

**JOURNAL**

**of the**

**HOUSE OF REPRESENTATIVES**

**of the**


**TWENTY-FIRST LEGISLATURE**  
**STATE OF HAWAII**

**THIRD**  
**SPECIAL SESSION OF 2001**

**Convened Monday, October 22, 2001**  
**Adjourned Friday, November 2, 2001**

## CERTIFICATE

*We hereby certify that the minutes for each day's session as appears in this House Journal are true and correct and that the original copies have been duly signed by the Speaker and the Clerk of the House of Representatives and are on file in the Archives of the State of Hawaii.*



Calvin K. Y. Au

Speaker, House of Representatives



Mau Ohiwiz

Clerk, House of Representatives

## THIRD SPECIAL SESSION OF 2001

### TABLE OF CONTENTS

First Day, Monday, October 22, 2001 .....	1
Second Day, Wednesday, October 24, 2001 .....	7
Third Day, Friday October 26, 2001 .....	36
Fourth Day, Monday October 29, 2001 .....	71
Fifth Day, Tuesday, October 30, 2001 .....	80
Sixth Day, Wednesday, October 31, 2001 .....	86
Seventh Day, Friday, November 2, 2001 .....	87

#### **Communications Received After Adjournment:**

Governor's Messages .....	98
---------------------------	----

#### **Appendix:**

Standing Committee Reports.....	99
---------------------------------	----

#### **History:**

House Bills.....	111
House Concurrent Resolutions.....	113
House Resolutions.....	115
Senate Bills.....	116
Senate Concurrent Resolutions .....	118

THE  
TWENTY-FIRST LEGISLATURE  
STATE OF HAWAII  
THIRD SPECIAL SESSION OF 2001  
JOURNAL OF THE HOUSE

FIRST DAY

Monday, October 22, 2001

In accordance with the provisions of Section 10 of Article III of the Constitution of the State of Hawaii, and the Proclamation issued by Governor Benjamin J. Cayetano on October 16, 2001, which was read by the Clerk, the House of Representatives of the Twenty-First Legislature of the State of Hawaii convened in Third Special Session on Monday, October 22, 2001.

The Honorable Calvin K.Y. Say, member of the Eighteenth District, having been elected Speaker of the House of Representatives on the Opening Day of the Twenty-First Legislature and retaining that position under the provision of Rule 1.5 of the Rules of the House of Representatives, called the House to order at 10:09 o'clock a.m.

The Chair then stated:

"Members and others in the State House Chamber today, in lieu of the usual invocation, I ask all of you to join me in a moment of silence to honor the memory and bravery of all those who lost their lives, and all who were injured in the September 11th World Trade Center and Pentagon attacks, and the Pennsylvania plane crash. I would like to especially note the bravery, the dedication, and the perseverance of all the public servants: the firefighters, the police officers and the military personnel who perished in the attacks. Please rise for a moment of silence and reflection."

The members and audience stood for a moment of silence, and then joined in the singing of *God Bless America*, *The Star-Spangled Banner* and *Hawaii Pono'i* which was led by Ms. Cathy Foy, after which the Roll was called showing all members present with the exception of Representatives Meyer, Pendleton, Schatz and Souki who were excused.

**GOVERNOR'S MESSAGE**

The following messages from the Governor (Gov. Msg. Nos. 245 to 249) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 245, transmitting the Department of Transportation's 2001 Safety Usage Studies report.

Gov. Msg. No. 246, transmitting the 2000 Annual Report prepared by the Department of Labor and Industrial Relations pursuant to Section 371-7, Hawaii Revised Statutes, as amended, and Act 100, SLH 1999.

Gov. Msg. No. 247, transmitting the Native Hawaiian Access Rights Project, Phase I & II prepared by the Hawaii Coastal Zone Management Program, Office of Planning, DBEDT, and the University of Hawaii at Manoa.

Gov. Msg. No. 248, transmitting the Legislation Affecting Hawaii's Older Adults -- 2001 prepared by the Executive Office on Aging.

Gov. Msg. No. 249, transmitting a Proclamation that the Twenty-First Legislature convene in special session on Monday, October 22, 2001, at 10:00 a.m., as follows:

"October 16, 2001

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-First State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Transmitted herewith is the proclamation convening the Twenty-First Legislature of the State of Hawaii in special session on Monday, October 22, 2001, at 10:00 a.m.

With warmest personal regards,

Aloha,

/s/ Benjamin J. Cayetano  
BENJAMIN J. CAYETANO

Enclosure

**PROCLAMATION**

**WHEREAS**, under Section 10 of Article III of the Constitution of the State of Hawaii, the Governor may convene both houses of the Legislature or the Senate alone in special session; and

**WHEREAS**, the terrorist attacks on America that occurred on September 11, 2001, have resulted in an economic crisis in the State of Hawaii; and

**WHEREAS**, various measures to provide relief during the economic crisis have been proposed and require immediate consideration by the Legislature;

**NOW, THEREFORE**, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby convene both houses of the Twenty-First Legislature of the State of Hawaii in special session on Monday, the 22nd day of October, 2001, at 10 o'clock a.m., primarily for the consideration of measures to relieve or authorize the provision of relief during the economic crisis in the State of Hawaii that resulted from the terrorist attacks on the United States of America that occurred on September 11, 2001.

**DONE** at the State Capitol, Honolulu,  
State of Hawaii  
this 16th day of October, 2001

/s/ Benjamin J. Cayetano  
BENJAMIN J. CAYETANO  
Governor of Hawaii



**APPROVED AS TO FORM:**

/s/ E. I. Anzai  
 Earl I. Anzai  
 Attorney General"

**DEPARTMENTAL COMMUNICATIONS**

The following Departmental Communications (Dept. Com. Nos. 26 to 28) were received by the Clerk and were placed on file:

Dept. Com. No. 26, from Marion M. Higa, State Auditor, transmitting their report, *Audit of the Adult Mental Health Program*.

Dept. Com. No. 27, from Marion M. Higa, State Auditor, transmitting their report, *Financial Audit of the Housing and Community Development Corporation of Hawaii*.

Dept. Com. No. 28, from Marion M. Higa, State Auditor, transmitting their report, *A Review and Assessment of the Department of Education's Development of Educational Standards*.

**MISCELLANEOUS COMMUNICATIONS**

The following Miscellaneous Communications (Misc. Com. Nos. 13 to 15) were received by the Clerk and were placed on file:

Misc. Com. No. 13, from Genevieve G. Wong, City Clerk of the City and County of Honolulu, informing the House that Resolution 01-210, requesting that the Governor, the Legislature and Hawaii's Congressional Delegation obtain reimbursement for security expenses incurred during the May 2001 Asian Development Bank annual meeting, was adopted by the Council of the City and County of Honolulu on Wednesday, August 1, 2001.

Misc. Com. No. 14, from Roy T. Hiraga, County Clerk of the County of Maui, transmitting a copy of Resolution No. 01-120, entitled: "Recognizing the Designation of the Lanai Post Office Building in Honor of Goro Hokama," which was adopted by the Council of the County of Maui on August 3, 2001.

Misc. Com. No. 15, from Gregory M. Gray, Clerk of the West Virginia House of Delegates, transmitting House Resolution 1, entitled: "Expressing the sense of the House of Delegates and decrying the outrageous terrorist attacks launched against the United States on Tuesday, September 11, 2001, expressing sympathy to the families and friends of those killed or injured, and urging the President of the United States and other federal officials to deal swiftly with those who threaten our freedom," which was adopted during a recent Extraordinary Session of the West Virginia Legislature.

**INTRODUCTIONS**

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

Representative Djou introduced his friends, Dr. Alan and Mrs. Jadine Chang, and their daughter, Chloe.

Representative Ahu Isa introduced students from Brazil, Japan, Russia and Switzerland who are attending the Intercultural Communications College, and their instructor Ms. Maris Ho.

Representative M. Oshiro introduced Representative Merle Kerns who was here for the National Conference of State Legislatures Executive Committee meeting.

Representative Lee introduced Mr. Michael Monaco, an emergency medical technician from New Windsor, New York, and Ms. Ricki Dash from Farmingdale, New York.

Representative Lee also introduced her sister, Ms. Sandra Manzo from Manchester, Connecticut; and her husband, former state representative Sam Lee.

**ORDER OF THE DAY****COMMITTEE ASSIGNMENTS**

The following bills (H.B. Nos. 1 through 17, Third Special Session) were referred to committee by the Speaker:

<u>H.B. Nos.</u>	<u>Referred to:</u>
1	Committee on Finance
2	Committee on Finance
3	Committee on Finance
4	Committee on Finance
5	Committee on Finance
6	Committee on Finance
7	Committee on Finance
8	Committee on Finance
9	Committee on Finance
10	Committee on Finance
11	Committee on Finance
12	Committee on Finance
13	Committee on Finance
14	Committee on Finance
15	Committee on Finance
16	Committee on Finance
17	Committee on Finance

**INTRODUCTION OF BILLS**

On motion by Representative Lee, seconded by Representative Thielen and carried, the following bills (H.B. Nos. 1 through 21, Third Special Session) passed First Reading by title and were referred to Printing: (Representatives Meyer, Pendleton, Schatz and Souki were excused.)

**H.B. No.:**

1 "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE."

Introduced by: Representative M. Oshiro

- 2 "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS."

Introduced by: Representatives M. Oshiro and Fox

- 3 "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT."

Introduced by: Representatives M. Oshiro and Fox

- 4 "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE COVERAGE."

Introduced by: Representatives M. Oshiro and Fox

- 5 "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES."

Introduced by: Representatives M. Oshiro and Fox

- 6 "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS."

Introduced by: Representatives M. Oshiro and Fox

- 7 "A BILL FOR AN ACT RELATING TO CAPITAL GAINS."

Introduced by: Representatives M. Oshiro and Fox

- 8 "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS."

Introduced by: Representatives M. Oshiro and Fox

- 9 "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION."

Introduced by: Representatives M. Oshiro and Fox

- 10 "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS."

Introduced by: Representatives M. Oshiro and Fox

- 11 "A BILL FOR AN ACT RELATING TO TRANSPORTATION."

Introduced by: Representatives M. Oshiro and Fox

- 12 "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND."

Introduced by: Representatives M. Oshiro and Fox

- 13 "A BILL FOR AN ACT RELATING TO STATE FINANCES."

Introduced by: Representative M. Oshiro

- 14 "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS."

Introduced by: Representatives M. Oshiro and Fox

- 15 "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE."

Introduced by: Representative M. Oshiro

- 16 "A BILL FOR AN ACT RELATING TO PROCUREMENT."

Introduced by: Representative M. Oshiro

- 17 "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY."

Introduced by: Representative M. Oshiro

- 18 "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS."

Introduced by: Representatives Rath and Fox

- 19 "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE MANUFACTURE, PACKAGING, AND SALE OF FOOD FROM GENERAL EXCISE TAX LIABILITY."

Introduced by: Representatives Rath and Fox

- 20 "A BILL FOR AN ACT RELATING TO PROCUREMENT."

Introduced by: Representatives Rath and Fox

- 21 "A BILL FOR AN ACT RELATING TO A GENERAL EXCISE TAX HOLIDAY."

Introduced by: Representatives Rath and Fox

At this time the Chair announced that H.B. Nos. 1 through 17 would be referred to the Committee on Finance.

At 10:22 o'clock a.m., Representative Whalen requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:26 o'clock a.m.

At this time, the Chair stated:

"Members, in view of the extraordinary events that have led us here to a historic third special session, I will now call upon the House Majority Leader and the House Minority Leader for their comments and expressions of sentiment on behalf of the members of their respective caucuses. At this time, the Chair recognizes Representative Marcus Oshiro."

Representative M. Oshiro rose and stated:

"Thank you, Mr. Speaker.

"Mr. Speaker, today the House of Representatives of the 21st Legislature convenes in Special Session for the third time since May. But there is a mood reverberating through this chamber that distinguishes this Special Session as different from the others. That difference is our shared sense of urgency and unity of purpose that resonates from every member of this body.

"Immediately following the September 11th attacks, the Governor initiated a process that brought together leaders from government, industry, labor, charitable groups, faith-based organizations, and others to assess the impending crisis.

"From the very beginning, Mr. Speaker, political partisanship and petty differences were cast aside. The only priority was the common good. We have been very encouraged by the process and are compelled to express our appreciation to all those who participated and for bringing us to this moment.

This spirit of collaboration and non-partisanship has underscored all of our discussions and all of our deliberations. And they will serve us well indeed, Mr. Speaker, during these very trying times.

"Mr. Speaker, the package of bills before us is the product of that collaboration and unity. It embodies the best thinking from the leaders of the most heavily impacted sectors of our community.

"It possesses a level of unanimity that might be unprecedented, given the number of bills it contains. It sharpens the focus of our purpose here, and it defines the nature of this emergency.

"Mr. Speaker, when a shapeless enemy issues a death sentence upon our people -- including innocent children -- and calls on its fanatics to inflict harm upon Americans wherever they might be, we cannot ignore it.

"When thousands of our people are suddenly without jobs, robbed of the means to provide for their families -- an uncertain future forced upon them by the enemy's horrific act 6,000 miles away, we must address it.

"And when those among us who are in dire need of the basic essentials of life -- food, shelter, medical care -- have grown to such a number so as to stretch our caregivers and charities to the limit, we must respond.

"Mr. Speaker, evil and hate reside so deeply in the soul of our enemy that it drives them toward a single purpose -- to deny us the right to life, to liberty, and to pursue the happiness of our choosing. That is unacceptable as Americans and we will not yield.

"Mr. Speaker, our duty is clear.

"We must respond to the immediate needs of today. We must first ensure the safety of our people and visitors. We must attend to the basic needs of our people who are suffering through no fault of their own. Finally, we must enact those policies that will protect lives, ensure our freedoms, and restore our economy. The bills before us address those emergencies.

"And when our regular session of 2002 convenes in January, we can evaluate the actions taken now and make any appropriate changes. That would also be the right time to consider actions that require extensive public participation or are designed for the long-term.

"Now is the time for us to act as one. Let us show unity of purpose, unity of resolve, and unity in our actions.

"Mr. Speaker, your Majority stands united and we are ready. Thank you."

Representative Fox then rose and stated:

"Mr. Speaker, we appreciate the way the Governor and the leadership of both Houses have understood the depth of the crisis we are in. When the airline industry went down, Hawaii was hit harder than any other State and we have yet to recover. As the bankruptcy of American Hawaii Cruises over this weekend underlines, we are here today to undertake serious business and we must succeed.

"I would like to make three points: First, trust the people. Second, offer real change. Third, stop taxing food.

"First, our people are our foundation, we must trust them. Government needs to trust our own people. We need less government control of wealth and more resources going to the people. We need less power in the hands of government, more

responsibility in the hands of the people. In other words Mr. Speaker, giving the Governor a blank check to rewrite our laws as he sees fit is just wrong. Plain wrong. Very wrong. It is not about power to the Governor; it's about power to the people.

"Second, it is time for real change. Let's stop looking to Japan to 'pull our bacon out of the fire.' Maybe it's just not going to happen. Many years have passed since that idea really worked for us. We should take a real hard look at what is going on in Japan today. That whole nation knows it needs real change but is just stuck with a government that won't make the needed changes. Let's learn from Japan's negative example. Let's not make little changes but real change. It's real change that we need and we can start in this Special Session.

"Third. One real change for Hawaii's people is a tax cut that helps ordinary, working class, even poor people. We need not just \$1 million in relief payments for the poor, but we need \$50 million more for the people who have earned it; \$50 million in the form of no taxes on food sold in stores, on food bought by our own people. Let the people have their own money and watch their actions move our economy. In this time of crisis Hawaii may not be saved by another Asian-Pacific war or by an invention of a new jet plane. This time, Mr. Speaker, we must depend on our own resources and that begins by relying on the energy and imagination of our own people. The more we as legislators share the burden, the more we as legislators involve others, listen to them and work with them, the more Hawaii will benefit.

"We should approach the future not with fear, but with faith; faith in the people of Hawaii Nei. Thank you Mr. Speaker."

The Chair then directed the Clerk to accept any written comments and memorial expressions submitted by the members prior to 6:00 o'clock p.m. this day for inclusion in the Journal.

## SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 1, Third Special Session) was received and read by the Clerk and the following action taken:

Sen. Com. No. 1, Third Special Session, transmitting S.C.R. No. 14, entitled: "RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001," which was adopted by the Senate on October 22, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 14 was adopted with Representatives Meyer, Pendleton, Schatz and Souki excused.

## ANNOUNCEMENTS

Representative Takamine for the Committee on Finance requested a waiver of the 48-hour hearing notice requirement for the purpose of conducting a public hearing with decision making to follow on H.B. Nos. 1 through 17 on Tuesday, October 23rd at 10:00 a.m. Public notice, in anticipation of this hearing was posted on Sunday, October 21st at 5:07 p.m., and the Chair, "so ordered."

Representative Takamine then announced that the House Committee on Finance and the Senate Committee on Ways and Means would be holding a joint public hearing on H.B. Nos. 1 through 17 tomorrow morning at 10:00 a.m. in the State Capitol Auditorium, with decision making to follow.

At 10:36 o'clock a.m., Representative Gomes requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:38 o'clock a.m.

Representative Arakaki: "Mr. Speaker, *aloha kakahiaka*. In the aftermath of September 11th, the people of Hawaii were quick to respond to the people of New York and Washington D.C. with their aloha and compassion. But now it's time for the people of Hawaii to turn their eyes inward and look at our people. Our people are now suffering because of the economic downturn that resulted.

"We have come to an agreement, both the Majority and the Minority, as well as the Governor, and a whole host of people who represent the health, human services, and housing community, that one of the most important needs that we need to look at is the need for food.

"We heard at an emergency meeting about the need for more food for the Foodbank because their stocks are running low. We heard that they ran out of rice. They need meats and protein items. They need baby food. And they also need cash so they can purchase things that are not donated.

"Mr. Speaker, Representative Kahikina and I just came from the Governor's office before session, and he will be undertaking a drive for all State employees. The county Mayors were represented, and they will also undertake a drive for the county employees as well. And the health and human services communities, as well as the communities of faith are going to reach out into the community to ask people to participate as well.

"Food is a basic need. It is not so much government provided. It is something that we can all participate in. So I am really pleased to announce that the House Clerk will immediately be collecting food items. Again, if I can mention some of the things that are needed, if you can see it in your heart to supply: rice, meats and proteins, baby food including powdered milk, and especially cash to give them the flexibility to purchase things that they need. I urge all the members and our staff, and anyone who comes to the Capitol to bring a food item so we can be a part of this community effort.

"So on behalf of you Mr. Speaker, and the Human Services Chair and the Health Chair, we would like to urge everyone to please *kokua*. *Mahalo*."

Representative Lee: "We have had an addition to our extended House family. Matthew James Takai was born on Thursday, October 18 at 5:13 a.m. He weighed in at 7 pounds, 6 ounces, and he's 19 ½ inches long. Let's give a big hand to Representative Takai."

At this time, Representative Lee moved to keep the Journal open until 6:00 o'clock p.m. this day for the purpose of receiving written comments or memorial expressions submitted by the members, seconded by Representative Thielen and carried. (Representatives Abinsay, Meyer, Pendleton, Schatz and Souki were excused.)

#### RECESS

At 10:42 o'clock a.m., on motion by Representative Lee, seconded by Representative Thielen and carried, the House of Representatives stood in recess until 10:00 o'clock a.m., Wednesday, October 24, 2001. (Representatives Abinsay, Meyer, Pendleton, Schatz and Souki were excused.)

In accordance with the Chair's directive, the following written remarks were received by the Clerk.

Representative Thielen's written remarks are as follow:

"Today we meet in Special Session with heavy hearts, but with belief in our country and its people.

"The tragedy of September 11th has changed the world. In Hawaii, we face a growing economic crisis of unimagined scope. We are convened in Special Session to find solutions, and we must act boldly, with bipartisanship and without delay.

"Many have lost jobs or soon will. Many small businesses will find they are unable to keep operating, putting those entrepreneurs and employees out of work. And many will have no place to live but on our streets.

"We can put money into the economy immediately, and some of the bills introduced today should accomplish this. But even more important, we can keep money in the hands of taxpayers by enacting a simple tax reform bill. H.B. No. 19 will eliminate the General Excise Tax on food for a period of 13 weeks, and allow the Governor to extend the tax relief for another 13 weeks. This means that we would eliminate the tax on food for Hawaii's people for up to ½ a year, thereby reducing the cost to feed one's family. This is simple, direct, and of immediate help.

"H.B. No. 19 was not assigned a Committee hearing. But I am not giving up hope. Another bill, H.B. No. 17, which will be heard tomorrow, assigns broad powers to the Governor. Using these powers, the Governor can *and should* declare a tax holiday on food immediately.

"I urge all Members to support this idea and to encourage the Governor to let food become 'tax-free.'

"With belief in our country, our State and our people, we will pull together to come through this crisis."

Representative Yoshinaga's written remarks are as follows:

"I support H.B. No. 3 and H.B. No. 4, relating to unemployment. Unemployment is a temporary means to survive and help people start over. Unemployment has been found to be a necessity for individuals and family members in times of lost employment or reduction of work hours. This insurance is used to meet emergency needs and provide basic survival for individuals and families and to overcome the loss of employment. Furthermore, if the recipients are not trained for a certain skill or require new skills then programs such as Workforce Hawaii can train the recipients. Upon the acceptance of receiving additional unemployment insurance benefits, a program like Workforce Hawaii can succeed to return people to work.

"In a survey conducted by my office, Lester Fung, a volunteer, found that many people who were interviewed before the September 11, 2001 tragedy expressed optimism about the economy and were confident it was on the road to recovery; however, after the tragedy a total change of mind came over many troubled people when they hear that tourism was plunging into despair. Now the damage is taking a ripple effect and industries are shutting down and people are being laid off. It is for these reasons that an emergency fund should be implemented to increase unemployment benefits and create a system for recipients to get trained in new skills."

Representative Magaoay's written remarks are as follows:

"The people of Hawaii are deeply saddened by the terrible tragedy at the World Trade Center. The enormous anguish being expressed by the tens of thousands of families affected, and our entire nation, is beyond words. Governor Ben Cayetano has taken several precautions such as putting the Hawaii National Guard on partial-alert. The National Guard will work closely with the State security at the Honolulu

International Airport, which is working closely with the Federal Aviation Administration. Measures are being taken to ensure the protection of our people and our precious resources. I want to further add that the Legislature is very much aware on what measures needed to minimize the negative effects on the people of Hawaii. However, given the global nature of this crisis, efforts are being coordinated at all levels of government.

"Since the attack on the World Trade Center, Speaker Calvin Say directed a staff to review possible economic and budgetary consequences to and to review possible legislative actions, which may be necessary. I want to assure everyone that work is being done to address the potential economic and social consequences of what may be a prolonged war. Efforts are being coordinated to do whatever is necessary to minimize disruption of our daily lives.

"My family and I wish to convey our deepest sympathy and prayers for all the families affected by this horrible, senseless tragedy. I just want to close by sharing a poem written by Mother Teresa entitled "Do It Anyway."

**"DO IT ANYWAY**

People are often unreasonable, illogical and self-centered;

Forgive them anyway.

If you are kind, people may accuse you of selfish, ulterior motives;

Be kind anyway.

If you are successful, you will win some false friends and some true enemies;

Succeed anyway.

If you are honest and frank, people may cheat you;

Be honest and frank anyway.

What you spend years building, someone could destroy over night;

Build anyway.

If you find serenity and happiness, they may be jealous;

Be happy anyway.

The good you do today, people will often forget tomorrow;

Do good anyway.

Give the world the best you have, and it may never be enough;

Give the world the best you've got anyway.

You see, in the final analysis, it is between you and God;

It was never between you and them any way."

**ADJOURNMENT**

At 6:00 o'clock p.m., the House of Representatives adjourned until 10:00 o'clock a.m., Wednesday, October 24, 2001.

**Wednesday, October 24, 2001**

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 10:45 o'clock a.m., with the Speaker presiding.

The Pledge of Allegiance was led by Representative Hermina M. Morita, after which the Roll was called showing all members present with the exception of Representatives Pendleton, Souki and Takumi who were excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the First Day of the Third Special Session was deferred.

#### GOVERNOR'S MESSAGE

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

Gov. Msg. No. 250, transmitting the Report to the Twenty-first Legislature, State of Hawaii, 2001, Act 259/01 (H.B. 200, H.D. 1, S.D. 1, C.D. 1) Section 34, Session Laws of Hawaii 2001, Requesting Monthly Notification of Expenditures from the Director of Health Relative to the Felix Consent Decree Made to the United States Ninth District Court, the Felix Special Monitor, the Felix Monitoring Project, or any other Agent of the United States Judiciary.

#### ORDER OF THE DAY

#### COMMITTEE ASSIGNMENTS

The following bills (H.B. Nos. 18 through 23, Third Special Session) were referred to committee by the Speaker:

<u>H.B. Nos.</u>	<u>Referred to:</u>
18	Jointly to the Committee on Economic Development and Business Concerns and the Committee on Finance
19	Committee on Finance
20	Committee on Finance
21	Committee on Finance
22	Jointly to the Committee on Transportation and the Committee on Finance
23	Jointly to the Committee on Economic Development and Business Concerns and the Committee on Finance

#### STANDING COMMITTEE REPORTS

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

Representative Djou rose and offered the following amendment to H.B. No 1, HD 1:

"Section 1. House Bill No. 1 is amended by amending sections 4 and 5 to read as follows:

SECTION 4. There is appropriated out of the emergency budget and reserve fund of the State of Hawaii the sum of [~~\$1,000,000~~] \$4,000,000 or so much thereof as may be necessary for fiscal year 2001-2002 for the housing and community development corporation of Hawaii to provide emergency shelter for Hawaii's needy.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 5. Of the [~~\$1,000,000~~] \$4,000,000 appropriation for fiscal year 2001-2002 from the emergency budget and reserve fund to the housing and community development corporation of Hawaii, there is appropriated the sum of [~~\$1,000,000~~] \$4,000,000 or so much thereof as may be necessary for fiscal year 2001-2002 to provide emergency shelter for Hawaii's needy.

The sum appropriated shall be expended by the housing and community development corporation of Hawaii for the purposes of this Act; provided that the sum appropriated in this section shall not be expended for any administrative purposes."

Representative Djou then moved that the amendment to H.B. No. 1, HD 1 be adopted, seconded by Representative Thielen.

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

"Mr. Speaker, what this amendment does is increase the appropriation for emergency housing from \$1 million to \$4 million. The need is clearly there, Mr. Speaker, and I believe that those members of the Finance Committee are certainly able to attest to that, from the testimony they received yesterday.

"There is a statement from Susan Doyle, Co-Chair of Hawaii Together. She said that they have calculated a need for shelter assistance over the next five months at approximately \$5 million. Our bill will get it close to that ceiling. We know that the \$1 million over the next 5 months is inadequate. So, when we are talking about bold moves to help the most needy in our State, this is a bold move that will really provide that necessary assistance, which we know will occur in the next five months.

"There's also other statements from testifiers that are associated with various churches that say that they are not going to be able to pick up the slack and be able to take care of this area. One quoted the Director of the Institute for Human Services who said, that once a family loses their shelter, a whole host of other problems plagues the family. Meeting the shelter needs of families should be very high priority. That's what this bill will do. Mr. Speaker, that is what our amendment will do.

"Then you go to the Affordable Housing and Homeless Alliance. Their statement is that the number one priority must be to prevent homelessness whenever possible and to help people who are homeless to move back into a home as quickly as possible. This emergency Session, Mr. Speaker, should be first and foremost about helping people that are the most needy and helping to prevent the number from increasing in our homeless population.

"Mr. Speaker, my daughter-in-law, Laura Thielen, is project coordinator for the Health Care for the Homeless Project. If I may, I would like to just read brief comments of her's that were presented to Finance Committee yesterday.

The events of September 11th, have shaken the foundations of our Nation. They have also affected many individuals and families here in Hawaii. The "trickle down" effect of people being laid off, losing their health insurance and losing their housing is happening at a very fast rate. Island homeless shelters are full to capacity in most cases and social service agencies have more clients than ever.

"Our amendment, Mr. Speaker, will help to alleviate that problem. I would like to finally say, Mr. Speaker, about the Mental Health Association in Hawaii, they are stating that there is a direct link, as we know, between stress and poor mental health. The inability to provide food and shelter adds a tremendous amount of stress to a person's life. The need for additional homeless shelters and programs will continue to rise as more people are affected by lay-offs and cutbacks. Quicker assistance for this population means quicker stabilization that will lead to more immediate re-entry into the workforce. Without such assistance people and their families are likely to be faced with such grave circumstances that it becomes difficult to ever recover.

"Our amendment, Mr. Speaker, increases the amount that will be available to prevent people from becoming homeless and to prevent an increase in the stress and ultimately mental illnesses. I think that we must look today in our hearts and say, 'Isn't it right to increase from \$1 million to \$4 million this amount to help the people who are most in need in our State?' I would hope that it would be a non-partisan decision by this Body to say that yes, our hearts are there and we will vote for this. Thank you."

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

"Mr. Speaker, during this Special Session we are going through and finding a considerable amount of funds to increase monies for construction spending. We are finding monies to increase tourism ads. I think it is perfectly reasonable for us to also attempt to find additional resources and funds for those least well off in our society.

"The previous speaker from Kailua has correctly pointed out the great number of non-profit, public interest organizations who have come before this Legislature to highlight the very, very pressing need for these additional resources to be directed to their organizations. Our failure to listen and heed the needs of these non-profit and public interest organizations questions whether or not they have any credibility or clout. I, however, am one Representative who does believe that the testimony brought forth by these organizations is very real and the need is very pressing.

"I think if there is ever a need in an emergency Session and in an emergency measure, this is the need and we should be moving in passing this particular amendment. Thank you Mr. Speaker."

Representative Gomes rose in support of the amendment and requested a roll call vote at the appropriate time.

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

"I do want to express my gratitude to my colleagues on the other side for this very generous proposal that is laying on the desk.

"Mr. Speaker, no one would like to see more money being poured into the emergency shelters for Hawaii's needy. But we are addressing in this emergency Special Session that we look at the emergency needs. We want to thank the Governor for his leadership in calling Hawaii together in a time where Representative Arakaki, Senator Chun-Oakland and I were

calling for an emergency. Both venues, which the previous speaker had eluded to those testifiers, have developed a safety mechanism. And in this first bill that is being proposed in the form of an amendment, we saw the need for food and shelter to be one of the very basic.

"I believe that both of the money Chairs and their committee members did have an expression for our very needy by increasing food appropriations. So, at this point, we see that the monies that have been appropriated would carry us for two months and address the emergency needs for the food and shelter. Now the increase in the \$4 million, although very generous, it does address only the emergency shelter for Hawaii's needy. That is not the intent of what the monies were appropriated for. The intent is to address those families that were directly affected by the September 11th terroristic activities threatening all of our freedom. They in turn lost their freedom of economics and lost their jobs.

"So, this bill would give a real change and the authority to the HCDCH to provide rent supplements, and to provide mortgage payments for these families. So this is not addressing the very needy. But yet during our hearing, the testifiers did say that we are addressing a 'crisis before the crisis.' Before this even happened we were already in a crisis. So I am encouraged to see that at least our colleagues on the other side now realizing that we had a crisis even before this crisis. I appreciate the increase even with the failure of having any of their names on the original bill to show support for the very needy of Hawaii. We are encourage by the change of philosophy."

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

"I believe the current speaker is directing his comments towards a Party philosophy, which he has misperceived as being non-supportive of the poor in the past and his comments are becoming directed at that ambiguous group of people. He's implying it towards the sponsors of this motion in terms of saying that we have now come to realize that there is a need in Hawaii; that we have now changed our philosophy that we support the poor people.

"As the Speaker knows, for many years we fought for taking the GET tax off of food to help poor people..."

The Chair then interjected, stating:

"State your point. There is no reference to what you have just stated."

Representative Whalen continued, stating:

"I believe if this is being recorded and if it was played it back you will find that the last comment the speaker made was that the Republicans have now changed their philosophy and are now supporting poor people."

The Chair responded:

"I believe so."

Representative Whalen continued, stating:

"My colleagues on the other side of the aisle, I am happy to see that they have changed their philosophy now and are now supporting this need we have for housing.

"That Mr. Speaker is almost a direct quote to what he said. Now, I'm pointing out in my point of order that it is improper and second, that it has always been our philosophy to support the needy of this State. Certainly we have not done it through greater and bigger programs sponsored through higher and higher taxes. We believe that putting the money back in their pocket will assist in much greater than all the programs that..."



The Chair then interjected, stating:

"Your point is well taken."

The Chair then recognized Representative Thielen who rose on a point of personal privilege, stating:

"I am deeply wounded by what Representative Kahikina implied. I think that he knows that on this floor, on all of these battles, I have always been out there speaking in support of this type of legislation to help the more needy in our community. I think he also knows I have a track record for being in Legal Aid..."

At 11:01 o'clock a.m. the Chair declared a recess, subject to the call of the Chair.

The House of Representative reconvened at 11:02 o'clock a.m.

The Chair then recognized Representative Kahikina, who continued stating:

"In closing, may I say that it is a prudent decision to appropriate enough money to carry us over to the Regular Session because we are concerned about our cash carry-over balance. We are concerned about the Council on Revenues projection due on November 15th. We are concerned about the fixed cost on the general obligation bonds that we are floating.

"So, we want to have the flexibility to really address the real emergency issues that will happen in the next Session. They still didn't sign on to the original bill to address the original problem. A crisis before the crisis. Thank you very much."

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

"The speaker keeps saying that we did not sign on. This was a Majority Bill and we did not have an opportunity to sign on to this bill. I want that to be made clearly..."

At 11:03 o'clock a.m. the Chair declared a recess, subject to the call of the Chair.

The House of Representative reconvened at 11:04 o'clock a.m.

The Chair then recognized Representative Thielen, who continued stating:

"I just wanted to continue on my point of personal privilege. The Chair of Human Services knows very well Mr. Speaker, that I have spent five years as a Legal Aid attorney working with the poverty community. I did that because I cared, and felt that I could make a difference for people in helping to empower them.

"I still believe that we can help to empower people. I think that part of that is by making sure that those directly affected by September 11th, which means someone today, tomorrow, the next day, will continue to have shelter.

"Mr. Speaker, I am deeply offended by the fact that, that speaker was putting politics over people. I think that it was absolutely uncalled for and I would hope that the Majority would have an opportunity to get together to say that those kinds of mistaken, incorrect, unfair, untruthful allegations are not made again in this Body. Thank you."

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

"The Republican Caucus had a chance to look at these bills on Sunday afternoon shortly before I went in to sign bills in the package which were put together by the Speaker and the Senate President along with the cooperation of the Governor. When we looked at this bill in Caucus on Sunday we were initially taken aback at the fact that the appropriations that are discussed in this bill came not from the General Fund, but from the 'Rainy Day' Fund. There were certain people in the Caucus that were hesitant about taking money out of the 'Rainy Day' Fund rather than the General Fund to fund these.

"I can understand why the Representative from Nanakuli may have misunderstood the absence of my signature to indicate we were not in support of spending money on these very critical needs. We, of course, strongly support it and as you can tell from our amendment we want to see even more money going for that purpose. But on that day without a lot of time to think about what we had seen, I did hold back initially because we were concerned about taking the money from the 'Rainy Day' Fund rather than the General Fund.

"So, it was a technical reason for not signing and not a philosophical one. But I can understand why the Representative from Nanakuli may have thought otherwise, and I apologize for whatever confusion I may have caused through my action."

Representative Arakaki rose in opposition to the amendment, stating:

"First of all, I would like to state that indeed when it comes to the needs of the people, it is not a partisan issue and we know that the Minority is in full support in trying to meet the needs of our most vulnerable in the population. We called together an emergency of health, human services and housing advocates and providers. We didn't say only Democratic providers. We said everyone. We invited every person here in the House and also the Senate to participate in this process as well.

"We realized that it was an emergency meeting and it was a last minute call, but we were very pleased that we had over 200 people responding with just two days notice. I think that was an indication that there really is a crisis occurring. Like my colleague, the Chair of the Human Services and Housing Committee has said, we already had a crisis before September 11th. The shelters were already full. We already had thousands of people waiting for Section 8 vouchers, waiting for public housing.

"So, we already have a crisis and we are glad that everyone here, not just the Minority, but everyone here needs to recognize that. It only becomes apparent when people see people on the street homeless, or in cars. But everybody should realize that are people doubling-up, tripling-up in their homes. We have the hidden homeless and what is going to happen is if we don't respond to the crisis we are going to see more people in the streets. We are going to see them in Waikiki and that is going to affect tourism as well.

"But the fact is, as much as we appreciate more resources being put into this measure, we were told that the rules of the game were that we are responding to the people who are directly affected by the crisis that occurred because of the 911 tragedy. It is an immediate response. But we are also, at the same time, recognizing that there is a greater need that we need to look at. The needs are not short term and the emergency is not going away. It is going to continue on into next Session, and it is going to be even more challenging because we are going to have fewer resources from what we are told.

"So the question is, how do we keep people from becoming homeless? That's what this measure does. We have \$1 million to say, Aloha United Way, HCDCH, we want you to do everything you can to keep people who are losing their jobs



from being kicked out because they can't come up with rent or they can't get into homes because they don't have deposits. That's what this measure is meant for, and we are truly grateful that the Finance and the Ways and Means Committees recognized that. We are also truly grateful that they also recognizing that food is an essential requirement for people, and that if we don't provide food as a State then I think we are really being negligent.

"I think the Committees responded to that by increasing the amount from \$250,000 to \$1 million. So this is 'stopgap.' It's emergency and it is to respond to the immediate needs. There are the needs like helping people who will be losing their preschool childcare. There are people who are going to be uninsured who need health care. We need to address those issues as well. But we need to look at next Session when we have a better idea of where the resources are going to come from and how much we have to work with.

"This is something that we shouldn't be fighting over, nothing partisan. It's something we all should be working together on. Thank you Mr. Speaker."

Representative Rath rose in support of the amendment, stating:

"As you know, I don't really have a 'touchy-feely' side to my personality. I am looking at this strictly from a practical standpoint. This doesn't mean that by increasing the amount appropriated, it doesn't necessarily mean that we are going to spend it. I might remind you that sitting here today in this Session, we have no idea which way the economy is going to go and what else is going to happen between now and the time we come back to Session in January.

"This simply just places the money at the avail. It doesn't mean it is spent. It's just like having a savings account for your personal family. If something should befall, like you lost a job or something, you go to that account. It just places it at the avail without us having to meet. So, I think that is what we are really looking at is the practicality of having the money available. We might get into Christmas and you know how people's feelings change around Christmas. I mean around Christmas I even like Democrats. You hate to see people sleeping in their cars on Christmas morning. Just the practicality of having it available is where I see this amendment is worth passing. Thank you Mr. Speaker."

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

"My understanding is that on the Congressional level there will be some emergency funds coming down in human services. President Bush has requested several millions of dollars, and the Democratic Congress people are also discussing another amount. But no doubt money will be coming down from the federal government, and I am thinking that we have to direct it as to where it is spent in our budget, and I think that it would be prudent for us to direct it in these areas for housing and for shelter, rather than wait for the supplemental budget be passed in the next Regular Session.

"Let's do it now so that we are ready to help people, so we could spend the money. Thank you."

Roll call having been previously requested, the motion that the amendment to H.B. No. 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," be adopted failed to carry on the following show of Noes and Ayes:

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

Ayes, 17: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen and Whalen.

Excused, 4: Leong, Pendleton, Souki and Takumi.

At 11:16 o'clock a.m., Representative Luke requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representative reconvened at 11:17 a.m. o'clock.

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

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 2) recommending that H.B. No. 8, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 8, 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 Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 3) recommending that H.B. No. 9, 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 H.B. No. 9, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

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

"My reservations are not for the amount or the use of the money, but there is no reporting requirement to the Legislature."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 9, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION," passed Second Reading, and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 4) recommending that H.B. No. 16, 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 H.B. No. 16, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

Representative Fox rose and offered the following amendment to H.B. No. 16, HD 1:

Section 1. House Bill No 16 is amended by deleting the contents of the bill and substituting the following:

"SECTION 1. Section 103-53, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

(b) Notwithstanding the provisions under sections 40-57 and 40-58, if a contractor fails to timely file all tax returns and pay all taxes, interest, and penalties due to the State or Internal Revenue Service during the term of a contract, the state or county ~~[contracting]~~ procurement officer or agent shall immediately assign any progress payment due to the contractor, if any (provided such payment is not subject to any restriction or encumbrance), to the State payable to the department of taxation or to the Internal Revenue Service to the credit of the contractor, whichever the case may be; provided that the department of taxation may first offset its tax debt against the sum owed to the contractor. The state or county ~~[contracting]~~ procurement officer or agent shall assign as many progress payments as necessary, including the final payment, to cover the amount of the tax delinquency.

SECTION 2. Section 103-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

(e) This section shall not apply to:

- (1) Any procurement ~~[of less than \$25,000 or is considered a small purchase under]~~ within the limits of section 103D-305 ~~[and any state or county department contract of less than \$25,000];~~
- (2) Emergency purchases for the procurement of goods, services, or construction under section 103D-307, disaster relief under chapter 127, or a civil defense emergency under chapter 128;
- (3) Grants and subsidies disbursed by a state agency pursuant to ~~[chapter 42D]~~ section 42F-101 or in accordance with standards provided by law as required by article VII, section 4, of the State Constitution, or made by the counties pursuant to their respective charters or ordinances;
- (4) Contracts or agreements between government agencies;
- (5) Contracts or agreements to disburse funds:
  - (A) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, and reimbursements;
  - (B) To satisfy obligations required to be paid by law, including fees, judgments, settlements, and other payments for resolving claims;
  - (C) To make refunds or return funds held by the State or county as trustee, custodian, or bailee;
  - (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
  - (E) For deposit, investment, or safekeeping, including sums to pay expenses related to their deposit investment, or safekeeping;
  - (F) For loans under government-administered loan programs;
  - (G) To make periodic, recurring payments for utility services;
- (6) Rent for the use or occupation of the premises and facilities at Aloha Stadium, the convention center, or any other state or county large spectator events facility;
- (7) Contracts or agreements entered into pursuant to chapter 102; and
- (8) Requirements of chapter 103D.

SECTION 3. Section 103-55, Hawaii Revised Statutes, is amended to read as follows:

"§103-55 Wages, hours, and working conditions of employees of contractors performing services. (a) Before any offeror enters into a contract to perform services in excess of ~~[\$25,000]~~ the limits in section 103D-305 for any governmental agency, the offeror shall certify that the services

to be performed will be performed under the following conditions:

Wages. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Compliance with labor laws. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

(b) No contract to perform services for any governmental contracting agency in excess of ~~[\$25,000]~~ the limits in section 103D-305 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of contract to perform services shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Final payment of a contract or release of bonds or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected.

It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of ~~[\$25,000]~~ the limits in section 103D-305 to enforce this section.

(c) This section shall apply to all contracts to perform services in excess of ~~[\$25,000]~~ the limits in section 103D-305, including contracts to supply ambulance service and janitorial service.

This section shall not apply to:

- (1) Managerial, supervisory, or clerical personnel.
- (2) Contracts for supplies, materials, or printing.
- (3) Contracts for utility services.
- (4) Contracts to perform personal services under paragraphs (2), (3), (12), and (15) of section 76-16, paragraphs (7), (8), and (9) of section 46-33, and paragraphs (7), (8), and (12) of section 76-77.
- (5) Contracts for professional services.
- (6) Contracts to operate refreshment concessions in public parks, or to provide food services to educational institutions.
- (7) Contracts with nonprofit institutions.

SECTION 4. Section 103D-304, Hawaii Revised Statutes, is amended to read as follows:

**§103D-304 Procurement of professional services.** (a) Professional services shall be procured in accordance with sections 103D-302, 103D-303, 103D-305, 103D-306, or 103D-307, or this section. Design professional services furnished by licensees under chapter 464 shall be procured in accordance with this section or section 103D-307. Contracts for professional services shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(b) At a minimum, before the beginning of each fiscal year, the head of each purchasing agency shall publish a notice inviting persons engaged in providing professional services which the agency anticipates needing in the next fiscal year, to submit current statements of qualifications and expressions of interest to the agency. Additional notices may be given if:

- (1) The response to the initial notice is inadequate;
- (2) The response to the initial notice does not result in adequate representation of available sources; or
- (3) Previously unanticipated needs for professional services arise.

The chief procurement officer may specify a uniform format for statements of qualifications. Persons may amend these statements by filing a new statement prior to the date designated for submission.

(c) The head of the purchasing agency shall designate a review committee consisting of a minimum of three ~~[employees from the agency or from another governmental body,]~~ persons with sufficient education, training, and licenses or credentials for each type of professional service which may be required. The committee shall review and evaluate all submissions and other pertinent information, including

references and reports, and prepare a list of qualified persons to provide these services. Persons included on the list of qualified persons may amend their statements of qualifications as necessary or appropriate. Persons shall immediately inform the head of the purchasing agency of any change in information furnished which would disqualify the person from being considered for a contract award.

(d) Whenever during the course of the fiscal year the agency needs a particular professional service, the head of the purchasing agency shall designate a ~~[screening]~~ selection committee to evaluate the statements of qualification and performance data of those persons on the list prepared pursuant to subsection (c) along with any other pertinent information, including references and reports. The ~~[screening]~~ selection committee shall be comprised of a minimum of three ~~[employees of the purchasing agency]~~ persons with sufficient education, training, and licenses or credentials in the area of the services required. ~~[If the purchasing agency and using agency are different, the committee shall include at least one qualified employee from the using agency. When the committee includes an employee from a using agency, the employee shall be appointed by the head of the using agency. If qualified employees are not available from these agencies, the officers may designate employees of other governmental bodies.]~~ The ~~[primary]~~ selection criteria employed ~~[by the screening committee]~~, each of equal importance, shall ~~[include but not]~~ be ~~[limited to]~~:

- (1) Experience and professional qualifications of the staff to be assigned to the project;
- (2) Past performance on projects of similar scope for public agencies or private industry; and
- (3) Capacity to accomplish the work in the required time~~[-];~~ and
- (4) Volume of work previously awarded to the person.

The ~~[screening]~~ selection committee may add sub-criteria within each criterion, and shall evaluate the submissions of persons on the list prepared pursuant to subsection (c) and any other pertinent information which may be available to the agency, against the selection criteria. The committee may conduct confidential discussions with any person who is included on the list prepared pursuant to subsection (c) regarding the services which are required and the services they are able to provide. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The committee shall provide the head of the purchasing agency with the names of a minimum of three persons who the committee concludes are the most qualified to provide the services required, with a summary of each of their qualifications. The contract file shall contain a copy of ~~[the criteria established for the selection and]~~ the committee's summary of qualifications for each of the persons provided to the head of the purchasing agency by the committee.

(e) ~~[The head of the purchasing agency shall evaluate the summary of qualifications for each of the persons provided by the screening committee and may conduct additional discussions with any of them. The head of the purchasing agency shall then rank the persons based on the selection criteria.]~~ The head of the purchasing agency shall negotiate a contract with the first ranked person, including a rate of compensation which is fair and reasonable, established in writing, and based upon the estimated value, scope, complexity, and nature of the services to be rendered. If a satisfactory contract cannot be negotiated with the first ranked person, negotiations with that person shall be formally terminated and negotiations with the second ranked person on the list shall commence. Failing accord with the second ranked person, negotiations with the next ranked person on the list shall commence. If a contract at a fair and reasonable price cannot be negotiated, the ~~[screening]~~ selection committee ~~[may]~~ shall be asked to submit a minimum of three additional persons for the head of the purchasing agency to ~~[rank, and]~~ resume negotiations in the same manner provided in this subsection. Negotiations shall be conducted confidentially.

(f) Contracts awarded under this section shall be posted electronically within seven days of the contract award by the chief procurement officer and shall remain posted for at least one year. Information to be posted shall include:

- (1) The names of the top five persons submitted under subsection (d), or, if the list submitted under subsection (d) is less than five, all of the persons submitted;
- (2) The name of the person or organization receiving the award;
- (3) The dollar amount of the contract;
- (4) The purchasing agency head making the selection; and
- (5) Any relationship of the principals to the official making the award.

(g) Contracts for professional services of less than \$25,000 may be negotiated by the head of a purchasing agency, with any ~~[two]~~ persons who appear on the list of qualified persons established pursuant to subsection (c). Negotiations shall be conducted in the manner set forth in subsection (e), ~~[but without establishing any order of preference,]~~ using the ranking of person based on the selection criteria of subsection (d) as determined by the head of the purchasing agency. No contract for the construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates.

SECTION 6. Section 103D-305, Hawaii Revised Statutes, is amended to read as follows:

**§103D-305 Small purchases; prohibition against parceling.** Procurements of less than ~~[\$25,000]~~ \$50,000 for goods~~[-]~~ and services, or less than \$250,000 for a construction project shall be made in accordance with procedures set forth in rules adopted by the policy board that are designed to ensure administrative simplicity and as much competition as is practicable; provided that multiple expenditures shall not be created at the inception of a transaction or project so as to evade the requirements of this chapter; and provided further that procurement requirements shall not be artificially divided or parceled so as to constitute a small purchase under this section.

SECTION 7. Section 103D-323, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**§103D-323 Bid security.** (a) Unless the policy board determines otherwise by rules, bid security shall be required only for construction contracts to be awarded pursuant to sections 103D-302 and 103D-303 and when the price of the contract is estimated by the procurement officer to exceed ~~[\$25,000]~~ the limits in section 103D-305 or, if the contract is for goods or services, the purchasing agency secures the approval of the chief procurement officer. Bid security shall be a bond provided by a surety company authorized to do business in the State, or the equivalent in cash, or otherwise supplied in a form specified in rules.

SECTION 8. Section 103D-324, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**§103D-324 Contract performance and payment bonds.** (a) Unless the policy board determines otherwise by rules, the following bonds or security shall be delivered to the purchasing agency and shall become binding on the parties upon the execution of the contract if the contract which is awarded exceeds ~~[\$25,000]~~ \$50,000 and is for construction, or the purchasing agency secures the approval of the chief procurement officer:

- (1) A performance bond in a form prescribed by the rules of the policy board, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the purchasing agency, in an amount equal to one hundred per cent of the price specified in the contract;
- (2) A payment bond in a form prescribed by the rules of the policy board, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the purchasing agency, for the protection of all persons supplying labor and material to the contractor for the performance of the work provided

for in the contract. The bond shall be in an amount equal to one hundred per cent of the price specified in the contract; or

- (3) A performance and payment bond which satisfies all of the requirements of paragraphs (1) and (2).

SECTION 9. Section 103D-701, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**PART VII. LEGAL AND CONTRACTUAL REMEDIES**

**§103D-701 Authority to resolve protested solicitations and awards.** (a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the chief procurement officer or a designee as specified in the solicitation. A protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest of an award or proposed award shall in any event be submitted in writing within five working days after the posting of award of the contract either under section 103D-302 or 103D-303, as applicable; provided further that no protest based upon the content of the solicitation shall be considered unless it is submitted in writing prior to the date set for the receipt of offers. Any actual or prospective bidder, offeror, or contractor who submits a protest to the chief procurement officer or a designee as specified in the solicitation shall also post a bond in the amount of \$250 with the chief procurement officer or the designee as specified in the solicitation, payable to the respective department of the chief procurement officer or the designee as specified in the solicitation. Such bond shall be forfeit if the protest be found to be without merit or the protest is decided against the protestor.

SECTION 10. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**PART . Emergency School Repair & Maintenance Program**

**103D- . Definitions.**

"Architect/Engineer team" shall mean an individual or group of individuals licensed under chapter 464 as either an architect or professional engineer.

"Department" shall mean the department of accounting and general services.

**103D- . Pre-qualification of Architect/Engineer teams; criteria.** The department will make a list of not more than six pre-qualified Architect/Engineer teams available to the principal of each public school. The criteria employed by the department for pre-qualifying an Architect/Engineer team shall be of equal importance and shall include:

- (1) Experience and professional qualifications of the staff to be assigned to the project;
- (2) Past performance on projects of similar scope for public agencies or private industry;
- (3) Capacity to accomplish the work in the required time period;
- (4) Geographical proximity to the school; and
- (5) Volume of work previously awarded to the person, under this program or any other state or county work.

A greater volume of work as noted in (5) shall bear negatively towards the selection of any Architect/Engineer team. The department shall also make available to the principal of each public school their prioritized repair and maintenance lists for each respective school.

**103D- . Discretion to select Architect/Engineer teams.** Each principal shall select an Architect/Engineer team from the list of pre-qualified teams. The principal shall have the discretion to select any team from the list. The chosen team will work with the principal of the school to create a prioritized twenty-year repair and maintenance plan for the school.

**103D- . Contractor selection.** Upon completion of the twenty-year repair and maintenance plan, the principal and the Architect/Engineer team shall select a contractor to complete the repair and maintenance projects according to the plan. The

criteria for selecting a contractor, in descending order of importance, shall be:

- (1) The best value for services offered and materials used in completing the plan projects;
- (2) The price offered for completion of the plan projects;
- (3) Past performance on projects of similar scope for public agencies or private industry;
- (4) Capacity to accomplish the work in the required time period;
- (5) Geographical proximity to the school; and
- (6) Volume of work previously awarded to the person, under this program or otherwise.

A greater volume of work as noted in (6) shall bear negatively towards the selection of any contractor. Upon selection of a contractor, the principal and the Architect/Engineer team shall submit the plan and choice of contractor to the department. Based on addressing the highest priority items on the plan, the principal and the Architect/Engineer team shall draft and submit an itemized purchase order of services and materials, the overall cost of which is at or below the limits set forth in section 103D-305, to the department.

**103D- . Plan review; criteria.** The department shall have the option of reviewing the above documents or delegating the review to the master consultant. Should the department choose to do so, the department shall review:

- (1) the repair and maintenance plan for compliance with applicable laws, rules, and regulations;
- (2) the selection factors for the contractor;
- (3) the need of the school and the department's plans for the school against the repair and maintenance plan; and
- (4) the contractor against the department's list of pre-approved contractors.

If the department cannot approve or disapprove of the plan, contractor selection, or purchase order with reasons or compliance requirements, as may be applicable, within twenty-one working days, the department shall delegate the review to the master consultant.

**103D- . Master consultant; duties and contracts.** There is hereby created a master consultant who shall review:

- (1) the repair and maintenance plan for compliance with applicable laws, rules, and regulations;
- (2) the selection factors for the contractor;
- (3) the need of the school and the department's plans for the school against the repair and maintenance plan; and
- (4) the contractor against the department's list of pre-approved contractors,

when such task is delegated to it by the department. No more than four master consultants shall be selected by the department. The department shall negotiate an open quantity contract with a set price for review of an individual school's repair and maintenance package as noted immediately above. The negotiated contract between the department and the master consultant shall include a clause for liquidated damages if the master consultant does not approve or disapprove of the plan, contractor selection, or purchase order with reasons or compliance requirements, as may be applicable, within twenty-one working days from the time of receipt of the repair and maintenance package from the department. The liquidated damages shall be no greater than the amount of the purchase order of the respective school whose package is not reviewed within the twenty-one working day time frame. A master consultant, or its subsidiaries or affiliates, shall not be eligible to receive any award of contract or purchase order as a result of this program.

SECTION 11. There is appropriated out of the State Educational Facilities Improvement Special Fund the sum of \$1.00, or so much thereof as may be necessary for fiscal year 2002-2003, for the purpose of effectuating the school repair and maintenance program in section 9 of this Act; provided that moneys unexpended as of October 1, 2002 shall lapse into the general fund.

SECTION 12. The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 13. All contracts entered into under statutes or portions of statutes repealed or amended by this Act shall continue to be honored until their termination. The provisions of this Act shall not be applied so as to impair any contract existing as of the effective date of this Act or to otherwise be violative of either the Hawaii Constitution or Article I, section 10, of the United States Constitution.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval; provided that on September 30, 2002, sections 1 through 9 of this Act shall be repealed.

SECTION 16. This Act shall take effect on November 5, 2001."

