislature and politicians; and finally, Madame Speaker, if I could respond to the Midkiff decision cited by Chairman of the Consumer Protection Committee, this is also something I think mutually different from the Midkiff decision where you have had residential lessees negotiating with major landowners. Here you're having commercial operators who I think can fend for themselves and do not need the protection of the State.

"Madame Speaker for all these reasons I oppose this bill. This is a bad bill which only adds to the bad business environment here in Hawaii and I am voting against it. Thank you."

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

Representative Say continued, stating:

"To give you a brief background, Madame Speaker, this particular journey of HB 1131, HD 1, starts off maybe ten to twelve years ago when the Speaker Emeritus allowed me and the Senate to conduct a study and establish a taskforce with regard to real property appraisals in the State of Hawaii, dealing with commercial and industrial properties.

"What it reflected was, yes, a lot of the lessees and the lessors went through binding arbitration and the appraisal process but in the final analysis the lessee always got the short end of the stick.

"Madame Speaker, I am here this evening sharing in the frustration as a small businessman. Because at the end of my

speech this evening I will be asking for a possible conflict of interest, as a small businessman, leasing two properties which I am locked in.

"Madame Speaker, throughout the years, and I think the Chair of the Consumer Protection Committee is correct. It was during the Japan bubble period when a lot of lessees renegotiated their leases with the lessors. Within those contracts was that provision that it would be maintained at that level of lease rent. You could never to back down ten years after your lease has expired.

"I realize there may be constitutional problems to the measure, but I'm also happy that we are discussing this issue on the floor of the House this evening. The reasons why, is that, it's not just the government regulations, prepaid health and all these other mandated benefits that government has, even taxation. But another criteria was our property, land in the State of Hawaii owned by a few. In the Pacific Business News there were two articles, one in regard to Alfred's, a restaurant that was closed because of lease rent renegotiations and another restaurant in Kailua that was affected by the same lease rent renegotiations.

"Madame Speaker, I have a lot of friends who are on the opposite side. The big landowners, shopping centers, etc., but what about the "mom and pop", who are barely making it everyday. And now with this particular measure hanging over our heads it makes it very difficult to survive, but you can't blame state government for all of the problems. This is just one out of many factors that affect my business and all others who are in a class like me, Madame Speaker.

"How do we resolve this problem? When colleagues talk about the high foreclosures, it is not only with government. It also deals with lease rent. Have any of you gone through Mapunapuna? This is owned by Damon Estate. There are a lot of vacancies attached to the buildings, for rent, for lease. Have you ever noticed that while travelling into those industrial areas? A lot of small businesses are being forced out of business because they cannot afford to pay the lease rent, as far as what the lessors are negotiating for.

"I also appreciate Campbell's point of view in regard to lease rent renegotiations, that they look at the market value of the appraised property. But, also tied to the income ..."

Representative Lee rose to yield her time.

Representative Say continued, stating:

"But it is tied to the income earning of that particular company. Don't lock me into a contract that was agreed upon ten years ago when we had the Japan 'bubble' that inflated real estate market. But allow these small lessees an opportunity of really trying to negotiate in fairness, because a lot of them cannot go to court after the binding arbitration takes place. This is where you will have three different appraisals, the big landowner will have their appraisal at the highest and best use, my appraiser will look at it from income earning and the third appraiser, the arbitrator will say, let's come to a middle ground.

"Sometimes you will not be able to meet that middle ground and then what recourse will these small businessmen have at that period and time? Do you walk away from your barber shop? Do you walk away from your supermarket, the 'mom and pop' superette? Do you walk away from your restaurant? It is a concern that I am very honored and privileged to be able share with you this evening. It is a concern because for the greater good of the State of Hawaii and its economic growth, and issue like this has to be addressed in the public forum.

"Right now, most of my friends who are lessees are afraid because they are afraid of the retribution that may occur from the lessor by coming down to the Legislature. It is a concern and that's why I ask all of you in all honesty and fairness, I'm not ashamed for sharing my feelings as a small businessman with you this evening, of one of these requirements that I am forced to address. Lease rent.

"If I had the resources to purchase a fee simple property, I would've considered that. But when you're starting off as a young business that is very difficult. So at this point I would like to ask all of you to please support this measure, HB 1131, for further discussion. Last year this House did pass a measure that was vetoed by the Governor also. Thank you, very much."

The Chair responded, stating:

"Representative Say there is no conflict, because this is bill deals with a class."

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

"I was engaged in a discussion by the Chair of the Consumer Protection Committee and I thought he had some pretty good points. My only question is, I think this bill has a lot less to do with takings than it does with the impairment of the contract. I just wanted to cite for the members that the United States Constitution, under Section 10, where it basically states that no State shall cast any bill or law impairing the obligation of contracts. I think that's the issue that we are talking about.

"I understand that there are occasions when we can do that but it is a very high threshold and from what I recall on some research that I did a little over a year ago, this particular act what we are trying to accomplish, at least in my estimation, didn't reach the threshold that is required.

"In addition there is some other concerns because it doesn't seem clear to me whether it applies to residential or commercial leases or both. I think that is problematic because I think the residential situation that arose in Midkiff is a far different situation than what we would have in the commercial context at this point.

"So for those reasons Madame Speaker, I will be unable to support this at this time. Thank you."

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

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

"I think some members in this body don't realize that these are long-term land leases for the most part. Many of the lessees have invested large amounts of money. The problem they've had, as has been stated earlier, is that we have large land owners who control a lot of industrial and commercial land. If you want to go where the action is, that is where you want to lease.

"People made the decision to go there and they started off when the leases were fairly reasonable and then invested large amount of money. Today many of them have large mortgages. They have employees. They don't want to quit their businesses, but they feel like they're 'over a barrel'. As it was also stated, the Japanese 'bubble period', things were

artificially inflated and because these landowners had in their body of their lease documents, which are multi-paged, that the lease could never be less. It was always going to go up, never less than. That provision doesn't take into consideration that the market changes and the land could very well be worth less than. But as long as that provision was in the lease, these people had no 'wiggle room'.

"There is this concern about a contract, and the government shouldn't get in the middle of it. But people in Hawaii were totally behind breaking the contract on residential leases when it came to their homes. Hundreds of thousands of people in Hawaii entered into lease agreements to rent their homes and the land under their homes for 55 years, which they thought was going to be forever. When the time came, all of a sudden they were just outraged saying, how could anybody expect for me to just move off and leave my house here? Well nobody thought the day would come, but that's exactly where people were retained to that time and maybe they would renew it, but when they started off with a lease that was about \$250 a year and kept it that way for 30 years and when they would renew it property values had gone so high. Suddenly you were looking at \$2,000 a year, \$1,500 and then, that you might have to leave your house so the government stepped in. That provision was not found to be unconstitutional.

"This situation is not unlike that. We're not talking just about a few hapless businessmen who have made the wrong decision. Business people by nature are optimistic and we enjoy this marvelous economy ever since statehood. We've had a few little dips but things, by and large, were very good in Hawaii for about thirty years. The last ten years were just a dramatic downturn. It happened slowly and these folks were already in trouble, but they felt like if they added on to their building or if they got a new product that they've been trying to do the best they could do and have been struggling as the Representative from Palolo said, for twelve, fifteen years. This didn't just happen in the 90's.

"We're not talking about just a few businessowners that people have this picture that every businessowner is just taking money to the bank. These folks are working very hard to keep their business going so they don't have to let go of their employees. They've tried to educate us down here at the Legislature, but of course the faces are changing every two years. I hope that the members in this chamber will keep an open mind and look at this and perhaps go visit some of these businesses and see what these folks are up against. Thank you."

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

Representative Suzuki 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 H.B. No. 1131, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY APPRAISALS," passed Third Reading by a vote of 36 ayes, and 12 noes, with Representatives Ahu Isa, Bukoski, Djou, Gomes, Halford, Jaffe, Kahikina, Kanoho, Moses, Ontai, Pendleton and Stonebraker voting no and Representatives Rath, Schatz and Whalen being excused.

H.B. No. 592, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 592, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRODUCER

LICENSING," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 451, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 451, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIABILITY," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 741, HD 1:

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 741, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL LIABILITY," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 163, HD 1; 165, HD 1; 1131, HD 1; 592, HD 1; 451, HD 1; and 741, HD 1 had passed Third Reading at 11:42 o'clock p.m.

H.B. No. 236, HD 1:

Representative M. Oshiro moved that H.B. No. 236, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, to the members of the Judiciary Committee and the Chair, on H.B. No. 236 and H.B. No. 170, I say, 'bravo.'"

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

Representative Meyer's remarks are as follows:

"The big picture that must not be lost while looking at the details is whether 14 and 15 year olds are capable of making a rational decision regarding whether to engage in sex. As you know the vast majority of the public are shocked and dismayed to learn the age of consent in Hawaii is 14. All of us should be embarrassed when we hear that our age of consent is the lowest in the United States.

"The age of consent is 16 in 28 states and the District of Columbia.

"It is 18 years in 14 states.

"Five states have 15 as the age of consent.