Representative Fox then moved that the amendment to H.B. No. 16, HD 1 be adopted, seconded by Representative Rath.

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

"What this amendment is really meant to do is to depoliticize the procurement process as the bill is written. But a greater degree than that, what it looks to do is to 'spread the wealth' so to speak. We are all used to seeing the contracts that come down from government here, to the State, going to the usual cast of characters. What this hopes to do by the way it is written, is to disseminate that out to a larger base of contractors so that we are spreading the wealth and spreading the work to people who really haven't had the chance to work for the government before and to spread it throughout the islands as opposed to it being centralized.

"So, that's the basis of this amendment and I think effectively would cause that to happen and that would be something that would take the politics out of it. Thank you Mr. Speaker."

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

"This floor amendment has some other virtues beyond those given by the Representative from Kona. It calls for teams to be formed at each school, of architects to lay out a program of maintenance over a period of time at each school, and then calls for a process of awarding contracts after that according to the maintenance schedule that has been worked out at the schools by somebody from the outside.

"If in the process of awarding contracts a delay arises because of the well-known backlog at DAGS, and this is something that our research found out is a major problem, the contract can be let out to a master contractor outside of DAGS to be worked out and awarded. That person has a specific period of time in which to make sure that the contract is awarded.

"The points given for those who will receive the contract awards, not only give points because the person who is doing the contract has not previously had work, they also have to qualify. But then they get additional points if they haven't previously had as much work as their competing contractors. In addition to that, it awards points for contractors who are located fairly near the facility where the contract is being awarded. This is all part of the idea of spreading the work around, and giving the work to people that are in the areas of the schools.

"So, this whole process that we envision will spread the work out as widely as possible, geographically in terms of the amount of work that is being done and getting it outside DAGS, if DAGS can't accomplish the job within 21 working days so that we will have a lot of people working very soon throughout the entire State if we follow this pattern. We really commend this approach to the whole Legislature, to the House of Representatives today and suggest that this amendment be supported by all of us. Thank you Mr. Speaker."

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

"I want to thank the Minority for thinking about streamlining the process on procurement. We had a lot of discussion last evening, in regards to procurement in this bill that was proposed by the Majority that we have here.

"But looking at the amendment, what I see is the key word 'streamline.' The reason I will vote down on the amendment is because when you streamline something you will have the principal of the school take a look at another tier of things that they are not qualified to do. The way the procurement process is and most of you have been involved in going to different schools to take a look at different areas of needs we have -- we have a procurement process in front of us where they are more able to do the work that we have.

"Talking to Mr. Kimura last night in his testimony that he presented as the Comptroller, I asked one specific question. Once we let the CIP and R&M projects go, the floodgates will be open. The biggest contention I had was, do they have the people to handle all the resources? He indicated to me last night that they would be hiring outside consultants, architects and engineers to streamline their process to get the work going.

"The key to this is that the principals are there to teach and maintain the schools. We don't need to get other people within the added layer of bureaucracy to add on to the slowdown of the process because with this emergency on these R&M projects, procurement is the immediate impact that we see is what the kids have and what the parents will appreciate.

"Mr. Speaker, therefore I am voting this down because the key is that we have something that implements what we discussed last night. The principals cannot be hampered with the additional burden of the procurement process that we have. Thank you."

Representative Gomes rose in support of the amendment, stating:

"I know it is going to be a close vote on the amendment, but just for your information, should it fail, I do support the underlying measure. But I do think that the amendment is needed because it goes the extra step to make the procurement process more streamlined, and more clear for people to see a more transparent process, and it also provides more access for the principals to get the immediate procurement taken care of to meet their needs.

"So, for those reasons I do support the amendment and at the appropriate time I request a roll call vote. Thank you."

Representative Fox rose on a point of clarification, stating:

"The role of DAGS is integral to this process. They are involved in the selection of the teams that work in each school and the contractors. DAGS sort of gets first shot at letting out the contract.

"Mr. Speaker, we've talked to several people in the industry who say that DAGS is basically overwhelmed. Each of the people who work at DAGS has far more contracts to deal with than they can actually get out in a certain period of time. So,

we actually need a new system for getting contracts out quickly. One that has worked effectively for the Department of Transportation, as we were told by the former Airport Director, Owen Miyamoto, one system that has worked very effectively is to go to an outside contractor and pay that outside contractor to put those contracts together. That's the job that takes so long. Sometimes it takes even up to a year to put a contract together. It actually takes longer to put a contract together than to actually do the job in many cases.

"So, this is the 'bottleneck,' this is the one we hope to get around with in this bill. And I think that the Representative from the North Shore, if he had a chance to talk this over with somebody like Mr. Miyamoto would see that this really is the way that helps the schools. It doesn't hurt them; it moves things along faster. Thank you Mr. Speaker."

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

"Mr. Speaker, I rise with reservations. There is much in this amendment that seems to me is good and productive, that we need to take a look at. I am particularly interested, on first reading, in section 4 which essentially brings the procurement of design professionals within the procurement code to a much greater extent than they are right now.

"Just in the last two or three days in my office we have looked into the mechanism by which design services were obtained to construct the UH medical school. It surprised me, frankly, how much those really operated outside of the normal bid process that we are all very much used to. It looks to me like section 4 would take that problem head on. There is obviously a lot of room for things to go on within the process of selecting design professionals that we have very little check and balance on.

"The reluctance that I have with the amendment is simply that I haven't been able to think it all the way through and deal with it in a systematic way. I don't think it falls under the category of a measure that we should, in fact, address in an emergency basis in a five-day Special Session. But I would be most willing to work with the Minority introducer and whoever else, towards some real reform, especially in this particular area, early in the Regular Session. Thank you."

Representative Espero rose in opposition to the amendment, stating:

"My question is, how do the principals feel about this? I would like an opportunity to talk..."

Representative Gomes then interjected, stating:

"I would just like to know if he's rising in support or against the amendment?"

Representative Espero continued, stating:

"I'm speaking against the amendment. But like I said, I would like to see what the principals in my own district feel about this amendment, whether they want to get involved in this process. Once I have spoken with them then maybe we can consider this during the Regular Session. Thank you."

Roll call having been previously requested, the motion that the amendment to H.B. No. 16, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," be adopted failed to carry on the following show of Noes and Ayes:

Noes, 29: Abinsay, Ahu Isa, Arakaki, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Suzuki, Takai, Takamine, Yonamine and Yoshinaga.

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen and Whalen.

Excused, 4: Kahikina, Pendleton, Souki and Takumi.

(Main Motion)

Representative Whalen rose and stated:

"I'm concerned as you know, including the Vice Speaker and the former Representative from Ka'u, that this measure contains a portion that talks about residency. We've been battling a certain member of the Senate for years on this issue and I know that it has popped up in this one as well.

"The concern is that the whole purpose behind this bill is to get stuff out quickly. Even though there is a severability clause in here it first has to go to the court, so if a firm..."

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

"Is the current speaker speaking for or against the measure?"

Representative Whalen continued, stating:

"I am speaking in support with reservations.

"Getting back to the point here. The 75% of the workforce that has to live here for 6 months prior to the effective date of this Act. We don't know when that date will be exactly, but sometime soon. It's certainly an issue that could be sued over. The first thing that the courts are going to do is issue an injunction on any work order and stop the process from rolling.

"The whole idea behind this bill is to get stuff out quickly, and this portion of the bill is going to potentially stop any sort of speedy economic recovery work, whatever this is, from getting done and I really see no purpose for it. Because as the committee report notes, contracts between one hundred to two hundred and fifty thousand, there's very little out-of-state competition anyway. We're talking about the big ones.

"So, this bill is just about contracts up to \$250,000 yet we throw in this kicker that could jam up the whole 'shooting match' by saying everyone has to have a 75% workforce and the company has to be licensed.

"Those are my concerns and I realize that it being changed is slim to none because of our tight timeframe but I think we should focus on what the goals of the Special Session are and not try to allow, to squeeze through, other things that certain individuals have been pushing for and using this as an opportune moment to get it done. 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. 16, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading, and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 5) recommending that H.B. No. 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Second Reading and was placed on the calendar for Third



Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 6) recommending that H.B. No. 3, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 7) recommending that H.B. No. 5, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 5, entitled: "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 8) recommending that H.B. No. 6, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 6, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 9) recommending that H.B. No. 10, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 10, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 10) recommending that H.B. No. 11, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 11, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 11) recommending that H.B. No. 12, pass Second Reading and be placed on the calendar for Third Reading.

Representative Takamine moved that the report of the Committee be adopted and H.B. No. 12, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 12, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND," passed Second Reading and was placed on the calendar for Third Reading, with Representative Stonebraker voting no and Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 12) recommending that H.B. No. 13, pass Second Reading and be placed on the calendar for Third Reading.

Representative Takamine moved that the report of the Committee be adopted and H.B. No. 13, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

Representative Takai rose on a potential conflict of interest, stating:

"I am a board member of the American Cancer Society and a board member of the American Cancer Society Central/Leeward Unit."

The Chair responded, "no conflict."

Representative Takai then asked that the Clerk register a no vote for him, and the Chair "so ordered."

Representative Rath rose in opposition to the measure, stating:

"In Hawaii, we seem to always go on with some grandiose plan scheme or dream without getting the basics down pat. With the U.H. they should be providing higher education, not only in Honolulu, but hopefully throughout the State so our citizens have access to that.

"I think that they would look at that goal and improving the quality of the University itself rather than going on some grand scheme and dream for this new medical center. I think we would be better served. But additionally let's take a look at the amount of money. This is \$300 million. We know that about \$30 million that is going to be design money, which is non-bidding contracts which are just given out. I don't really see that this is really something that belongs here in an emergency Session to try and facilitate the economic impact of the events that happened in the early part of September.

"This is something that failed in the last Session. It should rightfully fail here. I know that Mr. Dobelle is the new kid on the block and he is extremely smooth and he has seen this as an opportunity, but I don't really think that this is what serves the people of Hawaii. Right now if we are going to diversify our economy, and move people into different areas and try to branch off in tourism and get people re-educated, get into college, then we need to have functioning community colleges and outreach programs on the Neighbor Islands able to sustain our economy by increasing the educational availability to our residents. This doesn't do that.

"So, I really don't see where this is going to have that impact. We are looking at things between now and January and that is exactly what your side of the aisle has said. This is between right now and next Session in January that we can do the

immediate and this isn't one of them. For that reason I am voting against it. Thank you Mr. Speaker."

Representative Djou rose on a potential conflict of interest, stating:

"I serve on the board of directors of the American Lung Association."

The Chair ruled, "no conflict."

Representative Djou continued in opposition to the measure, stating:

"I support the medical school and I think it is a good idea. My concerns are the funding mechanism. I prefer we find another way to finance this medical school than the way proposed in this particular bill. Thank you."

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

"I don't like the funding source. I understand the tie-in between tobacco settlement money and a medical school, I can see that. There is a little fear that the Tobacco Settlement Fund will be depleted so much that it won't be able to do the other things that it was intended for.

"I also have concerns about the location. We didn't like that location last Session and the location hasn't changed and it appears our opinion has. I'm also very concerned about the small businesses that are located there currently at the site that are being evicted. I don't believe that there is any State help for those businesses either.

"So, with all those said, I do support a medical school. I'm just not sure about the site. But I also have the mixed feeling that we gave the University autonomy and the University picked the site. There is a little conflict there as to what we do. Do we say you can have autonomy but we are going to tell you where to build things?

"With all that said Mr. Speaker, I am voting with reservations."

Representative Arakaki rose in support of the measure with reservations, stating:

"I'm very conflicted on this measure because two years ago I introduced a resolution to have the medical school moved from its present location. I think that sort of got the ball rolling to where it is now.

"However, I guess the problem I have is that two years ago, we created the Tobacco Settlement Trust Fund and this Trust Fund is supposed to be a legacy to our young people. In recognition of the fact that there's nothing more damaging than smoking for young people. If there is anything we can do to leave as a legacy for our young people, it is to do as much we can to make sure that they don't get started, and if they do get started to make sure that they can quit.

"This is a legacy we should be leaving as legislators for our young people. The funding mechanism that is in this bill is really shortchanging our future. Because like I said, we need to do everything that we can. We need to use as much resources as are available to make sure that our young people don't smoke. That is basically what the Tobacco Settlement Fund was for. It was a suit that resulted because people died unnecessarily from smoking. But if we are going to be prudent, and if we are going to be visionaries, then we have to make sure that the best use of this Fund is to prevent unnecessary deaths to the greatest extent possible. If we don't have the funds available we can't do that.

"So, I support the medical school but even more important than the medical school is the research facilities that are going to come with the medical school. Because that's where the economic development part of it is important. On the same token let's not shortchange our young people. Thank you Mr. Speaker."

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

"In listening to the testimony yesterday, I was struck by the reversal of the position of the University of Hawaii President. Just about six weeks ago he spoke to our Caucus and was very adamant that he was against the location of Kakaako. Others have obviously convinced him that this is the premiere location. In his testimony yesterday, he told the Committees it was now or never. We needed to do it now. I personally don't believe that and I felt that he was using the crisis we are in now to push this somewhat controversial project.

"I also have strong feelings against using the tobacco settlement money. It just seems that this is a tempting pot of money that many people want to get their hands on. We mustn't forget that, that money has come to our State to help the State recover some of the money they have spent in the past for people who have been stricken with various diseases caused by smoking. The State has had to pay out for people who don't have insurance and for people who are down on their luck. A lot of monies have been spent. Once the money gets here we seem to find many, many other inappropriate ways of spending it, and I think the most important way that money should be spent is on education to try and get people from smoking and watching how tobacco is being distributed.

"We have to keep the focus that we want to stop people from smoking. Government has gotten in a very uncomfortable position because we have become dependent on this money which is coming from tobacco, and we don't really want people to stop buying it when you take a look at the way we tax it, because we wouldn't be getting that money into our General Fund. So it seems we have a real dichotomy.

"This particular project, using that money to fund part of the construction to pay interest and principal, I think is inappropriate. Thank you Mr. Speaker."

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

Representative Kahikina rose and asked the Clerk to register a no vote for him and to have the remarks of Representative Arakaki be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Generally I definitely support the concept of the medical school and the wellness program. I think it will be a good thing when the appropriate time comes. I don't believe it is an item that we should be dealing with in this Special Session because I don't believe that soil is actually going to be turned anytime soon notwithstanding the confident assurances of President Dobelle.

"Also with regard to the location, frankly I think that is for the UH to decide where the medical school ought to go and we should get out of that business. But what concerns me the most Mr. Speaker, was the comments or the testimony by President Dobelle yesterday when he was asked the question, as I recall: What would happen to the project if the private funding side of this did not come through? He continued to answer the question by saying, 'We will raise the money. We'll get the money.' He wouldn't answer that downside and basically his position was we'll get it and we are going to be



very aggressive. That's all well and good, but if they were so confident then just answer the question. What would happen if the private funding didn't come through? He touched on that perhaps a little bit, but his answer to that key question I think left me uncomfortable, all in all.

"That's kind of the deciding factor for me at this point. In addition to the other comments raised by many of the other objectors in terms of why we should not support this bill and this concept in this Special Session. Thank you Mr. Speaker."

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

"I just want to bring up one point that has not been touched on, although many have spoken about the strange relationship of the Tobacco Settlement Fund and this CIP expense. As this Body will recall, we had some pretty lively discussion about G.O. bonds going down into Kakaako in the last Regular Session. In fact, there were a couple G.O. bonds that died for the lack of a two-thirds vote.

"I would point out for this Body that given the controversial nature of the medical school down in Kakaako, perhaps that is one of the reasons why we are looking at the tobacco funds as a source of this money. I would strongly urge the members to not buy into this 'hook, line and sinker,' because this is not an economic stimulus package that we need to deal with right now. The \$30 million is not going to be going to workers who have just lost their job at a hotel, or who could pick up a job. This \$30 million is going to design companies, people with great education who make a lot of money already. Not people who have been working in hotels and just lost their job and now can get a construction job. This is going to design and planning, and we have a lot of time to deal with this and analyze this in greater detail. We don't need to do this right now.

"For those reasons and others, no. Thank you very much."

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

"I think most of my colleagues have mentioned many of the negatives. But I do want to emphasize that I think it is misplaced and at this time it does not focus on the emergency at hand. Thank you."

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

"When Dr. Dobelle came to my women's group and spoke to us about the medical school, I told him then that I really was in favor of it. I am in support of the medical school, but when I found out where the funding was coming from I also reminded him that I was such a proponent of the settlement money to be used to educate people, particularly the children, against smoking because we know what a great problem it is.

"Therefore because of that I am voting no."

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

"I feel very uncomfortable about how this measure was dealt with in this Special Session. I think it should be given priority in the next Session. I am for a medical school, for economic development, and for bringing in dollars for our research center, but if the Clerk could register a no vote for me."

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

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

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

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

"For the benefits that the medical school will provide for the State, I have no problem at all with the funding mechanism.

"My purpose for standing is to address some of the concerns which have been alluded to today, and expressed in the previous Session with regard to the location and specifically with the relocation with some of the tenants at Kapalama. The location of the medical school at Kakaako would have required the relocation of the food distribution center to Kapalama and resulting in the displacement of many of those tenants at Kapalama. I have been informed with real authority by the Department of Transportation, that all of the tenants have been happily relocated. Those tenants now enjoy either the same or better benefits as far operating efficiency and financially.

"You may recall that last Session we did have a bill, which provided relocation assistance and would have given the tenants at Kapalama the option, or the Department the option for waiving rent, but that bill did not pass because of the reasons expressed in the objection, so that option could not be exercised. Thank you."

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

Representative Bukoski continued, stating:

"If I recall correctly last Session there was quite a lot of opposition from the tenants of Kapalama and Kakaako so being that we are dealing with immediate needs as a result of September 11th, I would like to hear from those tenants from Kapalama and Kakaako and would hope that we could take that issue up again next Session.

"For those reasons I would like to register a no vote please."

Representative Bukoski's written remarks are as follows:

"I am currently in opposition to this measure for the following reasons: it's timing related to the tragic events of September 11, 2001, as well as the use of tobacco funds to support project; and the concerns of businesses and workers being displaced by location at Kakaako.

"We are here, convened in a Third Special Session specifically to discuss and pass proposed legislation offered by the administration to prevent further decay of our State's economy, as a direct result from the tragic events of September 11, 2001.

"Although I agree with the intent of this bill and the future construction of the medical school, I feel its approval will not provide immediate relief and/or remedy to our ailing economy, nor will it provide jobs to those who have been directly affected by the severe drop in tourism. Benefits from such a long-term project will not be realized in Hawaii's economy for several years.

"Although, Mr. Dobelle claims to have the ability to break ground in six months, the immediate appropriations being made for this project will only benefit a few large contracting and engineering firms, and not those who really need the State's assistance at this time.

"A portion of the funding for this project has been proposed to come from the allocation of a percentage of the Tobacco Relief Fund. This Tobacco Fund was set up specifically for

## 2nd DAY

education and prevention of smoking. It seems contradictory to me, to fund a center that will research the cure to a problem that smoking will cause. In other words, rather than going to the root of the problem and curing the habit of smoking, as the funds were earmarked to do, we're hoping to cure the end result of smoking after the fact. We are reacting to the consequences of smoking rather than addressing the problems, through education, that smoking can cause, as the fund was specifically intended for.

"Last Session, when this issue was reviewed, there were many objections from local businesses and employees regarding the relocation of their businesses to make way for this project to proceed. At that time, although we were not in any eminent economic emergency as we are today, the measure was defeated. Those businesses and hundreds of employees still stand the chance to be displaced and forced to close their doors with no firm and equitable assistance from the State. At a time when we are fighting desperately to save small businesses and jobs, I find it extremely counterproductive and socially irresponsible to now displace these same businesses without due process and equitable compensation.

"It is my sincere desire and hope that this issue can be deferred until the next Regular Session which convenes in January of 2002, just 2 months away. We need to hear from those businesses and employees who are being displaced and ensure that the public has the opportunity to voice their concerns and be reasonably compensated by the state.

"If time is the argument, there are more suitable and readily available lands in Kapolei, where a medical park is planned for future development and would compliment such an institution as the proposed Health and Wellness Center."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 13, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Ahu Isa, Auwae, Bukoski, Davis, Djou, Gomes, Halford, Jaffe, Leong, Meyer, Ontai, Rath, Stonebraker, Takai and Whalen voting no, and Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 13) recommending that H.B. No. 14, pass Second Reading and be placed on the calendar for Third Reading.

Representative Takamine moved that the report of the Committee be adopted and H.B. No. 14, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

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

"This is a Special Session to deal with the emergencies created by the terrorists acts on September 11th. CIP appropriations have their place, but we already have about \$600 million in the pipe that DAGS can't get out in a backlog of a lot of work. We're adding \$100 million. Now granted that's for schools and that's probably great, but I don't know who picked all schools. I guess there was a group of people who sat down and said this is what we are going to do and we are going to throw some money at this. But that is something we should have public input on, we're spending taxpayers money.

"You know you have to ask yourself if ringing up the credit card is the wise thing to do. I don't really think you can spend your way out of recession. I know there are people from your

side of the aisle, who believe that, but I don't happen to and I think this is ill-timed and better saved for the Regular Session. Thank you Mr. Speaker."

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

"Mr. Speaker one of the key purposes of us being in Special Session here today is we're trying to stimulate the Hawaii economy because of the results of what happened on September 11th. Initially this particular bill was, I believe, the centerpiece of Governor Cayetano's proposal. He initially proposed \$1 billion spending increase. While I may quibble with the details with the Governor's proposal, while I certainly would not have structured it the way he did, I personally would have structured it much more heavily in favor of tax cuts, I do at least credit the Governor for thinking boldly, aggressively and moving decisively to try and help our state economy. That bold move to spend an additional \$1 billion, Mr. Speaker, has been chopped down to a mere \$100 million.

"Mr. Speaker, according to DBEDT our gross state product is approximately \$40 billion a year. Perhaps a \$1 billion spending increase might help to stimulate the economy, but the bill, the way it is currently drafted with \$100 million in spending proposals is not going to stimulate our economy. Instead what the taxpayers of the State of Hawaii are going to get now is a bigger government and we are going to get more spending, we're going to increase the size of our debt load and I very, very seriously doubt that we are going to stimulate our economy.

"Furthermore, if I could also add that the direction that this Special Session is heading with these bills, with the failure of the passage of real significant, meaningful tax relief, I am very skeptical that this Special Session is going to help in any way to turn around Hawaii's economy. Thank you."

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

"It is unfortunate that we are so far behind in improving our schools in hundreds of millions of dollars. That's an indictment of our government for failing to just keep up the minimum repair and maintenance for our schools.

"However, given the errors of the past we know that this is work that needs to be done. Perhaps there will not be another better time in terms of interest rates for us to catch up on what we have failed to do. In other words, the price tag that we would pay for our mistakes is less now than later.

"So, in fact I would hope that this amount would be more than it is. Having said that I do favor that we would spend this small amount in favor of our schools. Thank you."

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

Representative Meyer continued, stating:

"I share his concern about the fact that this is too little to really make a difference.

"Number one, we have this huge backlog and we are spending \$100 million when we need to spend about \$650 million. I have some real concerns with how the projects were chosen, being none in my district at all when there are many needs there. But that's aside from the point.

"I believe we have a crisis and we're just doing very little. We are here today because we have a crisis and I have strong concerns about the fact that we are really not doing anything

that is very effective. There are some bills that absolutely address the needs that we are looking at but as far as stimulating the economy I don't believe we are doing it and it's a very grave disappointment for me. Thank you Mr. Speaker."

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

"Some of my colleagues believe this is not enough. We have a \$640 million backlog in our schools right now with repair and maintenance. There are many schools that are not on the list that need to be built also new schools.

"But with that said, I also believe this is a step in the right direction. It's not enough, but I know that this is the time to borrow money if you need to borrow money because of the interest rates. Sure some of these projects because there is a lot of R&M will get out to the communities very quickly and that will help some people.

"But again I have to stress that I just wish it was more. Thank you Mr. Speaker."

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

"The reasons being given from many of the previous speakers speaking against the bill have already stated my opposition and I basically agree with all of those. Thank you."

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

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

Representative Thielen's written remarks are as follows:

"H.B. 14 does provide some economic relief by authorizing \$100,000,000 in public works projects, primarily to be done in schools. These public works projects will help the construction industry and students, but large parts of our economy are ignored by H.B. 14.

"A constituent e-mailed me a thoughtful analysis and suggestions, which I quote:

It is not at all clear to me how borrowing money to spend on new construction is going to help those most affected by the loss of tourist revenue since Sept. 11th. I'm sure a few of those currently laid off could and would get unskilled labor type construction jobs. However, I suspect that if this plan is approved, as has happened in previous construction booms, a host of skilled and experienced workers from the mainland would be hired. In fact, if the construction companies are going to meet the contract deadlines this almost certainly has to happen. While workers from the mainland certainly would spend some of that income here while they are working, much of it would also most likely be sent back there as well. I am further appalled by idea of bypassing the bid process. If necessary, speed that process up, but doing away with it takes away any chance of our getting a reasonable price for the work done and immediately sounds like a giant payoff scheme.

Even without the WTC attacks, we have been in a recession for years. The tourism industry has scored record numbers of visitors in recent months, but they keep building more hotels & resorts. The instant that tourist spending drops slightly, there is talk of how bad the situation is. There are too many competing destinations out there, airfare to the islands is too expensive, and we have become too commercialized, and too dependant on this single industry.

Any spending to deal with the current crisis ought to be heavily weighted in terms of bringing permanent, not temporary, jobs and businesses to Hawaii. If Hawaii's government were to focus on helping get or start businesses here, one little company at a time, I think we could make some real progress. That money could be spent on tax incentives, training programs to provide workers with needed skills, perhaps building office or workspace to offer companies, grants for start-ups, bandwidth on fiberoptic cables, etc. It is not an easy or fast road, but would help to diversify our economy and really help in the long run.

"Other ideas from my constituent included:

Diversified agriculture, including the "cold water agriculture" practices by some firms at the Natural Energy Laboratory of Hawaii at Keahole Point on the Big Island, open ocean aquaculture such as the moi farming now being done off Oahu, and of course internet-based businesses, are examples of economic sectors that can take advantage of Hawaii's climate and location, while not being unduly hampered by our geographic remoteness.

If we are interested in spending money enhancing the tourist industry, I'd recommend that some of it go to the Coastal Lands Program (CLP) at the DLNR, to preserve and restore Hawaii's beaches. Restoring some of our beaches would be much more effective and long-lasting advertising for Hawaii than slick photos in magazines.

"In conclusion, I want to note that small businesses are seriously affected by the aftermath of September 11. This bill and others we are voting on today provide little, if any, relief to this vital sector of our economy. We are not doing enough to help. Thank you Mr. Speaker."

Representative Halford then rose and stated:

"For the second time. I did speak in favor because we need to catch up on what we've left undone. But I do agree with some of those who are voting no and agree with their perception that \$100 million is not going to 'jump-start' our economy and largely we have failed in this whole package of bills to put together something that is meaningful for jump-starting our economy. Thanks."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Djou, Gomes, Jaffe and Rath voting no, and Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 14) recommending that H.B. No. 15, pass Second Reading and be placed on the calendar for Third Reading.

Representative Takamine moved that the report of the Committee be adopted and H.B. No. 15, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

Representative Gomes rose in support of the measure, stating:

"I appreciate that we definitely have to get out there and do some work on the dengue fever issue and address those issues and I understand that the alien species are afflicting us and are unrelenting. But I am a little perplexed because all of us continue to talk about schools, schools, education, education and yet this emergency workforce has no allowance for doing work at our schools. Just basic clean-up, maintenance, painting, you name it. Putting books in the classroom and placing them on the shelves, maybe being a teacher's aide or whatever it might be that the schools could use for a short amount of time and a short shot in income for those people that could use the help.

"That should be included in this if we are going to do this and it seems we are. So for those reasons I do support it but I wish we would again focus on schools and that has got to be our priority number one, first and foremost and always. It just doesn't seem to be. Thank you."

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

"I would like to point out like I did in the last Session, the coqui frogs are a real nuisance and I am very glad that we are getting some money to help my district. Thank you."

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

"I would just like to thank the House proponent of this measure from Tantalus. I think he did an excellent job. This is really 'out of the box' kind of thinking and it addresses the immediate concerns about the dengue fever regarding our tourism industry, so I think it handles that.

"Along with the Representative from the Big Island, I would like to address the coqui tree frog problem too, it's in my backyard also. Thank you."

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

"Again I think it is taking advantage of the crisis to some degree. Last night I went to a meeting in my district on the dengue fever and there are people in Laie that have come down with dengue and people in Kaneohe. In listening to the presentation from the Department of Health, the mosquitoes that carry this are mostly the day mosquitoes that are in our gardens.

"We have a perception when we read the paper, that swamp areas and wet lands produce massive numbers of mosquitoes. These are not the ones that carries this disease. So, the control of the mosquitoes is in our own hands. The Department of Health is coming up with an education program to tell each and every one of us to make every Sunday the day that you go around in your yard, and you make sure that your bromeliads are watered anew so that any little wigglers that might be in there will be washed out.

"We have the power to handle this problem within our own yards. The distance that mosquitoes fly is not very far. I feel like this has come up at a scary time for us and while we might have pictures of the public work groups making trails and all of these things that they did back in President Roosevelt's day, this is not necessary. We're not going to have to beat them 'down in the jungle,' so to speak.

"So, I believe that this would be better handled in the Regular Session. I see some reason for it but I feel it is not exactly totally appropriate. Thank you Mr. Speaker."

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

"I just wanted to point out the economic cost involved in issues such as dengue.

"Cost in lost wages, production, the extra monies needed by the Department of Health for this education process. The sooner we can combat problems like dengue and other environmental problems of this State, the better off economically we will be. On the CDC website it stated that it cost Puerto Rico \$250 million a year just to keep dengue under control.

"Another issue I would like to bring up is the subject of miconia. We need to really need to combat that problem because it affects our water resources. Should miconia take over watershed areas our water resources will be in jeopardy. By looking at this kind of workforce where at a time there are no jobs for people to transition to, this is taking people capable of doing the job and using them productively. Thank you."

Representative Bukoski rose and asked the Clerk to register an aye vote with reservations for him, and that his written remarks be inserted into the Journal, and the Chair "so ordered."

Representative Bukoski's written remarks are as follows:

"I support the intent of this measure to mitigate further spread of the dengue fever outbreak that has reached our shores yet again. However, I believe this measure although well-intended, is mis-guided.

"The funds to be administered out of the Research Corporation of the University of Hawaii may take away from the funds that are desperately needed by other organizations who have been trying to control these environmental issues for some time now. The cost implications needed to administer these funds have not been determined and have been estimated to be as high as 50% of the funds itself. If this is the case, half of the money allocated will never reach the individuals it was intended to reach.

"The County of Maui has expressed an interest that the funds be allocated to the counties and administered through county grants programs currently in effect. The County estimates at least 94% of the funds would actually reach those in need.

"The State Department of Health has recently indicated its opinion that dengue fever appears to have been isolated and contained. There have been very few, if any, recently confirmed cases. My problem is not so much regarding the funding of the 1.5 million dollars, as so much as where the money is being appropriated.

"The mission of the RCUH (expending entity) as it reads in their very own website, is "to...support the research and training programs of the University of Hawaii and to enhance research, development, and training generally in Hawaii." The development of such a workforce falls extremely short from meeting these criteria. In my opinion, funds expended from RCUH for such a purpose would constitute a misuse of State funds.

"I would rather these funds be allocated to the appropriate organizations, who have been established and have become effective in their methods of dealing with these three very different issues, such as the Maui Invasive Species Committee, the Oahu Invasive Species Committee and the various counties of Hawaii. With the additional funds, these organizations can hire the necessary man power to combat these issues, without incurring the additional overhead and administration costs related to the development of this newly proposed workforce."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 15, entitled:

"A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Pendleton, Souki and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 15) recommending that H.B. No. 17, pass Second Reading and be placed on the calendar for Third Reading.

Representative Takamine moved that the report of the Committee be adopted and H.B. No. 17, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Kawakami.

Representative Fox rose and offered the following amendment to H.B. No. 17:

SECTION 1. House Bill No. 17 is amended by deleting the contents of the bill and substituting the following:

"SECTION 1. The September 11, 2001, terrorist attacks on the United States have severely impacted Hawaii's economy. Business experienced catastrophic revenue losses as a result of decreases in the number of visitors to Hawaii. The nation has been warned to expect the continuation of the war on terrorism as well as continued losses due to lagging consumer confidence. With the increased risk of further terrorist attacks around the world, the economic welfare of the State is further threatened.

The purpose of this Act is to confer temporarily upon the governor certain specific powers to provide immediate relief to the people of Hawaii, minimize economic impact on airport concessionaires due to increased security protocols, and to facilitate continuity of business activities and services.

SECTION 2. (a) Declaration of economic emergency. The governor may issue a proclamation declaring an economic emergency for the period from September 11, 2001, to June 30, 2002, if the governor finds that, during this time period, in addition to any determination that the slowdown of business activity in the State poses an imminent or present danger to the public health, safety, or welfare, there has been a two hundred per cent statewide increase in initial claims filed for unemployment benefits, other than claims resulting from a labor dispute, when compared with initial claims filed in the corresponding week of the preceding calendar year.

(b) Upon the declaration of the economic emergency, the governor may exercise specific emergency powers under this Act to provide relief during the period of the economic emergency to residents of the State who, as a result of the September 11, 2001, terrorist attacks have experienced substantial monetary losses. The relief provided under this Act shall be to provide immediate relief to the people of Hawaii, minimize economic impact on airport concessionaires due to increased security protocols, and to facilitate continuity of business activities and services.

SECTION 3. (a) Pursuant to section 2 and notwithstanding any other law to the contrary, the governor may impose a moratorium on the collection of general excise tax on all of the gross proceeds or income arising from the manufacture, production, packaging, and sale of food items within the State.

As used in this section, "food items" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (6), (7) and (8) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payment under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C.A. §§ 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., or 1381 et seq.), and their

spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly, (4) in the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private establishment that contracts with the appropriate State agency to perform such services at concessional prices, (5) in the case of narcotics addicts or alcoholics, and their children, served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs, (6) in the case of disabled or blind recipients of benefits under Title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. §§301 et seq., 401 et seq., 1201 et seq., or 1381 et seq.), or individuals described in 7 U.S.C. 2012(r)(2) through (7) who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act (42 U.S.C. §1382(e)(1)) or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section, meals prepared and served under such arrangement, (7) in the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served by such shelters, and (8) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by private establishments that contract with the appropriate agency of the State to offer meals for such individuals at concessional prices.

(b) The moratorium shall be issued in the form of an executive order and shall be for a period of twenty-six weeks beginning on December 1, 2001 and ending on June 1, 2002.

SECTION 4. (a) Pursuant to section 2 and notwithstanding any law to the contrary, the governor may declare a tax holiday on retail sales. The tax holiday shall be a moratorium on the collection of general excise taxes on retail sales if the sales price of the article is less than \$100 for a limited time. All savings generated by this section shall be passed on by the seller to the purchaser. This moratorium, or limited exemption, shall apply to retail sales only and not to sales on items that will be resold in any manner.

(b) The limited exemption on general excise tax collection provided in this section shall apply to each retail sales item that sells for less than \$100, regardless of how many items are sold on the same invoice to a customer.

(c) The limited exemption on general excise tax collection provided in this section shall not apply to:

- (1) The first \$99.99 of an article selling for more than \$99.99;
- (2) The rental of items that are available within the State for retail sale, including but not limited to clothing, furniture, footwear, electronics, and videos;
- (3) Taxable services performed on retail items, such as repair, remodeling, or maintenance services and cleaning or laundry services;
- (4) Rebates, layaway sales, rain checks, or exchanges when the exchanges occur before or after the tax holiday period;
- (5) Mail, telephone, e-mail, or internet orders; or
- (6) Food, regardless of source or method of preparation.

(d) Articles that are normally sold as a unit shall continue to be sold in that manner and shall not be priced separately and sold as individual items to obtain the exemption.

(e) If exempt items are sold together with taxable merchandise as a set or single unit, the full price shall be



## 2nd DAY

subject to tax unless the price of the exempt item is separately stated. When exempt clothing is sold in a set that also contains taxable merchandise as a free gift, the exempt clothing may qualify for the exemption.

(f) A retailer may offer discounts to reduce the sales price of an item. If the discount reduces the sales price to \$99.99 or less, the item shall qualify for the exemption.

(g) The total price of items advertised as "buy one, get one free," or "buy one, get one for a reduced price," shall not be averaged for both items to qualify for the exemption.

(h) Shipping and handling charges shall be included as part of the sales price of the item.

(i) The retailer shall not be required to obtain any special license, permit, or other documentation on sales of eligible items during the exemption holiday period; provided that the retailer's records shall clearly identify the type of item sold, the date the item was sold, and the sales price of the item.

(j) The tax holiday shall be a week in duration to begin sometime before December 9, 2001. The declaration of the retail tax holiday shall be made by executive order.

SECTION 5. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

(1) For operation of ground transportation services at airports;

(2) For lei vendors;

(3) For airline and aircraft operations;

(4) For automatic teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;

(5) For operation of concessions set aside without any charge;

(6) For operation of concessions by handicapped or blind persons~~;~~, except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;

(7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued unless the premises covered under the permit is no longer being used for the existing purposes, ~~and that~~ the permit is issued as a temporary use of the premises until the governmental agency proceeds to use the premises for a new purpose~~;~~ and ~~provided further~~ that no permits shall be issued for more than one year; and provided further that revocable permits issued by the department of transportation for use of state airports may exceed such one year maximum period if (A) the governor determines that there exists a crisis having statewide impacts, such as a natural disaster or a severe economic crisis and (B) during the crisis, the director of transportation, with the approval of the governor, determines that such further extensions of the term of the revocable permits are necessary;

(8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beachboy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law; and

(9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park and operating under agreement with the appropriate agency solely for such purposes, aims, and goals.

SECTION 6. Section 261-7, Hawaii Revised Statutes, is amended as follows, including adding new subsections (h) and (i):

**§261-7 Operation and use privileges.** (a) In operating an airport or air navigation facility owned or controlled by the department of transportation, or in which it has a right or interest, the department may enter into contracts, leases, licenses, and other arrangements with any person:

(1) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;

(2) Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility;

(3) Making available services, facilities, goods, commodities, or other things to be furnished by the department or its agents at the airport or air navigation facility; or

(4) Granting the use and occupancy on a temporary basis by license or otherwise of any portion of the land under its jurisdiction which for the time being may not be required by the department so that it may put the area to economic use and thereby derive revenue therefrom.

All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess.

(b) Except as otherwise provided in this section, in each case mentioned in subsection (a)(1), (2), (3), and (4), the department may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals, or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature. Such charges shall be reasonable and uniform for the same class of privilege, service, or thing.

(c) The department shall enter into a contract with no more than one person ("contractor") for the sale and delivery of in-bond merchandise at Honolulu International Airport, in the manner provided by law. The contract shall confer the right to operate and maintain commercial facilities within the airport for the sale of in-bond merchandise and the right to deliver to the airport in-bond merchandise for sale to departing foreign-bound passengers.

The department shall grant the contract pursuant to the laws of this State and may take into consideration:

(1) The payment to be made on in-bond merchandise sold at Honolulu International Airport and on in-bond merchandise displayed or sold elsewhere in the State and delivered to the airport;

(2) The ability of the applicant to comply with all federal and state rules and regulations concerning the sale and delivery of in-bond merchandise; and

(3) The reputation, experience, and financial capability of the applicant.

The department shall actively supervise the operation of the contractor to insure its effectiveness. The department shall develop and implement such guidelines as it may find necessary and proper to actively supervise the operations of the contractor, and shall include guidelines relating to the department's review of the reasonableness of contractor's price schedules, quality of merchandise, merchandise assortment, operations, and service to customers.

Apart from the contract described in this subsection, the department shall confer no right upon nor suffer nor allow any person to offer to sell, sell, or deliver in-bond merchandise at Honolulu International Airport; provided that this section shall not prohibit the delivery of in-bond merchandise as cargo to the Honolulu International Airport.

(d) The department, by contract, lease, or other arrangement, upon a consideration fixed by it, may grant to any qualified person the privilege of operating, as agent of the State or

otherwise, any airport owned or controlled by the department; provided that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under subsection (a).

(e) The department may fix and regulate, from time to time, reasonable landing fees for aircraft, including the imposition of landing surcharges or differential landing fees, and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment of a statewide system of airports landing fees, a statewide system of airports support charges, and joint use charges for the use of space shared by users, which fees and charges may vary among different classes of users such as foreign carriers, domestic carriers, inter-island carriers, air taxi operators, helicopters, and such other classes as may be determined by the director, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.

In setting airports rates and charges, including landing fees, the director may enter into contracts, leases, licenses, and other agreements with aeronautical users of the statewide system of airports containing such terms, conditions, and provisions as the director deems advisable.

If the director has not entered into contracts, leases, licenses, and other agreements with any or fewer than all of the aeronautical users of the statewide system of airports prior to the expiration of an existing contract, lease, license, or agreement, the director shall set and impose rates, rentals, fees, and charges pursuant to this subsection without regard to the requirements of chapter 91; provided that a public informational hearing shall be held on the rates, rentals, fees, and charges.

The director shall develop rates, rentals, fees, and charges in accordance with a residual methodology so that the statewide system of airports shall be, and always remain, self-sustaining. The rates, rentals, fees, and charges shall be set at such levels as to produce revenues which, together with aviation fuel taxes, shall be at least sufficient to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds.

The director may develop and formulate methodology in setting the various rates, rentals, fees, and charges imposed and may determine usage of space, estimate landed weights, and apply such portion of nonaeronautical revenue deemed appropriate in determining the rates, rentals, fees, and charges applicable to aeronautical users of the statewide system of airports.

The rates, rentals, fees, and charges determined by the director in the manner set forth in this subsection shall be those charges payable by the aeronautical users for the periods immediately following the date of expiration of the existing contract, lease, license, or agreement. If fees are established pursuant to this section, the department shall prepare a detailed report on the circumstances and rates and charges that have been established, and shall submit the report to the legislature no later than twenty days prior to the convening of the next regular session.

If a schedule of rates, rentals, fees, and charges developed by the director in accordance with this section is projected by the department to produce revenues which, together with aviation fuel taxes, will be in excess of the amount required to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds, the department shall submit the schedule of rates, rentals, fees, and charges to the legislature prior to the convening of the next regular session of the legislature. Within forty-five days after the convening of the regular session, the

legislature may disapprove any schedule of rates, rentals, fees, and charges required to be submitted to it by this section by concurrent resolution. If no action is taken by the legislature within the forty-five-day period the schedule of rates, rentals, fees, and charges shall be deemed approved. If the legislature disapproves the schedule within the forty-five-day period, the director shall develop a new schedule of rates, rentals, fees, and charges in accordance with this section within seventy-five days of the disapproval. Pending the development of a new schedule of rates, rentals, fees, and charges, the schedule submitted to the legislature shall remain in force and effect.

~~[Notwithstanding any other provision of law to the contrary, the department may waive landing fees and other aircraft charges established under this section at any airport owned or controlled by the State whenever:~~

- ~~(1) The governor declares a state of emergency; and~~
- ~~(2) The department determines that the waiver of landing fees and other charges for the aircraft is consistent with assisting in the delivery of humanitarian relief to disaster-stricken areas of the State.]~~

(f) To enforce the payment of any charges for repairs or improvements to, or storage or care of any personal property made or furnished by the department or its agent in connection with the operation of an airport or air navigation facility owned or operated by the department, the department shall have liens on the property, which shall be enforceable by it as provided by sections 507-18 to 507-22.

(g) The department from time to time may establish developmental rates for buildings and land areas used exclusively for general aviation activities at rates not less than fifty per cent of the fair market rentals of the buildings and land areas and may restrict the extent of buildings and land areas to be utilized.

(h) Notwithstanding any law to the contrary, in times of crises having statewide impacts, such as natural disasters or severe economic crises, as determined by the governor (which for purposes of this section shall not require a formal declaration as required by chapter 128), the director may, with the approval of the governor, suspend any applicable airport fees, charges, and rentals, including, without limitation, landing fees, airport system support charges, joint use space charges, airport lease rentals, and concession rents and charges (including any minimum annual guaranteed rents), for only such time as the governor deems necessary to address the crisis having statewide impacts, and provided that:

- (1) In implementing such suspension, the department shall remain obligated to comply with subsection (b) and collect and realize sufficient revenue to meet the expenditures of the statewide system of airports set forth in section 261-5(a);
- (2) The department shall comply with all rules, regulations, conditions, and restrictions imposed by the federal government, including the Federal Aviation Administration, unless and to the extent the State obtains approval to excuse such compliance; and
- (3) Such suspension does not violate any covenants or contractual obligations under or relating to bonds or other types of financing issued or obtained by the department.

In implementing the suspension of applicable airport fees, charges, and rentals hereunder, the director of transportation may waive, reduce or defer the amount of such airport fees, charges, and rentals payable to the department. Notice of the implementation of any suspension (including waiver, reduction, or deferral) of applicable airport fees, charges, and rentals, shall be published statewide at least once in accordance with section 1-28.5. The effective commencement date of the suspension may be retroactive to the time the governor determines the existence of a crisis having statewide impacts, such as a natural disaster or a severe economic crisis. The termination of any such suspension shall be published in the same manner as the notice of implementation of the suspension.

The implementation of the suspension of applicable airport fees, charges, and rentals hereunder shall not require the adoption or amendment of rules pursuant to chapter 91.

(i) Notwithstanding any law to the contrary, if the governor determines that there exists a crisis having statewide impacts, such as a natural disaster or a severe economic crisis, during the term of any contract or lease issued pursuant to the director's authority under this section (including contracts and leases that have been either let under chapter 102 or executed and are presently in force), the director may, with the governor's prior approval, modify any of the terms and conditions of said contract or lease, including the agreed upon rent, for a period and upon such terms and conditions as the director shall deem necessary to allow the state airport lessee, concessionaire, or user to recoup at least some of the losses suffered by said lessee, concessionaire, or user that are attributable to said crisis having statewide impacts, such as a natural disaster or a severe economic crisis, provided the following conditions are satisfied:

- (1) The state airport lessee, concessionaire, or user shall submit written evidence satisfactory to the director, proving the amount and the extent of any losses attributable to said crisis having statewide impacts, such as a natural disaster or a severe economic crisis;
- (2) The losses, at a minimum, must be a significant reduction (at least ten percent) in the volume of business of said state airport lessee, concessionaire, or user at the state airport or airports covered by the contract or lease for a period of at least thirty days, computed on the average monthly gross income for the shorter of the following periods:
  - (A) The eight months just prior to the beginning of the crisis having statewide impacts (as determined by the governor); or
  - (B) As long as the state airport lessee, concessionaire, or user has had the contract or lease with the State to operate at a state airport or airports;
- (3) If the state airport lessee or user is an airline, the airline will qualify for the relief described in this section provided the losses suffered by the airline comprises at least a ten percent reduction in the number of landings made at state airports by the airline for a period of at least thirty days, computed on the average number of monthly landings for the eight months just prior to the beginning of the crisis having statewide impacts (as determined by the governor);
- (4) In implementing the modifications, the department shall remain obligated to comply with subsection (b) and collect and realize sufficient revenue to meet the expenditures of the statewide system of airports set forth in section 261-5(a);
- (5) The department shall comply with all rules, regulations, conditions, and restrictions imposed by the federal government, including the Federal Aviation Administration, unless and to the extent the State obtains approval to excuse such compliance; and
- (6) Such modifications do not violate any covenants or contractual obligations under or relating to bonds or other types of financing issued or obtained by the department.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act is effective upon approval; provided that sections 5 and 6 shall be retroactively effective from September 11, 2001."

Representative Fox then moved that the amendment to H.B. No 17 be adopted, seconded by Representative Moses.

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

"This amendment accomplishes several worthy goals.

"First, it removes the basic contents of sections 3, 4 and 5 and other parts of the bill that grant sweeping powers to the Governor on an emergency basis. It replaces this with language that allows the Governor to deal effectively with the situation at the airports in terms of dealing with the chief concessionaire's problems there and with other concessionaires. This is an important specific power that the Governor needs in this emergency.

"Second, it grants him the power to suspend the food tax for thirteen weeks and an additional thirteen weeks if he sees the need to continue with that gesture. It also grants him the power to have a retail tax vacation or holiday of a one-week period. These are the elements that are in the bill.

"I would like at this time Mr. Speaker, with your indulgence to speak to the issue of removing the general powers granted to the Governor under this bill. This is a bill that I have read several times, and every time I read it, I get more disturbed about the sweeping nature of this bill and I really beg the Majority to look at this closely, and to help educate us on why it's necessary to grant the Governor this kind of power, and to reflect on the loss of the rule of law that we will be putting into place if we allow this language to be continued and, as I said, I am speaking to an amendment that would remove the language.

"In section 3, the Governor is allowed to suspend any, in whole or in part, which gives him tremendous latitude on any statute, rule or order of any agency that regulates any business or prescribes procedures to conduct business. That pretty much covers all economic activity in the economy. Now, whether or not this happens depends on whether living standards of a number of individuals are at risk. Well, we already know that the living standards of a number of individuals are at risk so there is no question that he is going to have the ability to do this.

"I would like the members to reflect on some of the businesses that are going to be affected by this measure if the Governor chooses to apply it. Motor carriers, restaurants, banks, utilities, service stations, property management companies, waste disposal companies, hospitals, plastic surgeons, insurance companies, food processors, hostess bars, concessionaires, convenience stores, newspapers, golf courses, auto dealers. These are all businesses that are affected by State laws or regulations and the Governor has the power to affect their livelihood under this bill.

"Now the Governor under section 4, this is a section that tells us he really is free to do anything. It says that the Governor may adopt rules that are fair, just and nondiscriminatory, but he doesn't have to. Section 5 is equally disturbing. Section 5 grants the Governor the ability to suspend or modify any contracts and then broadly defines contracts to include leases, land leases, land permits, easements, concessions, subsidies and grants and agreements for the purchases of good, services and construction that have been awarded.

"Now, just to sort of give you an idea of the sweep of this section of the law. This section affects an entire industry, anything in a continuum of design and construction. So, anything having to do with construction or any aspect of construction, the Governor has the freedom to regulate or change to his will. Then, entire geographic regions are covered by this provision. Any business using State lands anywhere in the state. Just think in terms of all of Kakaako, any business operating at Aloha Tower is affected by this..."

Representative Whalen rose to yield his time, and the Chair "so ordered."

Representative Fox continued, stating:



"...any airport including all of the economic activity at Honolulu Harbor and at the airport. Any business providing any service to the State. I think of psychiatrists, plumbers, professors, and a court monitor like Jeff Portnoy can have his contract reworked under the authority of this bill. This is very, very sweeping.

"It represents an abdication of our authority. We are the legislative branch of government, and where are the safety nets in this bill? Where are the protections that protect the people? I don't understand. This is the most important bill we are acting on, and the purpose of the bill is to take us out of the picture. To say, Legislature you're not needed. We're just going to turn over the running of this place to the Governor. I think the most disturbing thing of all to me, Mr. Speaker, about this bill, is what it does to the rule of law.

"Businesses function based on the rule of law. They come to expect that something that is entered into a journal is going to be there and if they can make a profit or make a loss based on the understanding of that law. This allows that Governor to rewrite the law any way he wants in relation to any business. So all of a sudden businesses have no idea where they stand in relation to any of the regulations and laws that affect them. What we're most afraid of, deeply afraid of, those of us on this side of the aisle, is that these powers will be used to help certain businesses at the expense of certain other businesses. The latitude exists under this law to do so.

"Please Mr. Speaker, please give this further thought. We were encouraged when the House Majority was looking very hard at this law and we ask you to look hard again. Please in no way move beyond the possibility that we offer you today to amend the bill to do what should be done which is to take care of the people at the airport and leave the rest of it out. Thank you Mr. Speaker."

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

"Mr. Speaker I am upset and disappointed and very frustrated at the direction of this Special Session. Thus far, we have moved through this Special Session in my opinion, not offering real substantive meaningful tax relief. We are not offering real help to small business. We are not offering a real economic stimulus to our Hawaii state economy, and now we seem poised to pass the economic 'martial law' bill.

"Mr. Speaker, I believe this amendment goes to correcting these misdirections. This amendment rather than allowing the Governor some broad, very sweeping powers and abdicating the responsibility and duties of the Legislature, instead gives more narrow powers to our Governor. Powers specifically to institute tax relief, which I think, is desperately needed here in our state's economy. Furthermore, rather than giving our Governor a blank check, we as a Legislature specifically state what the Governor can and can't do.

"I also believe that this amendment addresses the issue which was the original genesis of this particular bill, and that is it goes directly to assisting the concessionaires at the airport rather than leaving it in such vague terms as the underlying bill does.

"For these reasons Mr. Speaker, I strongly, strongly urge this Body to very carefully consider this amendment. The underlying bill is not a good bill. It yields too much power of the legislative branch to the executive branch. This amendment corrects those defects and corrects the missteps this legislature is taking in this Special Session. Thank you."

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

"This is what I call the 'King Cayetano bill.'

"Part of this will add a retail tax credit holiday as part of this amendment. It will allow the Governor to impose a one week retail tax holiday as part of his emergency powers. This will cover goods sold at retail, but will exclude food. Our retailers are fading fast, they are facing an emergency. Several Hawaii families are facing an emergency, and if they lost their job it would be called a depression. I guess if we lose our jobs it's a depression, if somebody else loses their job it's only a recession. I tell you we may definitely all fall into a depression very soon if we don't take action.

"Let's help our people. Let's help our storekeepers and let me tell you how. Let's have a one week retail tax holiday in December. Let's relieve the storekeepers from paying the general excise tax then ask them to please pass on the savings to their customers. Let's restrict this to just one week. Let's restrict it to just goods and not services. Let's keep it to items under \$100. Let's help folks as soon as possible.

"Now how much will this cost in lost revenues? Surprisingly little. The total general excise tax take last year was \$1.6 billion. That amount included goods and services, retail and wholesale. It also includes GET on hotel sales, food, rent, etc. Now if you divide \$16 billion by 52, so we would know what we would lose in one week, it would be about \$30 million a week. Now the total general excise tax revenue from just retail sales is \$700 million a year. So, if you divide that by 52 you would lose \$13 million dollars, but this include all items over \$100. Your yachts that you buy, your Mercedes, and so it would be a lot less than \$13 million. Maybe \$5, \$7 or \$8 million per week. It is not much to stimulate the economy.

"Now if only retail sales on goods under \$100 were exempt, the amount would be minimal but we would not include food, so you would have to subtract this amount. We would have a great deal of economic activity. I called it a retail holiday and I didn't realize it would be a Christmas holiday bill. But it would really make some people very happy. Some shopkeepers and people alike. It would be a very small gesture to show retailers and consumers that the state government cares about them and wants to help.

"Now the airport concessionaires need help too, but with the underlying bill they could be helped permanently whenever their revenues turn down 10% or whenever certain flights fall off. It helps mainly the travelers who are in the airport with tickets. This would help our local people a lot more. The airport concessionaire bill is permanent, so why help a few of them permanently when we could help our local people just for one week?

"Please help make it a Merry Christmas for them. Christmas is a make or break season for our retailers. Please consider this very carefully. Thank you very much."

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

"Mr. Speaker, the bill unamended grants tremendous power to the Governor in the name of emergency. On the Order of the Day it says 'Gubernatorial Emergency Powers.' The title of bill is Economic Emergency. But what it does do is give the Governor tremendous power in the name of an emergency. What we are doing with the amendment is saying let's give him specific powers to help us now in this time of emergency. Not powers as a total dictator.

"We're supposed to be in an emergency Session here to provide emergency and rapid relief for the people of Hawaii. But we are not doing that in the bill as written. The bill as amended would give relief for concessions, which we all heard in Ways and Means and Finance Committees yesterday, is a

tremendous loophole in the bill as currently written and the amended version would give relief for concessionaires.

"Now it doesn't have to give that to them, but it gives the Governor the opportunity to give them relief. It would provide for relief for all the people on a moratorium on GET tax, especially on food. Now the Governor can do it and if there is no money he doesn't have to do it, but he can do it. It also provides for a retail tax holiday as it was just mentioned. He can do it, but he doesn't have to do it. Now we have given him the power to do whatever he likes and affect all contracts as we said earlier. That is a power I don't believe is necessary now in a time of emergency.

"Many of the naysayers say don't worry about these unilateral powers we have given the Governor because we can come back next January and fix any powers or abuses that we might see. Well I'm not so sure Mr. Speaker. I think with the power we grant him in the bill as unamended, we don't have to come back in January because he could suspend it due to the emergency. He doesn't need to abide by any laws. We have given him total power.

"So, we can't come back and fix it if he doesn't so desire. So with that Mr. Speaker, I urge my colleagues to please reconsider the bill and pass the amended version, or let's just sit and wait a little while and think about it before we make some foolhardy choices. Thank you very much."

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

"Thank you Mr. Speaker, I rise in support of the amendment and I will save my remarks on the underlying bill when that comes up next.

"I do believe that this is an excellent amendment. It's a creative approach to our immediate problem. Some would say that it is 'thinking outside of the box,' as it were. The pieces I like about this as compared to the underlying bill is that it is specific, it is narrow, it is temporary. The underlying bill is not in terms of the relief it provides. This amendment provides immediate relief for the poor, for small business, for retailers and shoppers. The underlying bill does not. This amendment does not abrogate our role, our authority as legislators. The underlying bill does.

"With those comments, Mr. Speaker, there are others that I have with the underlying bill, but I will save that momentarily, but again, I do support this amendment. I think it's an excellent and creative approach. I would ask and urge the Majority to support it. It would then be the case that we could truly see that we have come up with a bipartisan approach, at it's very core, to resolving the problems that we are facing as a result of September 11th which we are suppose to deal with during this Special Session. Thank you."

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

"The underlying bill has been nicknamed the 'King Ben bill,' and justifiably so. It grants such broad powers, it necessitated our coming up with an amendment and I will be speaking to just one aspect of the amendment at this point.

"First I'd like to say that I share my Republican colleague from Kaneohe's disappointment with this Session. We haven't really provided the solutions. We've done a lot of things; we've made a lot of noise, but we haven't really provided the necessary immediate solutions other than a few on our agenda today.

"The amendment that we are proposing to you, the portion to which I will speak, is the excise tax on food. It means that when people go to the market, they will be able to pay for their

groceries. They won't be taxed. They won't have to pay that added burden to provide more tax money for the State.

"I think it's an important immediate relief for people. That money stays right in their pockets or it buys the additional necessary food that they we're going to be able to buy because their market bill was going to be too high. It isn't an ad infinitum tax relief, but it's one that will kick into effect immediately and will allow people to go home with a bit more money to use for essential needs as they go through this economic crisis.

"I think Mr. Speaker, when the morning Democrat newspaper, the *Advertiser* comes up with that the underlying bill does far too much damage to our established system of checks and balances, then you see even more why we need to modify that bill and go with our amendment here.

"The other thing here is what my colleague from Kapolei said: Why are we needed? Actually when the 'King Ben bill' passes, as I guess it will, we can just go home and save that amount of money that it costs to run the Legislature next Session, because 'King Ben' will have all the power. Thank you."

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

"Mr. Speaker, I guess I've heard a lot of comments about abdicating our responsibilities and that this is granting the Governor too much power. Perhaps just for perspective purposes we need to make sure we understand that essentially the Governor has all of these powers, and possibly even broader powers when there is a natural disaster facing the state of Hawaii.

"Certainly we are all aware of the economic disaster that faces the state of Hawaii, and are people suffering any less?

"I think it's precisely because of the suffering that is ongoing, because of the economic crisis that all of us have recognized and said that this Special Session is here for addressing that crisis. That's why we're here. Well it appears that this becomes a tool; a tool that goes to the very heart of that purpose of helping as many businesses that are hurting because of the events of September 11th. It seems as though this is merely a tool.

"But I think we cannot kid each other. The bill does allow the Governor broad powers. That has been stated repeatedly by members across the aisle, and therefore number one, I think, aren't we facing an extraordinary situation right now? And yet we do live in a system of checks and balances, and therefore I've heard the term 'safeguards' mentioned. Safeguards are always critical, especially given the legislative role and the checks and balances in our governmental system.

"I think it might be helpful to just go through the bill to see, are there any safeguards incorporated here. Where are the checks and balances? And Mr. Speaker, begging your indulgence, if we just go through beginning with page 1 section 2. There is a required declaration of economic emergency, and the basis for that is for the Governor to, number one, establish that there is an eminent or present danger to the public health, safety or welfare, and that there is at least a 200 percent statewide increase of initial claims of unemployment insurance benefits. Now, again, this is merely a threshold.

"Number two, I would call you attention to item 3, section 3(b), the Governor shall provide public notice whenever a statute, rule or order is suspended. So yes, we are giving him extraordinary..."

The Chair addressed Representative Takamine, stating:

"The Chair has been generous, because your discussion is on the original bill which is not before us, but rather the floor amendment. So maybe you could save your discussion for the main motion rather than this floor amendment."

Representative Takamine responded, stating:

"Thank you Mr. Speaker. I was trying to cover those points because it seems as though the thrust for bringing the amendment before us, and eliminating most of the provisions of the bill is that there is this perception that this broad, total power eliminates the need for any legislative oversight. I would suggest that that is not true, and in rebutting that, if we were to look at the bill, it provides the very mechanisms for that oversight to occur. And it is not only by the Legislature, but, 3(b) provides for public notice whenever any statutes, rule or order is suspended, and therefore it is notice to legislators and anyone in the community. Decisions can be made in the light of day, in sunshine.

"But it doesn't stop there Mr. Speaker. If you look at..."

Representative Thielen rose to a point of order, stating:

"Mr. Speaker, is he speaking to the amendment that is being proposed or to the bill that we haven't yet heard?"

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

The House of Representative reconvened at 12:32 o'clock p.m.

Representative Takamine continued, stating:

"Section 8 on page 8 provides for a monthly report, and I think this is critical because it allows for oversight by the Legislature because of all the concerns regarding how this would abdicate our responsibilities and take away any oversight responsibility. Section 8 provides that there would be a monthly report and it is very specific in terms of what information has to be in that report. If you look at line 20 on page 8, it begins by indicating that the monthly report would indicate for each action taken, for each action taken by the Governor: (1) reasons for such action; (2) names of all business and contractors benefiting by such actions; (3) what benefit was provided; (4) the amounts expended; and (5) the source of funding for each expenditure. So it establishes critical information especially because of the implied, possible misuse or abuse of the extraordinary powers that the bill provides in these extraordinary times.

"I believe there is included in the bill a number of safeguards that allow the Legislature to continue providing its role and function and responsibility. May I point out that the bill itself does limit, in terms of time period, the extraordinary powers are granted to the Governor which goes to June 30, 2002. However, members have indicated already that we are in session in January of 2002. This is October of 2001. In effect there is a three month period of potentially greatest concern. Once the Legislature reconvenes in Regular Session, if there is a basis for being suspicious of abuse or if people even feel that abuses have taken place, then of course what has been granted can just as effectively be repealed.

"On one final note, Mr. Speaker, yesterday during the public hearing, one of the testifiers spoke against the bill and talked about how this really undermines democracy, and it takes away from that in the manner which the bill implements its purpose and intent. It seems to me that in a democracy, what protects the very principles of democracy is vigilance. It appears to me that this bill, in its original form which is the form that is sought to be amended, provides for that mechanism for the vigilance to occur.

"For those foregoing reasons, I will be voting against the amendment. Thank you."

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

"I'd just like to address the three items explained by the Minority Leader regarding the amendment. The first one is that the amendment deals specifically with the concessionaires at the airport, which is a good point. But the original bill deals with them also. And the amendment does not deal with other needs that may arise. An example I bring to you is the cruise lines. What if they had come to the Governor or the State and asked for some assistance? The bill, as amended would not be able to provide that. The original bill can.

"On the issue of suspending the food tax, we all know that next month in November, the Council on Revenues will be providing us with an analysis and projection of our tax situation. I believe we shouldn't take any action regarding any food tax situation until we hear from the Council on Revenues.

"Finally, regarding the retail tax holiday, Christmas is a couple months away so we should see an increase in our retail activity within the State and we should see some economic activity upward. After the holidays, next year, I would like to maybe consider a tax holiday, if we feel it is necessary. I don't think a tax holiday is necessary this year. I think it is something to consider next year if our economic slowdown continues and we see that the horizon is not as bright as we want it to be. Thank you very much, Mr. Speaker."

Representative Gomes rose and requested a roll call vote at the appropriate time.

Representative Moses rose in rebuttal, stating:

"I would like to respond to some comments made by my colleague from Ewa Beach. Yesterday, the concessionaires told us that they were told by the Governor to come before our Committee yesterday because he didn't have the power to give them the relief that they sought. This amendment would do so. Thank you Mr. Speaker."

Roll call having been previously requested, the motion that the amendment to H.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," be adopted failed to carry on the following show of Noes and Ayes:

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

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen and Whalen.

Excused, 3: Pendleton, Souki and Takumi.

(Main Motion)

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

"Mr. Speaker, as I stated last night, this is a terrible, terrible bill. In my opinion, this bill is too broad, it is too sweeping, it yields too much authority of the Legislative branch to the Executive. Instead of checks and balances, this bill gives the Governor a blank check. As stated in the paper this morning, this bill is nothing short of economic martial law.

"I would like to point out to this Body that no other Governor in this state has ever asked for such broad and sweeping powers. Not even the Governor of New York where the tragedies of September 11th occurred. I would also like to remind this Body that the President of the United States, President Bush, who not only has to deal with the economic crisis, but also the foreign policy crisis that our nation faces, has asked for such broad and sweeping powers.

"Third, Mr. Speaker, I would like to point out that I do not believe there are appropriate checks and balances here in this bill. Yes, there are reports required in this bill, but they are just that; they are reports. There is no check on the Governor's power to decide what legislation he decides to spend or waive.

"Indeed Mr. Speaker, as I look at this bill, the only check I can find is what appears to be a triumvirate, perhaps modeled on the Roman Empire, between the Speaker, the Senate President, and the Governor to advise what legislation should or should not be waived.

"Fourth, Mr. Speaker, that this bill does not even address directly the underlying motive for the bill, that is giving relief to the airport concessionaires, who very cogently and very precisely explained to all of us, and especially to the Committee last night, that they need relief. Yet the airport concessionaires are nowhere to be found or mentioned in this particular bill.

"Finally Mr. Speaker, I am very disappointed in the direction of this Special Session. This Special Session was suppose to be intended to help stimulate the Hawaii economy. It was suppose to remedy the economic crisis facing our State. Because we are not passing major comprehensive tax relief, because we do not appear to be making some major assistance to small business, because we are not passing the Governor's originally intended bill of bold, dramatic actions – the \$1 million CIP – this bill now becomes, in my opinion, the centerpiece of this Special Session. I do not believe that this bill has what it takes to stimulate, reinvigorate and save the Hawaii state economy. For all these reasons, Mr. Speaker, I respectfully oppose the passage of this bill."

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

"Mr. Speaker, this is one of the bills that was worked on for several weeks as a bipartisan effort. I believe that upon introduction of these measures both in the House and Senate there was concurrence, in this Chamber between the Majority Leaders, yourself and myself; and from the Senate Majority Leaders, and also from the Senate Minority Leader. I think that's an important point to make. It was hard enough to draft the language to restrict the Governor's powers in scope and duration."

Representative Fox rose to a point of order stating:

"The position of the Minority Leader in the Senate has been mischaracterize; he's opposed to this bill."

Representative M. Oshiro continued, stating:

"I'm just stating the facts as I know them right now Mr. Speaker.

"The second point I need to make is that this bill does more than just address the concessionaires at the airport. When the idea of granting certain discretionary powers or emergency powers to the Governor first arose, I believe it also arose in the context of addressing the businesses that may be regulated by the Department of Commerce and Consumer Affairs. I think that is an important point because there are numerous businesses that have been affected by the events of September

11th that may receive gainful relief from the powers that are given in this bill.

"The second thing that I'd like to point out is that beyond the concessionaires, there are leases and also other permits that are granted to other businesses that were immediately affected by the events of September 11th. Just a couple in point: the pier at Hilton Hawaiian Village, the parasailing folks out in Hawaii Kai, the catamarans at Kaneohe Bay, they've all been impacted and this bill offers them some immediate relief.

"I think the fact that you will be at the table along with the Senate President in the decision making comforts me Mr. Speaker. I trust you fully to express the concerns of this Body in those discussions before the Governor acts.

"The last thing I would like to point out Mr. Speaker, is that this is an emergency. I take to heart the words of the Finance Chair. I don't know if everyone on this floor realizes that we are in a war type situation. The act of war may not have been formally declared, but for someone who lives in Wahiawa, whose neighbors are the soldiers from Schofield, we are acting and proceeding as if we were under siege, and emergency conditions are at our shores already.

"So these extraordinary times require the extraordinary measure before us. For these reasons Mr. Speaker, I strongly support this measure, and as the members to support its passage today. Thank you."

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

"I would like to deal with some of the reassurances that have been put before us this morning. I have to say in all honesty that I find myself even more distressed about this bill after hearing about these so-called reassurances.

"We are supposed to be reassured that it is necessary to define an emergency before taking action. But Mr. Speaker, the emergency definition given in the bill is already clear. There is no question that the Governor can fit the definition and he has the powers once this bill is passed.

"Second, and at this point this is unusual, I would like the remarks of the Representative of Kaneohe entered as if they were by own. He made several excellent points," and the Chair "so ordered." (By reference only.)

"I don't need to go over them in detail but if you appreciate newspapers like *Pravda* or the *Peoples' Daily*, publications of dictatorships, they are very happy to record the public actions of the dictator. I don't think the public notice really means anything at all.

"Third, on the issue of the limit that the Governor has on the period which he has to function as a martial law dictator, this is supposed to be mitigated by the fact that the Legislature is in Session for much of that period. But if there is one thing that 51 of us on this floor know, it's that a bill that passes the Legislature then goes to the Governor. And it's up to the Governor whether or not he wants to veto it. And that veto is sometime in the future and the override is even beyond that. So there's no question that for this period of time, until June 30th, 2002, we've got somebody with the authority, unchecked by the Legislature, to do what that person wants to do.

"Defining democracy: vigilance. Folks, vigilance is absent from part of the hall today. I must say Mr. Speaker, that drawing up legislation in which authority is granted very specifically to someone else is our real job. And we abdicate that job when we write legislation that grants authority in a sweeping way, we're abrogating the job we are paid to do, to write specific legislation. Thank you, Mr. Speaker."

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

"First I'd like to say that I think that I am a little bit disturbed by this conversation because I believe that this is a time for trust, and this is a time that we trust those in charge. I can remember people criticizing Mayor Gulliani and now he has become a real hero to the people. And there is no reason really, to think that any governor would be so careless as to throw out State laws, obligations and rules on a wholesale basis. I truly believe that won't happen.

"I think what's really important is to look at one of the supporters of the bill and that was Common Cause Hawaii. I respect their opinion and they supported the bill. I feel that we can look at this as emergency management tools. It has a sunset. It has a very definite period when it has going to be in effect, and I think we have an opportunity for input if there is any abuse in the coming Session. Thank you."

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

"I think it's important to take a look at the people that testified yesterday. Out of 22 people that waited a very long time to testify, only 7 were perfectly happy with the bill as drafted. And out of those, the Department of Land and Natural Resources, the Department of Transportation, the Attorney General, were State organizations with their directors appointed by the Governor. So there were only 4 individuals who were happy with the bill. There were 5, Common Cause Hawaii included that supported the intent, but they felt there were problems and they voiced those problems. Six others felt that the bill should be amended, and of those were Greeters of Hawaii at the Airport, HMS Host Corporation, Bank of Hawaii, the Business Center, the Hawaii Business Roundtable, and a private citizen. And there were 4 that were very much against it.

"Normally in a committee hearing, if you have that many people who are either against it or have problems, the bill would be amended. It's curious that this bill went through in its original form. Where there are many in this Body who seem to have no problem with this, I think it's clear when you ready the bill that we are definitely abdicating our responsibilities and giving the Governor this *carte blanche* power up until June of 2002, we are leaving ourselves open to having just about everything we accomplish in the next legislative Session, any bit of it, could be eliminated by the Governor under this emergency power. So it's hard to understand how colleagues that I've worked with for so many years can just blindly go ahead with this. Yes, it's an emergency. But we cannot compare ourselves with New York or other states. New York, who has been impacted so dramatically has not felt the need to do something in this broad, sweeping way. I feel it is inappropriate for us. Thank you, Mr. Speaker."

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

"I've heard both sides of the argument and there is one concern that has not been addressed. The bill says that the Governor can basically ignore any statute except for this one. He can't ignore it, he can't alter it.

"If we pass laws in the upcoming Session, and suppose the Governor hits his head on a rock and goes crazy with this bill. And then we, the President of the Senate and you, Mr. Speaker, call a Special Session to 'reign him in' so to speak, he can ignore it. He has that authority to ignore any law that is deemed to interfere with his efforts to continue the economic recovery or whatever else.

"At this point I'm with reservations because that's my reading of it. I'm waiting to hear not just the conclusion, but an

analysis that says that the later statute would control this one. I'm waiting to see what that is and if you're willing to bring this on board, perhaps someone could give us that analysis. Not a conclusion, but an analysis of that issue. Thank you."

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

"Mr. Speaker, I don't think that anybody here really thinks that there shouldn't be or it isn't proper to give some extended authority to the Governor in certain matters. Our side of the aisle just a short while ago supported an amendment to do just that, but we defined it narrowly. I think that this very broad and sweeping power is out of bounds and it is simply bad legislation.

"I'd like to have the remarks of the Representative from Kaneohe recorded as my own, and I'd also like to issue to your side of the aisle a warning that my mother used to give me. She used to say, 'Be careful what you wish for. You just might get it.' Thank you."

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

"Mr. Speaker, I believe that any hope that we have for economic recovery, for economic prosperity will come from the private sector from individuals making the economic decisions that they make, and from private business making the decisions that they make. This Special Session has fundamentally failed, although succeeded in some small ways like creating some safety nets, has failed in an economic stimulation effort.

"I would like to point out the obvious. The United States of America, although we're just 5% of the population of the world or even less than that, we are the most powerful economy of the world. Relatively we have very few people in the military compared to other countries. The most powerful military in the world.

"I think that the experiment that we know as American style democracy has worked brilliantly. The foundation principles of our country, first of all, atomizing economic decision making, atomizing economic power. This country was founded on the principle of allowing individuals to make economic decisions and not centralizing economic decisions. We have seen other countries fail through that misguided policy. America is brilliant economically because we have given as much economic decision making to individuals as possible.

"Secondly, we are founded on the principle of atomizing political power, putting as much political power in individuals as possible. We recognize that a representative form of government is necessary because of large population. Not because that representative would have more power than the individuals. We were elected by individuals and it is the principle of atomizing the power to individuals which is an important principle in making America great.

"What this bill proposes is just the opposite. Concentration of economic power, centralizing economic power. Concentrating political power in an individual. Mr. Speaker, the hopefulness from our community will come from our premise that our community is great, our people are great. Let's let them drive the train. Thank you."

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

"I'd like to correct a prior comment. The *Advertiser* does write editorials that often mirror our Republican philosophy. This morning's editorial is exactly that. I read a statement from that editorial and I'd like to add another one.



But the sweeping power to wipe laws and obligations off the books goes too far.... As written, the bill does far too much damage to our established system of checks and balances.

*The Honolulu Advertiser*  
October 24, 2001

"I agree with the *Advertiser's* editorial and that's why I can't vote for this bill. The Chair of Finance tried to give us some solace in saying don't worry about the bill. Well, he's a lawyer and I'm a lawyer, and I think frankly that both of us know that these are empty things on which to pin our hopes; that the Governor doesn't have this kind of power. He stated that the Governor has to give public notice. Well, great. You give public notice that you're going to do something, but the Governor has the power. The public doesn't have the power. The public through us as their representatives does not have the power.

"Then he says that there has to be monthly report to the Legislature. Well, big 'whoop-de-do'. That does not prevent the Governor from exercising absolute economic power over this State and the people and businesses of this State.

"If we were doing something that we felt it was such an emergency and we had to abrogate our authority, our power, our responsibility, then why don't we sunset this bill on the day that we reconvene in January. If that's what we're doing to deal with an emergency situation, rather than to say, 'Here Governor, here's a blank check. You go for it. We are really ineffective. We aren't going to be here as the people's representatives.' If we were really doing something where we said that the Governor needs this power immediately. It would be cumbersome and we'll let him have the power, until we reconvene in January. But there's nothing in this bill of that nature. This just says, 'Hey Guv, it's all yours until next June.'

"I frankly don't see another example in the United States where this is occurring. I think back to our forefathers who fought very hard for our freedom and our form of government which is a balanced form of government. We all play a role and I guess I would say that given this measure where we allow the Governor to have this incredible authority, I think we are going to see it be a 'perpetual employment for attorneys Act,' because there's going to be multiple lawsuits challenging the constitutionality of this bill. And rightfully there should be.

"I can't really understand where you all ... Well I won't say 'you all' because it's obviously a leadership driven bill and the rest are falling in line with it. I just can't understand why the scope and why the duration. Why, Mr. Speaker, doesn't it sunset in January when we reconvene? Then at least there's a modest rationale for the bill. Thank you."

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

"The Majority Floor Leader mentioned that we are at war. I believe that that is true. We are at war. I served this country in many wars and I've never seen action taken as in this bill before us. In war, we have a specific and defined objective. We organize our forces and take action. Then we re-evaluate, we observe what has happened and we execute again, sometimes in a new direction. But we execute again, we stay involved. In this bill we've abdicated our responsibility. Then we can say to the people of Hawaii, 'I'm sorry, we gave all the power to the Governor. Sorry he couldn't fix the problem.'

"Instead we should stay in Session, right now. There's no reason why we can't stay here if there's an emergency, if we're at war. We should be here for the people. And we should hear the people every day, and we should take action every day and we should and try to solve the problems in this State instead of going home and saying, 'The Governor will take care of you.' Thank you Mr. Speaker."

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

"The previous speaker stole a little bit of my thunder, but to make an affirmative suggestion, if we don't we stay in Session, I don't know if it is possible, we could just recess instead of adjourning. That way we could manage a situation where we had to be called back immediately. I think that's a positive, proactive statement. Thank you."

Representative Stonebraker rose and asked that the Clerk register a no vote for him and the Chair "so ordered."

Representative Gomes rose to speak in opposition to the measure and asked for a roll call vote at the appropriate time, stating:

"The Majority Floor Leader not long ago suggested that this is a time for trust. All times are a time for trust, but I think on this one Mr. Speaker and the Majority, I think it's time you trust us on this one. I think that is where the trust ought to be placed.

"I have several concerns. The bill itself is, I think, Napoleonic in its scope, and I don't mean that in a positive sense. I also want to respond to the comments of the Finance Chair. I understand the way he articulated the intention that went into this bill and how to deal with that. A fair comparison might be to compare it to the emergency powers that the Governor has when there is a natural disaster. What might be more helpful is a comparison, an objective analysis, of those emergency powers during a natural disaster as it compares to the proposed bill, HB 17. I suspect that this proposed bill is far and beyond anything that the emergency powers currently on the books that the Governor is granted and allowed.

"With regard to the various safeguards, I too share the concerns of the Representative from Kailua that those are more form than substance and that they can easily be attained without any meaningful significance behind them, whether it is a notice or a report. Those are all after-the-fact actions.

"More importantly, the events of September 11th were a manifestation of a group, an entity, whoever they are, terrorists, that struck out to attack and have attacked us, our Country, and our freedoms. I'm concerned that really what the essence of this bill does, notwithstanding whatever the motives may be of the drafters, the Governor, and the various people in play, but they also have advisors. And they listen to their advisors and many times they are only as good as their advice.

"But with regard to the underlying terms of the bill, I think that granting extraordinary powers like this in one office simply allows the opportunity for arbitrary denial of contracts. Mr. Speaker, contracts and the freedom to make contracts is an essential component in our society. Essentially what this does is undermine that fundamental freedom.

"Now people may say, 'You're overstating the case,' and 'That's not really what the intent is,' and 'That's not what we're saying.' But the fact is that the marketplace is going to look at this. The market place is going to see that this is not a good idea; not a good time to enter into contracts with the State of Hawaii for whatever reason. Who knows what the State's going to do tomorrow? They might feel good about our contract today, but tomorrow is another matter. That is not the way to create an economic stimulus, or to create confidence in our marketplace, or to diversify our economy, or to put forth to the investors both local and off-shore that this is a good place to invest your money and to create opportunities for the people to work. So for all those reasons, Mr. Speaker, I am opposed to this bill. Thank you."

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

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

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

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

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

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

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

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

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

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

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

Representative Whalen rose to a point of clarification, stating:

"I believe the motion before us when we actually vote will be to adopt all these measures. In light of that I believe the request for a roll call vote is withdrawn."

Representative Djou 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 a no vote for him and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," passed Second Reading and was placed on the calendar for Third Reading, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker and Thielen voting no, and Representatives Pendleton, Souki and Takumi being excused.

### INTRODUCTION OF BILLS

On motion by Representative Lee, seconded by Representative Thielen and carried, the following bills (H.B. Nos. 22 and 23, Third Special Session) passed First Reading by title and was referred to Printing: (Representatives Pendleton, Souki and Takumi were excused.)

#### H. B. No.

#### 22 "A BILL FOR AN ACT RELATING TO FUEL TAX."

Introduced by: Representatives Gomes, Bukoski, Fox, Marumoto, McDermott, Whalen, Leong, Auwae, Thielen, Jaffe, Rath, Moses, Davis, Ontai, Djou, Stonebraker and Halford

#### 23 "A BILL FOR AN ACT RELATING TO AN EMERGENCY SMALL BUSINESS LOAN GUARANTY PROGRAM."

Introduced by: Representative Marumoto

### INTRODUCTION OF RESOLUTIONS

The following resolutions (H.C.R. Nos. 1 through 13) were announced by the Clerk and the following action taken:

H.C.R. No. 1, entitled: "HOUSE CONCURRENT RESOLUTION EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001," was offered by Representatives M. Oshiro and Fox.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, H.C.R. No. 1 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 2 entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 2 be adopted, seconded by Representative Fox.

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

"I stand in strong support of this resolution. The family here comes from Wahiawa. In fact it is my classmate Lisa Lee who recently married Michael Collins. He, along with several thousand Americans perished on September 11th as he was working at the World Trade Center. What was even more painful for the Lee family was that my classmate, Lisa, was on a buying trip in Paris and she heard of this terrible incident on television. She could not come home for several days where she could be comforted by family and friends.

"I thank this Body for passing this resolution and expressing our heartfelt sympathies to both families in Hawaii, Wahiawa, and on the mainland. Thank you Mr. Speaker."

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

"Rose and Henry Lee, the parents of Lisa Lee have been long-time friends. Mr. Lee is a member of the Wahiawa Lions of which I am also a member, and he retired from the military as a Sgt. Major. I'd like to express my deep condolences to them and to thank them for all the community service they have given to us."

The motion was put to vote by the Chair and carried, and H.C.R. No. 2 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 3, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was offered by Representatives M. Oshiro and Fox.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, H.C.R. No. 3 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

## 2nd DAY

H.C.R. No. 4, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 4 be adopted, seconded by Representative Fox.

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

"Mr. Speaker, I ran into the father of Maile Hale just a few days ago. He and I serve together on the board of a non-profit. We are in the midst of seeing through the construction of a project which we would like to speak at length to the members about in a few weeks. You will be getting an invitation.

"Mr. Hale, to his credit, did not speak much to the loss of his daughter, but you could sense the loss. He was more concerned, actually, in our conversation in talking about the project, which is a project that is quite a fitting memorial to Maile actually. The project deals with children who suffer from abuse, both sexual and physical abuse.

"Rob is much more interested in looking out for the care of other children. He wasn't so much interested in talking about the loss of his own daughter. This I think reflects the concerns that the entire Hale family has for others. In fact, on the day that we were to meet to discuss and to solicit critical support for this project, Rob and his wife were at the airport here, trying to get a flight out to New York City.

"We got that support. Rob is critical to this effort because he is the architect of this project; literally, the architect. I know if Rob were here he'd be appreciative of this measure and I urge the members to support it."

The motion was put to vote by the Chair and carried, and H.C.R. No. 4 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 5, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 5 be adopted, seconded by Representative Fox.

Representative Marumoto rose in support of the measure, stating:

"First I'd like to thank Representative Garcia for saying a few kind words about Maile Hale. I know her parents and they are wonderful people, but I had not had the pleasure of knowing her.

"I have known Heather Maile Ho, since she was born. Her grandfather is the famous Chinn Ho, and her father is Stuart Ho who served here as Majority Floor Leader in the late 1960s. Her mother is Mary Ho, an old friend who now resides in San Francisco.

"Heather was a lovely young woman of age 32. She was hard working and determined. It is very difficult to become an executive chef, and it is very difficult for a woman to become an executive chef. It is even more difficult for a minority woman to become one. She became an executive pastry chef. She literally made it to the top.

"She was a creative genius. Heather's interest in food and her creativity were manifest at a very young age. When she

was 12 she wrote a book of poetry and gave it to her parents for Christmas. I'd like to read to you two short poems.

"The first one is called *Invitation*.

## INVITATION

I will take you to see a  
wonderful world. A world  
where all around is baked  
to a golden brown. Where  
the snow is rock salt and  
the sun rays become  
streams of mustard.

A world of Autumn  
where the crisp red,  
brown, orange and yellow  
leaves glide on the  
cold air.

I will take you to  
many worlds of  
fantasies and hopes  
and wishes and where  
there is happiness  
all around.

"The second is entitled: *I Wish*.

## I WISH

I wish I was a pen  
So when people would  
write with me my ink  
would flow and make  
beautiful poetry.

I wish I could have  
anything I wanted for  
dinner and never have  
Chinese food.

I wish I were an  
oscar meyer weiner.

But most of all I  
wish I were God  
so I could make no  
wars and fighting  
and make everything  
perfect.

"Thank you."

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

"I also knew Heather Ho. She was doing exactly what she wanted to do in life. She was an award winning pastry chef; the outstanding pastry chef in *San Francisco Magazine* in the previous year. She had just relocated to New York last May and was planning to leave her job at the World Trade Center to work in a smaller restaurant and had been asked to stay on to train her replacement when the plane hit."

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

"I would like to add my support for HCR Nos. 5 and 6. Heather Ho and Rich Lee were high school classmates of mine and I wish to express my warmest sympathy and heartfelt condolences to their families. Thank you."



The motion was put to vote by the Chair and carried, and H.C.R. No. 5 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 6, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 6 be adopted, seconded by Representative Fox.

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

"I would like to add my support for HCR Nos. 5 and 6. Heather Ho and Rich Lee were high school classmates of mine and I wish to express my warmest sympathy and heartfelt condolences to their families. Thank you."

The motion was put to vote by the Chair and carried, and H.C.R. No. 6 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 7, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF CHRISTINE SNYDER AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 7 be adopted, seconded by Representative Fox.

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

"Christine Syder was an absolutely outstanding person functioning in this community working with the Outdoor Circle, and finally a paid representative with the Outdoor Circle, working with us around this community to deal with situations where the Outdoor Circle's interests were affected. She worked very effectively in Waikiki to help us preserve some trees that we wanted to preserve. Her whole style was just so remarkably embracing and friendly, and she was very effective. This community is really going to miss her."

The motion was put to vote by the Chair and carried, and H.C.R. No. 7 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 8, entitled, "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS," was offered by Representatives M. Oshiro and Fox.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, H.C.R. No. 8 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 9, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 9 be adopted, seconded by Representative Fox.

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

"The title of the resolution is 'Requesting the Congress of the United States to Pass Legislation to Provide Loan Assistance to Small Businesses,' and if I may make reference to HCR No. 13 which we will get to momentarily, which is entitled: 'Requesting the Congress of the United States to Pass Legislation Allowing for the Deduction of all Travel Expenses from Federal Income Taxation.'

"These, Mr. Speaker, are excellent ideas. I hope the Congress does pass it and the President signs the legislation required. These are the specific, targeted types of things that ought to be done on a national basis. These are exactly the specific, targeted types of relief that we ought to be providing on a local basis. If it's in the best interest for Washington D.C. to do it, it's in the best interest for us to do it. Thank you."

The motion was put to vote by the Chair and carried, and H.C.R. No. 9 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 10, entitled, "HOUSE CONCURRENT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 10 be adopted, seconded by Representative Fox.

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

Representative Yoshinaga's written remarks are as follows:

"I rise in support of this concurrent resolution. We recognize the terrible cost to people in the tourist industry of Hawaii. The loss of jobs due to the plummeting visitations by tourists from all counties and states has caused economic turmoil. And simply put, we have only service industries to rely upon to maintain some economic stability.

"The Hawaii State government cannot maintain its budget for any longevity of time unless an economic recovery takes place. Therefore, it is imperative that federal funds be appropriated into the job training and employment programs, such as the dislocated worker program and place less restrictions on their requirements.

"Economic turmoil in Hawaii has resulted from the tragic events of September 11, 2001. We stand united and proud to be represented by strong leadership on a bipartisan effort."

The motion was put to vote by the Chair and carried, and H.C.R. No. 10 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 11, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE," was offered by Representatives M. Oshiro and Fox.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, H.C.R. No. 11 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 12, entitled, "HOUSE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION

EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 12 be adopted, seconded by Representative Fox.

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

Representative Yoshinaga's written remarks are as follows:

"I rise in support of HCR No. 12. Employees are losing their jobs from the tragic events of the September 11, 2001 World Trade Center terrorist attack. Federal legislation will play an important role to help the tourist-related industries and their employees in Hawaii. Not only has the airline industry that has been lessening its flights been affected but everyone in the state has suffered. We have built and supported our economy with tourism as its primary industry that is now collapsing from the effects of the World Trade Center attack and leaving many workers unemployed from tourist related industries such as hotel, restaurant, and retail stores. Therefore, federal legislation to allow extending unemployment compensation benefits to all is necessary to help provide relief from the economic turmoil Hawaii is presently facing.

"Mr. Speaker, I thank you for giving me this time to comment on this important matter and offer my condolences to those who have died as innocent victims of the World Trade Center terrorist attacks."

The motion was put to vote by the Chair and carried, and H.C.R. No. 12 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

H.C.R. No. 13, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION," was offered by Representatives M. Oshiro and Fox.

Representative M. Oshiro moved that H.C.R. No. 13 be adopted, seconded by Representative Fox.

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

"The title of the resolution [HCR No. 9] is 'Requesting the Congress of the United States to Pass Legislation to Provide Loan Assistance to Small Businesses,' and if I may make reference to HCR No. 13 which we will get to momentarily, which is entitled: 'Requesting the Congress of the United States to Pass Legislation Allowing for the Deduction of all Travel Expenses from Federal Income Taxation.'

"These, Mr. Speaker, are excellent ideas. I hope the Congress does pass it and the President signs the legislation required. These are the specific, targeted types of things that ought to be done on a national basis. These are exactly the specific, targeted types of relief that we ought to be providing on a local basis. If it's in the best interest for Washington D.C. to do it, it's in the best interest for us to do it. Thank you."

The motion was put to vote by the Chair and carried, and H.C.R. No. 13 was adopted with Representatives Arakaki, Pendleton, Souki, Takamine and Takumi being excused.

At 1:21 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:22 o'clock p.m.

#### SENATE COMMUNICATIONS

The following Senate Communication (Sen. Com. No. 2) was received and read by the Clerk and the following action was taken:

Sen. Com. No. 2 transmitting S.C.R. No. 15, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 15 was adopted, with Representatives Arakaki, Hiraki, Kahikina, Pendleton, Souki, Takamine and Takumi being excused.

#### ANNOUNCEMENTS

Representative Magaoay: "Mr. Speaker and all House members of this great body here. I know everybody's hungry; we've had a very lively discussion here this morning. There is a presentation by STI from 1:00 to 4:00 in conference room 309. They will be providing some light sandwiches and snacks and beverages. They will have an informational briefing and I know you all are hungry. Thank you Mr. Speaker."

Representative Gomes: "This is more of an acknowledgement of the Capitol TV folks. I was fortunate to be able to be at home working and watch some of the hearing yesterday. I just wanted to commend them. They do an excellent job in terms of the presentation and the graphics, and hustling to make sure whoever is speaking has a microphone in front of them and that they are actually speaking into the microphone. They do a good job for us and I appreciate their efforts. Thank you."

#### ADJOURNMENT

At 1:24 o'clock p.m., on motion by Representative Lee, seconded by Representative Thielen and carried, the House of Representatives adjourned until 10:00 o'clock a.m. Friday, October 26, 2001. (Representatives Arakaki, Hiraki, Kahikina, Pendleton, Souki, Takamine and Takumi were excused.)

**THIRD DAY**

**Friday, October 26, 2001**

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 11:01 o'clock a.m., with the Speaker presiding.

The Pledge of Allegiance was led by Representative Bertha F.K. Leong, after which the Roll was called showing all members present with the exception of Representatives Marumoto, Pendleton, Saiki and Takumi who were excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Second Day of the Third Special Session was deferred.

**SENATE COMMUNICATIONS**

The following Senate Communications (Sen. Com. Nos. 3 through 15) were received and announced by the Clerk and the following action taken:

Sen. Com. No. 3, transmitting S.C.R. No. 1, entitled: "EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 1 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 4, transmitting S.C.R. No. 2, entitled: "HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 2 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 5, transmitting S.C.R. No. 3, entitled: "HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 3 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 6, transmitting S.C.R. No. 4, entitled: "HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 4 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 7, transmitting S.C.R. No. 5, entitled: "HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 5 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 8, transmitting S.C.R. No. 6, entitled: "HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 6 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 9, transmitting S.C.R. No. 7, entitled: "HONORING THE MEMORY OF CHRISTINE SNYDER AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 7 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 10, transmitting S.C.R. No. 8, entitled: "ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 8 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 11, transmitting S.C.R. No. 9, entitled: "REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 9 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 12, transmitting S.C.R. No. 10, entitled: "URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 10 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 13, transmitting S.C.R. No. 11, entitled: "SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 11 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 14, transmitting S.C.R. No. 12, entitled: "SUPPORTING FEDERAL LEGISLATION EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 12 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

Sen. Com. No. 15, transmitting S.C.R. No. 13, entitled: "REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION," which was adopted by the Senate on October 24, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 13 was adopted with Representatives Pendleton, Saiki and Takumi being excused.

#### INTRODUCTIONS

Representative Djou on behalf of Representative Bukoski and himself introduced two students from Maui Community College, Ms. Victoria Vilasora and Ms. Kim Craven.

Representative Ito introduced Ms. Ann Maile Yamasaki, Executive Director of the Hawaii 3R's Program, and Mr. Ryan Shigetani, DAGS coordinator for the Hawaii 3R's Program.

Representative Kahikina also recognized the staff and the efforts of the Hawaii 3R's (Repair, Remodel and Restore) Program.

Representative Takai, on behalf of Representative Arakaki and himself introduced student leaders who were selected to participate in HMSA's Hawaii Leader for a Day program, and their parents, teachers, family and friends.

Governor Vallent Lee;  
Lt. Governor Kayla Sakimoto;  
Honolulu Mayor, Jonathan Enos;  
Maui Mayor Emmalia Sutherland;  
Hawaii Mayor Callen Daimaru;  
Kauai Mayor Nerissa Hoglen; and  
Education Superintendent Deborah Garcia.

Representative M. Oshiro introduced Dr. Dean Kroener of the John A. Burns School of Medicine; Mr. Francis Blanco, assistant to Dr. Kroener; Ms. Jan Yokota, Executive Director of the Hawaii Community Development Authority; and Ms. Miko Christina Dargitz.

#### ORDER OF THE DAY

#### COMMITTEE ASSIGNMENTS

The following Senate Bills were referred to committee by the Speaker:

#### S.B.

#### Nos.      Referred to:

- 1      Committee on Finance
- 2      Committee on Finance

- 3      Committee on Finance
- 5      Committee on Finance
- 6      Committee on Finance
- 9      Committee on Finance
- 10      Committee on Finance
- 11      Committee on Finance
- 12      Committee on Finance
- 13      Committee on Finance
- 14      Committee on Finance
- 15      Committee on Finance
- 16      Committee on Finance
- 17      Committee on Finance

#### INTRODUCTION OF RESOLUTIONS

At this time the Chair announced that action on the following concurrent resolutions (H.C.R. Nos. 14 and 15) would be deferred until Monday, October 29, 2001:

H.C.R. No. 14, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE HAWAII STATE DIRECTOR OF TRANSPORTATION TO GRANT HAWAII-BASED SCHEDULED AIR CARRIERS HIGHEST PRIORITY ON AIRPORT FACILITIES' WAITING LISTS, AND TO MAKE LAND, HANGAR, AND TERMINAL SPACE IMMEDIATELY AVAILABLE TO SUPPORT ESSENTIAL AIR SERVICE OPERATIONS AT KAHULUI AIRPORT," was jointly offered by Representatives Souki and Arakaki.

H.C.R. No. 15, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO LEASE SUBMERGED LANDS AND TIDAL LANDS OF THE ALA WAI AND HONOKOHAU SMALL BOAT HARBORS TO PRIVATE ENTITIES FOR COMMERCIAL, RECREATIONAL, EDUCATIONAL, AND RESEARCH PURPOSES," was jointly offered by Representatives Whalen and Kanoho.

Action on H.C.R. No. 15 was deferred and in accordance with Chapter 171, Hawaii Revised Statutes, printed copies of the measure were made available to the members of the House this day at 10:00 o'clock a.m.

#### SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Thielen 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 Pendleton and Takumi were excused.)

#### THIRD READING

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

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

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

"To begin with I'd like to express my gratitude to all the members of this Body for their support of this measure. I would like also like to extend my gratitude to the Governor for his leadership in bringing people together in response to the September 11th terroristic attack on our freedom. Aimed at those efforts, the Governor was able to pull together the group Hawaii Together, to address major concerns and safety net provisions. We were solely reacting to provide relief in hardship cases, and that is why we are here in this Special Session. This measure speaks to the hardship cases and the safety net for the most needy in our community.

"Mr. Speaker, this process was so timely that your Chairs of Health and of Human Services along with Senator Chun-Oakland decided to bring these same safety net components together to talk about the issues and to look at the solutions. In both venues, they were all saying the same thing. We realized that we needed to infuse the economy, the businesses in our state, but we didn't want to leave anyone out. And so to address this basic goal of providing relief in times of hardship, a safety net is provided in HB 1, HD 1, which does provide in some sense for this hardship in the way of food and shelter.

"Mr. Speaker, I'd like to take the words of Susan Doyle, who was appointed by the Governor as Co-chair of the Hawaii Together, in expressing their strong support for this bill's passage.

"Although they are grateful for the \$1 million for food and \$1 million for shelter, Hawaii Together realized that this could not be done without addressing other issues. These other issues will be addressed in HB 17, which is very controversial as it gives the Governor some emergency powers to provide relief in hardship cases.

"They were concerned because, in order to address this emergency situation, we have to get the funds to the people who need the help. They recognized that it would take more work to amend this bill to get it to the point where we could do that. This coalition also recommends support of HB 17 to address provisions in this bill to provide a direct appropriation under Chapter 42 to the appropriate agencies who would then buy the food, and also to those agencies who would provide the relief to those who were affected by the events of September 11th and are having a hard time in paying their rent or mortgage thereby preventing homelessness.

"So we are very pleased to see that there is a commitment from both Parties as this is a non-partisan issue. We are thankful that at least the appropriation will carry us through to the Regular Session which will begin in January. But we do need to give the Administration the authority make rule changes. At the appropriate time when we take up HB 17, I will mention some of the reasons why I have reservations regarding the emergency powers of the Governor. But both bills need to be put in place and I want to emphasize that.

"In closing, this bill does speak to Hawaii's greatest needs; does speak to the very vulnerable people within our society, the 'have-nots' because of the situation; and it does provide relief in hardship cases. Thank you Mr. Speaker and colleagues for your support."

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

"Mr. Speaker, this bill sort of brings to mind the parable of the good Samaritan. When we went over the Governor's package of bills, there were lots of concerns, not just by myself or the Chair of the Human Services Committee, that the Administration package did not address some of the real safety

net issues. It isn't only the tourist industry that was affected. The tragedy affects everyone. Unemployment affects everyone. That, in effect, is the 'trickle-down' effect in economics. The package and its actions only address the solution that will provide 'trickle-down' benefits and we were afraid that people would start falling through the safety net.

"We were able to call a '911 Emergency Call to Action' for the neediest people of our State. Over 200 people responded within a couple of days; people from all over the state representing a myriad of different people, and we heard from them. We took over three hours to hear from them and the concerns that they had. As a result, we were able to develop what we thought were some real priorities in terms of weaving the safety net.

"Like the good Samaritan, even though the rich, the powerful, and the wise passed by the person who was hurting by the side of the road, it was really the common person who stopped to provide aid. That's who we are, common people. At least most of us anyway. And we represent common people. We can understand what happens when tragedies like this occur. Many of us know what it is like to live from paycheck to paycheck. Many of us know about the fears of being one paycheck away from being homeless. Many of us know what it is like to sacrifice our family budgets so that we can go on. This bill is not about welfare. It's not about providing for homeless shelters. It really is to provide the safety net so that people can continue to sustain themselves. This is emergency aid so that people do not have to become homeless and depend on welfare and handouts.

"I think what we have before us is truly some basic actions that we need to take. Everyone should realize that it is short-term.

"If I can just quickly mention, there were other issues brought up that we really didn't have the time or the resources to address immediately. People mentioned about low-income people, working people who will be losing child care and early childhood care or pre-school. People who are uninsured will need to go to our community health centers for aid. There is going to be an increase in substance abuse and the need for more treatment programs. There was also a suggestion to provide transportation. This is a real problem especially on the Neighbor Islands for those who looking for job opportunities. There is a call to our faith community to respond to those basic needs as well. And of course, the problem of affordable housing is always going to be with us given our economic conditions and cost of housing here in Hawaii.

"Mr. Speaker, this is going to be an on-going effort for us. We have an emergency response before us, but the people who represent and advocate for the neediest in our community said that this is not the end. This is only the beginning. If we as a State are going to be responsive, we will have to keep looking at where the needs are and how we can best use our resources. And in the end, Mr. Speaker and colleagues, I think this is what we will be judged as. Not how much we can provide for tourism marketing, but how we responded to the neediest in our community. This will be the final judgment for us when all is said and done."

"I want to echo what the Chair of Human Services and Housing Committee said, and to thank all of you and the Governor for your cooperation and collaboration in trying to meet the needs of our neediest people. Thank you Mr. Speaker."

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

"I would like to say that I agree with the comments of the Chair of the Health Committee. I think they were very well stated.

"Mr. Speaker, my concern is that the amount provided for shelter in this bill is going to be used up far before we reconvene in January. That is why our Republican Caucus introduced the amendment to increase the shelter amount. I'm sorry that amendment didn't pass. I think we are going to be in a more serious situation than any of us can imagine.

"One category I would like to add to those of the Chair of the Health Committee is the category of domestic violence, which we know will increase in times of incredible stress.

"I am sorry that we didn't increase the funding so we could keep people from becoming homeless. It's a lot better step to put the money up front and I am sorry that we won't be able to deal with that until we come back in January. Thank you very much."

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

"Mr. Speaker, basically I wanted to thank and acknowledge the work done by both of the Subject Matter Committee Chairs on this. I think as indicated by the earlier speakers, this Legislature represents all of the people of Hawaii, and certainly this is an important component as indicated by Chair Arakaki for those who have probably the least access to these Chambers, and therefore the work that they did was important.

"I do agree with the previous speakers that this is only a fraction of the need. That government is not in a position, unfortunately, to take care of all of the needs in terms of the total homeless situation, as well as hunger. Yet, thanks to the efforts made, this is a beginning.

"I do note that on front page of this morning's *Advertiser* that even some of our corporate members of our community are starting to show their true generosity, for example a substantial amount, by one estate in excess of \$500,000. As indicated by the Chairs of the Subject Matter Committees, this is the strength, this is the true response. It's not going to be that it is this Party or that Party, and how much money they provide. It's the network of human services providers. That was made real clear at our Committee hearing that that is the strength. I want to thank both Co-chairs because while this is only a first step, they are already in the process of working with this network so when January comes, we will be better apprised of what the true need is. And based on our abilities we will be able to take a look at the situation.

"Again, I do thank those who have helped bring us to this point. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," passed Third Reading by a vote of 49 ayes, with Representatives Pendleton and Takumi being excused.

The Chair directed the Clerk to note that H.B. No. 1, HD 1, passed Third Reading at 11:29 o'clock p.m.

#### **H.B. No. 8, HD 1:**

Representative M. Oshiro moved that H.B. No. 8, HD 1, pass Third Reading, seconded by Representative Lee.

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

"I work for the Hilton."

The Chair responded, "no conflict."

Representative Ahu Isa continued, stating:

"I stand in strong support of HB No. 8, HD 1. Infrastructure and the improvement of our hotels are critical to the future of Hawaii's tourism. The State needs to consider bolder incentives to those who have invested so much in this most important industry for our State, and now is the time to do it.

"The State Legislature and the Governor early this year passed the 4% tax credit for construction and renovation costs through December 2002. This bill increases the credit to 10% provided that these costs are incurred before July 1st 2003 and extending the credit to December 2005.

"This sends a strong message Mr. Speaker, to those corporations who have invested so much in Hawaii and have projects on their books. The Outrigger, the Marriot Hotels, and the Hilton, just to name a few. These multi-national companies will spend millions of dollars in improvements and new construction in Hawaii. In addition, add the fact that these companies are responsible corporate citizens of our State and whose leaders participate in our community activities.

"We must also remember that these projects are not just construction jobs. After a project is finished, there are many service jobs that will be created to maintain and operate our facilities, whether it is a hotel room or restaurant. Given time, Mr. Speaker, our tourists will come back. Hawaii is a beautiful place and everyone loves it. Thank you Mr. Speaker."

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

"There are three contractors in my family."

The Chair ruled "no conflict."

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

"This tax bill benefit can be characterized as a big wooden ladle in a big black kettle of Portuguese bean soup, stirring and cooking over an open fire, ready to feed all those who come to the table.

"This bill infuses our tourist economy to stimulate our owners or developers to build or renovate. Also we create short-term construction projects with long-term employment.

"Rest assured that the construction industry, the inspection branches in all counties of the State of Hawaii will assure everyone that these owners and developers will be building their projects to the latest building codes. Hawaii's city and county inspectors have been known in the construction industry as enforcers for compliance.

"This tax incentive only benefits hotel construction and remodeling, plus the residential area. Maybe next Session we should expand this bill to include all commercial construction and hospitals. And maybe one day we can make one of the dreams of Governor Cayetano become a reality: to make the State of Hawaii the medical hub of the Pacific."

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

"First of all I want to thank you Mr. Speaker, and the House leadership on both sides of the aisle for negotiating with the Governor and the Senate, and coming up with a very good bill. This bill will be a catalyst for the future.



"If we wish to continue to provide the services in education, social services, health, and housing, we need to increase our revenue flow. We can only increase our revenue flow by the one big, major industry that we have, whether we like it or not, it's tourism. And if you improve the infrastructure, improve and remodel the particular buildings or add additional buildings, it will help the State to compete internationally in the tourist market and bring additional revenue to the State of Hawaii.

"With this Mr. Speaker and members, I ask for your support on this bill. Thank you very much and aloha."

Representative Magaoay rose to disclose a possible conflict of interest, stating:

"Regarding HB Nos. 8 and 16, I work as an electrical engineer for a construction company locally."

The Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and H.B. No. 8, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," passed Third Reading by a vote of 46 ayes, with Representatives Jaffe, Kanoho, McDermott, Pendleton and Takumi being excused.

#### **H.B. No. 9, HD 1:**

Representative M. Oshiro moved that H.B. No. 9, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Members, never before in the state of Hawaii have we faced a bigger challenge in our state government and tourism industry. From September 11th to December 31st, the potential loss of more than 650,000 visitors is anticipated. This will cause a decline in the tourism industry of approximately \$1 billion. From \$10.9 billion to \$9.9 billion by the end of the year 2001. This will be lowest tourism expenditures since 1995.

"Japanese travel agents continue to experience more cancellations than bookings. Japanese and other foreign visitors will be down 48% from over last year from October to December. United States mainland visitors are expected to be 20% below last year's bookings.

"This very low occupancy has led to significant discounts in hotel rates with the hope of attracting more business. But the lower hotel rates and reduced retail spending have produced dramatically lower TAT and GET revenues, which is the 'lifeblood' of State government.

"More than 16,000 people have filed for unemployment benefits since September 11th, and this Mr. Speaker, is only the beginning. If 20% of the tourism workforce lose their jobs, approximately 40,000 people will file for unemployment.

"The Department of Labor statistics show that four weeks prior to September 11th, there were 1,246 claims filed each week. For the week ending September 29th, there were 5,337 claims filed, four times the weekly average. For the week ending October 13th, there were 3,390 claims filed. Mr. Speaker, during this Special Session we are appropriating millions of dollars for emergency shelters and food for our needy, as well as temporary health insurance and unemployment insurance benefits for our unemployed. How do we make up the funds that come from our General Fund which could lead to a negative economic spiral?

"The \$10 million will help to integrate all islands and all sectors of the tourism industry and capitalize on Hawaii's uniquely positive, global brand. This appropriation will provide the Hawaii Tourism Authority with urgently needed resources to successfully market Hawaii both domestically and internationally. There is no more effective way to put money back into our economy than by supporting our State's primary source of income. This \$10 million is an investment that will increase those revenues to help fund the needs of our citizens, maintain jobs and replenish our State coffers.

"This recent disaster has once again shown us Hawaii's vulnerability to forces outside our shores. We need to create jobs in other sectors that can absorb unemployed workers. Hawaii is a beautiful, safe, tropical resort destination. We must continue to play to these strengths, not only to stimulate our visitor industry, but other sectors of our economy.

"I want to thank the members of the Finance Committee and the Senate Ways and Means Committee for amending the bill to appropriate the full \$10 million immediately, and for voting unanimously for this bill. I urge my colleagues to do the same."

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

"The tourism numbers for the month of September were down 34%. That's one third of our tourism industry gone in one month. I was driving in this morning and heard that JAL has canceled seven additional flights this week. So, I certainly stand behind this measure. We need to help tourism. Thank you."

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

"I support the funding, what we're doing. I'm very thankful that we did give them the \$10 million all at once. My only drawback on the bill at all is that there is no reporting requirement, but I do think they need the money. Thank you very much."

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

"I don't begrudge the fact that we need to support the lifeblood of our economy, tourism. But during my legislative career, this is the third emergency measure that I've had the opportunity to vote on. I did vote no on the two previous ones.

"The first one was when Dessert Storm was in our midst, we did appropriate a large amount of money for that. But I also recall there was also an appropriation for child and adolescent mental health at that time, and that request was not fulfilled and as a result we were hit with a consent decree following a lawsuit.

"Following that I also voted no on an emergency measure for a Miss Universe Pageant. It's not to say that the money is not needed. There really was no accountability as the previous speaker mentioned. To this day, I don't know what the effects of the millions of dollars that were allocated produced. I saw some of the ads. They were really nice ads. But what kinds of tourism dollars and numbers did it produce? I still don't know and I'd like to find out even if it's after-the-fact, at least to allay some of my concerns for this amount of money that was spent.

"If this amount of money is going to be spent for flashy media, I'd have some real concerns. However, if it were to go to direct marketing to provide incentives where we can hold people accountable, for example having discount coupons where we know that the money spent will produce a visitor.



It's easier to hold the industry accountable and to really show numbers that marketing efforts will produce.

"I hope we can make a good effort at bringing tourist back to Hawaii. But I also hope that we can have assurances that the money is well spent. And we know a lot of it is going to go out of the State so that will drain our coffers as well. I hope that we can hold these people accountable. Thank you Mr. Speaker."