Only Hawaii has legalized 14 year olds having sex with adults.

"In a survey conducted by the Honolulu Advertiser, 41 of us in the House of Representatives went on record saying we think the age of consent should be increased to 16. It is now time for us to fulfill our commitment to the voters and raise the age of consent from 14 to 16.

"I urge my colleagues to vote for this bill and help protect our youngest and most vulnerable from exploitation by adults."

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

"In the words of the editorial writer at the Honolulu Advertiser, 'seldom have we seen legislation that seemed a slam dunk at first blush raise so many doubts on further reflection.'"

"Is this because social issues such as this really belong in the realm of the family, with privacy concerns addressed, and expert help in terms of both social service and law enforcement?"

"It is fortunate that the community has had an opportunity to hear public discussion on this issue during its hearing in the Judiciary Committee. I am very glad that those who at first assumed this issue was a no-brainer got to hear the testimony of law enforcement, parents, women's advocacy groups, social service and religious groups—all with their point of view and all well meaning.

"I do think we have the makings of a reasonable bill. We have let the community voice its concerns and heard many new concerns—more than before, we recognize the complexity of the issue.

"We have made a step in the right direction in addressing the issue of age disparity in sexual relationships and, we have not criminalized teenage sexual activity. The Chair has also made an excellent suggestion when he made the bill gender neutral.

"Mr. Speaker, I like to remember part of what physicians adhere to as their creed: first, do no harm—as Legislators, we should also be cognizant of this creed—I hope in passing this legislation, we will do no harm and that it will be something positive for our young people.

"Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 236, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

H.B. No. 170, HD 1:

Representative M. Oshiro moved that H.B. No. 170, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, to the members of the Judiciary Committee and the Chair, on H.B. No. 236 and H.B. No. 170, I say, 'bravo.'"

The motion was put to vote by the Chair and carried, and H.B. No. 170, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 48 ayes, with Representatives Rath, Schatz and Whalen being excused.

The Chair directed the Clerk to note that H.B. Nos. 236, HD 1; and 170, HD 1 had passed Third Reading at 11:44 o'clock p.m.

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 42 and 43), and concurrent resolutions (H.C.R. Nos. 38 and

39) were referred to Printing and further action was deferred.
(Representatives Rath, Schatz and Whalen were excused.)

H.R. No. 42, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO SUBMIT A REPORT ON ALIEN SPECIES PROGRAMS," was jointly offered by Representatives Souki and Nakasone.

H.R. No. 43, entitled: "HOUSE RESOLUTION REQUESTING THE POLICE DEPARTMENTS TO ADOPT A RISK-FOCUSED POLICING MODEL," was jointly offered by Representatives Thielen, McDermott, Lee, Hale, Yonamine, Kawakami, Stonebraker, Cabrerros, Ahu Isa, Takai, Kahikina, Bukoski and Arakaki.

H.C.R. No. 38, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF AGRICULTURE TO SUBMIT A REPORT ON ALIEN SPECIES PROGRAMS," was jointly offered by Representatives Souki and Nakasone.

H.C.R. No. 39, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE POLICE DEPARTMENTS TO ADOPT A RISK-FOCUSED POLICING MODEL," was jointly offered by Representatives Thielen, McDermott, Lee, Yonamine, Kawakami, Stonebraker, Cabrerros, Ahu Isa, Takai, Kahikina, Bukoski and Arakaki.

ADJOURNMENT

At 11:47 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., Thursday, March 8, 2001. (Representatives Rath, Schatz and Whalen were excused.)

ANNOUNCEMENTS

Representative Garcia: "I would like to point the members attention to the Order of the Day and the explanation of the presentation that will be before your Committee on Education tomorrow afternoon at 2:00 o'clock p.m. For the members edification they may want to attend or send a representative, because it will be a presentation on what is called "the gear-up program", and acronym for gaining early awareness and readiness for undergraduate programs and that the sponsors and those who are in charge of the program have instituted the gear-up in 10 of 29 schools around the state. So if you want to know if a school in your district is involved in "gear up" please attend the session or you can call my office and we will give you the names of the 29 schools throughout the state. Thank you."

Vice Speaker Luke: "Behalf of Speaker Say and myself we want to thank everybody for your patience and we really thank everyone for the great discussion that we had today."

Representative McDermott rose on a point of inquiry, stating:

"Didn't I see a supplemental calendar earlier in the evening."

The Chair responded, stating:

"Representative McDermott we already took up the supplemental calendar."

Representative McDermott continued, stating:

"Oh, I'm sorry."

The Chair further announced to the body that Representative Schatz had not been in attendance for the House Session because he was not feeling well.