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

"The tourism industry has been greatly impacted by the 911 attack on America. I think we all agree on that. And as alluded to by the Representative of Foster Village and the Chair of the Tourism Committee, compared to last year's visitor arrivals, there is an over 20% decrease in domestic arrivals. Compared to last year with Japanese arrivals, there is an over 45% decrease compared to last year.

"I think there are some concerns that have been raised about the HTA money, but this Legislature made a commitment to support HTA and provide them the autonomy and the flexibility to provide marketing and promotion as they see fit. And as a result of the success of HTA marketing and promotion, in the past few years, we have seen great tourism industry numbers and we have seen tremendous growth in the revenues in the tourism industry.

"One of the things that we must do during this emergency Special Session is to address the needs of the tourism industry, and we want to thank the Governor for his leadership in putting together in response to this crisis situation, a group of people who are going to directly look at how to strengthen the promotion and marketing as a result of the crisis. One of the things that we must do is to help the tourism industry. One of the things that we have to do is to allow \$10 million in additional funds to help the industry to recover from the 911 attack on America.

"The last thing is that we want to thank the members of the House for their continued support in this industry, and hopefully, we can have greater success in the near future in providing autonomy and flexibility in the tourism market, and let the experts deal with how to address this crisis situation and emergency. Thank you."

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

"Mr. Speaker, I am particularly encouraged by the coordinated effort being employed between the HVB, HTA and the wholesalers on distant shores. For example, at one time I know, as a marketing strategy, consideration had been given to giving a greater commission to wholesalers because they were put in the terrible position of having the commissions reduced because of discounted rates.

"As I understand as was reported back, while that idea had been considered, the wholesalers themselves and those responsible for marketing promotion here agreed that it would be better to embark to a total marketing plan rather than commissions to the wholesalers, and they have indeed come out with special packages aimed at the State as well as each island. That is indeed very encouraging. We should indeed realize a return on this \$10 million. Thank you Mr. Speaker."

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

"Just a couple of points and observations. I'm just glad that I'm not responsible for finally deciding where the \$10 million will be spent. It's such an enormous burden to impose upon

anyone because all the eyes of the world will be watching where this \$10 million goes toward shoring up tourism in Hawaii.

"I think the pressure is intense; it's immense. I wish the best to those who are taking the lead in constructing a new type of marketing strategy, especially not knowing what might befall us internationally, and how it might impact the world travel market today.

"I'd also like to echo the comments of the Vice Speaker when she said that the Governor really should be commended for calling the distributors together to respond to the effects of September 11th, and in particular in calling together some volunteers. In particular I'd like to recognize Tony Vericella from the Hawaii Visitors and Convention Bureau, Peter Schall from the Hilton Hotels chain, Walter Dods from BankWest/First Hawaiian Bank. They are not getting compensated, but they are getting criticized a lot. They've come forward to work on this plan and I wish them the best of success and thank them for coming forward in this time of need."

Representative Chang rose for clarification, stating:

"I just wanted to remind the members that the \$10 million comes from the Tourism Special Fund and not the General Fund. They get their funds from the TAT tax."

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

"Tourism is so important in Hawaii, critical. Our economy is almost wholly dependent on tourism. When they flag, we need to step up to the plate and be behind them.

"I just want to take this opportunity to observe that for more than the past 20 years, every two years, every campaign in Hawaii, many, many of us has campaigned on diversifying our economy so that we wouldn't be in the position of whole dependence. We are today more dependent on tourism than ever. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 9, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION," passed Third Reading by a vote of 46 ayes, with Representatives Jaffe, Kanoho, McDermott, Pendleton and Takumi being excused.

#### **H.B. No. 16, HD 1:**

Representative M. Oshiro moved that H.B. No. 16, HD 1, pass Third Reading, seconded by Representative Lee.

Representative Magaoay rose to disclose a possible conflict of interest, stating:

"Regarding HB Nos. 8 and 16, I work as an electrical engineer for a construction company locally."

The Chair ruled, "no conflict."

Representative Magaoay continued, stating:

"H.B. No. 16, HD 1, Procurement Provisions, I am in strong support of this measure. It is the first time for me to hear the procurement officer in agreement for some lenience, as far as the procurement of things we have with DAGS, by raising the small purchase procurement ceiling temporarily, and to include state residency requirements for such contracts.

"Back in the days of the 70's and 80's, construction was booming. Private sector contracts, with the military, and with municipalities. Apparently, those glory days have eroded, and all we have right now is federal dollars. It's time to see that we have a crisis since September 11th. I don't know if you would call this a blessing in disguise. The repair & maintenance projects for the Department of Transportation, as Brain Minaai, the Director has testified, have been expedited. There are 70 additional projects regarding small purchases and he expected there was half a million dollars in savings in six months.

"But the key right now for the repair & maintenance program is for the schools. Basically, all the efforts are being concentrated by DAGS, the State, and everybody looking at it, and especially procurement through DAGS, by hiring additional project managers to facilitate their projects. Hopefully within the six months we will see a very positive impact on this process and maybe we could take a look, come next Session, at revamping the procurement process.

"Again, Mr. Speaker, I stand in strong support. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 16, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 46 ayes, with Representatives Jaffe, Kanoho, McDermott, Pendleton and Takumi being excused.

#### H.B. No. 2:

Representative M. Oshiro moved that H.B. No. 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, one of the most positive bills coming out of this Special Session is the bill to enable people who have lost their jobs to continue substantial health benefits. This is an example of using the principle of triage during the emergency we are facing.

"Although this package is known as 'skinny QUEST,' and is not a Cadillac model, it provides basic coverage at a reasonable cost. Most importantly, it provides coverage for mental health care. There was a concern expressed just a while ago about domestic violence and this is very appropriate to that concern.

"The QUEST-Net program would be available for those who work for employers who are not legally required to offer COBRA, for people who are not currently eligible to qualify for Medicaid or QUEST. The low monthly payments are possible because the covered population is from the relatively healthy, recently employed workforce.

"In addition, with COBRA health insurance coverage, the person may apply for reimbursement of payments for the purpose of continuing health care.

"These two programs, in addition to the very good efforts being made by the private sector, will help people to maintain medical benefits during this crisis, and do much to help protect the health and welfare of the people.

"I think it would be wise to examine this type of bill in the Regular Session to see how a QUEST buy-in might benefit people on a more permanent basis. For these reasons, I urge the members to support this bill. Thank you."

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

"Mr. Speaker, I think that a lot of us realize that Hawaii has long had the reputation of being the Health State, and I think

we still are. I think part of the reason is because we've had one of the highest percentages of population covered by health insurance. We are also the healthiest and fittest population in the United States. I think that the difference between people who are uninsured and people who have insurance, is that those who are insured tend to be a little more proactive, a little more concerned about preventing ill health, rather than waiting to become ill to do something about it.

"That's what health insurance does. It affords the opportunity to access health care at the earliest point. It also behooves the providers and the insurance companies to have their clients stay as healthy as possible to keep costs down.

"What they don't have control over this, because of the Pre-paid Health Care Act, many of the employed people are covered. So when we have a case where a large number of people become unemployed, they become at risk for being uninsured for health care. This bill will enable people to maintain their health, to continue accessing the healthcare system, and to continue to be healthy.

"I think that we want to thank the unions as well as the insurance companies like HMSA for working together to keep the net as wide as possible so that people do not fall between the cracks. I urge all of my colleagues to support this measure. Thank you."

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

"The purpose of HB 2 is to relieve the suffering and fears of the people of this great State, which have felt the effect from the tragic event that took place on September 11th. Tourism, which has been our largest industry has spiraled downward resulting in many businesses filing for bankruptcy and laying off employees in a very short period of time.

"I stand for these employees who have lost their jobs due to layoffs. These employees may have children to feed, bills to pay, and illness in the family and medication to pay for, and even hospitalization. For these reasons, if these workers cannot maintain an inexpensive medical insurance plan, they and their families may suffer a financial burden causing potential hardship that may take many years for them to recover from.

"I'd like to also point out to this Body that there is a new study conducted by various professors, Andrew Oswald at the University of Warwick in England; Professor Rafael Di Tella of Harvard University, and Professor Robert MacCulloch of the London School of Economics, which states that recessions cause a big decline in people's happiness, even among those who do not lose a job or take a pay cut.

"The three professors blame a fear affect; that the widespread worries about jobs, salaries, retirement, family members, in a recession cause much tension and unhappiness in the community affected.

"These studies support helping those in time of need which is the purpose of government. Therefore appropriating more money into the State of Hawaii insurance program in keeping with COBRA is a workable solution. Therefore Mr. Speaker, I urge all members to support this program that is greatly needed for unemployed temporary health coverage. Thank you."

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

"Mr. Speaker, the purpose of this bill is to establish temporary health insurance to assist individuals and families who have lost their jobs because of the September 11, 2001 terrorist attacks. The terrorist attacks in New York, Virginia and Pennsylvania have affected our tourism industry. The

current concern with air travel and the fear of flying have debilitated our tourist industry. These terrible acts have created a declining domino effect that has eroded the number of scheduled flights and the number of tourists coming to Hawaii. The downturn in the visitor industry has caused a significant number of our workers to be victims of unemployment, layoffs, furloughs, reduced work hours and terminations.

"Mr. Speaker, I represent the lower Kalihi and Kapalama district, and many of my constituents are working in the hotel industry and restaurants. We were convened into Special Session to assist the working families in Hawaii. They are waiting for our help and they need the help now. Not next year or three years from now. I urge my colleagues to vote for this bill unanimously. Thank you Mr. Speaker."

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

"Not to be redundant, but I am in full support of this measure. I would just like to mention that Hawaii is also known as the Aloha State and this is a big lei that expresses our aloha by providing for this great need that we have.

"I want to also mention that immigrants would qualify for these voluntary services without the hindrance of the asset test. This is a very good expression of our aloha spirit in providing for this very great need. I urge all of our colleagues to vote up on this measure."

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

"Mr. Speaker, in 1994 when Hamakua Sugar closed down, when Hilo Coast Processing Company closed down, basically the economic base on a coastline of 50 miles disappeared. There was a lot of uncertainty and clearly there was a crisis. It was a lot smaller in scope than what we face today. But point I want to make today is that for those families, there were two primary concerns. One was where was their income or any financial resources going to come from to help them meet their financial obligations. And two, which was equally if not more important, was health coverage.

"When we convened this Special Session I think one of the key needs was to address those employees, those families that were most impacted by the events of September 11th. I believe, as the other speakers have indicated, that this is one of the key bills that does that. Therefore I would like to thank the Governor and his administration for beginning the concept, but as the earlier speakers have indicated, it was broadened out through the working together of the hotel workers' union, the ILWU, working with our Lt. Governor. I think it is going to be a significant component in terms of addressing all of the consequences of September 11th. Thank you very much."

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

"I just want to echo the remarks of the Chair of Finance. This will be one of the hallmark bills of this Special Session because it addresses those who are most immediately impacted by the events of September 11th.

"I was recently down at the Princess Kaiulani Hotel last week with my wife, and the workers there from the front desk, to the bell hops, to the waiters and waitresses in the restaurants were severely concerned about their health care coverage should they be displaced or suffer further reduction in hours. This is really going to address their needs.

"This bill will help the displaced worker because of two things. First, it provides a low cost reimbursement of their

COBRA coverage. Second, it provides a self-pay health insurance plan, 'bare bones' as it may be, and some security of health care.

"This is something that is really going to impact those people and those workers that I met last week. I know they will really appreciate this measure. Thank you Mr. Speaker."

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

"I think this is an extremely good bill and well-timed. However, I do have some concerns, not for the bill per se, but for the money that we will be expending from the General Fund for all of these bills for that matter.

"Right now we are aware, very much so, that the revenue is dropping and dropping and dropping. We are not getting money from the hotels, and we are continuing to spend dollars. What we need to do is take a look down the line at what we can afford, and how we can get some additional revenue if we need to. But we cannot just continue to take money from the pot when there is none to be taken."

The motion was put to vote by the Chair and carried, and H.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Third Reading by a vote of 46 ayes, with Representatives Jaffe, Kanoho, McDermott, Pendleton and Takumi being excused.

The Chair directed the Clerk to note that H.B. Nos. 8, HD 1; H.B. 9, HD 1; HB 16, HD 1; and H.B. 2, passed Third Reading at 12:04 o'clock p.m.

#### H.B. No. 3:

Representative M. Oshiro moved that H.B. No. 3, pass Third Reading, seconded by Representative Lee.

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

"I think all of us are in favor of extending workers unemployment benefits to people who are out of work as a result of the September 11th tragedy. But I notice that one portion of the bill would allow the Governor to raise the rates on certain businesses, but only until the end of this year. So that's the good news; that it is only until the end of the year.

"It generally affects small businesses. The larger businesses generally pay the lower rate. I just want to bring that to your attention. If we do pass HB 17, I think the 2002 date could be changed and the Governor could extend the period where he could raise rates until June 10, 2002.

"The bill is also lacks a provision to help all people thrown out of work. Often times owners of businesses will have to fold their businesses if the effects of the recent downturn come their way. We are talking about 'mom and pop' stores and this includes them. They will not be able to collect because we have not included them in any bill to cover them. They are required to pay the unemployment insurance tax, but can never collect under our current State law. Perhaps in another Session we can address this flaw. Thank you very much."

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

"Mr. Speaker, just to provide some clarification. On HB No. 3, in section 6 on page 5, there is provision where the bill will 'freeze' Schedule C, which has to do with the contributions made by all employers throughout the State. Even prior to September 11th, because of the economic situation, we have a

system which automatically changes so that as the reserves get less, it triggers up into higher contribution levels. Even prior to September 11th, there was some indication by the Department of Labor that this was going to trigger up to Schedule D, which then would require all employers to contribute more at a time when it would be more difficult financially.

"In fact, Mr. Speaker, section 6 of the bill will allow more relief to all employers by freezing Schedule C, rather than allowing the existing law which would allow the triggering of that higher level of contributions.

"I know there seems to be many references to HB No. 17 even before we get there. It seems as though some of that authority might allow for this kind of safeguard or protection or the limiting of the unemployment insurance contributions for an even longer period of time. Thank you."

Representative Marumoto rose to respond, stating:

"I thank the Chair of Finance for that explanation. I certainly hope he is right, and he probably is. He's an expert in labor law. But my overall concern remains that I would not like to see any increase in rates, which is a squeeze on business which doesn't help our economic health at all. Thank you."

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

"This bill gives an extension of up to 13 weeks of extended benefits to laid-off workers after the September 11th tragedy. I want to recite from a new study that I referred to on a prior bill which was released in October, 2001 and conducted by Professor Andrew Oswald of the University of Warwick in Coventry, England; Professor Raphael Di Tella of Harvard University; and Professor Robert MacCulloch of the of the London School of Economics.

"Their paper states that respondents were asked how happy they were with their lives, and that their collective answers can be shown, unknown to the respondents themselves, to move systematically with their nation's gross economic product and other macro-economic variables.

"This study was based on polls conducted over a 25 year period on 300,000 people in the United States and Europe. The professors state that the countries least affected by recessions paid the highest unemployment benefits. In Denmark where a typical unemployed worker receives benefits equal to 60% of their old salary, people endure such recessions better than those in England where the salary replacement is closer to 20%.

"Thus their proposal argues that a strong safety net in many countries is better for the well-being of both the employed and the unemployed. Therefore, Mr. Speaker, this bill which gives our workers in our Aloha State more time to find employment is a worthwhile investment for the care and well being and happiness of the people of the State of Hawaii that we should make in this time of economic crisis. I urge all the members to support this measure. Thank you."

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

"During the Regular Session I stood before you and advocated for the extension of unemployment benefits for the former Amfac Sugar workers on Kauai. At that time, we were trying to keep the families intact, preserve communities and prevent a ripple effect throughout other sectors of Kauai's fragile economy. Although the bill was later vetoed, I appreciated the support of all we received from this Body.

"Today I stand before you again and ask for your support to extend unemployment benefits. This time the measure is statewide in scope because the crisis we are facing is statewide. Indeed, it is beginning to affect many sectors of our economy, not just tourism. Everyday in the news we hear about more layoffs. In addition to the massive job losses from the hotels and the airlines immediately following the attack, it is truly disheartening to learn of further layoff in other industries here including the high-tech industry. Just yesterday, Ohana Foundation announced it would be shutting down its operations and laying off some 90 individuals. This comes one week after the inter-island cruise ships ceased operations, putting over 1,000 people out of work.

"Due to the uncertainty of world events, no one can predict what Hawaii's economy will be in the next six month or even one year. That is why this is an important proactive measure. Besides helping those who are already unemployed, we are providing an additional 13-week cushion for those who may still be laid off.

"Mr. Speaker and colleagues, this bill addressees a very serious problem and at best, we are providing a much needed window of opportunity so that workers can be successfully retrained and hired. It is one of many humanitarian efforts that this Legislature proposes for our families. I urge everyone wholeheartedly to support this measure."

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

"HB 3 is a single bill out of a package of legislation that is designed in this Special Session to address public safety and security, to stabilize the economy and to assist displace workers and their families throughout this rough time. Thank you."

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

"The Hilton continued to pay medical insurance for its furloughed and laid off workers, but they were really concerned about the additional unemployment insurance benefits. I want to thank the House leadership and members for working on this bill. We really appreciate it. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried and H.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Third Reading by a vote of 47 ayes, with Representatives Ontai, Pendleton, Takumi and Yoshinaga being excused.

#### **H.B. No. 5:**

Representative M. Oshiro moved that H.B. No. 5, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker I stand in strong support of this measure. I would like to thank the Governor and his Administration for coming forth with this measure that will defer an estimated \$17.2 million in taxes from collections to a later tax remittance period. This decrease in tax collections will mean an increase in cash flow for our businesses by the same amount, \$17.2 million.

"Per the testimony from the Director of Taxation, Marie Okamura, and I'd like to quote:

Based on data in the department's annual files, this will allow 38,000 general excise/use taxpayers, 8,000 withholding taxpayers, 2,700 transient accommodation taxpayers, and a

relatively small amount of taxpayers filing R-Est returns to file returns less frequently. This decrease caused by increasing thresholds that trigger filing a remittance requirement for these related taxes.

"What is important for the public to understand is not only is this a \$17.2 million increase in cash flow that these taxpayers will enjoy, but also a reduction in volume of paperwork that will result.

"For the general excise/use tax returns, the number of returns filed on an annual basis will decrease from 828,000 to 668,000, representing a 20% decrease. Just imagine the positive effect on our businesses when they will be relieved of filing 160,000 returns every year. This also means 160,000 less checks that have to be issued; 160,000 less pieces of mail that will be handled by both these taxpayers and the tax office.

"If you will allow me to quantify the economic impact for the reduction in the paper work, a fair guess is that the reduction amounts to \$8 million in savings if we assume a processing cost of \$50 per return, depending on the charge rate.

"Mr. Speaker, thank you for quickly recognizing the importance of this measure to our business community and the positive effect this permanent change will have with \$17.2 million immediately in response to a crisis and every year thereafter in terms of paperwork.

"Mr. Speaker, I would also like to point out that I did not do this analysis for the withholding tax remittances, the transient accommodations tax returns, and the recreational vehicle surcharge tax returns. If you perform this analysis, you can imagine the savings that will result every year thereafter. Thank you."

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

"I would just like to acknowledge that I think that was a terrific analysis that Representative Suzuki did. I would like to point out that in addition to the businesses that benefit by this, that it will work in conjunction with the last phase of the income tax reduction.

"Beginning on January 1st, in addition to what HB 5 will provide, we will see for all taxpayer in this state, a \$150 million to \$175 million already because the withholding amounts will be less. Certainly from the standpoint of timing, this will help in conjunction with the bill before us."

The motion was put to vote by the Chair and carried, and H.B. No. 5, entitled: "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES," passed Third Reading by a vote of 47 ayes, with Representatives Ontai, Pendleton, Takumi and Yoshinaga being excused.

#### **H.B. No. 6:**

Representative M. Oshiro moved that H.B. No. 6, pass Third Reading, seconded by Representative Lee.

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

"This emergency measure will save approximately \$3.3 million in taxes to certain transportation services taxpayers. This savings is not merely a deferral, but represents a forgiveness of taxes that will never have to be paid.

"Mr. Speaker, the Department of Taxation testimony in support of this measure clearly and concisely explains this measure. For the benefit of the public, I would like to read a

portion of the testimony which was submitted for this bill and the companion Senate bill, and I quote:

These bills impose the general excise tax in lieu of the public service company tax on these select taxpayers. The original rationale for taxing these companies under the public service company tax law is no longer relevant and the change is consistent with the recommendations of the Tax Review Commission of 1984. Carriers would benefit from this change given the current economic conditions because the GET is paid on income received in the current year. The public service company tax is based on the prior year's income, and therefore it may not correspond to the carrier's activity in the current year. For example, the carrier may pay more tax because business was better in the prior year than it is in the current year. Thus carriers will be able to pay taxes on their annual income received as opposed to income that was received in better economic conditions.

"As you can see, based on the computation method, the \$3 million in savings benefits only those taxpayers that have suffered a decline in their income from the prior year; no one else.

"Mr. Speaker, I would like to credit the Governor and his administration for identifying this change in our tax law that will soften the adverse effect of this current economic crisis. Thank you."

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

"Just to echo what the previous speaker just said, this is a good bill that will help our transportation service providers who are hurting in light of the recent economic downturn. It will assist approximately 400 small businesses to the tune of \$3 million, and any assistance to keep these businesses operating and allow them to employ our workers is certainly appreciated. Thank you Mr. Speaker."

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

"Mr. Speaker, a while ago I had the chance to meet with some members of the Chamber of Commerce Executive Committee and one of the things that they impressed upon me was the need to address one issue. That issue was cash flow, cash flow, cash flow. And in conjunction with the previous bill, HB No. 5, and several other measures Mr. Speaker, we are addressing that cash flow issue for all businesses both big and small.

"So I believe that they will be heartened by our actions today and I urge all members to support this. Thank you."

Representative Moses rose to comment, stating:

"I'd like to commend the Majority on responding to the Tax Review Commission's recommendation of 1994. Thank you."

The Chair responded:

"I believe it's a response for all members of this House; not just the Majority but also the Minority."

Representative Moses responded:

"I stand corrected Mr. Speaker. You are correct."

Representative Suzuki rose to a point of information, stating:

"The Tax Review Commission recommendation was from 1984, and I'm heartened to see this response also. We will be coming out with a new Tax Review Commission

recommendation soon, and I think we may be able to address it. I hope we will take positive action. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 6, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS," passed Third Reading by a vote of 47 ayes, with Representatives Ontai, Pendleton, Takumi and Yoshinaga being excused.

#### **H.B. No. 10:**

Representative M. Oshiro moved that H.B. No. 10, pass Third Reading, seconded by Representative Lee.

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

"The horrific events of September 11th, and watching them on television had a tremendous impact within the world economy and the people watching television that day. To see airplanes crash into buildings that day, and to see those buildings come tumbling down had a shocking impact our psyche and what people thought regarding airline security and airline safety and whether it is safe to travel. This bill will appropriate \$5 million to allow us to market Hawaii airports and how safe they are.

"We all know that our airports here in Hawaii are some of the safest in the world. We need to get the message out to the public on the mainland, in Japan, to everyone, that this is a safe place to come and spend your money and to help revive our economy. This measure should be passed. Of course we still need to get some federal approvals, but \$5 million will go a long way in helping our airports and our people. Thank you Mr. Speaker."

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

"This measure drew a lot of discussion and a lot of scrutiny, and there were some questions during the weeks prior to the Special Session. I am glad to see that it is still before us for consideration.

"Mr. Speaker, as the previous speaker has alluded to, this measure will depend upon the approval by the Federal Aviation Administration of the use of the airport's revenue funds for marketing purposes.

"I note for members' attention, the testimony that came before the Committees of Ways and Means and Finance wherein the Department of Transportation did outline for us the strict criteria on which the FAA will base its decision. I do hope the FAA will agree to our request.

"Mr. Speaker, it is important to note that in order to promote something you need to have a product to promote. In underscoring the comments of the prior speaker, may I share with the members highlights of a memo sent to me late last night from the State Department of Defense's Deputy Director for Civil Defense. He outlines some of the security measures that we have undertaken at our airports. This is the product that we hope to promote with the approval of the FAA. Under security:

Through solid inter-agency relations and coordination, we have continued to improve the security of our airports with State resources. Hawaii was the first state, except for New York, to secure a major airport with National Guardsman. The Hawaii National Guard now provides security forces at seven airports within the state.

The security of our general aviation airfields are being performed by increased surveillance of airport management teams, increased ramp checks by the Federal Aviation Administration inspectors, spot checks by local police and the Department of Land and Natural Resources enforcement personnel. The use of Dillingham Airfield by general aviation has presented a unique risk to important facilities in Central Oahu. As such, the Hawaii National Guard has now relieved the Honolulu Police Department security post and will be securing Dillingham Airfield for the next 30 days. The Department of Public Safety continues to provide security support at the Honolulu International Airport and other key State facilities.

The State Department of Transportation Airports Division is fully engaged in airport security planning. We maintain a strong security link with the Airports Security Manager and Honolulu District Manager. This strong link has continued to be a key resource in recent responses to potential anthrax incidents.

"So, Mr. Speaker, when we do come before the FAA with our request for the \$5 million promotional fund, we have a product to sell. We have a product to promote. I urge the members to support this measure. Thank you."

At 12:29 o'clock p.m., Representative Marumoto requested a recess and the Chair declared a recess, subject to the call of the Chair.

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

The motion was put to vote by the Chair and carried, and H.B. No. 10, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS," passed Third Reading by a vote of 47 ayes, with Representatives Ontai, Pendleton, Takumi and Yoshinaga being excused.

The Chair directed the clerk to note that H.B. Nos. 3; 5; 6; and 10 passed Third Reading at 12:32 o'clock p.m.

At 12:33 o'clock p.m., Representative Luke requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:34 o'clock p.m., with Vice Speaker Luke presiding.

#### **H.B. No. 11:**

Representative M. Oshiro moved that H.B. No. 11, pass Third Reading, seconded by Representative Lee.

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

"At the beginning of the Session, all four Caucuses agreed that public safety was one of our highest priorities, and I'm glad that we've kept our focus, especially with this bill.

"Simply put, this bill provides for 36 new sheriffs to move from the Department of Public Safety to the Department of Transportation to provide security services at the Honolulu airport. Most potential travelers' first consideration when evaluating possible destinations is whether or not the place is safe. Keeping our transportation infrastructure safe and efficient is a job that the private sector simply cannot and will not do. This is the job of our government and we are doing it. These 36 additional sheriffs are only a part of the overall increase in security statewide.



"This bill also enables the DOT to build and renovate facilities for increased security at airports, highways and harbors, statewide. This will have the double benefit of getting work done and injecting needed cash into the economy.

"I want to congratulate the Chairs of Public Safety, Transportation and Finance on their leadership, and thank all members for supporting this important bill. Thank you."

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

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

"This bill helps to fulfill one of the three reasons why we have entered into this Special Session. In the aftermath of September 11th, we have had to struggle with the impacts that the attacks have had on our people, our economy, and on our sense of safety and security.

"Several weeks after the tragedies of New York, Washington DC and Pennsylvania, your Committee on Public Safety and Military Affairs, together with its counterpart in the Senate, and together with the good Chairman of Transportation, Speaker Emeritus Souki, our Committees came together for a briefing to update the Legislature on matters related to safety and security.

"The attacks and any subsequent incidents have been viewed as matters relating to our national security, and are therefore under the rightful purview of our government in Washington DC. Still, the actions, directives and policies have had, and will continue to have, impacts on state and local jurisdictions.

"This bill attempts to deal with the concerns your Committee focused on during the informational briefing, namely: what plans are in place; and what plans are being considered to bolster and maintain the confidence of the public who utilize our State airports, harbors and highways. Your Committee also wanted to know of safety and security measures with respect to cargo, imports and exports, at these same ports of entry.

"Obviously these plans are vital as we move on initiatives to reverse the fallout in tourism. We also need to know how we are securing our lifelines when it comes to good, supplies, products and services that we largely import for our communities. We also sought out information with respect to the short- and long-term impacts on the various agencies charged with carrying out safety and security initiatives as they relate to infrastructure, manpower and materials. We can see that this bill calls for funding to pay for the increase in the operating budget of \$10 million statewide, to be applied to current security contracts, as well as to reimburse other State agencies.

"Madame Speaker, as we marshal our resources towards this effort, it is worth noting that the U.S. Congress, together with the President are negotiating over the role of the federal government with respect to safety and security at our airports. Your Chairman hopes that any federal mandate will be paid for wholly or largely with federal dollars.

"I would like to explain to the members one particular item in the CIP section of this bill that speaks to funding for security screens on the ramp leading to the inter-island parking structure at Honolulu International Airport. As it was explained to me, this ramp can be accessed by the Wiki-wiki shuttles that take passengers from the inter-island terminal to the main terminal. The fear is that one can transport items

from one terminal to another terminal without being subject to inspection. The screens will prevent such illegal transfers.

"The bill also seeks to deal with safety concerns at our harbors. While the State has its jurisdictional responsibilities, the overall responsibility for safety rests with the Marine Safety Officer for the United States Coast Guard. In discussions with the Marine Safety Officer, I came away with a thought that the funding requested in this bill is a good and necessary first step in ensuring safety at our ports across the state.

"The bill also addresses safety of our highways. While plans have not been fully detailed yet, I regret that we must take preventative measures to deal with any event that might disrupt State roadways critical to the transport of our people as well as our goods and services.

"Madame Speaker, while the bill addresses matters relative to our vital State infrastructure, your Committee plans to cover much more ground to the time leading up to and during the next Regular Session. We must anticipate the costs the State may have to pick up in order to meet the new challenges we face in the aftermath of September 11th. We may already have some idea of what it might take to meet these challenges.

"In an informational briefing I chaired shortly after the first anthrax scares dating back to February 23rd and 24th of 1999, the State Department of Defense outlined a 'wish list' to deal with an actual disaster resulting from a so-called weapon of mass destruction."

Representative Saiki then rose to yield his time.

Representative Garcia continued, stating:

"That 'wish list' came with a price tag for the State. May I again reference the memo which I just received late last night from the State Department of Defense. In this memo it was indicated that the State Department of Defense has just completed a three-year strategic plan, Madame Speaker. The deadline to meet this requirement was back in March. The completion of this three-year plan was critical in order to secure federal funding. The total price tag for equipment, training and planning has come out to \$4.5 million. The State has already been awarded \$389 thousand and we hope to access much more.

"Madame Speaker, with the advent of the tragedies of September 11th of this year, we will learn much more of what these additional costs there may be for the states as the new federal Office of Homeland Security develops and carries out its mandate.

"Madame Speaker, our success in dealing with any future threats or incidents depends on everyone being informed, getting involved and working together to insure that we can carry on with our way of life. We can begin this effort with the bill now before us for consideration and I respectfully ask for the support of my colleagues on this effort. Thank you Madame Speaker."

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

"This is one of the measures that actually ties directly into the reason of why we are in Special Session. It is to address the safety and security needs of the community as well as our visitors. This addresses it head on, and it is a wonderful piece of work in that it addresses both our harbors, highways and our airports. It ties into a previous bill in which we can go out and let the world know that our transportation system is the safest and the best in the world.

"As an important economic impact also. I don't know how

many of you know that most of your cables are laid alongside your highways, freeways and byways. In order to have those cables protected in the conduits, you need to insure that the hardware surrounding them, such as the overpasses and underpasses on the freeways are protected. There are tremendous amounts of wiring that lead between Kaneohe Marine Base up to the mountains and down to Schofield, Pearl Harbor and back to Camp Smith that links all of our military installations together. So, this is very important on that line also.

"Finally Madame Speaker, one of our jobs in this Special Session is to encourage and always remain optimistic and bring hope to our constituents and section 3 does that. Let me explain. In this bill we are creating 36 new positions. These are full-time permanent positions of sheriffs to provide additional security service at the Honolulu International Airport. This bill amongst the many other bills submitted in this package, was signed off and approved by myself and my Minority counterpart. I say this is very encouraging because we don't know, Madame Speaker, what types of challenges will befall us as we enter into the Regular Session. We might need more personnel to come on as counselors. We might need more personnel to come on as emergency technicians. We might need more people to come on regarding other safeguards and essential measures to address the health and safety concerns.

"So, I am pleased that we can set aside some of our old ways of thinking and really react to the needs of our community in this new world. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 11, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 48 ayes, with Representatives Hiraki, Pendleton and Takumi being excused.

#### **H.B. No. 12:**

Representative M. Oshiro moved that H.B. No. 12, pass Third Reading, seconded by Representative Lee.

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

"I need to apologize because I know my 'no vote' is going to shatter the warm bipartisan spirit we've enjoyed here this morning thus far. There's been many wonderful gushing words said about many wonderful bills that have been brought forward. Your Majority has been wonderful in their eloquence in stating the good reasons why we're passing a lot of these wonderful bipartisan bills. Nonetheless I just think on H.B. 12 we ought to leave the tobacco settlement funds alone and that is why I'm voting against it. Thank you."

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

"My reservations are on the use of the funds. The Tobacco Settlement money was not ever designated to be used as an emergency and budget reserve fund which is to bolster our bond capacities. That's not a use for this Fund and I think that we are violating the consensus of the courts in using the money for this measure. Thank you Madame Speaker."

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

"It's a matter of principle for me to move the tobacco settlement money to the EBRF. It's moving it from one acronym to another, in order that we might spend it any way that we can. It's almost like blurring the line. There's been a lot of suggestions that we move the HHRF money to 'Rainy

Day' Fund. It's kind of blurring the line between the hurricane money and a rainy day. I think the Governor sometimes has a little misjudgment on what is a hurricane and what is a rainy day, and the line is being blurred there.

"But this is the same thing in principle. Basically you are taking money from one thing and is allocated for one thing and is awarded to a certain group of people. That is to take care of those who have been ill affected by tobacco and the industry and so forth, and now we are moving it to another area. I think it is a little sensitive, I know it is to certain constituents of mine, to manage money in this way and on principle I don't think it is right and I don't think we should vote for it.

"So, I encourage the members to stand against it in principle."

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

"Contrary to some of the prior speakers, this is really a housekeeping measure, although it is an important one. By way of background the emergency budget and the reserve fund (EBRF) was passed by this Legislature in 1999. It was done so to serve as a temporary source of supplemental funding for the State during emergency economic downturns and unforeseen reductions in revenue, hence the name 'Rainy Day' Fund.

"Sections 328L-2b(1), of the Hawaii Revised Statutes authorizes the transfer of 40% of the tobacco settlement proceeds to the 'Rainy Day' Fund. But an appropriation by this Body is required. To date about \$6 million was transferred in fiscal year 1999-2000 and about \$15.5 million of FY 2000-2001. The current balance is about \$21 million at this point in time. The appropriation in this particular bill, H.B. No. 12, of \$33 million for this fiscal year has two parts. \$13 million is from the remaining tobacco settlement payments and interest due for fiscal year 2000-2001. The other remaining \$20 million is for the projected tobacco settlement payments coming down from the federal settlement to the 'Rainy Day' Fund and that is for fiscal year 2001-2002.

"Madame Speaker, when we set this up and the whole scheme of the tobacco settlement monies, this is the 40% we are talking about here. It's not defeating the purpose and intention of the law on the books. Again this is almost like a housekeeping type of measure. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 12, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND," passed Third Reading by a vote of 41 ayes to 7 noes, with Representatives Auwae, Davis, Gomes, Marumoto, Rath, Stonebraker and Whalen voting no, and Representatives Hiraki, Pendleton and Takumi being excused.

#### **H.B. No. 13:**

Representative M. Oshiro moved that H.B. No. 13, pass Third Reading, seconded by Representative Lee.

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

"Let me first apologize to House leadership and to Dr. Cadman, I'm not sure if he's still up there, and President Dobelle for the lack of my support. Let me also say that I have no problem with the construction of the UH medical school. My problem in this bill is that we are going to be raiding the Hawaii Tobacco Prevention and Control Trust Fund.

"We passed the bill in 1999. We set up a mechanism and a structure whereby 40% of the monies each year get deposited into the 'Rainy Day' Fund. 35% goes to prevention efforts in

the Health Department and 25% specifically goes to addressing the reason why we got the money in the first place and that is the focus on tobacco and prevention efforts. This bill reduces the 40% by 24.5% so the 'Rainy Day' Fund will get every year 15.5%. More importantly it reduces the money going into the Tobacco Prevention and Control Trust Fund from 25% to 12.5%. According to our fiscal people, the construction of the UH Medical School and to float \$150 million requires about 28% of the tobacco settlement monies.

"When we first discussed this bill about three weeks ago I had thought that we were going to use the 'Rainy Day' Fund in its entirety or at least 28%. Today, we are looking at a bill that basically raids the initial and main purpose of the fund that we created two years ago.

"In addition, to the structure that we created two years ago we also created this thing called the Tobacco Prevention and Control Advisory Board of which comprised members of our community, and I believe that this board was not involved with any discussions or any substantive discussions as to the method of funding the medical school. If you take a look at the testimony to Finance regarding this bill you will notice that a number of health related organizations did not support this bill.

"I'd like to take some time to read some comments that I made in the House Journal two years ago to just give you an idea as to why I stand today in opposition to this bill.

Today marks a turning point in Hawaii's history. Senate Bill 1034 will place 25 percent of the State's tobacco settlement money into a trust fund that will support tobacco prevention and cessation programs....

This bill will be our legacy. This bill will help fund programs that will protect the future of our children and provide help for those who are already addicted ... forever!

Hawaii expects to receive a total of \$1.2 billion through 2025 or about \$43 million per year....

With the passage of this bill, we will make a decision that will save lives, save money and improve public health. This bill will positively impact every resident in Hawaii, especially our children.

With the passage of this bill, Hawaii will become one of only five states that have made a commitment to fund tobacco prevention efforts beyond minimal levels. Sixteen states have already decided to spend no money or less than two percent of the settlement dollars they receive on tobacco prevention efforts.

Hawaii has once again placed itself on a map as one of the Nation's leaders in terms of public health and education. We now have the funds to allocated to mount an effective education campaign against the tobacco industry, which for years has targeted our children.

*House Journal 1999*

"I had an opportunity Madame Speaker, to speak with President Dobbelle a couple of days ago and we discussed ways in which maybe the University in the future could, because of my concerns and the concerns of many others, pay back the fund and he is pursuing and taking a look at that. In addition, I had an opportunity to speak to our former colleague, David Morihiro, who is now working at the University. His hope is that the University through the new medical school can create a focus on tobacco prevention efforts or maybe even create an office specifically addressing tobacco prevention and I hope to continue discussions on the University on that front.

"As you know we already approved planning and design monies for this project earlier this year and I understand that

the design contract has been awarded and the design efforts are ongoing. My question is..."

Representative Schatz rose to yield his time.

Representative Takai continued, stating:

"My question is, does this bill and this specific project live up to the criteria we discussed in the very beginning for this emergency Session. My suggestion is that we vote this bill down. We continue to urge the University to continue with its efforts to design this awesome facility. Or we come back next Session and work with these people who are concerned about the damage that we are going to be doing to the tobacco fund and maybe come up with a new financing model that will maybe take 28% from the 'Rainy Day' Fund and nothing from the Tobacco Prevention Fund.

"I'd like to also mention something I think, for those of you who were around two years ago, you can understand this because then Health Chair Alex Santiago spoke very eloquently regarding this fund and he says:

Mr. Speaker, if all goes as planned, someday when we look back on all the issues and measures I have had the privilege of being involved with, this measure, I believe, will be one of those that I will remember as being significant and very important with the resulting efforts to many individuals. I want to thank you Mr. Speaker, for giving me the opportunity to manage and be involved with this measure.

*House Journal 1999*

"I have not talked with Alex since two weeks ago, but in the discussions that I've had two weeks ago he was very, very disappointed at the fact that we were going to do this. I made a personal commitment two years ago to preserve the 25% for tobacco prevention efforts and today I stand in strong opposition to this bill because we are eroding the commitment that we made two years ago and urge my colleagues to vote this bill down and urge my colleagues to help me work on this and work with the Governor and come up with a better plan come January. Thank you Madame Speaker."

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

"I'm very concerned about the funding source as you have heard many of my colleagues suggest. I'm also very concerned about the location which this Body voted against last Session. We didn't like that location. I'm very opposed to the fact that small business are going to be relocated from that area despite what we heard on the floor a few days ago. There are still small businesses that will be relocated against their will after negotiating a 30-year contract with the State.

"The reason I was originally rising with support was that we gave UH autonomy and the UH decided on the location and I am very torn between going against the autonomy we granted UH and trying to second guess the location based on what we know. Again I have strong, strong reservations with using the Tobacco Settlement Fund for this. Although I can see tobacco settlement money being used for a medical school because of the great purposes that school could provide for us. I am very, very much for a medical school for this State and a medical complex. Thank you Madame Speaker."

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

"I'm rising in opposition for largely the same reasons stated by the Representative from Pearl City and I would like to commend the Representative for his bravery and courage for speaking out on this particular matter. I would like to just state for the record that I believe in and support a medical school. It

is a good idea. My opposition is based solely on the fact that this Legislature made a promise regarding the anti-tobacco control fund and we shouldn't be breaking our promise. I question the financing and that's why I am voting no. Thank you."

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

"As I mentioned on second reading I am very conflicted because two years ago I introduced a House Concurrent Resolution requesting that plans be developed to identify possible locations for the John A. Burns School of Medicine, and I guess now I am seeing the result of this resolution thanks to the Governor and the University President. The resolution mentions as one of the 'whereas clauses,' that the medical school needs to concentrate on training physicians, promoting wellness, providing care for the sick and advancing medical and biomedical research. Also a strong medical research program at the medical school will improve its academic background, attract federal research grants and strengthen medical care in the community.

"Personally Madame Speaker, I've had the chance to visit about eight of the top ten pediatric hospitals in the country. One of the things that I have seen is that the hospitals are excellent because they also have excellent medical schools and excellent research facilities. Those are the three legs of the stool which make for a good medical care system. I think in terms of health care in Hawaii we should be the premiere health care location, not just for Hawaii but for the entire Pacific rim. We can only do that if we have adequate facilities for research and medicine and I think we have that potential. The potential is also to draw down millions of dollars not only from the federal government but also from private research firms as well.

"I'm in strong support of the School of Medicine being relocated and I am in strong support of a research facility. I think at some time in the very near future after it is built it should be able to be self-sufficient, because the ones that I saw on the mainland were all self-sufficient and in fact they supported the medical school as well as added to the hospital programs. There is a lot of potential and I think whatever monies we put into it should be short-term. I would like to propose that we look at maybe 'sunsetting' the amount that we take out of the Tobacco Settlement Fund.

"That's where my strong reservation comes to in terms of the source of the funding. I would like to read from the committee report of a bill that was passed two years ago. We had established the tobacco settlement fund in 1999, and the main focus was on health promotion, disease prevention and tobacco prevention. But what the following Legislature found in the year 2000 was that we needed to make the language really specific so that we don't draw on the corpus. It says here:

The Senate version of this measure attempts to address the second problem of dipping into the Trust Funds' corpus,... The intent of establishing the Trust Fund was to allow the corpus to grow, reaching significant levels where the interest accrued would be a continual source of program funding once tobacco settlement monies are depleted. The expectation is to have DOH and the Trust Fund Advisory Board (Board) work together on their long-range plan.

After much discussion your Committee on Conference agrees that dipping into the corpus would not be sound policy, as it would deprive Hawaii from a unique opportunity to accrue a significant amount of interest to ensure long-term and meaningful commitment to prevention programs.

*Conf. Com. Rep. 141 on H.B. No. 2277  
House Journal 2000*

"So, here we are not even two years later and we're voting against that policy that we established in 2000. I know legislatures cannot commit future legislatures as we are told time and again. But I think if we set a policy vision and direction we should at least provide some integrity in honoring that vision. I think for the sake of our children and our young people. The real intent is to prevent kids from smoking, that's what this money is for. We are actually cheating them. I hope we can address this issue and put a cap on how much we take from this Fund or at least a time when we no longer take from this Fund so that we can renew our commitment to prevention, Thank you Madame Speaker."

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

"It is really amazing that we could hear a speech like the one we just heard and find out that the person who gave the speech is voting in favor of the measure. I definitely go along with the words that were said and I think we should oppose it and oppose it because it touches that 25% that was so carefully reserved for education on tobacco. Thank you."

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

"First, I would like to express my deepest respect and admiration for my colleague, Representative Takai, who has the courage to express his convictions on the smoking issue. I agree with him in many ways, but I don't feel that this bill will necessarily jeopardize an anti-smoking campaign that we are going to carry out in the state.

"This bill really is about maintaining the health and welfare of our people. One of the best uses that could be made are some of the monies derived from the State's tobacco settlement and to invest those monies into biomedical research. In fact sixteen states have passed budgets or enabling legislation to use some portion of their tobacco settlement for bioscience related efforts. Those states are Colorado, Connecticut, Illinois, Kansas, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, Utah and Wisconsin. Most of the states designated the funds for basic research leading to commercialization at an earlier stage.

"Health care is an industry with a lot of potential of substantial expansion in Hawaii and that is really what we need isn't it? It's an environmentally benign industry that provides relatively high paying jobs and improves the health of the community. The cancer research component of this project does, and will provide, a valuable link in the future regarding preventive care and education in the community.

"Further our multi-ethnic population will encourage clinical trials and clinical support for those trials. It will have added benefit of making new drugs available to our cancer patients. This is an investment in our future, which begins today so the complex can begin bearing fruit for our citizens in the future. I strongly support the idea that the University medical school establish a tobacco prevention program alongside a research program as Dr. Dobelle is exploring.

"Lastly, the quest for a facility that conducts biomedical research becomes even more important now that we are engaged in a different kind of war. Biotechnology and genetic engineering can become part of an important public health infrastructure which will not only produce revenue but a source of security and protection for our people. For these reasons I urge members to support this bill."

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

"My no vote in no way has anything to do with the medical school. I strongly favor the construction of a medical school. I think that because this is a revenue bond I am a little puzzled as to why it cannot be floated in a way that revenue bonds are usually done. Upon reading the bill, it appears that there will be perhaps a project that generates revenues which will then allow those revenues to be used for a medical school. Nevertheless I strongly oppose the fact that it is coming out of the Tobacco Fund and it appears to me that there is no site designated in this measure, it just says on Oahu. So I don't quite know where the revenue producing entity will be built or where the medical school will be.

"So, I just wanted to explain where I am coming from. Thank you."

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

"Madame Speaker, I have been listening with very great interest because this is not in my area of expertise. But I would like to give the reason I stand in support of this bill.

"We all realize that 911 has affected our major industry, which is tourism. We've talked for years in this state about diversification and getting off of the one-industry kind of support that we've always had. In the past few years, we lost the major support of agriculture and now we are even more dependent on tourism. A lot of this legislation is directed toward helping that industry. But the reason why I am going to vote for this bill is that we debated this in the earlier Session, and we couldn't come to any conclusion. I think the situation has changed after 911, and we have really got to diversify our economy and to me making this state a Health State is a much healthier base for our economy than just tourism.

"So, even though I agree with my colleagues who oppose this bill or who have reservations that possibly the Tobacco Fund is not the best way to finance it, at least this gets it off the ground, and as pointed out that legislatures change their minds and we can change it in January. But at least now we are sending a message to the world that Hawaii is not only tourism; it is going to be the healthiest place on this planet. Thank you."

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

"I am somewhat perplexed by some of the comments I've heard here on this bill. People seem to be talking as if we do not have a medical school and research facilities at the University of Hawaii now. I was bothered by some of the testimony that was heard Tuesday before the Finance Committee and my perception is that this is kind of opportunistic. The medical school at Kakaako was controversial in the last Session, and now that the Nation is in crisis as well as Hawaii, it seems the University has jumped on board and it's 'now or never.'

"I have very strong reservations about the financing mechanism to take Section 328L-2 which we passed just in 1999 where the allocation of tobacco money was just to go to three areas. Forty percent to the emergency budget reserve fund. Thirty-five percent to the Department of Health and twenty-five percent for the Hawaii Tobacco Control and Trust Fund. That took up 100% of those monies and now we are cutting the Hawaii Tobacco Prevention and Control Trust Fund in half from 25% to 12.5%; cutting what went into the emergency and budget reserve fund from 40% to 24.5% and creating a new section for the medical school of 28%. There may be a nexus because of health and the problems related to smoking with health, but it seems very strange to me that with a revenue bond, which this bill calls for, \$150 million in a revenue bond and we are creating funding for them to pay.

This money from the tobacco fund can't possibly be called revenue. We're taking it from one place and giving it to the University to pay their principal and interest. In time, I can see that the research structure that they are going to build will create revenue but how many years will the revenues be coming from the tobacco fund?

"It seems a bit like a 'Ponzi scheme.' An emergency to build this is not here and there is much controversy as whether Kakaako really is the best place for this. Personally I wasn't against the Kakaako location, but I did have a lot of problems with the way the tenants were being treated, and the fact that they wanted to move the tenants that have long-term leases to Kapalama where we had other business who were going to be moved very quickly. Because somehow this medical school has been elevated to a crisis type thing that we must do it now. President Dobelle said before the money committees that if we don't do it now, we'll never do it. This Legislator, myself, I stopped buying that.

"The medical school is viable. It needs to be grown and a new facility would be a good thing, but I don't think it is appropriate to take it up in this emergency Special Session. So, I will be voting no. Thank you."

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

"I'm not voting down on the location that is being selected and I want to repeat that. I think the Legislature should step out and leave that to the UH itself. I'm not persuaded that this item is appropriate for this Special Session in addition to the other objections that have already been registered by my colleagues, by both those who have voted in favor of it and my colleagues on this side that have voted against it.

"At any rate, I am against it. Thank you."

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

"I would just like to briefly clarify some of the issues that have been raised about some of the displaced lessees over in Kapalama. I think it is very important for people to remember that these people are on month-to-month leases. Therefore, you only get what you pay for in terms of the rent value being reflective of your short-term lease. So, your rent value is actually that much less.

"Under the law, you are not entitled to any notification and you don't get any relocation assistance or subsidies. You get what you pay for with a month-to-month lease, which is a lower rent value. Therefore, the State doesn't have any more legal obligation to these Kapalama lessees, but what they are trying to do is to work with them. There are sixteen lessees that are going to be displaced in Kapalama of which six have already left. Three are being allowed to stay because they are not in warehouses right now so until the plans get more finalized and notification of the move is solidified, that won't happen.

"So, really we are talking about six more lessees and as far as we know, HCDA is trying to work with them. I think that the State is going beyond its legal obligation in trying to work with the parties to make this relocation happen. Thank you very much."

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

"First of all, I want to congratulate the Governor's office and our leadership and both money committees for coming up with a very innovative way of financing this major project. Of course this major project will have something to do with the

revitalization. In fact, it will provide for work and construction jobs and that will have the multiplier effect, so it's quite appropriate.

"On the use of the tobacco funds, I can't see of a better place for tobacco funds to be used than in a wellness center. And certainly the wellness center could be looking at trying to purge the ills of lung cancer and etcetera. Thank you very much."

Representative Marumoto rose and stated:

"I think I was getting mixed up between H.B. Nos. 12 and 13. I will be voting no on 12 and will be voting yes on 13."

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

"I would like to clarify a point that was made by a previous speaker regarding the month-to-month leases at Kapalama.

"I think we need to also remember the displaced lessees at Kakaako that have recently resigned thirty-year leases with the State that the State is currently in negotiations with, but to my understanding are not receiving equitable compensation for their displacement. In this day of trying to save businesses and trying to save jobs and employees, we are talking about nine businesses that are going to be displaced. Three hundred employees that are not at this point receiving any kind of amicable compensation.

"So, I think we need to keep that in mind as well. Thank you very much."

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

"I like the medical school and I think it is a good idea. We need to diversify and we have talked about this for a long time. However, a Medical school would have long-term effects and what we need to focus on in this Session is the immediate downturn in our economy and something like this we, wouldn't see effects for a couple of years to come.

"As previous speakers have mentioned I think this would be a great issue to take up during the Regular Session, and I would support it then. The location doesn't really matter to me personally. But I feel that the funding is questionable as many people have mentioned and I think we can really pat ourselves on the back that one dollar out of ten is actually going to be spent on the purpose to which the tobacco money was given.

"That we are only mismanaging 90% of that is a congratulations to this Body. We can call it housekeeping or shifting money from one fund to another, but if I managed my own house like this and spent 90% of the shopping money on fishing gear I'd have problems with my wife and my two little baby constituents. I promise you that.

"So I think the funding is questionable and I think the timing as was mentioned, is opportunistic. Is this an emergency? Hardly. If you buy that I've got some other things I'd like to sell you as well. I think to liken this to something that is an emergency is like painting the porch when the house is on fire.

"So, I encourage the members to oppose this until January. Thank you."

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

"There is an emergency at hand because the testimony submitted and the discussion regarding this particular medical school development project is that, statewide now there is available of over \$150 million private sector monies, coming

into the state of Hawaii. As you all know that is capital for our State, and unless we can draw down assets and investments from out-of-state we are at a lost to generate it amongst ourselves.

"Secondly, I believe the University President has made the representation to us that groundbreaking will occur over the next several months. So, I encourage all of the members to pay attention to getting their phone call and prepare to attend the groundbreaking ceremony before we come back in January. Thank you."

Representative Ahu Isa rose to speak in support of the measure with strong reservations, stating:

"I know previously I voted no on this bill, and after speaking to one of the private donors involved in the project I am changing it to a vote in support. The strong reservations comes from my colleague, the Representative from Pearl City, and his passionate plea on how the funds were supposed to be used originally and I commend him for that. Thank you Madame Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 13, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed Third Reading by a vote of 34 ayes to 14 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Meyer, Ontai, Rath, Stonebraker, Takai and Whalen voting no, and Representatives Hiraki, Pendleton and Takumi being excused.

#### **H.B. No. 14:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, H.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Third Reading by a vote of 43 ayes to 5 noes, with Representatives Bukoski, Djou, Gomes, Jaffe and Rath voting no, and Representatives Hiraki, Pendleton and Takumi being excused.

At 1:26 o'clock p.m., Representative Thielen requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:26 o'clock p.m.

The Chair directed the Clerk to note that H.B. Nos. 11; 12; 13; and 14, passed Third Reading at 1:27 o'clock p.m.

#### **H.B. No. 15:**

Representative M. Oshiro moved that H.B. No. 15, pass Third Reading, seconded by Representative Lee.

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

"For my district this is one of the more important pieces of legislation that we are passing today. It is believed that one of our residents brought in the coqui frogs because he thought they were cute. As was so many other alien species introduced into our beautiful and hospitable environment, they have multiplied until they have become not only a nuisance, but a threat.

"We not only have the coqui frog, but also the alien plant miconia. Knowing what it has done to destroy the forest in Tahiti, we have a taskforce and many volunteers working to eradicate it before it gets completely out of control. The districts of Puna and Ka'u are growing faster than any other area of our island and probably in the State, because our lifestyle is rural and our land being relatively undeveloped is



cheap.

"We want to keep it that way. So measures to encourage big investments, mega-resorts, golf course millionaire residential developments or big industry are fought loud and hard. We are working on community based development plans that emphasize small business, 'bed and breakfast' tourist facilities, internet enterprises, educational and cultural facilities, arts and crafts and small diversified agriculture.

"We value the Aloha spirit and the native Hawaiian culture. Hopefully this measure will provide the kind of jobs that we need to protect our environment. As for dengue fever, the Big Island is the only major island that is still free of this dreaded disease. This bill will help us to keep it that way. I urge my colleagues to support it. Mahalo."

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

"Simply put this bill is a classic 'win-win.' Alien species invasion is a deadly serious phenomenon. We are literally being overtaken by species from all over the world that are stronger and compete better than our native species.

"First, dengue fever, also known as break bone fever is a devastatingly painful tropical disease that could permanently make its way into our mosquito population. If there was ever an emergency for this emergency Session, this is it. The idea that this bill could wait until Regular Session and that we should just let dengue run its course trusting the Department of Health to contain it I find impossible to accept.

"Second, miconia, also known as 'green cancer' as many botanist call it, has taken over 70% of the native forest in Tahiti. If you've ever been inside a miconia grove you will immediately notice the quiet. This is because miconia doesn't support any other plants or animals. It's a biological desert in the miconia grove. It is unlike a normal forest and unlike anything I have ever seen. This plant grows up to one foot every day. While we had it under control for a while due to legislative appropriations, it is now spreading like wildfire on the Big Island.

"Finally, I don't have any personal experience with the tree frog but I know several of my colleagues are quite intimate with the little guy and our Majority Leader has even gone frog hunting a few times.

"These are real crises and this bill establishes a temporary workforce comprised of displaced workers in the wake of September 11th and puts them to work helping to fight these problems. This will keep these people from having to collect unemployment insurance and health care subsidies that we're providing today and will also help to solve these pressing environmental health problems. Thank you Madame Speaker."

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

"I hadn't planned to speak at all on this, but the comment about the person who introduced the frog who thought it was cute; to do so really makes me angry. I know long before I got to this Body several people here and outside of this Body and throughout the State, and including the last two speakers, have worked very hard to address some of the issues dealing with alien species. I just find it infuriating that somebody would introduce a species like this out of the benign thought that it is cute; and wreak the kind of havoc that it does now, and as with the other alien plants as well.

"I would hope that the person, whoever they may be, has been identified and that they are prosecuted to the fullest extent that our law allows for these matters. That's another issue of

course but I do support this and thank the introducers for their efforts on this. Thank you."

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

"In the many brainstorming and group discussions I have attended to address the economic downturn after the September 11th events. One reoccurring suggestion was the idea of work programs; that is to have the unemployed people productively contributing to the betterment of their communities when there are no jobs to transition to.

"Thanks to the leg work of the Majority Whip from Makiki/Tantalus who is also the trusty Vice Chair of Energy and Environmental Protection Committee, this idea is moving towards reality. While there are many needs I believe that actions targeted will give us great environmental, economic and health returns for the \$1.5 million that is being appropriated. It's a very small investment in combating major environmental disasters and public health concerns. For example the economic cost of the dengue outbreak are considerable. For example, a 1977 outbreak in Puerto Rico was estimated at \$10.3 million in medical services, lost work time and other direct and indirect cost.

"In that case, the impact on tourism was not factored in. As we all know from various news reports, the economic damage and misplaced stigmatism associated with dengue have been devastating to the residents of East Maui. The need to eradicate miconia is necessary for the preservation and effectiveness of our watershed areas. Our watersheds are valuable and irreplaceable resources essential to fulfill a most basic need, water.

"It is my understanding, and as you have heard from the Representative from the Puna area, that the deafening cries of the coqui frog is enough to drive one crazy and the fire ants will devastate agriculture import/export opportunities.

"Madame Speaker, the need to address these environmental and public health concerns are extremely important, but what is most significant is the opportunity to maintain human dignity by providing meaningful employment during these trying times. By doing so, a useful and much needed service is performed. Hopefully these paid wages will be re-circulated back into the state.

"Also, should it become necessary, and I hope it never will be, but when we return in January if this program, and I know that program will be very successful, it can be used as a model to 'spiff-up' our parks, our schools as well as augmenting other school needs and other social services needs. I urge my colleagues to please support this bill. Thank you."

At 1:38 o'clock p.m., Representative Thielen requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 1:39 o'clock p.m.

The motion was put to vote by the Chair and carried, and H.B. No. 15, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," passed Third Reading by a vote of 48 ayes, with Representatives Pendleton, Takumi and Yonamine being excused.

#### H.B. No. 17:

Representative M. Oshiro moved that H.B. No. 17, pass Third Reading, seconded by Representative Lee.

At this time, Representative Fox offered the following amendment to H.B. No. 17:

SECTION 1: House Bill No. 17 is amended by amending sections 1 and 2, deleting sections 3 and 4, amending the original sections 5 through 7 and 9, and renumbering sections subsequent to section 2, to read as follows:

"SECTION 1. The September 11, 2001, terrorist attacks on the United States have severely impacted Hawaii's economy. Business experienced catastrophic revenue losses as a result of decreases in the number of visitors to Hawaii. The nation has been warned to expect the continuation of the war on terrorism as well as continued losses due to lagging consumer confidence. With the increased risk of further terrorist attacks around the world, the economic welfare of the State is further threatened.

The purpose of this Act is to confer temporarily upon the governor certain powers to provide immediate relief to facilitate continuity of airport business activities and services[, minimize employee layoffs, and prevent endangerment of public health, safety, or welfare,] during a period of economic emergency.

SECTION 2. (a) Declaration of economic emergency. The governor may issue a proclamation declaring an economic emergency for the period from September 11, 2001, to June 30, 2002, if the governor finds that, during this time period, in addition to any determination that the slowdown of business activity in the State poses an imminent or present danger to the public health, safety, or welfare, there has been a two hundred per cent statewide increase in initial claims filed for unemployment benefits, other than claims resulting from a labor dispute, when compared with initial claims filed in the corresponding week of the preceding calendar year.

(b) Upon the declaration of the economic emergency, the governor may exercise emergency powers under this Act to provide relief during the period of the economic emergency to [residents of the State] airlines and airport businesses who, as a result of the September 11, 2001, terrorist attacks have experienced substantial monetary losses. [The relief provided under this Act shall be to facilitate continuity of business activities and services, minimize employee layoffs, and prevent endangerment of public health, safety, or welfare.]

(c) Upon the declaration of an economic emergency, the governor shall convene an advisory committee composed of the president of the senate and the speaker of the house of representatives. The governor, through the advisory committee, shall inform the legislature and the public on the exercise of emergency powers under this Act.

~~[SECTION 3. Suspension of statutes and rules. (a) The governor may suspend, in whole or in part, any statute, rule, or order of any agency of the State that regulates or imposes any obligations on any business in the State, or prescribes procedures to conduct business in the State during the economic emergency period, when the governor determines that:~~

- ~~(1) Strict compliance with any statute, rule, or order would prevent, hinder, or delay the governor's efforts to facilitate continuity of business activities and services; or~~
- ~~(2) Written evidence is submitted by the appropriate state department or agency showing that the health or living standards of a substantial number of individuals are immediately at risk requiring relief such as welfare assistance, unemployment compensation, or health insurance.~~

~~(b) The governor shall provide public notice whenever a statute, rule, or order is suspended in the same manner required for the publication of rules under section 1-28.5, Hawaii Revised Statutes.~~

~~(c) The governor shall not suspend any provision of this Act.~~

SECTION 4. Adoption of rules. The governor may adopt rules that are required for fair, just, nondiscriminatory, and orderly administration of the emergency powers granted in this

~~Act to provide immediate relief during the economic emergency period; provided that reasonable classifications, exceptions, and exemptions may be made and granted to effectuate the emergency powers. Chapter 91, Hawaii Revised Statutes, shall not apply to these rules. Rules authorized by this Act shall be adopted by the governor and become effective on a specified date. Prior to the effective date, the rules shall be published pursuant to section 1-28.5, Hawaii Revised Statutes, or in lieu of publication and when immediate adoption of rules is necessary, by radio or television broadcast, on an official state website on the Internet, or such other means as may be available; provided that the rules shall be published thereafter pursuant to section 1-28.5, Hawaii Revised Statutes, at the earliest practicable date.]~~

SECTION [5]3. Existing state airport contracts. (a) With prior consent of the parties to the contract, [The] the governor may suspend, waive, defer, or modify any contract obligations owed to the State [for up to a six-month period], arising from contracts entered into with airport concessionaires, within the period of the economic emergency, but in no instance shall the duration of the suspension, waiver, deferment or modification extend further than June 30, 2001, and upon such terms and conditions as shall be necessary to minimize losses that are attributable to the economic emergency. [For the purposes of this section, the term "contracts" includes contracts, leases, land licenses, land permits, easements, concessions, subsidies and grants, and agreements for the purchase of goods, services, and construction that have been awarded, extended, or renewed pursuant to law and rules.]

(b) A person under a contract with the State as described in paragraph (a) may be eligible for consideration for relief if the person requests such relief and satisfies the following conditions:

- (1) The person under contract with the State submits;
  - (A) written evidence proving the amount and the extent of any losses attributable to the economic emergency; and
  - (B) any type of insurance or federal agency benefits or assistance received or anticipated due to the economic emergency;
- (2) The losses, at a minimum, must be at least a fifteen per cent reduction in the volume of business or monthly gross income covered by the contract [(including the volume of any business upon which the person under contract with the State must pay to the State rents, fees, or other amounts to the department or agency attributable to such volume of business)] for a period of at least thirty days after September 10, 2001, computed on the average monthly gross income attributable to the business covered by the contract for the shorter of the following periods:

- (A) The six months just prior to September 11, 2001; or
- (B) As long as the person under contract with the State has had the contract with the State. In making such a computation, the department or agency shall appropriately increase the volume of business or monthly gross income due to the receipt of any insurance or federal benefits or assistance received by the person under contract with the State during the emergency period.

The written evidence required to be submitted to the department or agency by the person under contract with the State seeking relief under this paragraph must include at least a weekly submission of daily sales and activity data, clearly indicating sales and activity volume, the revenue received, derived, or realized from or attributable to the sales and activities, and such other sales and activity data deemed appropriate by the department or agency to support the reduction in volume of business or monthly gross income; and

- (3) If the person under contract with the state department of transportation is an airport lessee, airline or air carrier, the person shall qualify for the relief described in this section if the person satisfies the above paragraphs (1)

and ~~in lieu of paragraph~~ (2) ~~and~~ the following conditions:

- (A) The losses suffered by the airport lessee, airline or air carrier comprise at least a fifteen per cent reduction in the volume and number of passengers enplaned and deplaned or cargo handled, at state airports by the airline or air carrier or serviced by airport lessee, for a period of at least thirty days, computed on the average monthly volume of passengers enplaned and deplaned or cargo handled, as appropriate, for the six months just prior to September 11, 2001; and
- (B) Unless otherwise in the possession of the department of transportation, [Each] each such airport lessee, airline, and air carrier submits at least weekly to the department of transportation traffic reports on aircraft operations, including the daily flight schedules and the following for each aircraft landing and taking off from a state airport: volume and number of passengers enplaned and deplaned, volume and type of cargo handled, type of aircraft, passenger and cargo capacity, date of landing or take-off, and origin and destination and such other information as to traffic reports and aircraft operations deemed appropriate by the department or agency to support the reduction in business.
- (C) If any landing fees for any airline or air carrier meeting the above conditions are waived, an airport lessee meeting the above conditions and having a lease with the department of transportation which provides for the payment of minimum guaranteed rents or percentage rents, whichever is greater, shall have guaranteed rents for the emergency period waived provided percentage rents are paid during the emergency period unless the governor grants further relief from having to pay all or a portion of any percentage rents.

SECTION [6] 4. Notwithstanding section 261-7 and section 102-2, Hawaii Revised Statutes, and section [5] 3 of this Act, the governor may waive guaranteed rental payments of airport lessees, airport landing fees and airport system support charges during the period of economic emergency as provided in paragraph (C) above. Unless otherwise in the possession of the department of transportation, [Each] each airport lessee, airline, and air carrier receiving relief under this section shall submit at least weekly to the department of transportation traffic reports on aircraft operations, including the daily flight schedules and for each aircraft landing and taking off from a state airport, the volume and number of passengers enplaned and deplaned, volume and type of cargo handled, type of aircraft, passenger and cargo capacity, the date of landing or take-off, and origin and destination, daily sales and activity data, the revenue received, derived or realized from or attributable sales and activity.

SECTION [7] 5. Section 171-13, Hawaii Revised Statutes, is amended to read as follows:

**"§171-13 Disposition of public lands.** Except as otherwise provided by law and subject to other provisions of this chapter, the board may:

- (1) Dispose of public land in fee simple, by lease, lease with option to purchase, license, or permit; and
- (2) Grant easement by direct negotiation or otherwise for particular purposes in perpetuity on such terms as may be set by the board, subject to reverter to the State upon termination or abandonment of the specific purpose for which it was granted, provided the sale price of such easement shall be determined pursuant to section 171-17(b).

No person shall be eligible to purchase or lease public lands, or to be granted a license, permit, or easement covering public lands, who has had during the five years preceding the date of disposition a previous sale, lease, license, permit, or easement covering public lands cancelled for failure to satisfy the terms and conditions thereof unless such cancellation relates to a breach or default by an airport lessee, airlines, or air carrier in

payments to any agency of the State due to losses in volume of business or monthly gross income suffered by the person during a period of economic emergency declared by the governor in accordance with Act of the Third Special Session of 2001."

SECTION [8] 6. The powers and authority conferred upon the governor by this Act are in addition to any other powers or authority conferred upon the governor by the laws of the United States and of the State for the same or like purpose, and shall not be construed as abrogating, limiting, or modifying any such power or authority.

SECTION [9] 7. Monthly reports to the legislature. The governor shall submit a monthly report to the legislature, or if the legislature is not in session, to its presiding officers, to keep the legislature apprised of all actions taken under this Act. The monthly reports shall include detailed information, by department or agency, on each action taken under this Act, including the reasons for such action, the names of all businesses and contractors benefiting by such actions, the benefit provided, including those benefits provided by any insurance or federal agency, amounts expended, and the source of funding for each expenditure.

SECTION [10] 8. Effect of this Act on other laws and obligations. (a) All laws inconsistent with this Act or any rule adopted under the authority of this Act, shall be suspended during the period of the economic emergency and to the extent that the suspension is necessary to effectuate the purposes of this Act.

(b) All actions taken under this Act shall comply with applicable federal laws and regulations and shall not jeopardize the receipt of any federal aid or impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or any such agency.

(c) The State and any agency thereof shall remain obligated to collect and realize sufficient revenue to meet the expenditures of the State or any agency thereof in carrying out its public duties.

SECTION [11] 9. Upon the repeal of this Act:

- (1) Any relief granted, including any benefit or privilege resulting from any action taken by the governor under this Act, shall cease;
- (2) All statutes, rules, or orders suspended, and all contract obligations that were waived, suspended, deferred, or modified by the governor under this Act shall be reinstated in the form that existed on the day before the effective date of this Act; and
- (3) All rules adopted by the governor under this Act shall terminate.

SECTION [12] 10. 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 [13] 11. This Act shall take effect upon its approval and shall be repealed on June 30, 2002."

Representative Fox then moved that the amendment to H.B. No. 17 be adopted, seconded by Representative Moses.

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

"Madame Speaker, often our amendments that we put before the Body are viewed with some hostility. I would invite members this morning to look at this amendment as an opportunity to bring us all together again in a bipartisan fashion. I want to speak positively about this amendment and leave the comments on the underlying bill for subsequent debates. So, I will be talking about the amendment.

"When we had testimony on H.B. 17 before the combined Finance and Ways and Means Committees there were sixteen

written pieces of testimony. Four of them were in favor of the bill and twelve either called for amendments or were opposed. Of the four that were in favor, three were from the Administration and one was from the Hawaii Chamber which often prides itself on walking in lock-step with the Administration. So, those were the four in favor.

"Most of the opposition or the testimony calling for a modification came down on the side of one specific amendment, and that was the way that the concession committee proposed to amend H.B. 17, to take care of the needs of the concessionaires at the airport. Even though there was so much testimony in favor of this amendment the members of the Committees declined to make the requisite changes that were requested.

"The purpose of the amendment before us this afternoon is to give us the opportunity to respond to the concessionaires request. That language is put before you in this amendment. This amendment also does, very importantly, remove all aspects of the bill that do not pertain to giving the Governor powers over the airport. It then becomes a bill to fix the situation at the airport. The Governor is given the power to do so and he is given the power to do so in the language that the concessionaires offered.

"So, this is a good opportunity to take a step in late October to deal with this situation that calls for emergency powers from the Governor. It's in the area that is most sensitive as a result of what happened on September 11th. September 11th affected the airline industry most directly and in Hawaii not only airlines but those directly involved with airline operations at the airport.

"So, Madame Speaker, we can act now in October in this area in relation to the airport, and if we like the way the Governor uses his special powers in regard to the airport we can come back in January and expand his powers to other areas. But for now let's just concentrate on the airport. Let's get it right. Let's use the language that was offered by the concessionaires. I really beg the Majority to kind of 'turn on your brains' and think about how this might really solve our problem. We can work together in a bipartisan fashion and deal with this very important issue before us. Thank you Madame Speaker."

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

"In the spirit of bipartisanship I will not make any comments regarding one's brain. But in any case what I want to say is that this is well and fine, I understand the intention behind this amendment. However, it does not address the situation at hand. That the bill underlying this amendment will address more properly, so I will get into the discussion later on.

"This is only limited to the concessionaires, but as the members should remember not only the airport concessionaires have been impacted by the events of September 11th. There are those who transport our visitors from the airport to the hotels. There are those who have to do business on our shorelines, beaches and piers. There are those who launch their boats from our harbors. There are those who have parasailing type activities out on the ocean shoreline areas, they have also been impacted.

"This amendment will not address their concerns or their needs. It will not address those who have hotels on the Big Island who sit on State lands who might want to get relief from their lease rent or conditions so that they can remain in business and keep their employees employed. It does not address the needs to address some of the Congressional actions taking place right now whereby the Department of Human Services may have to address changing some of the rules in

place so that Congressional aid money for those with QUEST or those with Medicare or Medicaid can receive assistance.

"So, this amendment, although well placed, and I understand the intention behind it, would not really address those who have been affected by September 11th. So for those reasons I think we should vote it down. Thank you."

Representative Gomes rose in support of the amendment and requested a roll call vote at the appropriate time.

Representative Gomes then asked that his remarks in support of the amendment offered on this measure on Second Reading be on inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Fox rose and stated:

"Madame Speaker, I would like to apologize for any misunderstanding for the term 'turn on our brains,' I simply was referring to the fact that we often enter this Chamber with a pre-set disposition as to how we are going to deal with something and I was just trying to encourage all of us, Majority and Minority, to think hard about this amendment. Thank you Madame Speaker."

Roll call having been previously requested, the motion that the amendment to H.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," be adopted failed to carry on the following show of Noes and Ayes:

Noes, 29: Abinsay, Ahu Isa, Cabrerros, Case, Chang, Espero, Garcia, Hale, Hamakawa, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takamine, Yonamine and Yoshinaga.

Ayes, 18: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen and Whalen

Excused, 4: Arakaki, Hiraki, Pendleton and Takumi

(Main Motion)

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

"Breaking news, I heard the Senate side passed the amendment similar to the one that we tried to pass on Wednesday. But there was a little confusion as to who introduced it. When they found out the Minority introduced it, they reconvened after a recess and shot down the amendment. So, it was good to know that there is a great spirit of bipartisanship on the other side of the Capitol as well as here. You would pass an amendment not knowing where it came from only to change your mind when you find out that it came from the Minority. Well it seems like that is what we have here today as well.

"This bill is bad. It stinks. People of Hawaii don't like it and that's why I am not going to vote for it. I'm about 5'11" and Cayetano is about 5'7" and I am a little afraid granting so much power to a person that almost gives us a monarchy and being four or five inches taller than Cayetano I'm afraid to lose my head. I am also afraid to step on his shadow being that we are going back to a system like that if we pass this bill.

"I urge the members of this House to oppose this for the people of Hawaii and your own political future."

Representative Fox rose to speak in opposition to the

measure, stating:

"At the beginning of the Session I proposed that we deal with this bill first and then with the other bills. Partly that was in the spirit of understanding that this bill really has powers that override the actions taken in most of the other bills that we passed insofar as activity between now and June 30th is concerned. The powers exist to do most of the things that we're doing with other legislation. This is far and away the most significant bill that this Special Session is dealing with, and it deserves a great deal of thought.

"I would like to beg your indulgence to quote from some material that was slipped to me from a labor lawyer a strong civil rights advocate and a lawyer with a name that is well known in the circles of the Majority Party. I got this material in some other way. I don't want to quote him directly, but rest assured, it is a name that you would be familiar with.

"This labor lawyer calls this piece of legislation, 'the single worse bill I have ever studied'. He then goes on to say, 'I am not a fan of the literal interpretation of the Second Amendment to the U.S. Constitution regarding the right to bear arms. But the mere existence of this bill makes a good case for it.'

"In speaking of the bill itself going through some of the sections of the bill. As far as section 2 is concerned he says, 'The creation of an advisory committee completes the long-term trend toward infantilization of the legislative branch, the leaders of which will now be reduced to carrying the Governor's dispatches.'

"As to section 3 he says, 'The Governor gets *carte blanche* to suspend any statute effecting business which he thinks hinders his unspecified "efforts to continuity of business activities." Almost any statute can be found to affect business. Decades of development of law and the balancing of the rights and the courts can be overturned in an instant. We are witnessing the apotheosis of the Governor as Caesar.'

"In regard to Section 5 he says, and this is really very important, 'Normally every person under contract with the State would be willing, at a moment's notice, to renegotiate on more favorable terms, that is one party of the contract the party that is not the government would be happy to renegotiate on terms that would be more favorable to them. Intrinsically, the executive branch can renegotiate terms. That is the government has the right to renegotiate anything that somebody else wants to renegotiate. Why are we creating a procedure to enable the Governor to declare changes unilaterally? This bill does not explain. It is the worse sort of imperial impulse.'

"Similarly to the concerns raised by this labor lawyer let me refer you to the testimony of somebody who we can identify, Patricia MacManaman who is the Executive Director of the Na Loio, the immigrant rights and public interest law center which I think many Representatives are familiar with has a strong pro-civil rights and pro immigrant basis to its practice. She says, 'That under the proposal the Governor's authority is unchecked and unlimited. There is nothing so urgent at the present time which requires the Legislature to abandon its legislative function to the executive branch of government.'

"So, these are people that we look out to guard our Constitution. They are extremely concerned about this piece of legislation. It is the kind of thing that should be passed with all sorts of safeguards not stripped of safeguards as this current bill has. We've got to oppose this bill. Thank you Madame Speaker."

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

"Madame Speaker, in recognition of the admonition from the Majority Whip from McCully, I realize that the hour is late and the UH versus Fresno State game is starting in a little bit so I will try and keep this brief.

"Madame Speaker, I strongly, strongly oppose to this particular measure. As I have stated before this measure is overbroad and too sweeping. The terms of this measure state that the Governor of the State of Hawaii has the ability and the power to waive, suspend or modify, in whole or in part, any statute, rule or regulation regarding business here in the State or any contract in the State government. It is in my opinion that this is nothing short of near martial law in the economic arena in our State. This is unnecessary and a wrong step in the wrong direction.

"At the start of this legislative Special Session, Madame Speaker, the people of Hawaii asked us to do something dramatic. They asked us to be bold. The economic ship of the State of Hawaii is sinking. Unemployment is up, bankruptcy's are up. There is a crisis in our economy. The Governor of the State of Hawaii proposed a bold plan to infuse \$1 billion into our state economy to help prop it up. While I may quibble and disagree with the details with the Governor's plan, I think it is too much spending. I would prefer to see more tax breaks and more tax cuts. I do not quibble that the Governor was thinking boldly.

"I am extraordinarily disappointed that this Legislature and this Special Session is not matching the Governor's boldness and bold action. Instead what this Legislature is doing with this bill, which in my opinion is the defining bill of this Special Session is that it is throwing up its hands and in a near state of panic, basically saying to the executive branch that we here in the Legislature cannot save this economy. 'We don't know what to do. You, Mr. Governor save Hawaii's economy. You do everything.'

"That is not the right way to go and that is not the system of our government. We do not vest all powers in the hands of just one man.

"Madame Speaker, I'd like to point out how silly and how ridiculous this bill is taken in relation to the other measures that we have passed today. Earlier today this Legislature unanimously passed H.B. 8 which will increase the tax credits for hotel renovations from 4% to 10%. The Governor has now threatened vetoing that measure. Even if this Body and this Legislature passes H.B. 8/S.B. 8 and the Governor vetoes it and we have the guts and courage to override that particular veto, if we pass this bill, H.B. 17 this martial law bill, the Governor could still moot that bill. Even if we override his veto could waive or suspend H.B. 8, again making the basic tenets of a representative democracy and the powers of the legislative branch, moot, ineffective and pointless.

"Indeed Madame Speaker, this bill is all we needed to pass in the very beginning. If that's all we wanted to do was to save the State of Hawaii, we can just pass H.B. 17 and go home and be done with the rest of the legislative package.

"Madame Speaker, I humbly ask the members of this chamber to please very, very, very seriously consider what this bill is seeking to do. This bill is going to give a blank check to the executive branch. This bill is ceding too much power from the legislative branch to the executive branch. This bill is a representation of the Legislature panicking, unable to respond to a crisis. This bill should be rejected. This bill should be voted down. Instead we should find some real true concrete means of helping the people of the state of Hawaii get out of this economic crisis. Thank you Madame Speaker."

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



"Let me first of all thank my colleague of Hawaii Kai, the former state wrestling champion, for the admonition on the impact of this bill on one's political future. I also want to respond to my colleague from Kaneohe in that I do take very, very, very seriously both what this bill requires and the situation and context at which it arises.

"Let me be clear from the outset. I don't doubt the sincerity of the opponents of this measure and the sincerity of the beliefs that they express. Nobody who is committed to our democratic form of government, who believes in our system of checks and balances, and I count myself firmly among that group, can consider this bill without some concern. It does in fact provide our executive branch for the next eight months at the most, and for limited purposes only, with powers beyond the equilibrium with the legislative branch we are accustomed to 'in normal times.' But these are anything but normal times.

"We must rise above those concerns, view realistically what September 11th has wrought and what its aftermath might still wreak to our home and people and ask simply: What is the right thing to do? Under dire circumstances not of our making, as we hope for the best but prepare for the worse.

"Let's first clear up what this bill does and more importantly, because we've heard a lot, doesn't do. It does allow the Governor on expressed determination of a carefully defined economic emergency and consultation on the Legislature on a case by case basis to suspend State statutes, rules and contracts. Any such suspension must be for the expressed purpose of 'facilitating continuity of business activities and services, minimizing employee layoffs and preventing endangerment of public health, safety and welfare.'

"Now contrary to what many have been led to understand, these enhanced powers are temporary only. Any suspension is to a date certain but in no event can the effect of the suspension extend beyond June 30th of next year. In fact the law itself and with it the very authority of the executive to suspend anything expires automatically on June 30th of next year. So, let's be very clear. There is no way, no way that this authority will extend beyond June 30th of next year unless this Legislature again affirmatively acts.

"Now the first question asked is: Why does the executive need this power? What does the executive want to do with it? The whole point is that we don't exactly know anymore than we could have predicted anything about September 11th or what has come since. We are in a highly unpredictable, highly fluid time where the need for maximum flexibility to enhance public safety, provide economic stability and care for those in dire need is great.

"But here are at least some possibilities that we might consider. Waiver or suspension of State taxes or other fees for particularly impacted businesses or individuals. Extension of health or unemployment benefits for particularly impacted individuals. Allocation of State personnel and other resources from lower priority programs to emergency priority programs. We don't know. All we know now is that we are ill equipped at present to turn the resources of state government on a dime to address sudden and unexpected potentialities.

"But some ask isn't this completely without precedent. The clear answer is no. Under our own existing State law which is not different in principle from the law of any other state the executive branch is currently empowered to suspend state law in times of natural disaster or other civil defense emergencies. It does not take any great leap to connect that concept to an economic emergency which, though not technically arising from a natural disaster, has the same basic effect on the fabric of our society and demands that same basic flexibility of response.

"But others respond and as we have all heard lately: 'Why do we need this law if the Governor of New York has not asked for it?' The simple is that he already has it. He is entitled under an existing New York statute to suspend state law, etc., in the event of a man-made disaster. That is not specifically covered at present under Hawaii law. He has used that law since September 11th. For example, he has extended the real property tax deadline."

Representative Hamakawa rose to yield his time.

Representative Case continued, stating:

"He has suspended regulations hindering relief efforts and economic recovery. Modified worker's compensation and unemployment requirements and employed retired police officers for the relief effort.

"Now some fear that this measure totally forfeits any checks and balances on the executive. But that has no rational basis when you really look into it. First and foremost it does not and cannot suspend our federal and State Constitutions or federal law. So all of the protections and checks that they provide continue to govern the executive. For example, there can be no taking of private property without compensation under this law. There can be no denial of due process under this law. There can be no impairment of contracts under this law. And the Judiciary remains fully empowered to enforce these protections to the fullest extent of its powers.

"Further the Legislature itself does not forfeit its power and obligation to reverse any abuse of this power by the executive. The Legislature passes the law and the Legislature can revoke it. Just as we can revoke any specific action taken by the executive under this bill. If time were of the essence. If the executive branch did something totally out of the ordinary, totally uncalled for, that process of reversing that action could take as little as not even three weeks. That assumes that the executive branch takes the full ten days entitled and allotted under our Constitution to veto the Legislature's revocation before we meet to override. So, the Legislature clearly has not taken themselves either out of the picture or off the hook.

"Finally and regrettably, and this needs to be acknowledged, for some, the objection to this measure is not the concept of the measure but rather distrust of our current Governor."

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

"I am raising an objection. That is absolutely wrong. To object to what is going on inside of our minds..."

The Chair responded, stating:

"Representative Fox, you are out of order. You have to raise a point of order."

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

"The allegation made by the Representative from Manoa is absolutely false and I take great umbrage to that."

The Chair responded, stating:

"Representative Thielen, I think Representative Case has the right to state what is his belief."

Representative Thielen again rose to a point of personal privilege at which time the Chair declared a recess.

At 2:08 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.



The House of Representatives reconvened at 2:09 o'clock p.m.

The Chair then recognized Representative Case who continued, stating:

"I believe that that distrust is unfounded..."

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

"Madame Speaker, I do believe that the speaker from Manoa is in violation of our Rule 27.7 which says that it is not the person but the measure that is the subject of debate. It is not allowable to arraign the motives of a member but the nature of consequences of a measure that may be condemned in strong terms. I believe that the course of this language that he is using is again, whether it's Minority or Majority, those that are opposed to it, that it is arraigning that particular motive. I believe that he is out of order for that."

The Chair responded, stating:

"Representative Gomes your point is well taken. However Representative Case was not specifically talking about any member of this Body. I think he was addressing some of the concerns in the general public. Isn't that right Representative Case?"

Representative Case responded, stating:

"May I proceed?"

Representative Gomes again rose to a point of order, stating:

"He hasn't answered your question; if the reference was to members of this Body or to members of the general public."

The Chair then recognized Representative Case who responded, stating:

"Madame Speaker, I will not impugn the motives of any member of this Body, and I will not second guess what any member of this Body does or doesn't think."

The Chair acknowledged his response and asked Representative Case to proceed.

Representative Case continued, stating:

"I believe that distrust is unfounded, but regardless of whether one shares that opinion, this is a time, in fact the time, when we must set aside fear and concern and entrust our government institutions, including our executive branch, to do the right thing by all of us. In this belief and under these circumstances, I would support this measure regardless of who specifically was occupying the office of the Governor. Thank you."

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

"I'm not impugning our Governor or his intentions. I just believe that this Body is abdicating our responsibility. I mentioned it the other day that if we wanted to be here to solve the people's problems we could stay in Session. We could recess until the day before we come back in Regular Session. Therefore we would not be out of Session and we can come back on very short notice and fix the problems as we see them."

"If we are not going to do that then I would like to say that I have forefathers that came from a small country in Europe. In 1929 they had severe economic difficulties and they wrote measures very, very similar to this. In fact many of the words

look like they could come out of this, or these words could come out of that document. This was in the 1930s as the situation got worse and worse. They believed that whatever they could do to solve the country's problems, they should do and they gave absolute power to one man. He suspended everything that was going on other than that in the country. He took over and we fought a great World War because of that.

"I'm not saying that our Governor would do that. But I want all of the members to be aware that absolute power corrupts absolutely. We've heard that over and over again. Those people were in shock. They didn't believe that this could happen to them. They believed in their leaders and they believed in their government. That government deceived them. That government took over. That government suspended all rules and regulations and did whatever they wanted to do. That could happen to us. I'm not saying it will. I very much hope it doesn't but we are abdicating our responsibility and setting the stage for it to happen."

"I ask all of you to look at the speech of the enabling Act of 1933 delivered to the *Reichstag*. Look at the words in that document and see the similarity between that and this document. Thank you Madame Speaker."

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

"I would first like to note that I think there are some real serious issues involved here and I believe that our colleague from Manoa covered rather eloquently a number of those points. So I would like to maybe just cover some other points that have been raised in terms of the debate."

"It seems as though a lot has been made that this is such an extraordinary bill that it gives such super powers that makes it so unique in that sense. Yet as indicated earlier, we already have on the books statutes that provide the Governor with even broader authority."

"Madame Speaker, basically Chapter 128 of the Hawaii Revised Statutes deals with public safety and internal security, and as indicated by the earlier speaker, in the cases of natural disaster the Governor does have 'super powers.' In fact I would submit to you that even broader powers than what this bill before us attempts to do. Because in Section 128-7 of the statutes, the Governor is the sole judge of when any emergency situation occurs. The statute there says that, . . . the Governor shall be the sole judge of the existence of the danger, threat, state of affairs or circumstances'. Not only is he the sole judge under this statute which is on the books, but he solely determines when the emergency period ends. Following that the statute does define that a period of civil defense emergency proclaimed pursuant to the Federal Civil Defense Act of 1950 shall terminate as therein provided in a period of civil defense emergency proclaimed by the Governor shall terminate upon proclamation by the Governor."

"In that same statute, Section 128-8, subsection 4, it states: 'suspension of laws.' The Governor has the authority under our statutes to suspend any law which impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with civil defense or other emergency functions including without limitation laws which by this chapter specifically are made applicable to civil defense personnel. The Legislature amended Chapter 128 subsequently and also included the Governor's authority to waive procurement statutes and that is included in Section 128-10, subsection 10."

"So, I think as the previous speaker indicated if we were to look at this in perspective and we can claim that, yes, it is extraordinary powers. It's not as if there isn't precedent. Then the judgment I believe becomes: Is an economic disaster any less of a situation and that we should respond to the greatest

capacity possible? Therein I think, while much of the focus of the debate has been on the power, the authority granted, don't we need to analyze the purpose of the measure? And as earlier speakers have indicated, who is this intended to help?

"Examples have been cited, and I will submit to you Madame Speaker, in the bills already discussed today, there has been an attempt to establish or attempt a number of elements of the crisis we face today. Certainly legislation clearly addressing unemployment insurance benefits for income, health coverage and human service needs, because these are the people most immediately impacted. But the package also deals with security needs because certainly after the terrorist attacks, providing assurance to the general public is an important part of what we do here.

"The final component equally important here is that of our economy, or our economic disaster, which really was the genesis for why we are all in Special Session today. And therein is the very purpose for this measure, and that is to address, not only the needs of the concessionaires, not only the human needs of those most immediately impacted, but economic situations of many, many other businesses, many, many other individuals throughout the state.

"I will cite for you one example. In 1994, Hamakua Sugar closed for the final time. At that time, there were many, many sugar employees who, in many respects, had no future. The uncertainty, the stress on the family, all of that. Basically at that time, all their basic needs were put into question. I think some of them were able to manage by doing a variety of things, such as diversified agriculture. But many of them became hotel workers."

Representative Kawakami rose to yield her time, and the Chair "so ordered."

Representative Takamine continued, stating:

"Many of them became hotel workers only, in this year after September 11th, to find that they are again unemployed. Many of them had to not only work part-time in some incidences, or full-time at the hotel, but tried to do diversified agriculture because the State was the only landowner in the area, after the bankruptcy, willing to provide some resources to the community. And in that instance, the Hamakua Agricultural Coop helped negotiate with the State to provide for long-term leases to those individuals. Many of them had a positive cash flow. Some of the products being grown were provided to the hotels. Well after September 11th, many of them who saw a positive cash flow, now saw a negative cash flow. Shouldn't these individuals be equally deserving as the concessionaires because of the consequences of September 11th? I submit to you Madame Speaker, that this is one of the opportunities that would be created under this bill.

"We have heard numerous references to abdication of responsibility. Yet it seems as though that issue is squarely balanced on whether there are adequate safeguards built in to the bill. Again, I know we've gone over this earlier. I will just cite the sections. On page 3 of the bill, in section 3(b), there is a requirement for public notice any time the Governor exercises this authority to suspend any statute, rule or order. The more meaningful safeguard is really included in section 8 where any time any action is taken, as stated in line 20, each action shall require an explanation of the reason for such action, the names of all business and contractors benefiting by such action, the actual benefit provided, the amounts expended, and the source of funding for each expenditure.

"That is not the only safeguard, but I will submit to you that that is one of the safeguards where we will be able to exercise oversight responsibility. Clearly, this will be information after-the-fact, and therein the bill also provides for the consultation

with the Speaker of the House and the Senate President. That is another safeguard. So, I submit, this is not an abdication of responsibility. This bill is a tool and for the very reason why we are here today, to address the economic crisis facing the State, and to provide for a means of addressing economic relief to those individuals and entities who may be facing a special hardship case. This provides for a means to address those concerns. In light of the foregoing, I will be supporting the measure. Thank you Madame Speaker."

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

"It is fair to say that this bill grants so much power to the Governor that unfortunately I am standing here today stating that its title could justifiably be 'the super-powers bill.'

"I stand in opposition to the measure not because I support Republican ideals, I rise in opposition because..."

Representative Thielen rose to a point of order, stating:

"Madame Speaker, I would like to object to that last statement. I don't believe Republican ideals are what is being debated here. I think it is the democratic ideal of our three branches of government. I would like to correct the speaker on that aspect."

The Chair responded, stating:

"Thank you for your point. Representative Yoshinaga, I don't think you were specifically talking about this bill, however, please proceed."

Representative Yoshinaga continued, stating:

"Thank you Madame Speaker. I rise in opposition to this bill because I favor democratic ones. This measure is the most undemocratic legislation this House has seen. A vote for this bill creates a 'supergovernor'.

"This bill is undemocratic because it requires us to abdicate our duty to our constituents to do the job that we were elected and paid to do; to speak for the people on matters of public spending and policy. This bill is undemocratic because it requires us to give up our duty as an elected official to monitor the workings of our State government. I believe this bill is undemocratic because it grants to one single individual man the power to spend huge sums of public funds virtually without oversight. Therefore, I submit that anyone who votes for this bill is voting to abolish the constitutional role of this House to serve as a check and balance to the executive branch of government. I have much more respect for our Constitution than those who wish to abolish the responsibility of this House. Thus I refuse to relinquish to the Governor the power that was entrusted to me by my constituents.

"This is not an attack on the Office of the Governor, or Governor Cayetano himself. In fact, I'm very proud and I commend the Governor for his strong leadership during these years of very difficult economic and political issues that we have faced since statehood. But that does not mean, as an elected official, am willing to abdicate my responsibility as a voice of the people who sent me here. This bill does not do that for our people. Indeed it does precisely the opposite and for that reason I am voting no. Thank you."

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

"Madame Speaker and colleagues, today I sit here humbled by the significance of this very Chamber. We gather here in this room, this hallowed place that demands great respect. I thought to myself, what a privilege it is to sit here amongst us.

This room and what it symbolizes are exactly what the terrorists who attacked the World Trade Center are trying to destroy. Being here today, perhaps, has deeper meaning to me now than it ever did before. After September 11th, Americans were saying over and over again that our lives will never be the same again.

"New York, of course, despite its utter destruction, showed a kind of spirit and confidence that we can all admire and can hopefully emulate. In Hawaii, we can feel lucky for we did not suffer direct attack. But we have been hit just as surely as the others have.

"The one thing the attackers did not do is to pull us apart, like they had intended to do. Rather, they saw us unite together as one Nation and one people. They watched as Americans rallied behind our leaders. We stood in support of our President because we believe in America and what America stands for, and our beloved Hawaii.

"And so we come here to this hallowed place for the fourth time this year, this time to repair the economic damage done to our State and our people. We come here today to help businesses and families, and more importantly, we come here as representatives of the people of Hawaii. We are here because they, the people, trust us to do the job for them.

"To protect the lives and livelihood of our citizens, Madame Speaker, in my opinion, is our job first and foremost. In time of crisis, it must be done quickly and aggressively. You might recall after the September 11th crisis, as you had said when you were speaking together with our colleague from Nanakuli, the Governor immediately met with business and community leaders asking for their assistance on how to deal with the impact of the attacks on our islands. HB No. 17 is not about giving up legislative mandates. It is not about giving the Governor personal power to do what he wants. Like Congress, the Office of the President of the United States of America, or any legislature for that matter, the Office of the Governor is an institution. It is a symbol of our democratic system. The Governor is a representative of the people and he is accountable to the people.

"Hawaii's economy has been in a downturn since before September 11th, but definitely, the attack has made it worse. The emergency powers that this bill gives the Governor would ease the financial burden that the people have had to endure. And it would stimulate short-term remedies to get businesses going as quickly as possible. Of course, this does not prevent us from finding new long-term solutions for our economic problems. I simply refuse to believe that the Governor, or any governor for that matter, would use this power for any interest other than for the people that he swore to serve and protect, just like you and me, like all of us Madame Speaker.

"We believe we are here to protect the interest of all the people."

Representative Magaoay rose to yield his time and the Chair "so ordered."

Representative Abinsay continued, stating:

"Thank you. Colleagues, I support this bill because our situation demands it in this time. Like the people of New York, we must stand together and rally behind our leaders to give people hope and a sense of security. In these uncertain times, our lives and freedoms continue to be threatened. Men and women in the armed forces are risking their lives in a foreign land away from their loved ones. It is important that here at home, we show a renewed sense of purpose; that as Americans we are strong and united. And the people in our great state will have confidence in us, and continue to believe in our system.

"Likewise Madame Speaker, I am confident that all of us here in this august Chamber will continue to demonstrate that spirit, that true spirit of collaboration; working together.

"As the organizers of this bill, we are agreeing to disagree. But we are all in this together. We have demonstrated that during the last 14 bills; that spirit of collaboration and renewal. And I know very well deep in my heart that we can do this again on this particular measure. Thank you very much Madame Speaker."

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

"I've been trying to listen to both sides of the issue and I can understand some of the points that were made by the previous proponents of this bill, but I rise in opposition to this bill.

"As the Representative from Manoa mentioned, we live in highly fluid times. We don't know what the future holds. But we do know what happened since September 11th. Some of my concerns, in addition to those raised by the opponents of this measure have to do with the sincerity of the purpose for us being here today in Special Session. To my understanding, as it was mentioned here in some previous remarks, we are here to address the public health, safety and welfare relating to the people, safety and the economy and a sense of security. That is why we are here today in Special Session, to address these concerns. After September 11<sup>th</sup>, we had a Body that met with the Governor and came up with a package that was suppose to address specific concerns and events that have transpired since September 11th. We are here to pass those measures that were suppose to fix our economy.

"My concern in this bill has to do with section 2 where the emergency declaration period is from September 11th to June 30th. If the sincerity of this Session was to address those issues today and in this Special Session, then this period of emergency should read the end of this Session. We know what has happened already and we should have addressed those concerns during this Special Session.

"We know for a fact by reading this bill that, based upon the way it is written, upon passage, the executive branch can declare an emergency. We know that during the week directly following the attack, unemployment rates went over 200% statewide. Based upon the way this bill is written, it is already an emergency. My problem that I have is that if we are here, if we were called into Session to address the concerns, any future or continuation of the war on terrorism, in section 1, any risk of further terrorist attacks further threaten economic welfare, everything refers to the future. But we are not addressing what has transpired during this Session. That's the concern that I have with this bill. Thank you very much."

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

"I rise in opposition to the measure with reservations, and I'd like to explain what those reservations are. It is that sadly, this is the only vehicle we have left to address the airport leases and the downturn and the help for different segments of our business community. It's unfortunate, but that's my reservation. This is it. This is the only thing that we have left. I'm voting against it primarily because it is bad legislation. However, I can understand where it comes from.

"We've been in a ten year recession now. Hawaii has really not ever recovered from that. When you take a look, we've tried, or the left, your side of the aisle, has tried repeatedly to 'kick-start' the economy with different spending initiatives. We've kicked it so many times we've almost kicked it to death. But the fact is that I can understand failure. Businesses fail.

People try things and fail. When you've tried everything that you could for over ten years, repeatedly trying to get Hawaii back on track, I can understand your saying, 'Look, I don't want to be responsible for this. I really don't know what to do. I can't handle it. I'm just going to pass the buck upstairs and let him make the decisions. I don't really know where to go. I don't really know what will work.' Over ten years of trying that old philosophy from that side, and it hasn't worked. So I can understand where it comes from. Just pass it upstairs.

"And it's not that I don't trust Governor Cayetano. I trust Governor Cayetano to do what he really believes will work. The question becomes: Will what he does really work? Is it the real solution? It remains that very, very real possibility that maybe what you've tried over the last decade, and what you're trying here, won't work. And that's the sad part. Maybe it won't work. But I do understand passing it away; take this burden away from me. Give it to someone else. Don't let me be responsible. I can understand that. Thank you."

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

"One of the previous speakers had said that they really wanted us to think carefully about this bill and really and honestly, I have been scrutinizing this bill. I've come to the conclusion that all we are doing is providing some flexibility to the Governor. To be honest, every single day, I'm learning something new about the effects of September 11th upon our economy. Everyday something new is happening and I learn about some business here or some business there. And really what we are trying to do here is to provide the Governor with some flexibility because I don't know if people realize just how complex the administrative rule and regulation process really is.

"Because we are the policy makers, we set the laws and the Governor as the executive gets to adopt rules. The rules are the place where he can play in between the statutes, but the statutes really have the overriding effect. But here what has happened is that the Governor does not have the flexibility, even within those rules that he can adopt. There are a lot of limitations on these rules. Specifically, there is our Act 168 adopted in 1998 which is the Hawaii Small Business Regulatory Flexibility Act. This Act prevents the Governor from enacting any regulation in a timely manner. A regulation has to go through some commission, and the commission reviews it. It takes about a year and a half. This is a roadblock to any kind of business regulation. It's on the books right now. This is the statute. If we don't get rid of this statute then the Governor can't do anything with the regulations.

"The other thing that people have to realize is how complex the whole process really is. Everyone I think has a copy of the Hawaii Administrative Rules directory. I do some administrative law and labor law, and there are about 40 pages for labor law. This book has about 500 pages.

"People need to realize that this is 500 pages of a directory. This only lists the titles of the Administrative Rules. The actual Administrative Rules themselves take up volumes and volumes and volumes of shelf space in the Lt. Governor's office. For anyone to think that we have the ability to go through all of these and anticipate what will be needed everyday I think is a bit unrealistic.

"People have suggested that maybe we should just continue the Special Session and keep things going because we are abrogating our responsibility. Unfortunately that cannot happen. Under Article III, Section 10, Special Sessions can only go on for 30 days. Even if we wanted to be here and have the oversight, and be the watchdogs, we cannot. The Constitution does not allow us to do so. So I think for all of

these reasons, I see this bill more as providing the Governor some flexibility.

"As spoken by the Representative from Manoa, there are limitations. Specifically the Constitution really constrains what the Governor can do. He's not a tyrannical leader; he's not going to be a tyrant. And he's an elected official. I think for those reasons, any comparison to the Governor being a dictator is really inappropriate. I really do think that that is inappropriate.

"And so for those reasons, I do stand in support of this bill. Thank you."

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

"I stand in support of the measure, and this support is not given lightly, Madame Chair. For someone who thinks that real power is shared power, and that our differences do make us strong. If this was a normal and peaceful time, we probably wouldn't be sitting here in this Chamber right now. The fact of the matter is that we are sitting here because of the Governor's unique authority to call an emergency Session. I cannot help but think that this floor debate does speak about mistrust and distrust. I cannot help but see that this is part of the argument.

"But the reason why I am supporting this measure is that we are not in a peaceful and normal time. These are times when we really are reacting to provide relief in hardship cases.

"Madame Speaker, I would like to read a letter in support from Susan Doyle, Co-chair of the Hawaii Together put together by our Governor. She writes that, on behalf of Hawaii Together, they express this strong support for passage of both HB 1 and SB 1, relating to social welfare; and HB 17 and SB 17, relating to economic emergency. Both are needed to assure that the emergency food and shelter assistance intended to be provided is available as quickly as possible. This is the reason why we are here debating this issue right now. These are not normal times.

"Previous speakers asked: Is this the right step? Or is this the wrong direction? Perhaps even hinting that our Governor is like a forefather in a foreign country. I take..."

Representative Moses rose to a point of personal privilege, stating:

"I object to that line. I was not referring to our Governor as a dictator or to *Herr Fuehrer*. What I'm saying is that there are similarities in this bill to the language that the Chancellor used at that time. I also said that I do not impugn our Governor or his intentions. Thank you."

Representative Kahikina responded and continued, stating:

"Thank you for the clarification, but even with that, just to imply that our true democratic process would put forth lyrics even close to those documents, I take offense to. We are here to talk about whether this is the right step. I think that not to do anything is the wrong step.

"Dr. Chandler, the Director of Human Services writes that in order to put the temporary health insurance program in place by December 1st, we need rules to be implemented. This bill would allow us to make those rules. If we wanted to help people who were laid off, we could change our definition of 'work' to have them volunteer and not lose their benefits. This bill would allow us to do that. If we wanted to support those who were laid off and wanted to go to school, we could count education as part of the work participation for welfare purposes. Those rule changes would help us to do that. If we wanted to change the work requirement hours from 32 hours to

20 hours for those who are using up their 60 months of cash assistance, we need to change those rules. That is the reason why I am voting for this measure. It's not to give up my legislative oversight. Why? Because the Governor still has to give us a list of all those items that he wants to push forward through this authority. We would have a chance to take a look at that. I'm not afraid, because Madame Speaker, we can come back and override this, as the Representative from Manoa stated. We have the power to make laws and we have the power to rescind those laws. Within 16 session days we could override the Governor.

"The point of the matter is, Madame Chair, through the collective mind and willpower, we can override the Governor's veto. We still have preserved our authority. These are not normal times. These are not peaceful times. We are here to address those emergency needs and that is why I am voting in favor of this measure and ask my colleagues to do so also. Thank you."

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

"Thank you Madame Speaker. I have a couple of comments first and then I have some testimony that I wanted to share from one of the testifiers from the hearing the other day.

"Earlier a comment was made from one of the speakers that he did not doubt the sincerity of the opponents of this measure. Similarly, I don't doubt the sincerity of the proponents of this measure, and I think that they are offering this in good faith. I would agree that we need a statute that would deal with and would allow us flexibility where there are man-made disasters like the one we've experienced.

"It seems that at present we don't have that on the statute books, at least not one that compares with the civil defense measures that we have set forth. But I don't think this is the one. And I don't think this is the one especially because we, or the Majority anyway, is about to pass this bill which is an unamended bill from its introduction to its passage. It hasn't gone through the winnowing process of the committees, particularly the Judiciary Committees who need to take a look at this and carefully study it. We haven't had sufficient public input for a measure of the sweep and breadth and scope as this measure has.

"Again, I don't doubt that we need some kind of statute to deal with these situations, but this isn't it. And I don't understand the hurry to get a bill like this through in five or six days. If we've got 30 days for a Special Session, let's take it. This is a fundamental change in our statutes and perhaps a good one if done correctly.

"The U.S. Congress just passed anti-terrorist legislation and there was great consternation, as there should have been, when that bill was introduced because it dealt with sweeping powers for the federal government. It imposes various restraints, perhaps on civil liberties, that cause great concern for the rights of immigrants, among others. And the Congress, wisely so, slowed that process and spent time looking that bill over and working it through, and winnowing through the language. And it seems that they have come up with a so-called bipartisan approach that the President will sign-off on. I think that is a good example for us in the case of this law.

"The problem with this law, notwithstanding the alleged safeguards, and notwithstanding what its intention is which is to help those who might need it before we can fix it in the next session, is that it is open to great, great interpretation; and reasonable interpretation. Therein lies the problem. It's not a matter of if we trust the man named Benjamin Cayetano, who by the way, I credit with reaching out early on and bringing people on board, and trying to get something going. I

commend him for that. I don't necessarily agree with the ideas that have been put forward, but that is a separate matter.

"But the concern is to the Office of the Governor, and the persons surrounding that Office and their advisors and the poor quality of advice that that Office is getting. That, Madame Speaker, will create what we don't like to happen, and what has often been referred to here as 'unintended consequences.' This bill is ripe for lots of unintended consequences to occur.

"I don't need to remind us, but I suppose I will, because this House is part of a Joint Committee on the Felix investigative commission. One of the problems the Committee is investigating is the grand, sweeping powers vested in the office of the school Superintendent. The Committee is spending considerable time, money and resources investigating the unintended consequences of that grand, sweeping power. Nobody, I think from the outset would have accused the individual who recently resigned because of allegations of abuse, with impure motives when he was granted those sweeping powers, but here we are. That's a lesson for us to take very much to heart.

"I would also note that I do find it more than ironic that the Majority..."

Representative Auwae rose to yield her time and the Chair "so ordered."

Representative Gomes continued, stating:

"Thank you. I do find it ironic that the Majority is prepared to pass a bill that provides the sweeping powers that it does, yet has been unwilling to pass sweeping reform of civil service laws, or of the educational system. I would again pose that to the Majority because I can't reconcile that and maybe the Majority can.

"What I would like to offer the members here is some testimony by Linda Lingle which was given to the money Committees recently and I think it sums up well some of the points and some of the concerns that go to the heart of this. Ms. Lingle is the Chair of the Republican Party, but she also was the Chief Executive of Maui County and she obviously desires to be Chief Executive of this State. And yet she is not calling for these sweeping powers, and does not view them as an appropriate solution. So if I may Madame Speaker, she begins by addressing the Joint Committee the other day.

I want to thank you for this opportunity to testify on bills that have been proposed because you believe that they will help revive Hawaii's economy..."

The Chair interrupted, stating:

"Representative Gomes, are you going to read the whole testimony? I understand her whole testimony took about 20 minutes?"

Representative Gomes responded:

"Is there an objection to my reading it?"

The Chair responded:

"If you have enough people to yield their time. Would you like to submit that and take some excerpts from it?"

At 2:55 o'clock p.m., Representative Gomes requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:02 o'clock p.m., with Speaker Say presiding.

The Chair then announced:

"Members, we are on House Bill 17, and after a great deal of discussion by all of you, the Chair would like to recognize those individuals who would like to insert their comments into the Journal."

The Chair recognized Representative Gomes who stated:

"Thank you Mr. Speaker. I appreciate your comment and if I may, I would like to invite everyone after Session to a reading of the testimony, and I would beg your indulgence and ask to have the remarks inserted into the Journal," and the Chair "so ordered."

Representative Gomes' written remarks are as follows:

Testimony on H.B. No. 17 by Linda Lingle  
Submitted to the Committee on Finance  
and the Committee on Ways and Means

"I want to thank you for this opportunity to testify on bills that have been proposed because you believe they will help revive Hawaii's economy and cushion the public from the impact of the September 11 terrorist attack on America.

"I know you have mulled over lots of ideas among yourselves, and that various members of the public have shared with you their thoughts about what needs to be done. I believe some of the ideas that have been proposed are important, such as extending unemployment and health benefits to people who have lost their jobs as a result of the September 11 attack. And, I like a couple of the tax relief proposals.

"Of course, I think you are wrong not to eliminate the 4% tax on food and medical services and mistaken to overlook the positive impact that a one-week tax holiday on retail purchases would have. And, I don't like some of the changes to the state procurement law that you are considering.

"But none of these proposals individually or in combination would have caused me to come testify today, because I know you are trying hard to come up with sound ideas. And, I know that people of good will can disagree on solutions, especially at such a challenging time.

"I came here today for one reason--to ask you to set aside any attempt to grant the governor or anyone else any sort of extra-legal authority. The emergency powers bill that some of you are considering goes against the basis beliefs of a democracy.

"While it can be argued that it might allow for a quick response to a particular business or individual problem, the bill is so filled with the potential for widespread abuse, favoritism, corruption and a general disregard for the views of the public as to make it completely unacceptable in any form.

"If you pass the Emergency Powers bill, it will reveal to the public that when our state faced tough times and an uncertain future, the Hawaii State Legislature wasn't up to the challenge.

"It has been said that how a person responds during difficult times, reveals their true character. I believe the same can be said for the legislature.

"The necessary steps you need to take at this difficult time are very clear:

making sure those laid off because of the September 11 attack have adequate health coverage and extended unemployment benefits

cutting taxes to allow families more money to spend

providing an adequate social safety net for our community's most vulnerable people

focusing on tourism generally and the airlines specifically

and preparing for reduced Council on Revenues projections that will come in its November report

"Instead of concentrating on these basic steps, some of you are panicking and proposing to turn over the operations of government to one person.

"I know and have worked with several of you both as a mayor and a party chairman, and I believe that you are better than this.

"Sure, we're facing tough times and a high degree of uncertainty. But that's no reason to abdicate your responsibilities like this. It's often said jokingly that a democracy is a very inefficient form of government and that a dictatorship allows you to get things done faster.

"True or not, we all know and agree that democracy is the best form of government. Anyone who votes to pass the Emergency Powers bill is saying that they have lost confidence in democracy.

"President Bush is facing a more challenging time than we are facing here in Hawaii, and yet he has not asked for the kind of sweeping, unilateral powers you are contemplating giving the governor. And, Congress would not give it to him because that would be abdicating its responsibility. Instead, they are working together to craft an economic stimulus package they feel will help America's people and economy. You should be focused on the same goals.

"One senator said on last night's news that they supported the Emergency Powers bill because "the governor was elected, not the department heads," implying that one or the other needed this sweeping new power to grant favors to particular people and businesses.

"This senator forgot to note that not only was the governor elected, but each of you was elected as well. Passage of this bill will render you irrelevant.

"When the public realizes that their vote for you in last year's election had no meaning because you gave it away one day in October of 2001, our lowest-in-the-nation voter turnout will slip even lower.

"Your job as a legislator is more than attending caucus meetings, sitting through endless hearings and showing up at community events, it is making tough decisions during tough times.

"Besides telling the public that you weren't up to the challenge when times got tough, and that the votes they cast for you were wasted, this bill tells outside investors that Hawaii's laws are fluid and depend on how one person interprets them on any given day.

"This lack of certainty in the law and the potential for unfair and unequal treatment is the opposite of what investors seek. They want to know clearly what the law says. And, in that sense, this is a very anti-business and anti-investment bill.

"I am not questioning anyone's motives for wanting this bill to pass. And, I am even willing to assume that everyone supporting this bill has good intentions.

"The point is that our system of democratic government should not rest on the mantle of good intentions by some



individual. Rather, we are a government of laws that is supposed to treat its citizens fairly and equally. And, we are a system with three branches of government, not two. We believe in checks and balances, not a blank check for the governor.

"The bill itself recognizes the potential for unfair and discriminatory application of the law by saying that the governor may adopt rules to avoid unjust treatment, but he doesn't have to adopt such rules. And, the bill says even if he does adopt rules, there can be "reasonable exceptions and exemptions." In other words, even if rules are adopted, they don't have to be followed.

"If you pass the Emergency Powers bill, you will make your job a lot easier because there will be no need to pass any other bill. You will have already given away the power to nullify your work. And, there will be no further need for the legislature.

"The way I read Sections 3 and 5 of this bill, the governor could make major shifts in public policy on matters that have already been decided by the legislature and the public, or have yet to be decided.

"Here are some examples: he could move the Ala Wai Golf Course, allow the boats back on Hanalei River on Kauai, permit the Kahului Airport runway extension on Maui, choose a permanent site for a prison on the Big Island, or redo the teachers' contract more to his liking.

"Some of you will argue loudly that this is not the intent of the bill. You will say later that you were only trying to help business and that the governor's actions go too far. But it will be too late. This bill should die and you should get back to the work you were elected to do.

"I urge you to get back to basics. Ignore the call from newspaper editorials to do something bold. I can assure you that those editorial writers are not being bold right now with their own money.

"Instead, they're doing what you and I are doing--making adjustments in our spending habits, avoiding major new debt, learning as much as we can about national and international events, and waiting to see how things unfold in the coming months.

"So, get to work today building the economic and social safety net for the people laid off because of the attacks, focus on tourism and the airlines, cut taxes so families have more money to spend, and prepare prudent responses to the Council on Revenues' lower projections next month.

"Thank you for taking the time to listen to my opinion, and good luck and best wishes in the coming days."

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

"Mr. Speaker, I will insert my remarks in the Journal, however I do protest the fact that I have not have a chance to speak in opposition to this measure. Thank you."

The Chair responded:

"If you do want to speak, the Chair will allow you to speak. Please proceed."

Representative Marumoto continued, stating:

"Thank you. I will avail myself to this opportunity. I am in opposition, and I applaud the Vice Chairman of the Judiciary Committee for sounding like a Republican. He sounds like he

wants to cut 'red tape' and I'm all for that. But it's not merely taking a scissors to some 'red tape'.

"I think what this bill really does is take a sledge hammer to the Hawaii Revised Statutes and it completely obliterates our statutory protections and programs. I don't think it quite sweeps away our constitutional protections, but it certainly is a powerful bill which may render the Legislature irrelevant, even all through next Session.

"We've talked about trust here and I want to talk a little bit about that. As the Representative from Waimanalo alluded to, we have just experienced the resignation of the Superintendent of Education. We had every expectation that he would really help our school system and we are disappointed that he has resigned. But he had been given extraordinary powers, and may I just explain that one of the things that he did was to execute a contract for over \$100 million. Over \$100 million. The first of draft of the contract may have been for more than \$120 million. This was to hire special education teachers. This was a legal act under the super-powers given to him by a federal judge. He could do this and we would have to pay the bill. We may still have to pay the bill for future teachers that are hired by this mainland company.

"We should not give extraordinary powers to anybody. Maybe I don't trust the Governor, but maybe I don't trust anybody. I think our government was built on checks and balances just so one branch of government would not get out of hand. I think we need all three branches to hold in check each other.

"We may still see the Superintendent come back in the form of a czar for the educational system. If on November 1st, Judge David Ezra finds the State not in compliance, he can appoint a czar to take over our educational system. That may be Mr. LeMahieu, or it may be someone else. I hope it does not happen, but we may see that.

"I think that this bill is extraordinary. I think that some people may find relief under it. I think everybody will be petitioning the Governor; people who have subsidies and grants, people who have concessions, people who have leases, everybody who has a contract, a land permit with the State, anybody who has an agreement for purchase of goods, services and construction contracts. Everybody who has suffered 15% losses and can meet the other criteria. Who is the Governor going to listen to? He will listen to some. He will listen to his friends. He will listen to the important people and industries in this community. But he cannot listen to everybody. I think there's a chance he will be arbitrary or capricious, and we want to be fair in this entire process. I am very concerned about this bill. I hope that you will take it to heart.

"Also I think it's a strange bill, technically. I don't see any citation in the measure. I'm not a learned lawyer, and perhaps you don't need one. But generally, I thought it was a statutory requirement that every bill have some citation and refer to what section of the law it purports to change. Will it change the emergency section? The natural disaster section, Chapter 128 that Representative Takamine referred to? Or where? Where will the Revisor of Statutes put it? Is it defective or what?

"Anyway, I strongly advise you to hold on to your powers as the Body who makes the laws of this State and vote no. Thank you."

At 3:08 o'clock p.m., Representative Kahikina requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:09 o'clock p.m.

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

"I think that the image that comes to my mind is that of an ambulance. We allow ambulance drivers and the EMTs extraordinary powers to respond to a person who is critically ill. I liken this situation to that. It's a matter of whether we think our economy or the people are suffering enough where we need that critical response. Thank you."

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

"I am speaking for the measure, but I have one minor reservation. I understand why we need this. The President himself has stated that this is an act of war and so we need some emergency powers. However, my only concern that I have is that there is only after-the-fact input by the Legislature. I would like to see that in some point in time Mr. Speaker, that the leadership of both sides, if you could provide for consultation with the Legislature before action. Thank you very much."

The Chair then recognized Representative Whalen who responded, stating:

Thank you Mr. Speaker, that's fine. However, if this continues on then I will stand and make my own speech. But if this ends, I will participate in the ending of this debate."

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

"I have to say that I am very concerned about the use of the extraordinary times as a reason for passing this law. Because those are words that are used every time martial law is brought about in a democracy. Just those very words. That's what used to justify it."

"The Representative from Manoa said that there is no impairment to the right to a contract in this bill, and yet the bill very clearly gives the Governor the power to modify any contract."

"And finally, the Representative from Manoa talked about distrust of a person. We have a system where the people place their faith in us. We as Representatives are supposed to function as part of a three-branch process and in a very strange sort of way we are distrusting ourselves when we turn power over to the Governor that we should keep with us."

"Mr. Speaker, these times call for hard work. It's a question of where this hard work is going to be done. I think that others have to do hard work, but I think that we do too, and we can't abdicate our responsibilities to others. An example of something that we could do if we did our hard work is to design a provision that would go in to this amended bill that would take care of our social welfare needs. There's no question that that can be written because in the Governor's original package, there was such a bill. So we could write such language. That's what we should do. We should take care of our welfare needs, but we should take care of them specifically; not with broad, general language that opens up the door to Hawaii's version of martial law. With those words, I'll conclude. Thank you Mr. Speaker."

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

"I would like to submit a few remarks in strong support for this measure. I think that as we leave this Chamber this afternoon, I would like to remind everyone here that one of the most important things that we can do in our community is to maintain a sense and belief in the unity of one. We all need to

work together as we go back to our separate communities and pull together in light of what is going on around us."

"I really was disappointed Mr. Speaker, to hear so much name calling, or allegations of a person's physical description, or making references to a historical figure..."

Representative Gomes rose to a point of order, stating:

"I am not sure if he is referring to the bill or if this is a lesson in morality..."

The Chair responded:

"He's referring to the debate that has occurred on the floor in which the Chair has allowed all of you to speak."

Representative M. Oshiro continued, stating:

"I know that well-meaning people are often passionate about issues and at times, it may prompt us to say things that we don't mean. I understand that on this particular measure. But I hope that when we leave this building, when we go back to our communities that we watch what we say because as leaders in our community, people look to us for assurances in these very disturbing times."

"The second thing, I think, is we need to avoid being alarmists. We need to avoid fear mongering, and the peddling of all kinds of misrepresentations regarding our government. I think that people want to be reassured and they want to..."

Representative Whalen rose to a point of order, stating:

"I don't believe the current speech is being made on the merits of the bill, but rather admonishing us on our behavior in the community."

The Chair directed Representative M. Oshiro to confine his remarks to the measure.

Representative Fox rose to a point of order, stating:

"The Majority Leader is refraining from addressing you and is glancing in our direction."

Representative M. Oshiro continued, stating:

"I would just like to summarize by saying that if one would keep an open mind and listen to the comments by the proponents of this measure, they will have a better understanding of why this is important and how this will help a lot of people out there. It is necessary that we do this. Thank you very much."

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

"I apologize. I was hoping that we were going to wrap this up but since we're not, I am going to go ahead and make my point now. Many of the examples given by the proponents of this bill have dealt with Administrative Rules and the ability of our government to get services to the needy and to be responsive with government action."

"I agree that it is too cumbersome, not only for our welfare programs, but for businesses as well. I think that is indicative of our problems of our huge bureaucracy, rather than the need to give the power to the Governor to basically take over. Although I agree that if this bill was limited to just that purpose right now, I could support it wholeheartedly. However, the examples given show the need for this bill, the way the bill is written, it gives the governor the ability, for example, to ignore any statute, which includes something like gambling."

"Although the Representative from Manoa explicitly pointed out that within 30 days we could respond, within that time the Governor could sign a contract and there could be reliance on that contract, and the State could be stuck with it. And as this Body knows, there are some here, some who think that we should look towards gambling as a means to help raise revenue and help the State out with the proceeds going to the poor or education. And there are others who steadfastly oppose that. We've had close votes on that issue. If the Governor moved in that direction, it would take a two-thirds vote to override his veto. Is there two-thirds who support or oppose gambling? This is an issue that we have to think through in our mind.

"It takes two-thirds in the House and the Senate to override a veto. There are close calls, close things, projects that the Governor has in mind that have failed in this House by close margins. What happens when he does it through this vehicle? It takes two-thirds to override that decision that he has made. Although the majority might disapprove, it is a super-majority that would have to stop him. And like I said, the issue of gambling is just one. There are many issues out there that he would be able to do, not just have a responsive government in terms of the social needs, or the business needs. There are also many relating to the general character of this State. Now I'm not saying that the Governor will do these things. What I am saying though is that it is a possibility, and as the bill is written it is just too broad and too encompassing for us to take that chance.

"I will leave with this thought. What happens for your constituents, some of you here, and I will use gambling again, have told your constituents that you will not support gambling. But you vote for this bill and then something like that happens. Maybe it's not gambling, whatever it is, whatever issues are pertinent. And then they point to this and say, 'Look, you voted for this bill that allowed the Governor to do that.' 'Well I never thought he'd do that. That wasn't our intention when it came about.' Well, everyone's being put on notice through this discussion that we are giving the Governor that power to do those things. If you are concerned at all about upsetting the balance of powers or being diligent in our responsibility to our constituents, then I don't think it's a good idea to vote for the passage of this bill. Thank you Mr. Speaker."

Representative Moses rose to a point of clarification, stating:

"The Majority Leader I believe was impugning me personally by saying that I was referring to the Governor with certain historical precedence. I am only pointing out to this Body as is this Body's right, we've always done that, to look at historical precedence. And anyone who fails to learn from history is destined to repeat it, and I'm just pointing out those facts.

"I am not impugning the Governor or saying that he would do such a thing. I'm just saying that it has happened in the past. Thank you."

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

"Mr. Speaker, I am really puzzled by the Representative from Manoa. He and I have many times seen things alike, and in fact, we even signed a dissenting Committee Report at one point. I can't understand the comment about there being safeguards in the bill. There are those two safeguards in the bill, supposedly, the consultation with the Legislature. Well it's not consultation with the Legislature. It's consultation with you and with Senate President Bunda. Consultation means that, 'Hey, I talked to you guys,' and that's it. There's no power that you or Senate President Bunda have. No power whatsoever. You merely get consulted and then, boom, he's checked that off.

"The other thing was the adequate safeguard was about public notice. Well, thank you. I think a monthly public notice is really not much for the public or for us. This is public notice to us in a monthly report to the Legislature. This just really doesn't do anything at all. Thirty days after something has happened, we would have heard about it through the media first and then we're scrambling. What do we do?

"It's not a matter of distrust. I frankly think that Governor Cayetano came in to a State really in shambles after the big spending years of John Waihee and the excessive growth of government. I think that Governor Cayetano has done an admirable job, and I say that as a Republican. I really do think he has done an admirable job. He's been faced with a real economic crisis ever since he took office. He didn't go back to the big spending days of John. He has done the best that he could to get some control over this; not as much as I would like, but he has taken some major steps forward.

"It is not distrust of him. It is that we have three branches of government. Our government was created this way for very sound reasons. It has operated for over two hundred years this way. We have three equal branches of government, co-equal. The judiciary, the executive and the legislative. We, our legislative branch are the closest to the people. And yet we are handing to the Governor our legislative responsibility and our legislative authority. I just can't understand doing that.

"I look into the Chapter cited by the Finance Chair, Chapter 128-4 in particular, and there is an advisory council that actually works with the Governor and advises the Governor. Then there is also a plan and programs. It is well set out. It's not just boom, you get a blank check. It's all yours Governor. We, the Legislators will go home. We now have two branches in our government, Mr. Speaker, and I've never known America to stand for this type of governing. I don't see why we are doing this. I don't see that it is necessary.

"And were there to be an explanation why we couldn't stay in recess until the 30 days expires and then take a look at whether we need to come back. Maybe that's not the answer, but I sure don't see why this bill doesn't have a sunset date the very day that we reconvene in January. That doesn't make sense. So I guess I would say welcome to Hawaii where we are somewhat different from the rest of the Nation because we only have a judiciary and an executive branch. Maybe we should save the taxpayers money by not reconvening in January and just staying home. Thank you."

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I would like to speak in support of this measure.

"A recent national poll has shown that the mood of the American people since the terrible tragedy of September 11 is pro-government. Many sense that the country is on the right track and are trusting government and its leaders. There is a revived sense of civic participation and a reduction in cynicism. People want their government leaders to work together and to compromise.

"For these reasons, I look at this bill as a glass half full, not half empty. The emergency management tools provided for here are a means of providing help to many people in our State - and doing it in an efficient and rapid manner.

"Now is the time for us to make positive contributions to responsible leadership. Let's focus on the many safeguards that

will lessen the risk of any possible abuse of power rather than on possible abuses.

"We as leaders must be willing to take risks - proactive people must not only take risks, but also trust others and look for the highest motives in others. President John F. Kennedy once said, 'There are risks and costs to a program of action, but they are far less than the long range risks of comfortable inaction.'"

"Let's work together - all of us as leaders to lead our State out of these troubled times. I urge the members to support this bill. Thank you Mr. Speaker."

Representative Lee also submitted the following article from *The Honolulu Advertiser*:

Senate OK's terrorism legislation  
Implementation planned minutes after signing

By Tom Brune and Elaine S. Povich  
Newsday

Washington -- Expansive new government powers to secretly search homes, tap telephones and computers, and arrest and detain suspects will be put to use minutes after sweeping anti-terrorism legislation becomes law, Attorney General John Ashcroft said yesterday.

The legislation, which also criminalizes improper possession of biological agents such as anthrax, is expected to be signed into law today by President George W. Bush. The Senate approved it 98-1 yesterday, and the House passed it 357-66 the day before, despite criticism that it erodes civil liberties.

"The Department of Justice is positioned to launch a new offensive against terrorism," Ashcroft told the U.S. Conference of Mayors shortly before Senate passage.

"The hour that it becomes law, I will issue guidance to each of our 94 U.S. attorney's offices and 56 FBI field offices directing them to begin immediately implementing this sweeping legislation," he said. The law will give the Justice Department "new powers in intelligence-gathering, criminal procedure and immigration violations," he said.

Ashcroft said Congress is giving the government "new weapons in the war on terrorism," which he said already is being waged through a policy of arresting and detaining any suspected terrorist on any violation of the law, no matter how slight.

The legislation, which covers 10 broad areas to strengthen the government's legal arsenal in pursuing and punishing terrorists, also authorizes at least \$1 billion to upgrade technology and hire new border guards, customs agents and other staff.

Broadly, the legislation makes it easier for the government to conduct wiretaps and surveillance by streamlining legal procedures; boosts its ability to monitor the Internet and access e-mail and voicemail; allows criminal investigators and intelligence officers to share information for the first time; and lets the government detain noncitizens for seven days without filing charges. It also toughens money-laundering laws.

Ashcroft called the legislation's provisions "careful, balanced and long overdue improvements in our capacity to prevent terrorism" that are "the products of hundreds of hours of consultation and careful consideration by the administration, members of Congress and state and local officials."

The legislation approved by the Senate and House this week, however, is not as broadly drawn as the bill that Ashcroft sent to Capitol Hill within days of the Sept. 11 attacks with a demand for immediate passage.

Instead, it includes some limits on prosecutors' power, and a four-year "sunset" provision under which the law would expire unless Congress renews it. Members of Congress said that would give them the opportunity to rewrite the law if it is abused.

Sen. Patrick Leahy (D-Vt.), the Senate Judiciary Committee chairman, said the final bill reflects current events and tries to strike a balance between tough new law enforcement provisions and America's traditional civil liberties.

"It's a whole new world," Leahy said. "It's not like World War II, when we worried about armies marching against us. Small, dedicated groups of terrorists ... can wreak havoc in an open and democratic society."

In a statement, however, Leahy acknowledged some provisions "will face difficult tests in the courts" and will require "careful oversight" by Congress.

The American Civil Liberties Union vowed that it, too, would monitor the law for abuses. "This bill goes light years beyond what is necessary to combat terrorism," said Laura Murphy, director of the ACLU's Washington office.

Sen. Russell Feingold (D-Wis.), who cast the lone dissenting vote, said the legislation does not strike the right balance and accused the Justice Department of taking advantage "of the emergency situation to get some things they've wanted for a long time."

Feingold cited a provision that would allow investigators to get a warrant to search homes and offices and then conduct the search without first notifying the owner, which he called a violation of Fourth Amendment protections.

The Justice Department, however, planned to immediately put the new law to work, Ashcroft and his aides said, by sending out detailed interpretations and guidance to U.S. attorneys and FBI field offices minutes after the president signs the legislation.

Officials planned to move ahead particularly with the provisions allowing a single court to authorize wiretaps and computer surveillance spanning several judicial districts and the sharing of sensitive criminal and intelligence information.

Already, said Justice officials on the condition of anonymity, intelligence files have been prepared to hand over to criminal investigators, who will mine the information for leads in pursuing suspected terrorists.

In his speech to mayors yesterday, Ashcroft compared his battle against terrorism to former Attorney General Robert F. Kennedy's war against organized crime 40 years ago.

"Robert Kennedy's Justice Department, it is said, would arrest mobsters for 'spitting on the sidewalk' if it would help in the battle against organized crime," Ashcroft said. "It has been and will be the policy of this Department of Justice to use the same aggressive arrest and detention tactics in the war on terror."

*The Honolulu Advertiser*  
October 26, 2001

Representative Rath rose in opposition to the measure and asked that the remarks of Representative Yoshinaga be inserted in the Journal as his own, and the Chair "so ordered."

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

Representative Djou continued, stating:

"The terrorist that struck our nation on September 11th want to strike fear into our hearts. They want us to panic. I'm very disappointed and unfortunately, I believe that we are panicking. We are not following the three branches of government; the basic tenets of democracy in this state. The remainder of my rebuttal, I will submit to the Journal in writing. Thank you."

Representative Djou's written remarks are as follows:

"There is no disagreement that the executive branch needs additional flexibility during these difficult times following the tragedies of September 11th. The question is if we should grant the governor broad, sweeping and unlimited powers, or if the legislature should instead grant narrow, specific and defined powers.

"I believe it is an abdication of our responsibility as legislators to pass H.B. 17 in its current form because it cedes far too much power from the legislative branch to the executive branch. Rather than deal with Hawaii's sinking economy, with this bill the Legislature is putting its head in the sand and praying the executive branch can fix everything. The irony is that Governor Cayetano originally introduced some bold ideas to save our economy, but this Legislature has matched that bold thinking with a meek performance and timid action.

"Some legislators suggest that the passage of H.B. 17 is not as bad as the public thinks because at least we still have the U.S. constitution to save us. While that may be correct insofar as civil rights are concerned, that still does not make it right to pass H.B. 17. This bill gives the executive the power to suspend or waive any law, rule, or regulation relating to business in Hawaii. This super power bill is still far too broad and gives too much discretion to the executive branch to favor one business over another.

"Finally, I must reiterate that the terrorists, who attacked our country, want us to fear they want us to panic, they want us to abandon our way of life and our democratic values. As currently drafted, this economic martial law bill plays right into the hands of those terrorists. By passing this bill, this Legislature is showing that it is in a state of panic, paralyzed, and unable to take decisive action. By passing this bill, this Legislature is giving up on our basic democratic principles of checks and balances and the three branches of government.

"For all of these reasons, I strongly urge all of us to vote against this measure. Thank you Mr. Speaker."

Representative Gomes rose to request a roll call vote on this particular measure.

At 3:26 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:26 o'clock p.m.

The Chair recognized Representative Whalen who stated:

"Thank you Mr. Speaker. That request for a roll call vote will be withdrawn."

The Chair then stated:

"At this time we have had a lot of discussion on House Bill 17 which the Chair has really enjoyed, as well as the public at large. It has been on O'lelo and will be shown again. I don't know what evenings, but we are all very fortunate to have this debate which has been a very lively bipartisan debate."

The motion was put to vote by the Chair and carried, and H.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," passed Third Reading by a vote of 27 ayes to 21 noes, with Representatives Ahu Isa, Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Ito, Jaffe, Leong, Marumoto, McDermott, Meyer, Moses, Ontai, Rath, Stonebraker, Thielen, Whalen and Yoshinaga voting no, and Representatives Pendleton, Takumi and Yonamine being excused.

The Chair directed to the Clerk to note that H.B. Nos. 15 and 17, passed Third reading at 3:29 o'clock p.m.

### SENATE COMMUNICATIONS

The following Senate Communications (Sen. Com. Nos. 16 through 29) were received and announced by the Clerk and the following action was taken:

Sen. Com. No. 16, transmitting S.B. No. 1, SD 1 entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 17, transmitting S.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 18, transmitting S.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 19, transmitting S.B. No. 5, entitled: "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 20, transmitting S.B. No. 6, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 21 transmitting S.B. No. 9, SD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 22, transmitting S.B. No. 10, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 23, transmitting S.B. No. 11, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 24, transmitting S.B. No. 12, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 25, transmitting S.B. No. 13, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 26, transmitting S.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 27, transmitting S.B. No. 15, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 28, transmitting S.B. No. 16, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," which passed Third Reading in the Senate on October 26, 2001.

Sen. Com. No. 29, transmitting S.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," which passed Third Reading in the Senate on October 26, 2001.

On motion by Representative Lee, seconded by Representative Thielen and carried, S.B. Nos. 1; 2; 3; 5; 6; 9, SD 1; 10; 11; 12; 13; 14; 15; 16, SD1; and 17 passed First Reading by title and were referred to printing. (Representatives Pendleton, Takumi and Yonamine were excused.)

At this time the Chair announced that the aforementioned Senate Bills would be referred to the Committee on Finance.

#### ANNOUNCEMENTS

Representative Takamine, for the Committee on Finance requested a waiver of the 48-hour notice requirement for the purpose of conducting a public hearing for decision making only on S.B. Nos. 1, SD 1; 2; 3; 5; 6; 9, SD 1; 10; 11; 12; 13; 14; 15; 16, SD 1; and 17, tomorrow afternoon at 12 noon in conference room 308, and the Chair "so ordered."

Representative Takamine then announced that the Committee on Finance would be holding public hearing for decision making only on the aforementioned Senate Bills tomorrow afternoon at 12:00 noon in conference room 308.

Representative Ito then requested that he be allowed to submit written comments to be inserted in the Journal for S.B. No. 14.

The Chair responded:

"At this time we have already passed the measures on Third Reading and so the Chair will not allow you to. All members are aware when the votes are being taken for Third Reading and you should insert your comments at that time. The Chair will not allow any of the members to submit their comments for the Journal at this time."

Representative Arakaki: "I don't know if you and our colleagues realize that this extended debate was a plot, both left-wing and right-wing, so that you could go hungry, and maybe feel the way many people are feeling right now, and so that we can respond more quickly. We do have an emergency. We do need more food. I just want to remind the members that we are still collecting donations.

"Very quickly, the top ten items that are needed are tuna, canned luncheon meats, canned spaghetti or chili, soups, pork

and beans, canned vegetables, canned fruits, dried beans or pastas and rice, and cereals. I want to appeal one more time, if we can respond out of the goodness of our own hearts to the crisis that many of our families are going through. The collection is in Representative Lee's office, as well as outside the Chambers. Thank you."

Representative Leong: "On Sunday the 28th we are having the Symphony Run. We are providing breakfast for all those who participate at the Kahala park area. Please join us. The race begins at 7:30. Come and join Representative Marumoto and myself for breakfast."

#### ADJOURNMENT

At 3:33 o'clock p.m., on motion by Representative Lee, seconded by Representative Thielen and carried, the House of Representatives adjourned until 11:00 o'clock a.m. Monday, October 29, 2001. (Representatives Hiraki, Kanoho, Pendleton, Takumi and Yonamine were excused.)



FOURTH DAY

Monday, October 29, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 12:09 o'clock p.m., with the Speaker presiding.

The Pledge of Allegiance was led by Representative Bertha C. Kawakami, after which the Roll was called showing all members present with the exception of Representatives Arakaki, McDermott, Pendleton and Yonamine who were excused.

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

SENATE COMMUNICATIONS

The following Senate Communications (Sen. Com. Nos. 30 through 43) were received and announced by the Clerk and were filed:

Sen. Com. No. 30, returning H.C.R. No. 1, entitled: "EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 31, returning H.C.R. No. 2, entitled: "HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 32, returning H.C.R. No. 3, entitled: "HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 33, returning H.C.R. No. 4, entitled: "HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 34, returning H.C.R. No. 5, entitled: "HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 35, returning H.C.R. No. 6, entitled: "HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 36, returning H.C.R. No. 7, entitled: "HONORING THE MEMORY OF CHRISTINE SNYDER AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 37, returning H.C.R. No. 8, entitled: "ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 38, returning H.C.R. No. 9, entitled: "REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 39, returning H.C.R. No. 10, entitled: "URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 40, returning H.C.R. No. 11, entitled: "SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 41, returning H.C.R. No. 12, entitled: "SUPPORTING FEDERAL LEGISLATION EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 42, returning H.C.R. No. 13, entitled: "REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION," which was adopted by the Senate on October 26, 2001.

Sen. Com. No. 43, transmitting S.B. No. 8, SD 2, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," which passed Third Reading in the Senate on October 29, 2001.

On motion by Representative Lee, seconded by Representative Thielen and carried, S.B. No. 8, SD 2 passed First Reading by title with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

The Chair then announced that S.B. No. 8, SD 2 would be referred to the Committee on Finance.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

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

S.B.  
No.      Referred to:

## 8 Committee on Finance

## STANDING COMMITTEE REPORTS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 16) recommending that S.B. No. 2, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 17) recommending that S.B. No. 3, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 18) recommending that S.B. No. 5, 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 S.B. No. 5 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, this is a small taxpayer relief for our people in Hawaii. I'd like to quote from *The Economist*, the recent issue.

Tax cuts aimed at the low earners are more likely to be spent than handouts to the rich who tend to save more. Income tax cuts are more likely to be spent if they are permanent. Temporary cuts tend to be saved. The world for corporate taxes is the opposite. Permanent tax cuts are unlikely to boost investments which are influenced more by profits, excess capacity and confidence on the other hand a temporary tax break for investment could well work encouraging firms to bring forward capital spending.

"We should have learned from some lessons from *The Economist* and from those sound principals we could have done more than we are doing."

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

"Thank you Mr. Speaker, I believe the points taken by the previous speaker are good points, yet I think we as a Legislature cannot forget that when we step back and look at

the big picture, that is the basis upon which we should be judged. While this is an important measure providing to a number of beneficiaries tax relief, and as Representative Suzuki indicated earlier, even administrative relief in paper work that they would otherwise have to do. That has to be placed in the context of the larger picture. As indicated, taxpayers should have a break.

"Based on the previous actions of this Legislature come January 1, which is two months from now, essentially a \$150 to \$175 million in tax relief will be provided to all taxpayers in the State because of the income tax reductions and the final phasing in of that. In light of that, it's hope that, that will be part of the total situation and provide help to the public, especially at this time of extraordinary circumstances. Thank you."

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 5, entitled: "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 19) recommending that S.B. No. 6, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 6, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 20) recommending that S.B. No. 10, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 10, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 21) recommending that S.B. No. 11, 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 S.B. No. 11 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Mr. Speaker this bill and the bill before it are part of the package that recognizes the extraordinary strains that have

been put on our airlines and airports as the results of the incidents of September 11th. This is the kind of emergency power that the Governor needs to deal with. He needs to deal with the situation at the airport, the leases there and the dealing with the concessionaires there. And your Republican Minority urges this Body to deal with the airport crisis and this immediate situation in that way, and it's unfortunate that we instead got an extremely broad emergency powers bill."

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

"The current speaker has wandered off the point and purpose of this particular bill."

The Chair responded, stating:

"Representative Fox, could you confine your remarks to the transportation security appropriation."

Representative Fox continued, stating:

"Okay, I think it's a good idea to grant the Governor emergency powers in this area only. Thank you Mr. Speaker."

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 11, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 22) recommending that S.B. No. 12, 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 S.B. No. 12 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"My reservation is the use of the tobacco settlement funds and transferring those funds to the Emergency Budget and Relief Reserve Fund. Thank you Mr. Speaker."

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 12, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND," passed Second Reading and was placed on the calendar for Third Reading with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 23) recommending that S.B. No. 13, 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 S.B. No. 13 pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

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

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

Representative Ontai 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 a no vote for him, and the Chair "so ordered."

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

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

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

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

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

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

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

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

Representative Fox continued in opposition to the measure, stating:

"A no vote for me because of the funding."

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

"Thank you Mr. Speaker, not to break ranks with my colleagues, but I am with reservations.

"My reservations are that the use of the money is maybe related to a medical school, I can see that. I already objected to the transfer of the funds in the first place. I have severe reservations about the location again, because of traffic and congestion that it will cause. I have reservations about dislocating the workers. This is not Kapalama, this is Kakaako. Those workers are going to be dislocated after negotiating a 30-year lease. And I have a problem with the area in general because of what I said with the traffic. We do have a Second City and we were trying to get rid of the traffic Downtown. However, I am torn because we did grant UH autonomy. The UH supposedly picked the site, and therefore I don't want to second guess the UH and their decisions. So with that, I have reservations."

On motion by Representative Takamine, seconded by Representative Kawakami and carried, the report of the Committee was adopted and S.B. No. 13, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Auwae, Bukoski, Davis, Djou,

Fox, Gomes, Halford, Jaffe, Meyer, Ontai, Rath, Takai and Whalen voting no, with Representatives Arakaki, McDermott, Pendleton and Yonamine being excused.

### INTRODUCTION OF RESOLUTIONS

The following resolutions (H.C.R. Nos. 14 and 15) were read by the Clerk and the following action taken:

Representative Souki moved that H.C.R. No. 14 be adopted, seconded by Representative Espero.

At 12:20 o'clock p.m., Representative Marumoto requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:25 o'clock p.m.

Representative Thielen rose to a point of parliamentary procedure, stating:

"As I understood you to say, this is the first time, at least in 11 years and in the whole history of the House of Representatives, that we are going to have a substantive resolution before us and we are going to take a vote right now on the floor. It would not have gone to committee. It would not have had a public hearing. It would not have been out there for the public to be able to submit testimony on it. But we are just going ahead right now and 'railroad' this through."

The Chair responded, stating:

"Your point is well taken. I don't believe it's a 'railroad'. You will have opportunity for debate, that's one. And second, the House Rules permit us to have this adopted by the House as a whole."

Representative Thielen responded, stating:

"But, Mr. Speaker, if I am correct, we have never done this before and I am hearing the 'choo-choo train' coming down the track. And this is a substantive resolution, am I correct?"

Speaker Say: "This substantive resolution, like all resolutions that come before this House, you're absolutely correct. And the Chair has recognized that this particular motion is for adoption at this time. Is there any discussion on this motion?"

Representative Thielen: "Yes, Mr. Speaker. There will be no public hearing then for the public to come in and testify whether or not this resolution should proceed as written, or should be amended, or should not pass."

Speaker Say: "In this particular case, you're right, but there might be a public hearing in the Senate."

Representative Thielen: "I have very strong objections to this procedure. I think it is absolutely undemocratic. I think it is wrong. I see there is very good reason that we have never done something such as this before. Measures have always gone out for public hearing because the public deserves to know. The public deserves to give their input on substantive resolutions. And I think this procedure is absolutely wrong it makes this whole Body appear undemocratic..."

Representative Souki rose to a point of order, stating:

"Is the Representative speaking to the merits or demerits of the resolution?"

The Chair responded, stating:

"No, she is not. She is speaking on the procedure of this particular resolution for adoption, and the Chair will allow her to continue to address the procedure."

Representative Thielen continued, stating:

"Mr. Speaker, I just can't understand any justification. This issue has been before legislators for a long period before September 11th. We are not talking a direct September 11th impact. We are talking about an issue that has been known to everyone for quite a period of time. In fact, even during last Session, and the proponent of this measure didn't do anything to my knowledge, last Session or a measure didn't make it though. Now all of a sudden we are asked to read this resolution, deal with it, right smack now, with no input from the public and without any opportunity for a public hearing. I think it's extremely, extremely wrong. I don't know how to say it any stronger, but 'railroading' this sort of thing through only reflects poorly on the Body which we serve, this is not democracy. Thank you."

At 12:29 o'clock p.m., Representative Takai requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:30 o'clock p.m.

Representative Fox rose to a point of parliamentary inquiry, stating:

"This is an attempt to elicit a response from you. I think that I have been exposed to your philosophy on handling matters on the floor over the past two or three years. Basically you display sensitivity to bringing up issues in Special Sessions in a manner that precludes public debate and hearings on bills. You have been sensitive to that, saying that we have Regular Session as opportunity to air matters that needed to be aired.

"You have also in a different context talked about the need to go into a Committee of the Whole if in fact, on an emergency basis, which I don't think this resolution is, but if on an emergency basis it is necessary to provide an opportunity for dialog. So I would like to understand from you why this is parting from the idea that Special Session stay focused on things that need immediate relief, and why we are not going into a Committee of the Whole?"

The Chair responded, stating:

"Thank you very much. Your point is well taken. Through all the months of correspondence from these individuals they have done a fantastic job in providing emergency services, air ambulance services to the people of the State of Hawaii. I believe at this point in time that the House Rules allow the Chair to have this particular measure be moved for Adoption, with discussion from all members of both sides, for or against this particular adoption. That's why the Chair has allowed it to occur.

"Yes, another point I'd like to make reference to is this. It is a Special Session, whereby I wanted to give the members of

this House an opportunity to have this type of debate. You had this resolutions on your desks on Friday, for the 48-hour requirement. And I thought that all of you would have taken the time over the weekend to look and analyze and digest this House Concurrent Resolution No. 14, urging the Department of Transportation Director to consider having this individual there at a particular place on Kahului Airport property."

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

"Thank you Mr. Speaker. As you just previously mentioned, Pacific Wings is an essential air service, not only for ambulances but for transportation from areas as remote as Hana, and Kamuela that don't have Aloha or Hawaiian scheduled in. The problem seems to be the location of a hangar facility to do the maintenance on these aircraft, and if that doesn't happen soon we may lose that essential service that transport people to the outlying areas. I know those of you who have been to Hana, know you don't really want to drive there if you just have to slip in for some business. And of course, this would facilitate people in those outlying areas from getting to Honolulu or the Neighbor Island, Kona or Hilo, to facilitate business or to go for to see family, or friends or graduations.

"At many of the airports, we have an ongoing problem with the Department of Transportation in releasing hangar space. And this had occurred some years ago in Hilo and I believe a lot of Democratic companions went to see the DOT to try to get that space released. We have the same problem in Kona and in Kamuela. We were able to remedy the situation. And now this occurred in Kahului. And I'm hopeful this resolution will pass. Instead of 'railroad', I hope it will 'fly' through. And the DOT will see fit to release that hangar space so that we won't lose the essential air service. Thank you Mr. Speaker."

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

"Mr. Speaker, I noticed that both HCR 14 and 15 are before us today and I think the same argument that was made for this could be made for the next one too. I would like to say, I think this is an emergency, because I've been reading in the paper that Pacific Wings has cancelled some flights, I think from the Big Island to Maui. This first came to my attention when I tried to find out how the Reapportionment Commission could possibly put the district of Puna with the district Hana. I found that the only airline that would go from Kahului to Hana was Pacific Wings. I never heard of them before. I have gotten a lot of correspondence from these people about their problems.

"The other thing I'd like to point out is that these are only resolutions. They are not a force of law. We're requesting this so that's all we are doing today."

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

"Thank you very much Mr. Speaker. This good-looking young lady before me spelled my speech out, except a point of clarification and concern. I believe it's disingenuous for some of the members from the other side of the aisle to speak against this resolution and the procedure of this resolution, when the real concern is the next resolution, HCR 15."

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

"Thank you Mr. Speaker. I'd just like thank the Chair of the Transportation Committee for looking into this matter on behalf of the residents and businesses of Hana. It has been an ongoing problem and as people may have read in the newspaper last week, services have already been cut to that area making it extra difficult for various business to carry on as usual in that area. So, thank you."

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

"Thank you Mr. Speaker. I rise with some concern with this measure and I would like to disagree with the Speaker Emeritus. I don't think the concerns on this side of aisle have to do specifically with this bill or the next but the procedure, and I think other speakers have made that very clear. We all have sat through committee hearings where resolutions are heard. The room is packed; people have a great deal of interest in these things. This Special Session, we're here specifically to help the economy. We shouldn't stray too far off and make exceptions like this and I think that is what our Caucus is concerned about."

Representative Moses rose in support of the measure, stating:

"I am rising in support of the resolution, but I am adamantly opposed the procedure we are following. I would like to say as a long-time member of the Transportation Committee, this resolution, I think, is needed and necessary. I agree with its content, but I disagree with doing without the public input. I know we heard from the people involved, but we haven't heard from other people that may also be involved and don't even know it. That's my reluctance on this resolution. I agree that it's needed, it's necessary, I don't think it should have been rushed. We have had over a week now; we had plenty of time to have a public hearing on this. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.C.R. No. 14, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE HAWAII STATE DIRECTOR OF TRANSPORTATION TO GRANT HAWAII-BASED SCHEDULED AIR CARRIERS HIGHEST PRIORITY ON AIRPORT FACILITIES' WAITING LISTS, AND TO MAKE LAND, HANGAR, AND TERMINAL SPACE IMMEDIATELY AVAILABLE TO SUPPORT ESSENTIAL AIR SERVICE OPERATIONS AT KAHULUI AIRPORT," was adopted with Representatives Arakaki, McDermott, Pendleton, Stonebraker and Yonamine being excused.

Representative Whalen moved that H.C.R. No. 15 be adopted, seconded by Representative Kanoho.

Representative Hale rose to a point of information, stating:

"When I last talked, Mr. Speaker, I mentioned that a resolution does not have a force of law. But, it appears to me that from the language of this, that it does have the force of law. And I would like to have an explanation as to why this resolution..."

At 12:40 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:41 o'clock p.m.

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

"I am rising, with due respect to my colleague, to speak in strong opposition to this resolution. I am speaking to the process, the procedure, rather than whether or not the measure itself should or should not pass. Mr. Speaker I was a little agitated a minute ago and the procedure on this one, I am absolutely angry..."

Representative Lee rose to a point of order, stating:

"I believe the speaker already spoke to the procedure in her previous remarks. Now she should be speaking to the resolution that's before us."

The Chair responded, stating:

"The Chair will recognize Representative Thielen to confine her remarks to the contents of House Concurrent Resolution 15."

Representative Thielen continued:

"Thank you, Mr. Speaker. Mr. Speaker, now I'm really mad. This resolution is a land use resolution with incredible impact. It is not merely discretionary. It authorizes, it gives power..."

Representative Saiki rose to a point of order, stating:

"I know the TV cameras are here but could the speaker please address the Speaker. Thank you."

Representative Gomes rose to a point of order, stating:

"Mr. Speaker, if you could admonish the previous speaker with regard to his comments on the intention of the current speaker. And I do think that he made some reference to the television cameras going to the motive of the present speaker. And I think that was entirely inappropriate of him to do that."

Representative Thielen interjected, stating:

"That's okay, Mr. Speaker. I can't hear him that well."

The Chair directed Representative Thielen to address rostrum.

Representative Thielen continued, stating:

"Certainly, I was really directing my comments to the Representative from Puna because she had the question. Is this merely a resolution that doesn't have any impact? My answers is to the Representative from Puna. This land use resolution has a tremendous amount of power. It authorizes the Board of Land and Natural Resources to take a particular step, one of which dramatically will affect the Ala Wai Boat Harbor.

"Mr. Speaker, to do something this momentous, to have this one go down the railroad track and be fast-tracked through, without a public hearing, is absolutely wrong. Mr. Speaker, I don't know how much more strongly I can put it. We cannot do this kind of thing in the House of Representatives. We don't... We become like a... I want to say railroad station. No not even that. I can't even describe what we've become, because I never experienced it in a democratic government.

"We take steps in this Body that are open to the public. We allow the public to come in. How many people out there are unaware that we are taking a major step today that is going to affect the Ala Wai Boat Harbor and we're doing it totally in darkness. Totally in darkness, there is a little bit of light up

above here, Mr. Speaker, but there sure isn't light out there for the public.

"The public has been absolutely shut out of this measure. I don't see how members here in this Body can support it. It has huge environmental consequences. There are number of people, including the one I couldn't hear that well a few minute ago, that call themselves environmentalists. Well there isn't an environmentalist in this Body that should vote yes on this measure. Unless this goes through a public hearing, unless we can hear all of the impact that could occur. And unless we can hear from those that will be affected. Then once we become knowledgeable about this. Once we have had that impact from those that are going to be affected and the environmental groups, Hawaii's Thousand Friends, the Sierra Club, you name them all. They would want to come in have the opportunity to testify on this measure.

"But today, for anyone here that claims environmental credentials, I would hope that you would have the guts and stand up and say, 'I vote no,' because the resolution has not had a public hearing. Because we don't know of all the consequences. And Mr. Speaker, I stand up today, as a former environmental and land use attorney and I vote no."

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

"This is a deliberate effort on part on the proponent of this resolution to bypass the public hearing process. This question of privatizing the Ala Wai Boat Harbor has been dealt with, before several committees in both houses in the past few years. And everytime it comes up, there's a tremendous public outcry against this effort to privatize the Ala Wai Harbor.

"So this tactic of bulldozing this bill through by resolution is deliberate and it's designed to get around the public hearing process that would inevitably defeat this measure. We should all vote this down, Thank you Mr. Speaker."

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

Representative Yoshinaga continued, stating:

"I have no idea what the impact would have to other area of Honokohau but, the Ala Wai Canal and the Clubhouse has been subject of much controversy to my district and I agree with the previous speaker that more debate needs to take place before this is adopted."

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

"Very briefly, I do want to say that I take very seriously the concerns from my colleague from Kailua. However, this is an issue, which has been before us for many years. We have made several decisions. I think there has been an incredible amount of public input on this particular issue. The issue has been whether to authorize the privatization of our small boat harbors.

"As recently as just last Session, a few months ago, we proceeded with legislation, which authorized exactly this action. So I do not believe in this case that I am making a decision in the dark. I believe I am fully informed as a policy maker and enabled to consider all options and to make a decision here. And I also do believe there has been a very full



opportunity for public input. So in this particular case I would feel I could proceed with support."

Representative Fox rose to a point of inquiry, stating:

"Is the action taken by the previous Legislature being referred to submerged lands or Fast lands?"

Representative Case responded, stating:

"I believe I am entitled, and have a sufficient level of information with which to make the decision that is before me currently. Thank you."

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

"My only request is to the proponents of this resolution, neither of whom are from the island of Oahu, and both of whom should be sensitive to the issues that have been raised that I would request that they come up front and educate the users, particularly of the Ala Wai Harbor, on what this resolution does not do.

"It does not disallow access. It does not disallow use. It does not disallow the many thousands of people who use that water way day in and day out. I would again urge them, in the strongest terms, to take the lead on that because this Body has been addressed with great concern about that very issue."

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

"I have some very strong reservations. When I was made aware of this resolution, I questioned how supportive the people of Honokohau were because that is fairly new harbor and very much used and crowded. But they, I assumed, would have some of the same concerns as the people of the Ala Wai. But I was assured that they don't, and so I felt they should have what they want.

"But lumping this together with the Ala Wai is very troublesome to me, because we have heard loud and clear from the Ala Wai small boat harbor users their very real concerns. At the same time I realize we passed the bill last year that gives the Governor and mayors this ability.

"I have been a strong proponent of privatization. Somebody else here said to beware of what you wish for – you'll get it. And I haven't thought about that as privatizing all our small boat harbors, but I guess I go back to the procedural element of this I don't believe anybody out there in the public knows we are voting on this today and that really concerns me. I think we have, as long as I've been here, endeavored to have things weighed out and considered in an open way and I just feel like we're somewhat taking advantage of this Special Session and that's a worry. Thank you Mr. Speaker

Representative Rath rose in strong support

"Thank you Mr. Speaker, as the Representative for the area that has Honokohau Harbor in it, Honokohau was developed in 1971. The State put forth a five-stage plan of which they, by 1973 had accomplished phase 1 and 2. The other 3 never happened. Back 1993 when I was on the Hawaii County Council, we passed a resolution unanimously, bipartisanly and had hearings at that time for the privatization of the harbor, in favor of it. And that resolution was transmitted to this House and to the Senate.

"The people that are in the harbor are very favorable and behind this. I have met with them as have my predecessors. Representative Tarnas met with them, and Representative O'Kieffe before him. So everybody has been for this. My colleague, the Representative from Puna, was also instrumental in helping pass the resolution before, urging this. It's something that is needed and necessary. There are 297 people on the waiting list and a lot of the people don't put their name on the list because they see 300 people, they know they'll never have the chance. So the only way we're going to remedy this is through privatization.

"Additionally, if you look at the 19 harbors statewide, there's about \$300 million worth of stuff in the ground: railings, boat ramps, bathrooms, stuff like that. Rule of thumb is 5% goes to upkeep and maintenance, if you just want it bare bones. If you want to do a really good job you need 10%, so that's between \$15 to \$30 millions just to keep the place up. And if you take a look at the DLNR's boating division, their entire budget is only \$12 million. So they can't even meet that. That's for salaries and cars and everything. They can't even meet the bottom line \$15 million just to keep stuff painted and from rusting.

"So it's not just a problem in Honokohau. It's a problem on Kauai, Maui, and all the islands that we have these facilities that our fishermen use to launch their boats and go out for recreation and they are literally falling apart and aren't safe. The only way we are going to remedy that is through privatization. And you can't be for privatization in one instance and not for it some place else. It is one of the tools we need, we all agreed on that and this is basically a housekeeping measure. Our law says that you have to pass this resolution to be able to allow the BLNR to go out and negotiate that lease. As long as it doesn't go against any environmental regulations, all the permits are still going to be needed, the public hearing will still take place and it's the way to go. Thank you very much, Mr. Speaker."

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

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

"Mr. Speaker I wasn't going to say anything. I had already informed my Majority Leader I was going to vote against it and I wasn't going to give my reasons. But since my respected colleague who served in the County Council with me in 1993 referred to me, I will. The County Council never passed this kind of resolution or any kind of resolution without public input. Because we were the local government, we were always available and if I voted for it then, because I don't even remember, but if I did it was because of the public input.

"I am voting against this today because this is law as this has been pointed out to me and I do feel the Representative from Kailua is correct and it should go through the proper procedure with public hearing and public input. Thank you very much."

Representative Fox rose to speak in rebuttal, stating:

"Thank you Mr. Speaker. In rebuttal. First we heard discussion about this bill or some version of it having it pass last year. That is basically incorrect, what was passed last year was a bill that permits a privatization of Fast lands, which is

the land above the surface. And you can't really privatize the Ala Wai Harbor without getting at the submerged lands. What we are dealing with today is the critical element that allows the Ala Wai Canal to be privatized.

"As to the sentiment of the community as a whole, that has been well tested in public hearings. The sentiment is strongly against the idea of privatizing. The reason is once the contract is put out for privatization the community will be faced with a project that accomplishes what the privatizer who wins the bids wants to do. He wins the contract and goes ahead with that winning bid and institutes certain changes in the harbor.

"Now boaters are afraid, quite logically, that those changes will include much higher fees. So that's how you explain the boaters are very, very concerned about this. The paddlers are concerned that the construction of a harbor, and remember this privatizer has the right to change submerged lands. The construction of the harbor will make a path for commercial boats to come into the harbor which is already known to be the wish of the Department of Land and Natural Resources; in the front row of the harbor. Bringing those commercial boats threatens the paddlers as they go in and out of the Ala Wai Canal. They quite clearly understand there's no mix possible between canoes and large commercial vessels such as the kind DLNR wants to bring in to the front row of the harbor.

"And third, residents are opposed because someone who privatizes the entire harbor will almost certainly want to construct a multi-story parking garage, and that will interfere with their quality of life. So this has all been exposed in public hearing. Virtually no public hearing testimony comes out in favor of this bill and that's why we are facing today this 'back door,' almost essentially illegal way of proving the process."

Representative Whalen rose to a point of order, stating:

"The prior speaker made a statement that laws that were passed last year only dealt with Fast lands. I'd like to draw his attention to Chapter 171-53 where it clearly states that the State may lease State submerged lands. So his statement was inaccurate."

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

"Thank you Mr. Speaker. We've heard a lot about procedure and rules and the effect of law and what not. And to take try to take them in order and do it briefly would be difficult, but I will attempt it. As to this being improper, our rules clearly allow for it, so it is not an improper action by any stretch of the imagination. As you noted earlier, the resolution was on the desk on Friday and there was ample opportunity for Legislators to, although the claim is a little light above their head, there were ample opportunity to shed further light on the subject if they wanted it.

"The 'effect of law' argument. This isn't an effect of law. It's merely just one of the necessary steps along the way to allow the State to more efficiently and effectively use its resources. As the speaker from Manoa noted, we passed a law that required just such a resolution before the board is able to lease submerged lands or allow for development. And that's exactly what this resolution is doing.

"For those speakers who said it and are thinking of using the environmental card as a scare tactic to get people not to vote for this resolution, I say you should more clearly read the statute and what this does. Before any development can be

done, as the speaker from Waikiki said in talking about the Ala Wai, the traffic and what not, a permit is required just as if the State was going in there to do some multi-level parking garage or dredge up further land or block off the Ala Wai Canal from canoe paddlers or anything else or start a commercial gondola service down the canal, whatever else they decide to do. Just as the State, they'd have to get the permit. They're required to follow all EPA regulations. The State says there would be public hearings. The force of law effects them just as if effects anyone else. Even if these harbors are privatized, because there is no guarantee, no effect of law. We're not mandating it. It's simply just one of the steps in order for it to be done.

"There are no shortcuts that will be given to them. There are no short circuits, end runs that can be made to avoid any environmental laws. There's no direct permission. The Governor can't say, 'Go ahead, build your parking structure. Go ahead, block off the canal. Don't allow any canoe paddlers through,' or anything else. It won't happen. He doesn't have the authority under this law. We're not giving anyone that authority. They still have to follow the rules and regulations that everyone else has to follow. So using the environmental argument is just a scare tactic.

"Some of the prior speakers said we shouldn't pass this resolution because we haven't had enough discussion. The process is flawed. Another speaker, also in opposition, said we have had so much discussion, we already know what to do. Either we did or we didn't. The bottom line is that one of the things we need to do for privatization in this arena is to have a resolution such as this pass.

"As a member of the Minority, and all the members of this House who have been here longer than about 5 minutes can testify, we have been urging privatization for a long time, as a means, as a tool for the State to save money and bring better services to the public. As the speaker from Kona mentioned, there are guidelines to privatization, but certainly you can't say privatize here, there and there, but nowhere on anything of interest to me. It's hypocritical, and it's inaccurate and it's not being fair to your constituents or your colleagues in this Chamber who are relying on your statements as a position of where you come from. Mr. Speaker, I urge all of our colleagues to consider carefully what we've done in terms of creating this mechanism as a way to help streamline government.

"And finally, the concern that was expressed that this would be an inappropriate time for this bill, I will beg to differ because this is exactly what this Special Session is about. Both of these companies who have shown interest, and there could be more, have indicated that they are willing to spend at least \$20 million on each of these harbors. The State Auditor's report there is at least \$130 millions in repairs and maintenance needed throughout the State.

"By passing this resolution, we are untying the hands of the executive branch to go forward and make these improvements, which would then see immediate impact not only in the construction industry, if that's what they decide to do, but also in the boating industry in terms of helping them provide a better service, a more attractive service for tourist, and help expand the experience of the tourists in this area. Thank you Mr. Speaker."

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

"Thank you Mr. Speaker. I am in opposition to this land use legislation. This was previously brought up in a lot of discussion that has been made in the past years specifically regarding the Ala Wai. I frankly don't remember very much discussion about Honokohau Harbor. The previous discussions regarding the Ala Wai have been mostly from the public, mostly against it. The public does not want the dramatic kinds of changes for that harbor.

"The Administration characterizes the sweeping, large dramatic changes as privatization. Well, the intention was to put it under private management. The larger plan had mostly to do with changing the nature and character of the Ala Wai Harbor. And it is because of that there were opposition. How the harbor was to be used. I think at this point since we are not having public input now, I need to vote against this measure because of previous testimony and the questionable intentions hoped for, for the Ala Wai.

"I want to point this out to contrast to Honokohau Harbor which, more simply is being proposed that instead of the State managing the harbor, that a private company would manage the harbor; to paint where it needs painting, control rust, collect fees, etc., etc. We know the State is a bad manager, and regarding Honokohau, perhaps this is a very good thing. I don't believe there's any asking to change the nature of Honokohau Harbor, just to have better management. The issue with the Ala Wai is not to have better management. It's to change how the harbor is used and the purpose of that land use.

"Since land use is such an important issue in Hawaii I think we do need public input on this and my recollection of testimony of the past is against the changes of the Ala Wai and I am going to stand up for those people. Thank you very much."

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

The House of Representatives reconvened at 1:09 o'clock p.m.

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

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

At this time Representative M. Oshiro requested a roll call vote.

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

Roll call having been granted, the motion that H.C.R. No. 15, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO LEASE SUBMERGED AND TIDAL LANDS OF THE ALA WAI AND HONOKOHAU SMALL BOAT HARBORS TO PRIVATE ENTITIES FOR COMMERCIAL, RECREATIONAL, EDUCATIONAL, AND RESEARCH PURPOSES," be adopted successfully carried on the following show of Ayes and Noes:

Ayes, 32: Abinsay, Ahu Isa, Cabrerros, Case, Chang, Djou, Espero, Garcia, Hamakawa, Hiraki, Ito, Kanoho, Kawakami, Lee, Luke, Magaoay, Meyer, Morita, Moses, Nakasone, Ontai,

B. Oshiro, M. Oshiro, Rath, Saiki, Say, Schatz, Souki, Suzuki, Takai, Takumi and Whalen.

Noes, 11: Auwae, Bukoski, Davis, Fox, Hale, Halford, Jaffe, Leong, Marumoto, Thielen and Yoshinaga.

Excused, 8: Arakaki, Gomes, Kahikina, McDermott, Pendleton, Stonebraker, Takamine and Yonamine

#### ANNOUNCEMENT

Representative Takamine: "Mr. Speaker, your Committee on Finance will be holding a public hearing on SB No. 8, SD 2, with decision making to follow, today immediately following today's Session in Conference Room 308. Public notification and information of the hearing was posted and distributed on Friday, October 26th.

"We've made several adjustments in light of the length of Session today. We will commence immediately following Session, as soon as we are able to get the Finance committee members up to Room 308, so I ask for the cooperation of the members."

#### ADJOURNMENT

At 1:14 o'clock p.m., on motion by Representative Lee, seconded by Representative Thielen and carried, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, Tuesday, October 30, 2001. (Representatives Arakaki, Gomes, Kahikina, McDermott, Pendleton, Stonebraker and Yonamine were excused.)

## FIFTH DAY

Tuesday, October 30, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 11:53 o'clock a.m., with the Speaker presiding.

The Pledge of Allegiance was led by Representative Barbara Marumoto, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Kanoho, McDermott, Pendleton Stonebraker, Takamine and Yonamine who were excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Fourth Day of the Third Special Session was deferred.

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. No. 44 through 49) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 44 transmitting S.C.R. No. 16 entitled: "SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001," which was adopted by the Senate on October 30, 2001.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, S.C.R. No. 16 was adopted with Representatives Arakaki, Kanoho, McDermott, Pendleton Stonebraker, Takamine and Yonamine being excused.

Sen. Com. No. 45, returning H.B. No. 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," which passed Third Reading in the Senate on October 30, 2001.

Sen. Com. No. 46, returning H.B. No. 9, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION," which passed Third Reading in the Senate on October 30, 2001.

Sen. Com. No. 47, returning H.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," which passed Third Reading in the Senate on October 30, 2001.

Sen. Com. No. 48, returning H.B. No. 15, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," which passed Third Reading in the Senate on October 30, 2001.

Sen. Com. No. 49, returning H.B. No. 16, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," which passed Third Reading in the Senate on October 30, 2001.

## ORDER OF THE DAY

At 11:59 Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:00 noon.

## STANDING COMMITTEE REPORT

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 24) recommending that S.B. No. 8, SD 2, pass Second Reading be placed on the calendar for Third Reading.

Representative M. Oshiro moved that S.B. No. 8, SD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Much has been said about the hotel renovation tax credit that has been increased from 4% to 10%. I would like to briefly mention that the 10% is a compromise because it is not refundable. It is offset against future taxable income. Measured in terms of projects that we want to encourage, investors will invest in these types of projects because these are long-range projects. And even if they are not now generating taxable income in which to take advantage of the tax credit, the timeframe in which these investments are measured, I would think that in their projections they would hope that in the longer timeframe, the whole tax credit of 10% can be utilized to reduce their State tax income liability.

"Moving on to the residential tax credit for renovations and improvements. This is a credit that affects any homeowner who makes these types of improvements, and also real estate developers. The credit is applied on a retroactive basis to any improvements or costs incurred after December 31, 2000, and prospectively through July 1, 2002. I think in testimony before the Finance Committee when we heard the bill, Dr. Naya said this would have a tremendous impact on our residential construction business.

"The credit is limited to \$10,000 per residential unit. That means that residential units costing \$250,000 will have the benefit of a maximum of \$10,000 credit. The credit can also be claimed, for each residential unit, by the owner of the residential unit. The developer is the owner of the residential unit. So only the developer, according to my reading of the bill, is entitled to this credit. Should he have taxable income against which to claim the \$10,000 or 4% of the improvement cost, then he would be in a position to pass this credit on to his retail customer. We hope that that is encouraged and, in fact, we have heard that there are developers who might be publicizing this as a measure to pass the savings on to the consumer.

"Mr. Speaker, I urge everyone to support this bill, and I don't think anyone can be against it at this time, even the Governor. Thank you for allowing me to speak."

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

"I believe the bill is good as it moves forward. It does some good things for us. I just want to point out that it is for residential construction and remodeling, and it increases the hotel construction and remodeling tax. It doesn't do anything specific for other retailers. I would have hoped that we could have added that. It doesn't have it. But the bill as written needs to move forward. Thank you very much."

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

"I am a real estate broker."

The Chair ruled, "no conflict."

Representative Souki continued, stating:

"I wish to speak in favor of the motion with one or two caveats. First of all, with the residential tax credit, I think it's a wonderful bill. It will assist in the construction industry and help moderate-income people to own and purchase homes. I believe it has the potential to be a stimulus to the economy. This is a much-needed bill.

"On the hotel renovation and construction, I have a couple caveats there, the major one is that it is a non-refundable tax. It will not be enough of a lure or enticement for the hotel people to build now, when now is the time when we need the construction to be built. Because it is a non-refundable tax, if they don't have any taxable income, they will not get anything. This will hurt them in the bond market as they attempt to get the financing to build their hotels or do major renovations.

"However, I believe it is a good start. I ask the members, especially those in the Tourism Committee and the Finance Committee to look to the Regular Session to make some modification and hopefully make this a refundable tax and not a non-refundable tax. Thank you Mr. Speaker and members."

Representative Chang rose and stated:

"I talked to a reputable residential developer and he committed that he will return the tax credits to the new home owners, thereby giving them a discount on the sale of the home. This will also spur construction jobs."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 8, SD 2, 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 Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

#### SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Davis and carried, the rules were suspended for the purpose of passing certain bills on Third Reading on the basis of a modified consent calendar. (Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine who were excused.)

#### THIRD READING

##### S.B. No. 2:

Representative M. Oshiro moved that S.B. No. 2 pass Third Reading, seconded by Representative Lee.

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

Representative Yoshinaga's written comments are as follows:

"Mr. Speaker, I rise in support of S.B. 2 that intends to relieve the suffering and fears of the people of this great State who have felt the effects from the tragic event that took place on September 11, 2001. Tourism, which has been our largest industry, has spiraled downward resulting in many businesses filing for bankruptcy, and the laying off of thousands of employees in a short period of time.

"I stand for these employees who have lost their jobs due to layoffs. These employees may have children to feed, bills to pay, and with illnesses in the family, medication to pay for, and even hospitalization. For these reasons, if the unemployed

workers cannot maintain an inexpensive medical insurance plan, the family may suffer a financial burden that may cause bankruptcy or hardship, and it may take years for this family or individual to recover financially.

"A new study was released in October 2001 and conducted by Andrew J. Oswald of the University of Warwick in Coventry, England, Rafael Di Tella of Harvard and Robert J. MacCulloch of the London School of Economics. The study's findings measure happiness levels of communities affected by unemployment. Their findings are based upon polls over 25 years from 1972-1994 of 300,000 people in the U.S. and Europe. The professors report that "losses from recessions are large. It is not just that GDP (Gross Domestic Product) drops and that some citizens lose their jobs . . . This loss is over and above the actual fall in income in a recession." The measure of happiness and well being declines in the affected community as well. Professor Oswald argues for a stronger safety net in many countries, for the well being of the community affected that includes both the employed and the unemployed.

"Therefore, appropriating more money into the State of Hawaii Health Insurance Program Coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) is a workable solution.

"The appropriated sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2001-2002 for the reimbursement of payments is well justified as made under this Act.

"Mr. Speaker, therefore, by all means support this program and the appropriation of money that is greatly in need for the unemployed temporary health coverage."

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, S.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Third Reading by a vote of 44 ayes, with Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

##### S.B. No. 3:

Representative M. Oshiro moved that S.B. No. 3 pass Third Reading, seconded by Representative Lee.

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

Representative Yoshinaga's written comments are as follows:

"Mr. Speaker, I rise to speak in favor of S.B. 3, Relating to Unemployment which gives an extension of up to thirteen week of extended benefits to workers laid off after the September 11 tragedy.

"There is a new study released October 2001 and conducted by Andrew J. Oswald of the University of Warwick in Coventry, England, Rafael Di Tella of Harvard and Robert J. MacCulloch of the London School of Economics.

"The study's findings are based upon polls over a 25 year period from 1972-1994 of 300,000 people in the U.S. and Europe. The professors say that the countries least affected by recessions pay the highest unemployment benefits. In Denmark, where a typical unemployed worker receives benefits equal to 60 percent of the worker's old salary, family members and people are able to endure the hardships of tension and unhappiness recessions bring better than the family members and people in England, where the an unemployed worker's salary is approximately 20 percent of the worker's old salary.

Professor Oswald argues for a stronger safety net in many countries, for the well being of the community affected that includes both the employed and the unemployed.

"Therefore, Mr. Speaker, this bill which gives more time for workers to find employment is definitely an investment in the care of the well-being of the people of the State of Hawaii that we need to make in this economic crisis."

The motion was put to vote by the Chair and carried, S.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Third Reading by a vote of 44 ayes, with Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

#### **S.B. No. 5:**

Representative M. Oshiro moved that S.B. No. 5 pass Third Reading, seconded by Representative Lee.

Representative Suzuki rose to speak in support of the measure and asked that his previous remarks on H.B. No. 5 be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Suzuki continued, stating:

"In the previous comments that I made regarding the House Bill, we quantified the number of tax returns that would not need to be filed by affected taxpayers because of this threshold increase. That was 160,000 per year. Other people have asked me what would be the effect on the other taxpayers paying the withholding taxes, the transient accommodations tax, and the recreational vehicle surcharge tax.

"Those would amount to 20,000 per year that would not have to be filed because of the threshold increase. So in summary, we are looking at a reduction of 180,000 tax returns every year that need not be filed. That much less checks, envelopes, stamps that would need to be handled by not only the taxpayer, but also the tax office.

"If I were to again quantify the savings of not filing these taxes every year, a fair guess is that the reduction amounts to \$9 million savings if we assume a processing cost of \$50 per return. If we add the savings that should also be enjoyed by the State, I'm sure our Tax Director would point to thousands of dollars of savings.

"Mr. Speaker, thank you for quickly recognizing the importance of this measure to our business community and the positive effect this permanent change will have of \$17.2 million immediately in response to our crisis."

The motion was put to vote by the Chair and carried, S.B. No. 5, entitled: "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES," passed Third Reading by a vote of 44 ayes, with Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

#### **S.B. No. 6:**

Representative M. Oshiro moved that S.B. No. 6 pass Third Reading, seconded by Representative Lee.

Representative Suzuki rose to speak in support of the measure and asked that his remarks on H.B. No. 6 be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Suzuki continued, stating:

"Mr. Speaker, this emergency measure will cost the State approximately \$3 million in reduced tax collections from certain transportation service providers.

"The magnitude of this tax benefit, the \$2 million, indicates the severity of the downturn in business these taxpayers are facing from the previous year. Based on the tax computation method employed, \$3 million in tax forgiveness represents an aggregate \$75 million reduction in gross revenues. This industry will have \$75 million less to spend this year because of the state of our economy. They will have \$75 million less to purchase goods and services, from advertising and promotion to repairs and maintenance; capital expenditures from computers to transportation equipment, and funds to pay for one of the larger costs of doing business, salaries and wages and fringe benefits for the dispatchers, drivers, mechanics, and reservationists. They will have less funds to pay for their continuing fixed costs. Now is the time this industry desperately needs relief. With this measure, we provide a one time direct help to this important sector of our economy to help sustain them through this crisis and try to keep them in business and their infrastructure ready when our economic prospects improve.

"Mr. Speaker, I would like to credit the Governor and his administration for identifying this change in our tax law in conformity with the recommendations of the Tax Review Commission Report of 1984. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, S.B. No. 6, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS," passed Third Reading by a vote of 44 ayes, with Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

#### **S.B. No. 10:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, S.B. No. 10, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS," passed Third Reading by a vote of 44 ayes, with Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

#### **S.B. No. 11:**

Representative M. Oshiro moved that S.B. No. 11 pass Third Reading, seconded by Representative Lee.

Representative Garcia rose to speak in support in the measure, and asked that his remarks made previously on H.B. No. 11 be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Garcia continued, stating:

"The bill before us for consideration comes at a timely occasion, since our federal government issued yesterday its second so-called, threat advisory; the second one this month. I am glad to see that the Administration, previous to these warnings, moved on measures to secure what we consider to be our critical infrastructure under State auspices, which are our harbors, airports and highways.

"Mr. Speaker, much of what this bill calls for are capital improvements, but I am glad to say that the Transportation Department is planning for these improvements not in a vacuum, but with the cooperation and coordination of other agencies and authorities critical to our security efforts throughout the state.



"I just want to further advise the members that the State Department of Transportation is a member of what has been termed the Hawaii Emergency Preparedness Executive Committee. This Committee is comprised of several key agencies, both federal and State and county, all charged with terrorism preparedness programs. They include the FBI, the US Secret Service, the US Attorney General, the FAA, other federal entities, the county civil defense administrators, the Honolulu Fire Department, the Honolulu Police Department, and others.

"They have had several meetings since September 11th. There were three working groups within this Committee, and they have added a fourth, which is the Committee for Homeland Defense.

"I am glad to see that the Department of Transportation is working with all these entities in constructing these capital improvements as called for in this bill. It comes with the good advice of all the agencies and authorities charged with our security. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, S.B. No. 11, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 44 ayes, with Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

**S.B. No. 12:**

Representative M. Oshiro moved that S.B. No. 12 pass Third Reading, seconded by Representative Lee.

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

"I brought this up before, and I will bring it up again. I have problems with use of the Tobacco Settlement Fund for this purpose. Thank you Mr. Speaker."

The motion was put to vote by the Chair and carried, S.B. No. 12, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND," passed Third Reading by a vote of 37 ayes to 7 noes, with Representatives Auwae, Gomes, Jaffe, Leong, Marumoto, Rath and Whalen voting no, and Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

The Chair directed the Clerk to note that S.B. Nos. 2, 3, 5, 6, 10, 11 and 12 passed Third Reading at 12:17 o'clock p.m.

**S.B. No. 13:**

Representative M. Oshiro moved that S.B. No. 13 pass Third Reading, seconded by Representative Lee.

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

"I mentioned these before. Again I have a problem with the use of the funds, although I can see some linkage between a Tobacco Settlement Fund and the medical school. I am all for the medical school. I think it is needed in our State.

"I have a problem with the location because of traffic concerns. I don't think it's good to put more traffic Downtown. I still have problems with the dislocated businesses there. These are not the Kapalama businesses. These are the Kakaako businesses and they will be displaced after negotiating a 30-year lease with the State.

"Again, I look at the medical school and I say that we gave UH autonomy and the UH decided on the location, and therefore I am going to vote in support with reservations."

Representative Takai rose to speak in opposition to the measure, and asked that his remarks made previously on H.B. No. 13 be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Takai continued, stating:

"Again my position is as stated on Friday, October 26th on H.B. No. 13, which is exactly the same as S.B. No. 13. I would simply like to say that I do support the UH medical school, however, I do not support the funding method for the school."

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

Representative Fox's written remarks are as follows:

"Mr. Speaker, it is wrong for this Body to overturn the agreement recently made to finance a Tobacco Trust Fund with 25 percent of the tobacco settlement funds. An improved medical school is a worthy goal. The way to finance it is wrong, because it takes money badly needed for another purpose.

"I recommend we all read the letter written by Peter Flachsbart in today's *Advertiser*, and therefore request that his letter be printed in full:

Tobacco Trust Fund must be left alone

Every year 1,100 people die in Hawai'i from smoking-related illness. Act 304 allocated 25 percent of state revenue from the tobacco settlement to set up a Tobacco Trust Fund to finance programs to help people stop or not begin smoking.

In response to Act 304, the Coalition for a Tobacco Free Hawai'i has developed an effective tobacco control program to reduce the millions of dollars (\$328 million in 1997) spent statewide on healthcare costs related to diseases from tobacco use. A similar program in California reduced lung cancer rates by 14 percent between 1988 and 1997 compared to a nationwide decline of only 2.7 percent during the same period.

The Legislature now proposes to take half of the revenue in the Tobacco Trust Fund for the new medical school complex in Kaka'ako. The American Lung Association of Hawai'i supports the university's plans for a new medical school, but vigorously opposes the Legislature's bill to use a portion of the Tobacco Trust Fund to underwrite a bond issue to finance it.

The bill betrays the original compromise that was reached to pass Act 304 for the use of the tobacco settlement and puts the state's public health community at odds with the University of Hawai'i.

This same compromise put 40 percent of the tobacco settlement into a "rainy-day fund." The Legislature should tap these funds for the new medical school.

Peter Flachsbart, Ph.D.  
President, Board of Directors  
American Lung Association of Hawai'i

"Thank you Mr. Speaker."

At this time Representative Lee requested a roll call vote at the appropriate time.

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

"One of the best uses that could be made of monies derived from the State's settlement with tobacco companies is to invest those monies into bio-medical research. Sixteen states have passed budget or enabling legislation to use some portion of their tobacco settlement for bio-science related efforts. These states are Colorado, Connecticut, Illinois, Kansas, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, Utah, and Wisconsin. Most of the states have designated the funds for basic research leading to commercialization. The key to growth for any industry in the new economy is to effectively develop and adopt new technologies. Biotechnology is expected to be a particularly high growth industry.

"Healthcare is an industry with potential for substantial expansion in Hawaii. According to the *Honolulu Advertiser*, this bill is 'the single truly bright hope' for Hawaii's struggling economy being considered in this Special Session. In addition, the Cancer Research component does and will provide a valuable link regarding preventive care and education in the community. President Evan Dobelle recently stated, that 'the University of Hawaii will be open and willing to cooperate in any further efforts by the Legislature and the community in the realm of tobacco control and prevention, as the effects of tobacco usage are serious concerns of the School of Medicine and the Cancer Research Center of Hawaii.'

"The quest for a facility that can conduct bio-medical research becomes even more important now that we are engaged in a different kind of war. Biotechnology and genetic engineering can become part of an important public health infrastructure, which will not only produce revenue, but a source of security and protection for our people.

"An expanded and improved School of Medicine, a Health and Wellness Center and research facilities should certainly increase the quality of education, research and access to quality healthcare in our State. Hawaii is well located as a bridge between Asia and the mainland. Recently, the Cancer Research Center has received a prestigious program project grant to examine risks of cancer in different ethnic populations. In addition, it was reported today that the University of Hawaii has received a record \$9.3 million federal grant to create a cardiovascular research center. This could be the beginning of a new emphasis in biomedical research.

"Also, according to news reports, the grant comes at a time when financing from the National Institutes of Health and the National Science Foundation is on the increase. Those agencies have been targeted by Congress over the past few years for large-scale budget growth. And one area of particular interest to the federal government - minority health - seems tailor-made of Hawaii, a state with a diverse population.

"We have already made a commitment to the design and planning of the Health and Wellness Center. The crisis we face makes the fast tracking of this project more worthy than ever before and offers the promise of substantial progress in our State's struggle for economic diversification.

"Mr. Speaker, I urge the members to support this bill. I also ask that the text of the editorial from yesterday's *Advertiser* which supports the project also be placed in the record. Thank you," and the Chair "so ordered."

Representative Lee submitted the following article from *The Honolulu Advertiser*:

Med school synergy our brightest hope

The single truly bright hope for Hawaii's struggling economy poised to emerge from the special legislative session is a commitment to go forward with the university's new medical school complex in Kaka'ako.

Of the 17 bills under consideration in the special session, only one — the medical school — goes beyond the generally worthy but mundane palliative measures that typify this package.

Extending unemployment benefits, healthcare and social welfare to the newly unemployed, tinkering with tax relief and assuring airport security are all needed Band-Aids to stop the bleeding — that is, treatment of symptoms rather than the disease.

But the bill authorizing \$150 million in revenue bonds backed up by tobacco settlement money for a new medical school and health and wellness center in Kaka'ako promises genuine, substantial progress in the state's decades-old battle for economic diversification.

The state's commitment represents but one-third of the battle. The University of Hawaii'i has promised to match that \$150 million with a like sum raised privately.

And now the third portion begins to fall into place as the Kamehameha Schools and the Victoria Ward Estate, the two biggest private property owners in Kaka'ako, announce their intention to craft a joint master plan for the redevelopment of their adjoining lands.

Victoria Ward and Kamehameha Schools had previous plans for this neighborhood, including residential towers, entertainment and retail complexes and office developments. But now it's clear that the engine of growth for this area is likely to be the medical school, with its related research and wellness facilities. Kamehameha Schools already is planning to develop a \$100 million high-tech office complex on 12 acres adjoining the medical school site.

The two landowners have contracted with the same high-powered urban planner that helped the university decide on the Kaka'ako site to help them see more clearly the possibilities for new development and re-energizing of existing businesses in the area.

It's an exciting prospect — the sort of thing we sorely need more of.

And it's the one measure that the Legislature must approve.

*The Honolulu Advertiser*  
October 29, 2001

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

"I support the medical school, but my opposition is on the question of financing for the same reasons that were articulated by the Representative from Pearl City. Thank you."

Representative Whalen rose to a point of order, stating:

"Mr. Speaker, I believe a roll call is appropriate when a vote is possibly in doubt. Here, it is passing on Third Reading and I think all the no votes will be registered so there is no need for a roll call vote."

The Chair responded, stating:

"The roll call is appropriate because S.B. No. 13 was separated from the previous motion."

Representative Whalen responded, stating:

"I understand that, but it is still to pass Third Reading, so we are required to hand in our 'no slips' to our Floor Leader who will read them off. There will be no dispute as to what each and every individual's vote is. The roll call vote is there if there is some indecision as to how people will vote. Here there will be no mistake. It will be clearly in the record as to who voted yes and who voted no."

At 12:24 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:29 o'clock p.m.

The Chair recognized Representative Lee who withdrew her request for a roll call vote.

The motion was put to vote by the Chair and carried, S.B. No. 13, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed Third Reading by a vote of 31 ayes to 13 noes, with Representatives Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Meyer, Ontai, Rath, Takai and Whalen voting no, and Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine being excused.

The Chair directed the Clerk to note that S.B. No. 13 passed Third Reading at 12:30 o'clock p.m.

#### ADJOURNMENT

At 12:30 o'clock p.m., on motion by Representative Lee, seconded by Representative Davis and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Wednesday, October 31, 2001. (Representatives Arakaki, Kanoho, McDermott, Pendleton, Stonebraker, Takamine and Yonamine were excused.)

**SIXTH DAY**

**Wednesday, October 31, 2001**

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

The Pledge of Allegiance was led by Representative Helene H. Hale after which the Roll was called showing all members present with the exception of Representatives Arakaki, Ontai, Rath, Takai, Takamine, Yonamine and Yoshinaga who were excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Fifth Day of the Third Special Session was deferred.

**GOVERNOR'S MESSAGES**

The following message from the Governor, (Gov. Msg. No. 251) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 251, transmitting a Report to the Twenty-first Legislature, State of Hawaii, 2001, Act 259/01 (H.B. 200, H.D. 1, S.D. 1, C.D. 1) Section 34, Session Laws of Hawaii, 2001, Requesting Monthly Notification of Expenditures from the Director of Health Relative to the Felix Consent Decree Made to the United States Ninth District Court, the Felix Special Monitor, the Felix Monitoring Project, or any other Agent of the United States Judiciary for the months of August and September.

**ORDER OF THE DAY**

**INTRODUCTION OF RESOLUTIONS**

The following resolution was received and read by the Clerk and the following action was taken:

H.C.R. No. 16, entitled: "REQUESTING THAT THE U.S. POSTAL SERVICE ISSUE A POSTAGE STAMP COMMEMORATING THE HAWAIIAN ALOHA SHIRT," was offered by Representative Marumoto.

On motion by Representative Marumoto, seconded by Representative Leong and carried, H.C.R. No. 16 was adopted with Representatives Arakaki, Kahikina, Ontai, Rath, Takai, Takamine, Yonamine and Yoshinaga being excused.

**SUSPENSION OF RULES**

On motion by Representative Lee, seconded by Representative Davis and carried, the rules were suspended for the purpose of passing certain bills on Third Reading on the basis of a modified consent calendar. (Representatives Arakaki, Kahikina, Ontai, Rath, Takai, Takamine, Yonamine and Yoshinaga were excused.)

**THIRD READING**

**S.B. No. 8, SD 2:**

On motion by Representative M. Oshiro, seconded by Representative Lee and carried, S.B. No. 8, SD 2 entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," passed Third Reading by a vote of 43 ayes, with

Representatives Arakaki, Kahikina, Ontai, Rath, Takai, Takamine, Yonamine and Yoshinaga being excused.

The Chair directed the Clerk to note that S.B. No. 8, SD 2 passed Third Reading at 12:15 o'clock p.m.

On motion by Representative Lee, seconded by Representative Pendleton and carried, the Journal was kept open until 12:00 midnight to receive a Senate Communication returning House Bills which pass Third Reading in the Senate. (Representatives Arakaki, Kahikina, Ontai, Rath, Takai, Takamine and Yonamine were excused.)

**RECESS**

At 12:15 o'clock p.m., on motion by Representative Lee, seconded by Representative Pendleton and carried, the House of Representatives stood in recess until 7:00 o'clock p.m. Friday, November 2, 2001. (Representatives Arakaki, Kahikina, Ontai, Rath, Takai, Takamine and Yonamine were excused.)

**ADJOURNMENT**

At 12:00 midnight, the House of Representatives adjourned until 7:00 o'clock p.m., Friday, November 2, 2001.

SEVENTH DAY

Friday, November 2, 2001

The House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 7:23 o'clock p.m., with the Speaker presiding.

The Pledge of Allegiance was led by Representative Emily J. Auwae, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine who were excused.

At 7:26 o'clock p.m., Representative Lee requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:31 o'clock p.m.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Sixth Day of the Third Special Session was deferred.

GOVERNOR'S MESSAGES

The following message from the Governor (Gov. Msg. No. 252) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 252 informing the House that on November 2, 2001, the following bills of the Third Special Session were signed into law:

H.B. No. 1, H.D. 1, RELATING TO SOCIAL WELFARE (Act 001)

H.B. No. 9, H.D. 1, MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION (Act 002)

H.B. No. 14, RELATING TO CAPITAL IMPROVEMENT PROJECTS (Act 003)

H.B. No. 15, RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE (Act 004)

H.B. No. 16, H.D. 1, RELATING TO PROCUREMENT (Act 005)

S.B. No. 2, RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS (Act 006)

S.B. No. 3, RELATING TO UNEMPLOYMENT (Act 007)

S.B. No. 5, RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES (Act 008)

S.B. No. 6, RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS (Act 009)

S.B. No. 8, RELATING TO INCOME TAX CREDITS (Act 010)

S.B. No. 10, MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS (Act 011)

S.B. No. 11, RELATING TO TRANSPORTATION (Act 012)

S.B. No. 12, RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND (Act 013)

S.B. No. 13, RELATING TO STATE FINANCES (Act 014)

SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 50) was received and announced by the Clerk and was placed on file:

Sen. Com. No. 50 returning H.B. No. 17, SD1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," which passed Third Reading in the Senate on October 31, 2001.

ORDER OF THE DAY

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.C.R. Nos. 17 and 18) were read by the Clerk and the following action was taken:

H.C.R. No. 17, entitled: "HOUSE CONCURRENT RESOLUTION URGING ALL PUBLIC SCHOOLS IN THE STATE OF HAWAII TO BEGIN THE DAY WITH THE PLEDGE OF ALLEGIANCE," was offered by Representative Stonebraker.

Representative Stonebraker moved that HCR No. 17 be adopted, seconded by Representative McDermott.

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

"Mr. Speaker, I submitted this a few days ago; I didn't know how long the Session would go. I'm not sure exactly what would happen if we passed it. I do think it's a good idea. It teaches our kids that we do have a home; we do have a Country worth defending; and it's worth pledging our allegiance to. We set a good example here during this Special Session pledging allegiance to the flag. I think we would be wise to ask our schools to do that with their students.

"I know many classes do it already. I think it sends a good message from this House to request that the public schools make it a practice. Thank you."

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

"Mr. Speaker, I think in 1997, I introduced a bill to do this same thing. It made it out of the Education Committee but never proceeded any further. However, in the course of that, I got an opinion from the Attorney General stating that it was indeed constitutional. I just wanted to put that into the record. Thank you."

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

"I stand in strong support. I would just like to ask that the teachers and educators, as they implement this policy, that they be sensitive to the religious beliefs in our community and the diversity therein. I believe that there are some religious beliefs that might be challenged by this resolution."

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 written remarks are as follows:

"Mr. Speaker, I rise to speak in favor of House Concurrent Resolution 17. Here on opposite shores from New York, the people of Hawaii feel the shock and crisis brought upon by the September 11, 2001 tragedy of the World Trade Center. The children especially need guidance and a renewing of faith in the United States of America and its ideals and beliefs. These ideals and beliefs are stated symbolically in the Pledge of Allegiance for the country itself is a symbol for "liberty and justice for all." Daily recitation by school children of the Pledge of Allegiance will help to affirm the tradition, values, and beliefs upon which the United States were founded and will help to be a reminder not to take for granted the democratic way of life for which we are grateful."

The motion was put to vote by the Chair and carried, and H.C.R. No. 17 was adopted with Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine being excused.

H.C.R. No. 18, entitled: "HOUSE CONCURRENT RESOLUTION URGING PUBLIC SCHOOLS IN THE STATE OF HAWAII TO OBSERVE A DAILY MOMENT OF SILENCE FOR THE SOLDIERS DEFENDING THE VALUES AND BELIEFS OF THE UNITED STATES OF AMERICA," was offered by Representative Stonebraker.

Representative Stonebraker moved that HCR No. 18 be adopted, seconded by Representative Moses.

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

"I think we would do well to keep in mind that we are in a war at this time. The President of the United States has asked us to continue to live our lives as we normally would. However, if we look back in history, we see that during World War II, there was a great amount of awareness for our troops as we were all over the world fighting battles that not only protected our Country, but freedom itself in other countries.

"The purpose of a resolution like this is to not only keep our heads in the game, not only for the students, but for the teachers and families. It shows good support from this little place out in the Pacific. It reminds us that we are part of the larger unit as the United States of America. I request that the members support this as well. Thank you"

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

"I couldn't have said it much better than that. As you all know, I served a long time in the military as did other members of this Body. I want to point out that in the title, when we say 'soldiers,' we are talking about all military. It's not limited to Army soldiers. I'm a Marine, which is a soldier of the sea. There are airmen and the Navy also. So when we say soldiers, we are talking about all military personnel.

"I would say that that should also include those that in time of war are a part of our military. That includes our Coast Guard, and now our National Guard, and even our Civil Defense personnel. Thank you Mr. Speaker."

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

"I really appreciate these patriotic efforts in both of these resolutions. I'm one of those veterans that came back not as a hero; in fact I got spat upon in San Francisco when we came back from closing [Raimy] Airforce Base during the Viet Nam era. It really touches me to see all these patriotic efforts since the September 11th attack on our freedom.

"Also, to think that our Pledge of Allegiance is not being said in our schools makes me wonder why other nations hate us so much. They teach their children from young to hate our freedom and our ways. We, as Americans, should be holding these values true to us. Thank God. God bless America that we live in a country that we can criticize our government. We go home as representatives of this State and we get criticized. This is the only government, democracy. I'm very touched by this outpouring of patriotism. It is truly American."

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

"I stand in strong support. My only concern I have with this is that it should not be used to subterfuge or to impose certain religious beliefs or sects upon those in our public school system. Thank you."

The motion was put to vote by the Chair and carried, and H.C.R. No. 18 was adopted with Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine being excused.

At 7:39 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:43 o'clock p.m.

## SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Stonebraker and carried, the rules were suspended for the purpose of passing a bill on Final Reading on the basis of a modified consent calendar. (Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine were excused.)

Representative M. Oshiro moved that the House agree to the amendments proposed by the Senate to H.B. No. 17 (SD 1), seconded by Representative Lee.

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

"Mr. Speaker, this is still a bad bill. I didn't know I would be the first one to speak so I'm not that prepared. This bill is contrary to the foundation of our government. Two hundred and some years ago, our Country began an experiment; an experiment in American style democracy that turned out brilliantly. We have the strongest economy in the world, the strongest military in the world, and many more things could be said to commend how great this experiment has turned out.

"At the very core, the very foundation of the formation of this Country, two major principles were implemented. One, that we would atomize economic decision making to as many people as possible. It is Adam Smith's basic concept that we have modified over the years but nevertheless, we were founded on that principle of diversifying economic decision making to as many people as possible, as opposed to centralized decision making in our economy.

"The other great underlying principle of our Nation is atomizing political power, putting as much political power with the individuals as opposed to concentrating political



power among a few. This bill goes contrary to both those premises. If I could, I would like to cite just two bad examples of the many in this bad bill.

"In section 3, this bill allows the Governor, one person, to suspend in whole or in part, any statute, rule or order that has any relationship to twelve general areas of government activity that are spelled out here.

"One other point about this bad bill is that regarding rules, the Governor may adopt rules without public input and apparently without sunset. I won't go on with other parts of this bill. I think that that is sufficient.

"In general, I see this bill as unpatriotic and a shameful assault on our American style democracy. Thank you."

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

"I think the amendment that was offered to the original bill is a worthy one. This was offered by the Senate Minority, which all the Senators agreed to. However, it doesn't go far enough as far as the safeguards that I think ought to be in place. I do think that section 5, in particular, is still too broad. But more than that, my concern is a bill of this sort should still go through a greater winnowing process. This bill has not been through the hearing process in the respective Judiciary committees. And I'm not comfortable that we've had enough independent legal analysis that would make me, at least, feel comfortable that this is the right thing.

"I'm not against the emergency powers per se, but it's just this bill in its present amended form, I don't think should be adopted. I think we should spend more time on the measure and make it better. And that is one other reason why we should remain in Session and let this bill go through the respective Judiciary committees for the appropriate public hearing.

"It is my understanding the one of the problems that this bill attempts to address arose out of the concessionaires' contracts that we presently let with the airport concessionaires. In my research, I found it amazing that the current contracts there, for whatever reason, don't allow for the Governor to explicitly act to waive or defer fees in a time of war, or man-made disaster. I think that that was an unfortunate, purposeful exclusion that the Attorney General made when they negotiated this contract.

"The other issue is that, frankly, the Governor has the implicit authority, without this legislation, to waive or defer, and the precedent has already been set. The problem is that we now have to come back and enact legislation to give the explicit authority or cover to do that to avoid any kind of suit from third parties who may have been denied the bid. And apparently, again, this is all the rationale that the Administration at least, has for wanting authority of this sort.

"So, again I think the problem fundamentally is that the contract itself, unfortunately, excluded this flexibility for the State; and this would be in our interest to make modifications in time of man-made disaster or war. And second, I think what we should be looking at is amending Chapter 102-10 which allows for modifications that are in the bid-process itself. It would be up-front; everybody knows it. That would allow waivers in the case of construction, as that might affect operations at the airport or the various concessionaires. We ought to amend that section of the chapter to include things like war, things like economic catastrophes, that are not the cause of the concessionaire themselves. I think that is the way to go.

"We shouldn't be here with this particular bill, trying to pass this particular measure, again, notwithstanding the heroic

efforts of our Republican colleagues in the Senate, and the attempts they made to make this a better bill. So for those reasons, Mr. Speaker, I am opposed. Thank you."

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

"I want to address some of comments made by the honorable Representative from Maui. I will paraphrase something he said. I think he called this bill 'unpatriotic and a shameful assault on American style democracy.' It seems like the arguments made against this bill, as amended, are the same arguments that were made against the original bill. I think this bill has changed so much that we have to talk about how it has changed.

"Make no mistake, this bill has been amended to much more narrowly construct the Governor's emergency powers to be limited to only the package which we passed during this Special Session. The primary opponent, a friend of mine as a matter of fact, a well known labor lawyer that the Representative from Waikiki referred to earlier this week in his opposition to this bill, now doesn't have a problem with this and thinks that this bill should move forward. It does have some awkward language, frankly, but it does the trick and is an important bill. Let me talk about why it is so important.

"One of the things that we did in this Special Session is we provided funding for the COBRA subsidy. What that means is that if you lose your job, say next week, you will get up to half of your COBRA health insurance, the continuation of your health insurance paid for by the State.

"Now as we all know, State government can't do anything without rules. The Department of Human Services can't just start doling out checks. They need to construct rules for this to happen. Most of us are familiar with the Chapter 91 rulemaking process. If we are lucky, Chapter 91 will take about a year. We don't have a year to write rules. We need to give the tools to the Administration. We need to give the tools to the Governor so he can write rules, the Administration can write rules so that we can start giving this COBRA subsidy to the people who need it immediately.

"I want to give one other example, and there are many, but I want to focus on the ones that frankly, matter to me the most. We just gave a grant-in-aid for emergency food for those who slip through the unemployment insurance extension that we are providing, for those who slip through the COBRA subsidy and the 'Skinny-QUEST', all of which are going to require emergency rules. We put in a grant-in-aid that will hopefully get all the way to the Foodbank. The procurement process has, and I think it rightly has, a long, long, long way to go to get a little bit more efficient. And one of the reasons why the procurement process takes so long is that we want to make sure that it is fair. If we went through the normal procurement process, you can bet that it will take over a year to get any money to the Foodbank to get any food on the shelves of the Foodbank.

"We need to move faster than twelve months from now in getting the food to the Foodbank. We need to move faster than twelve months from now in getting COBRA subsidies for health insurance for the unemployed. This bill enables our package to have an immediate impact. To call it 'a shameful and unpatriotic assault on American values,' frankly, offends me. This package is a good package, and this compromise is a good compromise. This bill is going to enable our package to be effectuated. I hope everyone would support it. Thank you."

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

"Mr. Speaker, I wanted to share my confusion here listening to this great debate. I thought we were here for this Special Session, which is different from a Regular Session. Mind you that I do appreciate the democratic process of debate. But I thought we were here because of an emergency Special Session. Although, in this bill, there are a lot of issues here that I could debate.

"But we are here to talk about immediate relief to facilitate the continuing of business that was affected since September 11th. If no one feels this is an emergency, then I am confused. Our Nation, every time I turn on the television, is talking about a war.

"The Governor put an economic committee together and they talked about the slowdown of our economy, and these were some of the emergencies this Session. These powers that we are talking about would help to facilitate that relief. The Governor put together the Hawaii Together group comprised of service providers to talk about the safety net. This is what this Special Session was supposed to address. That is what we're talking about. Limited powers of the Governor to provide that relief. This is relief during the period of the economic emergency. It is limited to the period from September 11th to April 30th, 2002.

"Yes, it suspends the statutes so that we can give the grant-in-aid programs to provide food to the people who were affected by this emergency. It provides programs to provide aid to those persons existing on welfare after the maximum five years, those who we know will be affected. It will provide immediate help. We are talking about programs of the Housing and Community Development Corporation to provide assistance so that people won't be thrown out of their homes, so that we can provide rent, their mortgage payments, and prevent them from becoming welfare recipients. We are talking about establishing some temporary health plans. This is an emergency. We can go on and on. Is it giving up our freedom? Is it giving up basic democracy? I don't think so. It says that the Governor needs to provide notice prior to the effective date. It is limited again to April 30, 2002 to address all of these points which were pointed out by previous speakers; the twelve points all pertaining to the emergency.

"So Mr. Speaker, I don't see what the fear is in this Body because if we hold this democratic process so real, that when we come back in January for Regular Session, if we are that committed to democracy, I'm sure we have the energy right here in this Body to give up that emergency power.

"Again, Mr. Speaker, we came back here for an emergency Special Session. This is our way of telling our constituents that we care about them; those who were affected by the September 11th attack, and those who are being affected now. That is our way effort to say that this is democratic. This is American. We care for our brothers and sisters out there. What are we afraid of? I ask this Body to support this bill."

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

"This is a matter of personal conscience. After the horrendous events of September 11th, our people want unity. They want their government's leadership to act with unity of purpose. Unity of purpose means listening to and taking in to account differing points of view in order to achieve a consensus on desired ends. Our people want collective action. To achieve this collective action, our people understand that they may be called upon to share in resulting burdens. Perhaps it's a matter of personal inconvenience. Perhaps their family or friends may be called upon to make a much greater personal sacrifice.

"But this bill, Mr. Speaker, I submit, asks us to sacrifice too much of our hard fought right to act collectively. In an unfair exchange of power taken away from the people. This bill takes away the shared responsibility for governmental action. The sharing of the people and their representatives, and between their representatives and the executive branch. This sharing of responsibilities, burdens and accountability is exactly what this bill takes away. Why? It is argued that fast action makes it necessary for the Legislature to stand aside from sharing in critically important economic decisions. It assumes that fast action is more important than right action. I submit that the case for this extraordinary take-away has not been justified. The Governor wants to provide quick relief to the residents of our state, and suggests with the Administration that he needs the power to suspend State laws or adopt new ones in order to do this. Who determines the form this relief will take? Who determines which residents will be deemed worthy to receive this relief? Who determines which residents will be called upon to pay for it? It assumes that the need for input from the people expressed by their representatives is unnecessary. Are our longstanding and fundamental protections against the arbitrary exercise of authority to be ignored in the race for speedy action? Have our people agreed to this extraordinary exercise of authority? I submit, Mr. Speaker, this case has simply not been justified.

"The Governor wants to provide relief to our residents and suggests that this can only be accomplished if he is given the power to suspend contract obligations owed to the State. Who determines which existing contracts are suspended and which are brought into being? We have suffered through ethical and even criminal behavior before our procurement system on competitive bidding was established. Must the years of effort and the development of this system now be ignored in order to provide speedy relief to our people? Have the people agreed to this extra-ordinary take-away? Again, I submit that this case has not been justified.

"Passing House Bill 17 means that this House of Representatives is so void of vision that it is willing to relinquish its role as a constitutional check on the executive branch. It is we who represent the people. If is for that reason that I must, today, respectfully vote nay so that I may continue to fulfill my obligations as my conscience dictates as a member of this great legislative Body. Thank you Mr. Speaker."

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

"When you look at the original HB 17, we had some very important provisions. It had a drop-dead time limit. It had an advisory committee of the House Speaker and the Senate President, two very fair and honorable individuals. It had public notice provisions. It had conditions and requirements for implementing relief measure for businesses and those who are in need. And it also had public reporting requirements addressing who and why certain things were needed. At any time, if we weren't satisfied with what the Governor was doing, we could always come back into Session and override any decision and take away these powers and authorities that he has.

"There has been great debate in this Body, as well as from the public. The Senate, next door, did the right thing. They listened to the people. They heard what everyone had to say. And in a great spirit of bipartisanship that we also need in this Body, they passed an amendment; an amendment which takes that original bill that already had some very strong safeguards, and made them stronger. They made it stricter with more conditions and made it more acceptable to more individuals.

"We are a nation at war right now Mr. Speaker. We have soldiers in Afghanistan, Pakistan and in that region of the world. Our military personnel have already died because of the

situation we are in, and that doesn't take into account what happened on September 11th.

"Here in Hawaii we are in a major period of uncertainty, like never before in the past 50 years. We've got bankruptcies, we've got people laid-off, and we have businesses on the brink of going under because the tourists are no longer coming to this state. Our lifeline to the world has been cut off to a certain degree. We came to see what we could do to help, and what we can do to collectively think. There has been a lot of collective thought that has come from all of us Mr. Speaker.

"But still there are those who say think, 'This is not the bill I want. I want more.' Unfortunately, we know in this Body that you don't always get what you want. But we need to look at what we can do right now. We are coming back into Session in ten weeks, ten weeks. We will enjoy the holidays if we can, and try to work the next four or five months to really look at what we can do to get our state off the ground; to pick ourselves up and to get the world to come back to Hawaii. But we are not the only jurisdiction doing this. This is happening throughout the world. The cities in Europe, on the East Coast, West Coast, Asia, everywhere. We are in a major economic downturn, there is major uncertainty, and we don't know at this stage how things will be three months from now, six months from now, one year from now.

"Now there are many people that have projections and ideas, but again, we need to look at what we can do during this short window that we have. It's a short period of time. We can stay through January, but who wants to stay in Special Session through January Mr. Speaker? We need to go and talk to our colleagues, the public, and to see what we did; what they liked and didn't like. And then come back in Regular Session and really look at the many, many solutions that we can pass as a Legislature.

"You could look at this in cynical way, as some people have. 'The Governor's going to go and help his cronies, and there is going to be favoritism.'"

Representative Gomes rose to a point of order, stating:

"He seems to be straying from the merits or demerits of the bill and alluding to motives of those who are opposed to the measure. Again, I would refer you to rule 27.7 of the House Rules. Thank you."

Representative Hiraki then yielded his time and the Chair "so ordered."

Representative Espero continued, stating:

"Now there are some people who look at Bill 17 and its amendment in a very cynical way. They think the Governor is going to abuse his powers. He's going to help all his friends. I don't think..."

Representative Fox rose to a point of order, stating:

"He is violating Rule 27.7. He is referring to the motives of the members."

The Chair responded, stating:

"I don't believe he is referring to the motives of anyone here in this House. He is referring to what he feels and his personal points of view."

Representative Espero continued, stating:

"Mr. Speaker, I'm not going to view this bill in a cynical way. I'm not going to think that the Governor is going to abuse his powers. I believe the Governor, like all of us, wants to do

what is right the help the people of Hawaii. He was elected just like all of us. I trust that the Governor, with our advice, with our input, will do the right thing to help those in need. To help those individuals that have been laid off. To help those who are going to have problems with their health insurance. To help those businesses that need relief so that they will have better cash flow so that they can operate another four months, or six months, or one year, so that they will be able to continue to provide jobs for our workers, for all the families which we represent. This is not a perfect bill. You're right. And all those who are against it, they're right. It's not perfect. But in the spirit of bipartisanship, that we in the House and in the Senate, if you look at the collective votes between the House and the Senate, I believe the majority do support this bill as amended.

"I hope that we can put away our differences at this stage and look at what we need to do in order to pass the amendment, because I think it's the best bill that we've been able to work on in the past two weeks. Then come January, which is ten weeks away, let's come up with some real good legislation, and let's move forward with our state. Thank you Mr. Speaker."

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

"First of all I want to commend our Senate colleagues. I think they did do dramatic things to the bill. Unfortunately, I don't think the bill goes far enough. That's my reservation.

"We've heard about wanting to tell our constituents that we care about them. I say, Mr. Speaker, that we should show our constituents that we care about them. We have submitted bills that have not been heard in the Session. Those bills should be included in this omnibus bill. We've included all the other bills that we've done. We haven't done anything that gives tax relief to the average citizen. We haven't done any food tax relief. Any retail sales tax relief."

Representative Lee rose to a point of order, stating:

"The speaker is not addressing the bill that we are debating."

The Chair responded, stating:

"Representative Moses, please confine your remarks to the amendment on House Bill 17."

Representative Moses continued, stating:

"Thank you Mr. Speaker. I thought I was."

Representative Halford rose to a point of order, stating:

"I believe it is very okay for him to say what he wished would have been in this bill; what he worked hard to get in this bill. I think he is addressing this bill by pointing out what is missing."

The Chair responded, stating:

"I believe the amendments that are before us are not what Representative Moses is stating. That's all I'm saying. So Representative Moses, would you please address the amendments."

Representative Moses continued, stating:

"Thank you Mr. Speaker. That's what I am trying to do. I am trying to address the things that should be in the bill. We have said again and again that we want to help those in need. We just heard a previous speaker say that. But we are not providing help for those in need. We are providing help for a

select few in our state. We are not providing help for the average citizen on the street, and I think we should do that.

"We did have bills before us and I wish that they were included Mr. Speaker. And I think that we still, if we wanted to, if we had the will, we could go to committee on those bills and include them before we end this Session without doing much for the people of Hawaii. Thank you very much."

The motion was put to vote by the Chair and carried, and the amendments proposed by the Senate to H.B. No. 17 (SD 1), entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," were agreed to by the House with Representatives Gomes, Halford and Yoshinaga voting no, and Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine being excused.

At 8:14 o'clock p.m., Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:17 o'clock p.m.

At 8:18 o'clock p.m., Representative M. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:19 o'clock p.m.

#### FINAL READING

##### H.B. No. 17, S.D. 1

Representative M. Oshiro moved that H.B. No. 17, SD 1, pass Final Reading, seconded by Representative Lee.

Representative Halford rose to speak in opposition to the measure and asked that his remarks on the previous motion to agree be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Halford continued, stating:

"I believe the comments that I made on the motion to agree are directly applicable to the motion before us now, and I ask that the Clerk reinsert my comments into this portion of the Journal."

Representative Moses rose in opposition to the measure and asked that his remarks on the previous motion to agree be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Gomes rose to speak in opposition to the measure and asked that his remarks on the previous motion to agree be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Gomes continued, stating:

"I will be voting no, and just a quick comment. My opinion is that this is not an issue of trust; trust in the Governor, or you or the Senate President. This is an issue that we need to spend more time on to do it right and we have not done that. Thank you."

Representative Yoshinaga rose in opposition to the measure and asked that her remarks on the previous motion to agree be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Espero rose in support of the measure and asked that his remarks on the previous motion to agree be inserted into the Journal, and the Chair "so ordered." (By reference only.)

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

Representative Kahikina rose to speak in opposition to the measure and asked that his remarks on the previous motion to agree be inserted into the Journal, and the Chair "so ordered." (By reference only.)

Representative Kahikina continued, stating:

"The real check and balance is that we stay involved. And I don't know about you Mr. Speaker, but I'm going to be involved with the Governor and with the task force, on how he will spend that \$2 million for that safety net.

"When I turn around and I work with the Hawaii Together coalition, and when we call for the emergency safety net providers to come together, I would like to turn around and see more of my colleagues there standing side-by-side. I would encourage our participation, and that would be the true check and balance. Thank you."

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

Representative Souki continued, stating:

"I voted originally with reservations. But the improvements that were made to this bill warrant my voting with no reservations.

"I also want to attribute that to my colleague from Makiki, again, who made some very good comments and I would like to incorporate then as my own. And just for the edification of the members, I would like to remind the members that this bill simply incorporates all the bills that we have passed. It merely provides more flexibility for the expedition of this bill.

"Also, this is not the Governor's bill. He has had nothing to do with this bill. This bill was created by our colleagues on the second floor, and in a bipartisan effort, was helped along by the members from that side of the aisle. So I can say that this is a very bipartisan bill, and it is a great way to end this Session Mr. Speaker. Thank you."

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

"I am in strong support, not only because we need to act expeditiously, but I am convinced that we will indeed take the right actions because the Legislature will be involved. The bill does call for participation on the part of the Speaker, the Senate President, as well as the Minority Leaders of the House and the Senate. And acting upon the instructions of the Speaker, for example, your Chairman of the Committee on Water and Land Use has already met with prospective members of the executive departments to look at how these rules might be acted upon judiciously to expedite and do the right thing."

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

"I am in strong support of the bill and I would just like to point out a couple of things. I think the bill could have been made better if we had included the House Majority Leader

along with the Co-Majority Leaders in the Senate to also be involved on this advisory committee.

"The second point I would like to make are the comments in John Flanagan's "Talk Story" printed in the *Honolulu Star Bulletin* on Tuesday, October 30th on page A-13, entitled: If Hawaii's economic crisis is real, give Ben the tools to face it. It is an accurate description of what this bill does, and the necessity for it. Inasmuch, I would like to adopt these words as my own, and would like to submit these comments for the Journal," and the Chair "so ordered."

Talk Story  
By John Flanagan  
Tuesday, October 30, 2001

If Hawaii's economic crisis is real, give Ben the tools to face it

WE'VE given Hawaii's government considerable responsibility for economic development, tourism marketing and leadership when times get tough. We expect the state to incubate and attract new businesses, maintain a steady flow of visitors and do what it takes to initiate economic recovery.

Leadership demands action. After Sept. 11, Gov. Ben Cayetano quickly moved to reassure visitors in Japan and on the mainland that Hawaii was safe and that they were welcome.

He then boldly proposed to build a billion dollars worth of new state infrastructure to offset the billion dollars in lost tourist spending, restart and diversify the economy and strengthen the University of Hawaii. To pull this off, he had to sell his program.

A timid Legislature wasn't buying. Temporarily united by the task of addressing the human crisis, it will pass a number of bills to shore up the safety net for the newly unemployed. However, it decimated Cayetano's construction proposal. Now it is embroiled in wrangling over the temporary emergency powers he's asked for.

Responsibility demands authority. If we agree there is an economic emergency and that steps should be taken to move quickly and make the best of the hand we've been dealt, then let's get on with it.

The so-called "King Ben" bill has been exaggerated and ridiculed for partisan, personal and philosophical reasons. It grants temporary and limited emergency economic powers, allowing the governor to act in the public's behalf unfettered by existing state contracts and rules. It is not martial law. It holds him accountable. If the bill has technical problems, let's amend it.

We seem to be unduly preoccupied by state government in Hawaii. Perhaps it's because effective self-government in an island melting pot like ours is so unlikely, given the potential for misunderstanding, miscommunication, ethnic tension and fear of recrimination.

More likely, it's because the private sector is just that -- private. We're interested in government because we can all watch it happening.

We often forget that state government is mainly responsible only for building and running our school and transportation systems and managing some health and welfare programs, while the city handles zoning, streets, sewers, garbage and police. That's about it.

Large, jealous, self-sustaining, slow-moving bureaucracies have organized themselves around all these functions. The

Legislature funds them by levying taxes while state and municipal courts oversee enforcement of laws and regulations, resolve disputes and maintain the gloss of legitimacy.

My point is that when times are bad in Hawaii, we turn to government for relief but government usually can't or won't do much to help -- except in an emergency.

Vicky Cayetano, our business woman/first lady, told us a story a few years ago about a store she patronized. She loved shopping there, but it was apparent to anybody who walked in the door that the place was poorly run. Government wasn't going to fix the place up, install a modern accounting system or deliver the goods when promised.

Government is a convenient scapegoat, however. A story in last week's Pacific Business News quotes a successful Hawaii businessman who exports French pastry to Asia. "Initially it was very difficult," he said. "The state is anti-business and doesn't want to give you a break."

Non-specific whining about the Hawaii business climate has become so routine that we've tuned it out. It usually means somebody else got a better deal, a bigger tax break or a more lucrative contract.

Yes, government can do better, but is it to blame for the 85 bankruptcies and 30 foreclosures reported in PBN's last issue? Did the state cause American Classic Voyages and the Ohana Foundation to close their doors?

It comes down to this: Is there a real economic emergency and if there is do we want government to do something about it?

As they say up in Maine, it's time to fish or cut bait.

*Star-Bulletin*

The motion was put to vote by the Chair and carried, and H.B. No. 17, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," passed Final Reading with Representatives Davis, Gomes, Halford, Ontai and Yoshinaga voting no, and Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine being excused.

The Chair directed the Clerk to note that H.B. No. 17, S.D. 1 passed Final Reading at 8:25 o'clock p.m.

#### INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 1 and 2) were read by the Clerk and the following action was taken:

H.R. No. 1, entitled: "HOUSE RESOLUTION AUTHORIZING THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPROVE THE JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 7TH LEGISLATIVE DAY," was jointly offered by Representatives M. Oshiro and Fox.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, H.R. No. 1 was adopted with Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine being excused.

H.R. No. 2, entitled: "HOUSE RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOUSE OF REPRESENTATIVES, THIRD SPECIAL SESSION OF 2001, PURSUANT TO RULE 18 OF

THE RULES OF THE HOUSE OF REPRESENTATIVES," was jointly offered by Representatives M. Oshiro and Fox.

On motion by Representative M. Oshiro, seconded by Representative Fox and carried, H.R. No. 2 was adopted with Representatives Arakaki, Case, Marumoto, Morita, Pendleton, Takai, Takumi and Yonamine being excused.

### SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 51) was received and announced by the Clerk and was placed on file:

Sen. Com. No. 51 transmitting S.R. No. 2, entitled: "SENATE RESOLUTION INFORMING THE HOUSE AND THE GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE," which was adopted by the Senate on November 2, 2001.

### ANNOUNCEMENTS

Representative Bukoski: "I would like to welcome the Speaker and our colleagues of this House to join me at Aloha Stadium to witness Kamehameha's victory over St. Louis."

Representative Kahikina: "I also would like to give an open invitation to everyone to join us in our Waianae Civilian and Military Advisory Council Veteran's Day Parade in Nanakuli, tomorrow at 9:00 a.m. I believe Representative Auwae will have a beautiful float, and yours truly will be the emcee."

Representative Magaoay: "Thank you Mr. Speaker. As the Aloha United Way Coordinator, I would like to thank everyone who contributed to this great cause. We surpassed what we raised last year and I give all you a great hand of applause. Thank you."

### LATE INTRODUCTIONS

Representative Schatz, on behalf of Representative Luke and himself introduced a friend and community member, Mr. Al Canopin.

Representative Luke introduced Representative M. Oshiro's wife, Lauzanne, and her parents, Mr. and Mrs. Fung.

Representative Lee introduced Representative Ontai's wife, Mrs. Penny Ontai.

Representative Stonebraker introduced Representative Auwae's husband, Mr. David Auwae.

At this time, the Chair recognized Representative M. Oshiro and Representative Fox to give closing remarks on behalf of their respective Caucuses.

Representative M. Oshiro rose and stated:

"Mr. Speaker, I would like to thank you and the rest of the Majority members for working so hard over the last two weeks. I think when we entered into the Special Session on the 22nd of October, we had no idea that we would be here completing our work in about two weeks.

"I think given the tone and the sentiment that I am feeling around me, we will all be leaving tonight with a sense of accomplishment. There is much work to be done Mr. Speaker. We all know that. But I believe that we have at least, come together as a Body and given the community a message. And

that message is that we as a community can come together, despite our differences. We can put aside the petty politics. And we can really hone in and try to make a difference in the lives of our communities both near and far.

"I think one of the hallmarks of this Session will be Mr. Speaker, that all of us did come together from where ever it may have been, and focused all of our attention and needs upon the concerns that we have in our community.

"I would just like to thank you for being the Speaker that you are, and for working with the executive branch, and for working with the Senate. I think a lot of the work that we had before us, and the accomplishments we had before us were due to your involvement and leadership. That should not be missed as we reflect upon what has been done here today.

"So Mr. Speaker, I want to thank you. I want to thank the members. I want to thank my colleague, Representative Fox. He challenged me throughout this Session, and in doing so, I think, helped create a package that we can all be proud of and take to our community. Thank you Mr. Speaker."

Representative Fox then rose and stated:

"Mr. Speaker, I want to express my appreciation to you and to the leadership on the fifth floor and the second floor. We had an effort that began in September with the Governor bringing a community group together and challenging us to come up with means to deal with the immediate aftermath of the September 11th events.

"Mr. Speaker, we are in the worst economic crisis in the history of the state of Hawaii. We are still in the midst of this crisis. I think this legislative Session has taken steps to deal with the crisis, but I think we have still fallen short of the challenge that the Governor gave, us to take bold initiatives. I think that many of us are in agreement with members of the Majority that the Governor's specific way of taking bold action, the very large proposal for capital improvement projects was probably not the way to do it. But I think your Minority feels very strongly that there is a further need for economic stimulation. And this will have to be paid for with real sacrifice. And that all of us are a part of that sacrifice. We have to see how we can make government more effective, able to do more with less, so that we can have the economic stimulation that results from returning money to the community where it can be spent and generate economic activity.

"We are very concerned with the Council on Revenues' projections that will come out on the 14th. We have a real preview of that in the Council on Revenues' actions yesterday showing that the personal income is way down, both for this year and next. So, we've got some tough, hard acts ahead of us. The Legislature will be a part of that process. Under your leadership, Mr. Speaker, we think we should not adjourn at this time, but rather go into recess until those reports are available.

"Thank you Mr. Speaker. Thank you colleagues."

The Chair then addressed the Body, stating:

"The Chair would like to say a few words.

"Members of the House, as we close this emergency Special Session, I would like to express my sincere appreciation for the effort put forth by each and every one of you.

"And let us never forget what brought us together. September 11. I think for all of us it was a shock. For me, disbelief, that an airplane would run into a tower. And the horror reports that we saw. And then the sadness of the families affected. And last but not least, the faces of anger.



"I know many of us had to momentarily set aside these powerful emotions because our jobs demanded it. Perhaps some of us have yet to truly grieve.

"So once again, may I ask that we all stand for a moment of silence in memory of those who perished. Members and the audience."

At this time, the House of Representatives stood for a moment of silence.

"Thank you very much, members and audience. You may be seated.

"We all have watched in amazement as our Nation healed and rediscovered itself in the weeks following September 11th. We have a renewed appreciation for the principles and values that America stands for.

"We are once again of single mind -- united in the war against a common enemy. Resolved to do whatever it takes and go wherever it takes us.

"Members of this House, this resolve was with us as we prepared the State's first response. For a long, meaningful moment, we worked as a team -- a great, great team. Let's keep it going.

"The emergency measures we adopted attend to our most urgent needs for humanitarian relief and assistance, public safety and security, and they set in motion our long journey to economic recovery.

"The proposals of legislation are the result of your collaboration and compromise. No one here in this Chamber can claim total satisfaction with the package. At the same time, no need has been completely overlooked. For me, it is a product that reflects the true nature of our legislative process.

"But for all of us members, we have only taken the first step on our long journey, which is what Representative Fox has stated. Our real test lies ahead in year 2002. When we convene in January, all of us will have a fuller grasp of our situation and the resources that will be needed to address it.

"From me to you, let's use the next two months to actively seek and test new ideas. And reassure the people that we will not rest until we have secured our safety and our future.

"Until then, I challenge each and every one of us to pledge: to make it our solemn duty to be honest with the people of the state of Hawaii; to not mislead or spread false hope; to embrace ideas that promise the greatest good, provided they pass the cold test of reason; and to realize that it's honorable to be realistic.

"Not every bold idea is good, and not every good idea is bold. For all of you, you have the wisdom to know the difference.

"If we can do this, then I believe we can reach for the sky and stars, and also keep our feet on solid ground.

"On behalf of myself, I would like to say aloha, good luck, and God bless you all."

#### ADJOURNMENT

Representative M Oshiro moved that the House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, adjourn Sine Die, seconded by Representative Lee.

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

"I will be speaking very briefly against the motion. It is a very solemn time. It is a time of crisis. The Governor called us into Special Session, and under the Constitution we can be here for 30 days. That period of time would take us through the Council on Revenues November 14th special report; a special report called for by the Governor because it is a time of crisis and he wants us to start adjusting to the changes that are necessary.

"I believe other members of the Minority will also speak. Thank you Mr. Speaker."

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

"Mr. Speaker, I would like to begin by thanking you for your eloquent word closing out this Special Session. Nevertheless Mr. Speaker, it is with great disappointment and sorrow that I must rise in opposition to adjournment. The reason I rise in opposition Mr. Speaker, is I respectfully submit, that the reason we came into Special Session is that the people of Hawaii asked us for bold and decisive action to face what is clearly, one of the most pressing economic crises in the history of the state of Hawaii.

"That call for bold and decisive action was matched by the Governor. And while I may disagree with how he wanted to handle the economic crisis, I do commend the Governor for creative, bold, and dramatic thinking. I am disappointed that unfortunately this Special Session has matched that call by the Governor of Hawaii and by the people of our state with unfortunately timid action and meek thinking.

"It is my belief that this Special Session has done some good, and I would like to commend in particular, yourself, the Senate President, and both the Majority and Minority leaders, for taking some good steps that were needed. Emergency band-aids in my opinion, such as increasing health care benefits, increasing unemployment benefits, and increasing security at our airports. Nevertheless Mr. Speaker, I believe that the steps that we did take and the measures that we are passing in this particular Legislature were short-term, stopgap, band-aid measures. We unfortunately did not match that real test that the voters and the electorate and the people of Hawaii have asked us to do; to take bold, decisive, dramatic action, to save the economic ship of Hawaii from sinking.

"I believe that this Legislature in this Special Session has taken care of a few things. It has taken care of the general contractors of this State. It has taken care of hotel developers of this State. But I'm very disappointed, but I believe that we have ignored the general, average working family here of this state, and the small businesses of the State of Hawaii.

"It is my position Mr. Speaker, that there is a great deal of unfinished business that this Special Session needs to complete. I believe that there are bills that are lying on the tables that we have not heard in committee. We have created suggestions for things such as retail sales tax holidays or taking the General Excise Tax off of grocery food. I believe that we are still lacking a true economic stimulus to save the Hawaii economy from continuing to sink. I believe that the numbers from the Council on Revenues show that there is going to be dramatic change in the fiscal picture of the State of Hawaii, and it is our responsibility, as the members of the legislative branch, to continue to stay in Session and wait for those numbers and respond to that economic crisis here in our state.

"For these reasons, Mr. Speaker, in conclusion, I do not believe we have finished the task that we had originally set out

to do. It is my position that this Special Session is incomplete, insufficient and will ultimately be ineffective.

"I believe it is incomplete because it does not include real, substantive, sweeping tax relief. It is my position that it is insufficient because it does not help the average working family here in Hawaii.

"And finally, I believe it will be ultimately ineffective because I do not believe that the product that we will produce today will save Hawaii from an economic crisis.

"Mr. Speaker, my opposition does not mean to belittle the hard work that you and all the members of this Legislature have done. My speech in opposition to adjournment is merely to say that our work is not yet done and I believe we should stay here in the Legislature in Special Session until the work is done. Thank you"

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

"Mr. Speaker, I don't believe that we need to stay in Session to get the work done. What we need to do is turn right away to the deep problems and issues we face. The Council on Revenues meeting won't tell us anything that we don't know already. Problems and options will still be there. We just need to start working on them and identify options realistically and make them ready for the Regular Session. If needed, we can always come back before January on short notice.

"The interim is really a critical period in terms of preparation for the Regular Session. Now more than ever, we need the time to study, confer and plan. We also need the time to help the community understand how they can take advantage of the bills we have passed. We need to go out to the people and listen to them before we stay here in the Capitol talking to each other. For these reasons and beliefs, I am in support of this motion."

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

"Thank you Mr. Speaker, very briefly, and primarily in rebuttal to one of the previous speakers. There has been much said in terms of tax relief, about helping the broader base and helping many, many more of the people in the state of Hawaii. These are the working people. I would suggest to you that in addition, in addition to all that this Special Session has accomplished, that we still have measures that we have taken and put into place. Specifically, Mr. Speaker, the largest reduction in personal income taxes and the final phase of that will take effect on January 1, 2002; less than two months from today. What that will accomplish is it will put into the pockets of all those taxpayers in the state of Hawaii, much, much more much, much more money than all the bills that have come before this Legislature during this Special Session.

"I think it's important that we remember that because that will hopefully be a tool as we do face the larger challenges in 2002 in our Regular Session, as we try to balance the budget in light of all of the circumstances. I do believe, at that point, we will have much more information and analysis to make more measured decisions. Thank you very much Mr. Speaker."

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

"Just a couple quick comments. I think one of the issues that we need to deal with that we didn't during this Special Session is to provide some kind of confidence builder or building block for the marketplace and for consumers and consumer spending. I think that's really where a lot of the initiatives that, at least your Minority, had put on the table for discussion. That

needed to be done now. We can talk about it during the Regular Session. We can look at the taking the excise tax off of food, and the tax holiday. But really Mr. Speaker, even if that were to pass, that's not going to happen for six, seven, eight months from hence.

"We've got to deal with something now. We've taken steps to make travelers feel more secure now. Not six or eight months from now. We should have done the same thing for buyers and sellers and shoppers. That's what we needed, especially with the holiday season coming up because that's a huge transactional time for us.

"In addition, with regard to the comment from one of the Majority leaders about listening, and she made some allusions that we had been listening to those outside. I think we have to some extent, but again, not enough. A lot of constituents, a lot of people were coming forward to say, 'Give us these measures. Give us this relief,' tax relief or whatever it is. Maybe it might not work. Maybe it's not the grand solution. But it was something that would have provided the injection of confidence that we need right now to help people to calm themselves and stabilize things. That is the missing link at this point.

"Notwithstanding the measures already in place that were spoken to by the Chairman of the Finance Committee, that's good, that's excellent. It's a large, apparently, tax decrease, but it's the only one. Again, that's not going to happen for two more months. People, I think, are unaware of that, and we need something now. That's what we should have been spending time on. Thank you Mr. Speaker."

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

"You know, I've heard all the debate here and I just want to say that before we came back here into Special Session, and especially in the two weeks that we have been in Special Session. I have four children and I spend six days a week at the soccer field, whether it's practice or for games. Countless people from my district come up to me, every single day, and say, 'What are you doing for us?' And I ask if they work for the tourist industry. No. Are they in the construction industry? No. Do they travel through the airports? No. Do they travel through the harbors? No. What am I suppose to tell them Mr. Speaker? I can tell them to wait until January when they'll see something. But they want to see something now.

"One of my colleagues mentioned 'confidence.' That's what the people need. They need to know that we are out there doing something for the average person in Hawaii, and I don't think we are Mr. Speaker. We can tell them to wait until January. That doesn't help them through this season, right now, when they're depressed and demoralized, as the whole nation is, and when they're going in to Thanksgiving and the Christmas holidays.

"I think that we should be here right now doing something for those people. Even if we pass something now that doesn't go into effect for a few weeks, at least they see that we've done something for them. Thank you Mr. Speaker."

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

Representative Fox then requested a roll call vote and upon a show of hands, the request was granted.

Roll call having been granted, the motion that the House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, adjourn Sine Die, successfully carried by the following show of Ayes and Noes:

Ayes, 26: Abinsay, Ahu Isa, Cabrerros, Chang, Espero, Garcia, Hale, Hamakawa, Hiraki, Ito, Kahikina, Kanoho, Kawakami, Lee, Luke, Magaoay, Nakasone, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Souki, Suzuki, Takamine and Yoshinaga.

Noes, 14: Auwae, Bukoski, Davis, Djou, Fox, Gomes, Halford, Jaffe, Marumoto, McDermott, Meyer, Moses, Ontai and Thielen.

Excused, 11: Arakaki, Case, Leong, Morita, Pendleton, Rath, Stonebraker, Takai, Takumi, Whalen and Yonamine.

At 8:53 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, adjourned Sine Die.

**GOVERNOR'S MESSAGES RECEIVED AFTER THE ADJOURNMENT  
OF THE LEGISLATURE, THIRD SPECIAL SESSION SINE DIE**

Gov. Msg. No. 253, informing the House that on November 3, 2001, the Governor signed the following bill into law:

H.B. No. 17, SD 1, entitled: "A BILL FOR AN ACT  
RELATING TO ECONOMIC EMERGENCY." (Act 015)

STANDING COMMITTEE REPORTS

**SCRep. 1 Finance on H.B. No. 1**

The purpose of this bill is to provide relief to families who, because of the economic crisis resulting from the September 11, 2001, terrorist attacks, need assistance to obtain the basic necessities of life. This bill appropriates the following sums from the Emergency Budget and Reserve Fund:

- (1) \$250,000 to provide food for the needy; and
- (2) \$1,000,000 for emergency shelter for the needy.

The Chamber of Commerce of Hawaii, ILWU Local 142, Health Care for the Homeless Project, National Association of Social Workers, Hawaii Chapter, Salvation Army Family Services Office, Volunteer Legal Services Hawaii, Hawaii Foodbank, National Alliance for the Mentally Ill, Mental Health Association in Hawaii, Kauai Economic Opportunity, Incorporated, Visitor Industry Coalition, and a concerned citizen testified in support of this bill.

The Office of the Governor, Housing and Community Development Corporation of Hawaii, Department of Labor and Industrial Relations, Kokua Council, Catholic Charities, Na Loio-Immigrant Rights and Public Interest Center, Hawaii Business Roundtable, Hawaii Together, Kauai Foodbank, and a concerned citizen supported the intent of this bill.

The Arc of Kauai, Hawaii Primary Care Association, Kauai United Way, Maui Non-Profit Directors, Affordable Housing and Homeless Alliance, Good Beginnings Alliance, and a concerned citizen commented on this bill.

The events of September 11<sup>th</sup> not only had an impact on a national level but also affected the people of Hawaii, both directly and indirectly. As a result of these terrible acts, there has been a downturn in the national economy, as well as a dramatic decline in both the number of scheduled flights and the number of tourists coming to Hawaii. This has had a tremendous effect on Hawaii's families, as both tourism and non-tourism related industries have faltered, forcing many of Hawaii's people to file for unemployment.

Assisting Hawaii's families affected by this tragedy is one reason the Governor has convened a special session. The sense of ohana is an aspect of Hawaii that makes it such a special place. Hawaii's families have always been known for their generosity towards others, but many of them will not be able to support themselves during this economic downturn. Your Committee feels that it is imperative that programs be implemented to support our ohana in getting through these difficult times. This bill will help our ohana by providing emergency food and shelter for those in need in this time of economic turmoil.

Your Committee has amended this measure by:

- (1) Increasing from \$250,000 to \$1,000,000, the appropriation to provide food for Hawaii's needy;
- (2) Specifying that the food is to be provided through grants-in-aid;
- (3) Broadening the purposes for which the housing appropriation may be expended, by replacing the term "emergency shelter" with "financial assistance that addresses the housing needs of" Hawaii's needy; and
- (4) Making technical, nonsubstantive amendments to section 1 of the bill for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

**SCRep. 2 Finance on H.B. No. 8**

The purpose of this bill is to help revitalize the construction industry by:

- (1) Providing a residential construction and remodeling tax credit amounting to four percent of the residential construction and remodeling costs incurred up to \$250,000;
- (2) Increasing the hotel construction and remodeling tax credit to six percent of the construction or renovations costs incurred by a qualified hotel facility located in Hawaii after the effective date of the bill and until June 30, 2002; and
- (3) Authorizing a tax credit of four percent of hotel construction and remodeling costs incurred by a qualified hotel facility located in Hawaii starting June 30, 2002, and ending December 31, 2004.

The Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority, Chamber of Commerce of Hawaii, Waikiki Improvement Association, Building Industry Association of Hawaii, Subcontractors Association of Hawaii, Maui Hotel Association, Hawaii Resort Developers Conference, General Contractors Association of Hawaii, Architects Hawaii Limited, and an individual testified in support of this measure. The Hawaii Business Roundtable, Land Use Research Foundation of Hawaii, Outrigger Enterprises, Hawaii Hotel Association, Visitor Industry Coalition, Marriott's Ko Olina Beach Club, Marriott International, and several concerned citizens supported the intent of this bill. The Department of Taxation, Tax Foundation of Hawaii, American Resort

Development Association of Hawaii, and a concerned citizen submitted comments. Sierra Club, Hawaii Chapter and a concerned citizen offered testimony in opposition to this measure.

The events of September 11, 2001, have had a tremendous influence on both the national and state economies, unexpectedly affecting the livelihood of millions of citizens. Tourism, Hawaii's principal industry, accounts for nearly \$10.9 billion in general revenues each year and was severely impacted by these attacks. The number of travelers to the State has decreased by between twenty and fifty percent, which has not only affected the tourism industry but the economy of the entire State. The housing and construction industry is also a critical component of Hawaii's economy and will be negatively impacted by any protracted economic downturn.

Dealing with this economic crisis is one reason the Governor has convened a special session. Your Committee feels that in order to avoid an economic catastrophe, the tourism industry, as well as the housing and construction industry, need to be revitalized through measures that aid these vital segments of our economy.

It is the intent of your Committee that the amount of the tax credit allowed for each residential construction or remodeling project shall be four percent of the costs incurred; provided that the aggregate costs applied do not exceed \$250,000 per residential unit.

Your Committee has amended this bill by:

- (1) Increasing the six percent hotel construction and remodeling tax credit to ten percent;
- (2) Extending the deadline from June 30, 2002, to June 30, 2003, when qualified hotel construction and remodeling costs must be incurred;
- (3) Extending the availability of the tax credit to December 31, 2005; and
- (4) Extending the length of the ten percent tax credit from June 30, 2002, to June 30, 2003.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 8, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 8, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

### **SCRep. 3 Finance on H.B. No. 9**

The purpose of this measure is to appropriate \$10,000,000 for the immediate implementation of an integrated marketing plan to market and promote the State of Hawaii as a visitor destination; provided that up to \$5,000,000 may be expended through January 31, 2002, and no further expenditures shall be made until the Hawaii Tourism Authority reports to the Legislature at a public hearing and the legislative committees submit a favorable report.

Testimony in support of this measure was received from Department of Business, Economic Development, and Tourism, Hawaii Tourism Authority, Chamber of Commerce of Hawaii, Retail Merchants of Hawaii, Hawaii Attractions Association, Visitor Industry Coalition, Hawaii Restaurant Association, Waikiki Improvement Association, ILWU Local 142, Maui Hotel Association, DFS Hawaii, Hilton Hawaiian Village, Outrigger Enterprises, Starwood Hotels & Restaurants Worldwide, Inc., and Media Matters. The Hawaii Visitors and Convention Bureau submitted comments.

Your Committee finds that the visitor industry's significant contributions to Hawaii's economy have been dealt a severe blow as a result of the aftermath of the terrorists actions of September 11, 2001. If Hawaii's visitor industry is to recover in a timely manner, immediate action must be taken to increase the marketing of Hawaii as a preferred destination. Your Committee is aware that other tourism destinations are planning or have already embarked on aggressive tourism promotions, and Hawaii must be equally active in its marketing.

Your Committee has amended this measure to delete the requirement that the Hawaii Tourism Authority report to the Legislature at a public hearing and that the legislative committees issue a favorable report before the expenditure of the remaining \$5,000,000.

Your Committee remains concerned, however, that these expenditures should be a matter of public record and will instead require the Hawaii Tourism Authority to report to the Legislature by March 1, 2002 on its implementation of an integrated plan to market in response to the changed market conditions resulting from the terrorist attacks of September 11, 2001. The report shall include the details on how the \$10,000,000 was expended, and how these expenditures relate to other expenditures by the Hawaii Tourism Authority for marketing.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 9, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 9, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

### **SCRep. 4 Finance on H.B. No. 16**

The purpose of this measure is to temporarily increase the small purchase procurement exception dollar ceiling in order to facilitate quicker administration of public contracts during this time of severe economic crisis.



Your Committee received testimony in support of this measure from the Department of Transportation, the Department of Accounting and General Services, the State Procurement Office, the Board of Land and Natural Resources, the Housing and Community Development Corporation of Hawaii, the Hawaii County Office of Housing and Community Development, the Ironworkers Stabilization Fund, the General Contractors Association of Hawaii, the Subcontractors Association of Hawaii, the Building Industry Association of Hawaii, the Hawaii Building and Construction Trades Council, AFL-CIO, and the Chamber of Commerce of Hawaii.

Your Committee finds that the economy of the State has been devastated by the September 11, 2001, terrorist attacks against the United States. There has been a significant increase in the number of initial filings for unemployment benefits, and a high percentage of the recently furloughed employees were previously employed by the airlines or other businesses within the sluggish tourism industry. Your Committee believes that the State must help these displaced workers find employment in different industries.

Historically, when the tourism industry has faltered in Hawaii, bolstering the construction industry has proven to be the best remedy. An effective way for the State to bolster the construction industry is to fund public construction projects, and to facilitate more rapid implementation of such projects in order to put as many people to work as quickly as possible.

Therefore, your Committee supports the intent of this measure, to temporarily ease the administrative burdens associated with awarding public contracts, especially construction contracts. At the same time, your Committee believes that there must be some accountability for such projects, and supports the requirement that a report be submitted for all such projects with a total value of \$100,000 or more.

Your Committee also agrees that state residents should be the primary beneficiaries of any emergency measures enacted during this special session, so that these displaced resident workers can find jobs, support their families, and continue to live as residents of this State. Therefore, your Committee also supports the provisions of this measure that provide a preference for state resident contractors.

However, your Committee believes that the compelling rationale behind the resident preference applies with even greater force with regard to larger public contracts, which can serve as vehicles to employ even greater numbers of state residents. In addition, your Committee finds that there is relatively little competition from out of state contractors for small purchase contracts, and therefore the resident preference is unnecessary for such contracts.

Conversely, there is tremendous competition from mainland contractors for large government contracts, and your Committee finds that it makes sense to provide a state resident preference for all public contracts with a total value of \$100,000 or more.

Also, with the extraordinary emergency powers granted to the governor during this special session, including the power to waive certain procurement rules if necessary, your Committee anticipates that several large public construction contracts may be awarded during the economic emergency period. The State has a compelling interest in ensuring that any such contracts awarded during the economic emergency employ as many state residents as possible, particularly if such contracts are awarded outside the open bidding process.

Accordingly, your Committee has amended this measure to apply the state resident preference to every large public construction contract initiated pursuant to the emergency powers granted to the governor during this time of economic crisis. By giving state residents this preference the State can help as many displaced workers as possible find jobs in the construction industry, thus enabling them to continue to support their families and the state economy.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 16, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 16, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

#### **SCRep. 5 Finance on H.B. No. 2**

The purpose of this bill is to establish the Temporary Health Insurance for Unemployed Persons Program (Program) to assist individuals and families who have lost their jobs as a result of the September 11, 2001, terrorist attacks by:

- (1) Extending temporary health insurance benefits to eligible participants; and
- (2) Appropriating funds for the Program.

The Chamber of Commerce of Hawaii, Hawaii State Teachers Association, Healthcare Association of Hawaii, the Lieutenant Governor, Hawaii Nurses' Association, ILWU Local 142, the National Alliance for the Mentally Ill, Visitor Industry Coalition, Hawaii Business Roundtable, Hawaii Primary Care Association, Hawaii State AFL-CIO, and the Mental Health Association in Hawaii testified in support of this bill. The Department of Labor and Industrial Relations, Kaiser Permanente, and Na Loio-Immigrant Rights and Public Interest Legal Center supported the intent of this bill. The Department of Human Services commented on this bill.

The events of September 11<sup>th</sup> not only had an impact on a national level but also affected the people of Hawaii, both directly and indirectly. As a result of these terrible acts, there has been a downturn in the national economy, as well as a dramatic decline in both the number of scheduled flights and the number of tourists coming to Hawaii. This has had a tremendous effect on Hawaii's families, as both tourism and non-tourism related industries have faltered, forcing many of Hawaii's people to file for unemployment.

Assisting Hawaii's families affected by this tragedy is one reason the Governor has convened a special session. The sense of ohana is an aspect of Hawaii that makes it such a special place. Hawaii's families have always been known for their generosity towards others, but many of them will not be able to support themselves during this economic downturn. Your Committee feels that it is imperative that programs, such as the Temporary Health Insurance for Unemployed Persons Program, be implemented to support our ohana in getting through these difficult times.

It is the intent of your Committee that the funds appropriated for the temporary health insurance for unemployed persons program and for reimbursements to those eligible under COBRA, be made available on a priority basis to those who demonstrate the greatest need. It is the further intent of your Committee to have the Department of Human Services and the Department of Labor and Industrial Relations to develop a needs assessment process to determine a person's priority to receive assistance under the temporary health insurance for unemployed persons program and for reimbursements under COBRA, respectively.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

#### **SCRep. 6 Finance on H.B. No. 3**

The purpose of this bill is to create a temporary program that provides up to 13 additional weeks of unemployment insurance benefits to persons who became unemployed on or after September 11, 2001.

Your Committee received testimony in support of this bill from the Hawaii State AFL-CIO, Hawaii Business Roundtable, Maui Hotel Association, Hawaii Nurses' Association, Visitor Industry Coalition, Hawaii State Teachers Association, the Chamber of Commerce of Hawaii, and National Alliance for the Mentally Ill. The Department of Labor and Industrial Relations commented on this bill.

The events of September 11th not only had an impact on a national level but also affected the people of Hawaii, both directly and indirectly. As a result of these terrible acts, there has been a downturn in the national economy, as well as a dramatic decline in both the number of scheduled flights and the number of tourists coming to Hawaii. This has had a tremendous effect on Hawaii's families, as both tourism and non-tourism related industries have faltered, forcing many of Hawaii's people to file for unemployment.

Assisting Hawaii's families affected by this tragedy is one reason the Governor has convened a special session. The sense of ohana is an aspect of Hawaii that makes it such a special place. Hawaii's families have always been known for their generosity towards others but many of them will not be able to support themselves during this economic downturn. Your Committee feels that it is imperative that programs be implemented to support our ohana in getting through these difficult times.

This measure will provide immediate and needed support to families with wage earners displaced from their jobs by the slowdown in tourism, whose attempts to seek suitable work are frustrated by the depressed economy.

However, your Committee would like it noted that should this measure cause a conflict between state and federal law which results in the loss of federal aid or assistance for Hawaii's unemployed, federal law shall supercede state law.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

#### **SCRep. 7 Finance on H.B. No. 5**

The purpose of this bill is to reduce the filing burden for taxpayers by increasing the filing thresholds for taxpayers filing withholding, general excise, use, transient accommodations, and rental motor vehicle and tour vehicle surcharge tax returns.

The Chamber of Commerce of Hawaii, Department of Taxation, Visitor Industry Coalition, the Hawaii Chapter of the American Resort Development Association, Hawaii Transportation Association, Hawaii Tourism Authority, and the Hawaii Business Roundtable supported this bill. The State Department of Transportation supported the intent of this bill. The Tax Foundation of Hawaii commented on this bill.

The events of September 11, 2001, have had a tremendous influence on both the state and national economies, unexpectedly affecting the livelihood of millions of citizens. Tourism, Hawaii's principal industry, accounts for nearly \$10.9 billion in general revenues each year and was severely impacted by these attacks. The number of travelers to the State has decreased by twenty to fifty percent, which has not only affected the tourism industry but the economy of the entire State.

Dealing with this economic crisis is one reason the Governor has convened a special session. Your Committee feels that in order to avoid an economic catastrophe, the State must institute measures that immediately nourish our ailing economy.

The higher filing thresholds established in this bill will allow taxpayers to file less frequently, thereby encouraging filing compliance and increasing the amount of cash that taxpayers have on hand. This bill will provide much-needed fiscal flexibility to many companies associated with the visitor industry as well as other employers statewide.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 5 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

**SCRep. 8 Finance on H.B. No. 6**

The purpose of this bill is to provide a tax savings to transportation service providers by allowing them to pay the general excise tax in lieu of the public service company tax. This would allow them to pay a four percent tax based on their actual income for the current period.

Testimony in support of this measure was received from the Visitor Industry Coalition, The Hawaii Business Roundtable, the Chamber of Commerce of Hawaii, the Hawaii Transportation Association, and the Department of Taxation. The Department of Transportation supported the intent of this bill. The Tax Foundation of Hawaii submitted comments.

The events of September 11, 2001, have had a tremendous influence on both the national and state economies, unexpectedly affecting the livelihood of millions of citizens. Tourism, Hawaii's principal industry, accounts for nearly \$10.9 billion in general revenues each year and was severely impacted by these attacks. The number of travelers to the State has decreased by between twenty and fifty percent, which has not only affected the tourism industry but the economy of the entire State.

Dealing with this economic crisis is one reason the Governor has convened a special session. Your Committee feels that in order to avoid an economic catastrophe, the tourism industry needs to be revitalized through measures which aid this vital segment of our economy.

Under current law, transportation service providers are subjected to the public service company tax which is generally measured at the rate of four percent on the gross income from the provider's business earned in the previous taxable year. This tax is preferred under more favorable economic conditions. However, your Committee realizes that under declining economic conditions, a transportation service provider may pay more in taxes than its current gross income can support.

Given the current and anticipated economic climate, your Committee finds that passage of this measure will result in a tax savings to the transportation service providers and, in turn, stimulate the economy.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 6 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

**SCRep. 9 Finance on H.B. No. 10**

The purpose of this bill is to stimulate our economy and encourage travel to Hawaii by appropriating \$5,000,000 to market and promote the safety of and increased security at all state airports in Hawaii.

Testimony in support of this measure was received from the Department of Transportation, Hawaii Tourism Authority, Chamber of Commerce of Hawaii, Visitor Industry Coalition, and the Hawaii Business Roundtable.

Although Hawaii is thousands of miles away from New York, Virginia, and Pennsylvania, its people still felt the powerful impact of terrorist attacks, which changed the nation forever. Safety and security have now become a major concern for the State as residents and tourists alike need to be assured that Hawaii is a safe place to live and visit.

Improving security measures for residents and visitors is one reason the Governor has convened a special session. Although the Governor and the federal government have already upgraded security measures at airports statewide, your Committee believes that additional security needs at our airports need to be addressed.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 10 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

**SCRep. 10 Finance on H.B. No. 11**

The purpose of this bill is to protect Hawaii's residents and tourists, secure our transportation infrastructure, and encourage travel to Hawaii by appropriating funds to implement security measures for state airports, harbors, and highways.

Your Committee received testimony in support of this measure from the Visitor Industry Coalition, Hawaii Business Roundtable, Chamber of Commerce of Hawaii, Maui Hotel Association, and the Department of Transportation.

Although Hawaii is thousands of miles away from New York, Virginia, and Pennsylvania, its people still felt the powerful impact of terrorist attacks, which changed the nation forever. Safety and security have now become a major concern for the State as residents and tourists alike need to be assured that Hawaii is a safe place to live and visit.

Improving security measures for residents and visitors is one reason the Governor has convened a special session. Although the Governor and the federal government have already upgraded security measures at airports statewide, your Committee believes that additional security needs at our airports and the security requirements of the State's harbors and highways must be addressed.

This bill appropriates the following sums for security improvements in both operating expenses as well as capital improvements:

- (1) \$27,058,000 for state airports;
- (2) \$4,212,000 for state harbors; and
- (3) \$5,000,000 for state highways.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 11 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

**SCRep. 11                      Finance on H.B. No. 12**

The purpose of this bill is to appropriate \$33,270,403 out of the Hawaii Tobacco Settlement Special Fund and into the Emergency Budget and Reserve Fund (EBRF) to meet the pressing needs of the people of Hawaii during the current period of economic and social crisis. Funds from the EBRF may be used to, among other things, ensure the health, safety, and welfare of Hawaii's people and provide for programs to stimulate the economy in periods of economic downturn. Your Committee, therefore, finds that this appropriation into the EBRF is necessary in order to build a healthy balance and thereby improve the State's ability to cope with this unforeseen circumstance.

The Department of Budget and Finance, Hawaii Business Roundtable, Chamber of Commerce of Hawaii, and Visitor Industry Coalition submitted testimony in support of this bill. Hawaii Medical Association submitted testimony in opposition to this bill.

The events of September 11<sup>th</sup> not only had an impact on a national level but also affected the people of Hawaii, both directly and indirectly. As a result of these terrible acts, there has been a downturn in the national economy, as well as a dramatic decline in both the number of scheduled flights and the number of tourists coming to Hawaii. This has had a tremendous effect on Hawaii's families, as both tourism and non-tourism related industries have faltered, forcing many of Hawaii's people to file for unemployment.

Assisting Hawaii's families affected by this tragedy is one reason the Governor has convened a special session. The sense of ohana is an aspect of Hawaii that makes it such a special place. Hawaii's families have always been known for their generosity towards others but many of them will not be able to support themselves during this economic downturn. Your Committee feels that it is imperative that programs be implemented to support our ohana in getting through these difficult times.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 12 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

**SCRep. 12                      Finance on H.B. No. 13**

The purpose of this bill is to promote higher education and health care and assist our construction industry by:

- (1) Authorizing the construction of a health and wellness center (Center), including a new medical school facility, on Oahu for the University of Hawaii (UH);
- (2) Authorizing the UH Board of Regents to issue the sum of \$150,000,000 in revenue bonds to finance the Center;
- (3) Allowing a portion of the moneys in the Hawaii Tobacco Settlement Special Fund to be used to pay for principal and interest for any bonds issued to finance the Center; and
- (4) Appropriating \$150,000,000 out of private donations and other moneys held by UH for the construction of the Center.

The Department of Budget and Finance, Hawaii Business Roundtable, Visitor Industry Coalition, General Contractors Association of Hawaii, Pacific Resource Partnership, University of Hawaii, John A. Burns School of Medicine, Cancer Research Center of Hawaii, Hawaii Community Development Authority, Kakaako Improvement Association, Hawaii Biotechnology Group, Inc., Chamber of Commerce of Hawaii, Victoria Ward, Ltd., Healthcare Association of Hawaii, and the Pacific Resource Partnership submitted testimony in support of this bill. The American Lung Association of Hawaii submitted testimony in support of the intent of this bill. The Hawaii Nurses' Association, American Heart Association, and Coalition for a Tobacco Free Hawaii submitted testimony in

opposition to this bill. The American Cancer Society, Hui Olelo, and an individual submitted comments on this bill. One individual submitted testimony requesting that this bill be deferred to the regular session.

The events of September 11, 2001, have had a tremendous influence on both the state and national economies, unexpectedly affecting the livelihood of millions of citizens. Tourism, Hawaii's principal industry, accounts for nearly \$10.9 billion in general revenues each year and was severely impacted by these attacks. The number of travelers to the State has decreased by twenty to fifty percent, which has not only affected the tourism industry but the economy of the entire State.

Dealing with this economic crisis is one reason the Governor has convened a special session. Your Committee feels that in order to avoid an economic catastrophe, the State must strengthen and diversify the economy through fiscally responsible investments. The construction and eventual operation of the Center is one part of this economic stimulus package, and will create jobs and enhance Hawaii's position as a national center of education and health care.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 13 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.  
(Representatives Davis, Djou, Leong and Rath voted no.)

**SCRep. 13                      Finance on H.B. No. 14**

The purpose of this bill is to help stimulate Hawaii's economic recovery by authorizing approximately \$100,000,000 in additional public works projects throughout the State. This bill also:

- (1) Advances the authorizations for several public works projects approved in the General Appropriations Act of 2001 from fiscal year 2002-2003 to the current fiscal year;
- (2) Appropriates \$5,500,000 to pay for interest and principal on general obligation bonds; and
- (3) Declares findings that the total amount of principal and interest, estimated for such bonds authorized but unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

Testimony in support of this measure was received from the Visitor Industry Coalition, the Department of Budget and Finance, the Department of Accounting and General Services, the Hawaii State Teachers Association, the General Contractors Association of Hawaii, the Hawaii Business Roundtable, the University of Hawaii, the Rotary Club of Kapolei, the Waianae Hawaiian Civic Club, the Building Industry Association of Hawaii, the Chamber of Commerce of Hawaii, the Hawaii Building and Construction Trades Council, AFL-CIO, the Subcontractors Association of Hawaii, Hawaiian Waters Adventure Park, and other concerned citizens.

The events of September 11, 2001, have had a tremendous influence on both the national and state economies, unexpectedly affecting the livelihood of millions of citizens. Tourism, Hawaii's principal industry, accounts for nearly \$10.9 billion in general revenues each year and was severely impacted by these attacks. The number of travelers to the State has decreased by between twenty and fifty percent, which has not only affected the tourism industry but the economy of the entire State.

Dealing with this economic crisis is one reason the Governor has convened a special session. Your Committee feels that in order to avoid an economic catastrophe, immediate steps must be taken not only to help the tourism industry but also Hawaii's ailing construction industry as well. This bill will ensure employment for many construction workers through the development, maintenance, and improvement of physical plants and infrastructure to support education and a skilled workforce, areas that are fundamental to all economic activity.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 14 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.  
(Representatives Djou and Rath voted no.)

**SCRep. 14                      Finance on H.B. No. 15**

The purpose of this bill is to address the growing number of unemployed individuals by:

- (1) Establishing the Emergency Environmental Workforce, which will provide employment to 400-450 people who have recently lost their jobs; and
- (2) Appropriating \$1,500,000 to fund the program.

Testimony in support of this measure was provided by the Department of Land and Natural Resources, Visitor Industry Coalition, Hawaii Business Roundtable, three members of the Maui County Council, one member of the Hawaii County Council, the Mayor of Hawaii County, Maui Invasive Species Committee, International Longshoremen Workers Union Local 142, Maui Hotel Association, Chamber of Commerce of Hawaii, Sierra Club, Hawaii Chapter, Hawaii Export Nursery Association, and four concerned citizens. The Department of Labor and Industrial Relations, City and County of Honolulu Department of Community Services, and Hawaii Pest Control Association supported the intent of this bill.

The events of September 11th not only had an impact on a national level but also affected the people of Hawaii, both directly and indirectly. As a result of these terrible acts, there has been a downturn in the national economy, as well as a dramatic decline in both the number of scheduled flights and the number of tourists coming to Hawaii. This has had a tremendous effect on Hawaii's families, as both tourism and non-tourism related industries have faltered, forcing many of Hawaii's people to file for unemployment benefits.

Assisting Hawaii's families affected by this tragedy is one reason the Governor has convened a special session. The sense of ohana is an aspect of Hawaii that makes it such a special place. Hawaii's families have always been known for their generosity towards others but many of them will not be able to support themselves during this economic downturn.

The Emergency Environmental Workforce will not only provide employment, but also protect and enhance Hawaii's fragile environment by:

- (1) Isolating the spread of dengue fever;
- (2) Eradicating the miconia plant and other invasive plants; and
- (3) Reducing coqui frog and fire ant populations.

Your Committee finds that it is imperative that the Emergency Environmental Workforce be established to provide jobs and support our ohana in getting through these difficult times.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 15 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.

**SCRep. 15                      Finance on H.B. No. 17**

The purpose of this bill is to give the Governor certain temporary powers to provide immediate relief to facilitate continuity of business activities and services, minimize employee layoffs, and prevent endangerment of public health, safety, or welfare, during a period of economic emergency from September 11, 2001, to June 30, 2002. Specifically, this bill provides the Governor with the power to:

- (1) Convene an advisory committee to inform the Legislature and the public on the exercise of his emergency powers;
- (2) Suspend certain statutes and rules;
- (3) Adopt certain rules;
- (4) Suspend, waive, defer, or modify State contract obligations; and
- (5) Waive airport-landing fees and airport system support charges.

The Department of Land and Natural Resources, Visitor Industry Coalition, Department of Transportation, Attorney General, Building Industry Association, Chamber of Commerce of Hawaii, and a private citizen testified in support of this measure. Common Cause Hawaii, DFS Hawaii, Airport Concessionaires Committee, Travelex/Thomas Cook Foreign Exchange, and a private citizen supported the intent of the measure, with amendments. Greeters of Hawaii, Island Shoppers, Inc., HMSHost Corporation, Bank of Hawaii, The Business Center, and the Hawaii Business Roundtable commented on this bill.

The Hawaii Republican Party, Air Line Pilots Association, and Na Loio-Immigrant Rights and Public Interest Legal Center opposed this measure.

The events of September 11<sup>th</sup> not only had an impact on a national level, but also affected the people of Hawaii, both directly and indirectly. As a result of these terrible acts, there has been a downturn in the national economy, as well as a dramatic decline in both the number of scheduled flights and the number of tourists coming to Hawaii. This has had a tremendous effect on Hawaii's families and businesses, as both tourism and non-tourism related industries have faltered, forcing many of Hawaii's people to file for unemployment.

Your Committee feels it is imperative that the Governor be granted special powers during this time of economic turmoil to reduce the bureaucracy and expedite necessary changes to support Hawaii's people and businesses in an effort to provide quick social and economic relief.

History has taught us that when tourism falters, bolstering the construction industry is the quickest remedy. The Governor's call for this special session focused on accelerating public works projects to do just that. It is your Committee's intent that the Governor exercise the emergency powers to expedite such projects and to give preference to state residents for the limited jobs currently available in the State.

Your Committee strongly believes that jobs should be directed to contractors who can affirm that at least seventy-five percent of their workforce consists of Hawaii residents -- persons who have lived continuously in Hawaii for six months prior to the declaration of the economic emergency, and have not established residency in another state by living continuously therein or filing tax returns in



the jurisdiction during that time. Awarding contracts to companies that are in good standing under our state laws, pay state taxes, and employ large numbers of state residents is an appropriate and necessary use of emergency powers. Fair treatment can be assured by disqualifying contractors who falsify an affirmation; and by public posting of the names of all contractors, a brief description of the contract, and the amount of each awarded.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 17 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Nakasone.  
(Representatives Davis, Djou, Leong, Moses and Rath voted no.)

**SCRep. 16                      Finance on S.B. No. 2**

The purpose of this bill is to establish the Temporary Health Insurance for Unemployed Persons Program (Program) to assist individuals and families who have lost their jobs as a result of the September 11, 2001, terrorist attacks by:

- (1) Extending temporary health insurance benefits to eligible participants; and
- (2) Appropriating funds for the Program.

Your Committee notes that S.B. No. 2 is a companion measure to H.B. No. 2 which your Committee reported out earlier in an unamended form, and the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 2 and H.B. No. 2, at which time many citizens and organizations testified on these measures.

Your Committee believes that economic need should be one of the factors considered when making available the funds appropriated for the temporary health insurance for unemployed persons program and for reimbursements to those eligible under COBRA.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 17                      Finance on S.B. No. 3**

The purpose of this bill is to create a temporary program that provides up to 13 additional weeks of unemployment insurance benefits to persons who became unemployed on or after September 11, 2001.

Your Committee notes that S.B. No. 3 is a companion measure to H.B. No. 3, which your Committee reported out earlier in an unamended form, and that the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 3 and H.B. No. 3, at which time many citizens and organizations testified on these measures.

This measure will provide immediate and needed support to families whose wage earners were displaced from their jobs by the slowdown in tourism, and whose attempts to seek suitable work are frustrated by the depressed economy.

However, your Committee would like to emphasize that should this measure cause a conflict between state and federal law that would result in the loss of federal aid or assistance for Hawaii's unemployed, federal law shall supercede state law.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 18                      Finance on S.B. No. 5**

The purpose of this bill is to reduce the filing burden for taxpayers by increasing the filing thresholds for taxpayers filing withholding, general excise, use, transient accommodations, and rental motor vehicle and tour vehicle surcharge tax returns.

Your Committee notes that S.B. No. 5 is a companion measure to H.B. No. 5 which your Committee reported out earlier in an unamended form, and the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 5 and H.B. No. 5, at which time many citizens and organizations testified on these measures.

The higher filing thresholds established in this bill will allow taxpayers to file less frequently, thereby encouraging filing compliance and increasing the amount of cash that taxpayers have on hand. This bill will provide much-needed fiscal flexibility to many companies associated with the visitor industry as well as other employers statewide.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 5 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 19                      Finance on S.B. No. 6**

The purpose of this bill is to provide a tax savings to transportation service providers by allowing them to pay the general excise tax in lieu of the public service company tax. This would allow them to pay a four percent tax based on their actual income for the current period.

Your Committee notes that S.B. No. 6 is a companion measure to H.B. No. 6 which your Committee reported out earlier in an unamended form, and the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 6 and H.B. No. 6, at which time many citizens and organizations testified on these measures.

Under current law, transportation service providers are subjected to the public service company tax which is generally measured at the rate of four percent on the gross income from the provider's business earned in the previous taxable year. This tax is preferred under more favorable economic conditions. However, your Committee realizes that under declining economic conditions, a transportation service provider may pay more in taxes than its current gross income can support.

Given the current and anticipated economic climate, your Committee finds that passage of this measure will result in a tax savings to transportation service providers and, in turn, stimulate the economy.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 6 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 20                      Finance on S.B. No. 10**

The purpose of this bill is to stimulate our economy and encourage travel to Hawaii by appropriating \$5,000,000 to market and promote the safety of and increased security at all state airports in Hawaii.

Your Committee notes that S.B. No. 10 is a companion measure to H.B. No. 10 which your Committee reported out earlier in an unamended form, and the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 10 and H.B. No. 10, at which time many citizens and organizations testified on these measures.

Your Committee finds that the State could increase security personnel and buy and install more security equipment, but if the traveling public is not made aware of these security measures, they may not believe, and therefore not use, the airports to travel to and from Hawaii. Airports remain the vital traveling link because Hawaii's cruise ships cannot carry the numbers of visitors that planes can and we are not accessible through national highways to other land masses.

Marketing Hawaii means marketing the travel destination as a safe place where everyone can feel secure and will therefore be willing to take that vacation to Hawaii or visit relatives on another island. That confidence can be promoted if the traveling public is educated in the ways the State has made the airports, airplanes, and surrounding facilities safe.

Every island has a stake in this outcome because tourists want to see everything from volcanoes to seashores. In a recent trip by the Governor to Japan, the primary concern was "how safe is Hawaii after September 11?" This is no trivial matter to any tourist. In times of insecurity the typical tourist may simply choose to stay close to home. This measure will help to instill confidence in the safety of Hawaii's airports to encourage visitors to come here.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 10 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 21                      Finance on S.B. No. 11**

The purpose of this bill is to protect Hawaii's residents and tourists, secure our transportation infrastructure, and encourage travel to Hawaii by appropriating funds to implement security measures for state airports, harbors, and highways.

This bill appropriates the following sums for security improvements in both operating expenses as well as capital improvements:

- (1) \$27,058,000 for state airports;
- (2) \$4,212,000 for state harbors; and
- (3) \$5,000,000 for state highways.

Your Committee notes that S.B. No. 11 is a companion measure to H.B. No. 11 which your Committee reported out earlier in an unamended form, and the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 11 and H.B. No. 11, at which time many citizens and organizations testified on these measures.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 11 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 22                      Finance on S.B. No. 12**

The purpose of this bill is to appropriate \$33,270,403 out of the Hawaii Tobacco Settlement Special Fund and into the Emergency Budget and Reserve Fund (EBRF) to meet the pressing needs of the people of Hawaii during the current period of economic and social crisis. Funds from the EBRF may be used to, among other things, ensure the health, safety, and welfare of Hawaii's people and provide for programs to stimulate the economy in periods of economic downturn. Your Committee, therefore, finds that this appropriation into the EBRF is necessary in order to build a healthy balance and thereby improve the State's ability to cope with this unforeseen circumstance.

Your Committee notes that S.B. No. 12 is a companion measure to H.B. No. 12 which your Committee had reported out earlier in an unamended form, and the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 12 and H.B. No. 12, at which time many citizens and organizations testified on these measures.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 12 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 23                      Finance on S.B. No. 13**

The purpose of this bill is to promote higher education and health care and assist our construction industry by:

- (1) Authorizing the construction of a health and wellness center (Center), including a new medical school facility, on Oahu for the University of Hawaii (UH);
- (2) Authorizing the UH Board of Regents to issue the sum of \$150,000,000 in revenue bonds to finance the Center;
- (3) Allowing a portion of the moneys in the Hawaii Tobacco Settlement Special Fund to be used to pay for principal and interest for any bonds issued to finance the Center; and
- (4) Appropriating \$150,000,000 out of private donations and other moneys held by UH for the construction of the Center.

Your Committee notes that S.B. No. 13 is a companion measure to H.B. No. 13 which your Committee reported out earlier in an unamended form, and the contents of these bills are identical. On October 23, 2001, both the Senate and the House held an extensive public hearing on S.B. No. 13 and H.B. No. 13, at which time many citizens and organizations testified on these measures.

Your Committee feels that in order to avoid an economic catastrophe, the State must strengthen and diversify the economy through fiscally responsible investments. The construction and eventual operation of the Center is one part of this economic stimulus package that will create jobs and enhance Hawaii's position as a national center of education and health care.

Your Committee finds that one of the best uses that could be made of monies derived from the State's settlement with tobacco companies is to invest those monies into bio-medical research. In fact, sixteen States have passed budget or enabling legislation to use some portion of their tobacco settlement for bio-science related efforts. These States are Colorado, Connecticut, Illinois, Kansas, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, Utah, and Wisconsin. Most of the States have designated the funds for basic research leading to commercialization at a later stage.

Your Committee additionally finds that the Cancer Research Center component has a direct nexus to the tobacco settlement proceeds and would provide a valuable link in the future regarding preventive care and education in the community. Furthermore, with our multi-ethnic population, clinical trials, and clinical support for those trials, Hawaii has the added benefit of making those drugs available to our cancer patients.

The quest for a facility that can conduct bio-medical research becomes even more important now that we are engaged in a different kind of war. Biotechnology and genetic engineering can become part of an important public health infrastructure, which will not only produce revenue, but a source of security and protection for our people.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 13 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representatives Suzuki, Davis and Rath.

**SCRep. 24                    Finance on S.B. No. 8**

The purpose of this bill is to help revitalize the State's construction industry by:

- (1) Providing a nonrefundable four percent tax credit for residential construction and remodeling costs incurred up to \$250,000 per unit;
- (2) Requiring that the residential construction and remodeling costs are incurred before July 1, 2002, for the tax credit to apply;
- (3) Temporarily increasing the hotel construction and remodeling tax credit to a nonrefundable ten percent credit for costs incurred after the effective date of this measure through June 30, 2003; and
- (4) Requiring that if the residential or hotel tax credit exceeds the taxpayer's income tax liability, the excess of credit over liability can be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted.

The Chamber of Commerce of Hawaii, Department of Taxation, and Department of Business, Economic Development, and Tourism testified in support of this measure. The Building Industry Association of Hawaii and the Hawaii Hotel Association supported the intent of this measure. The Hawaii Tourism Authority commented on this measure. One individual opposed this measure.

Your Committee finds that this measure will have a positive impact on the construction industry because the tax credits will promote private spending on construction projects.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 8, S.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all the members of the Committee except Representative Yonamine.

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 1 A BILL FOR AN ACT RELATING TO SOCIAL WELFARE.	2 2	2	7	37	80			87		Act 001	
H.B. No. 2 A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS.	3 2	3	15	42							
H.B. No. 3 A BILL FOR AN ACT RELATING TO UNEMPLOYMENT.	3 2	3	16	43							
H.B. No. 4 A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE COVERAGE.	3 2	3									
H.B. No. 5 A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES.	3 2	3	16	44							
H.B. No. 6 A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS.	3 2	3	16	45							
H.B. No. 7 A BILL FOR AN ACT RELATING TO CAPITAL GAINS.	3 2	3									
H.B. No. 8 A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS.	3 2	3	10	39							
H.B. No. 9 A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION.	3 2	3	10	40	80			87		Act 002	
H.B. No. 10 A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS.	3 2	3	16	46							
H.B. No. 11 A BILL FOR AN ACT RELATING TO TRANSPORTATION.	3 2	3	16	46							

[illegible]



NUMBER AND TITLE	Offered Referred	Report of Committee	Adoption	Action of Senate	Subsequent Action
H.C.R. No. 1 HOUSE CONCURRENT RESOLUTION EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001.	32		32	71	
H.C.R. No. 2 HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY.	32		32	71	
H.C.R. No. 3 HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	32		32	71	
H.C.R. No. 4 HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	33		33	71	
H.C.R. No. 5 HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	33		34	71	
H.C.R. No. 6 HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY.	34		34	71	
H.C.R. No. 7 HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF CHRISTINE SNYDER AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	34		34	71	
H.C.R. No. 8 HOUSE CONCURRENT RESOLUTION ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS.	34		34	71	
H.C.R. No. 9 HOUSE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES.	34		34	71	
H.C.R. No. 10 HOUSE CONCURRENT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM.	34		34	71	
H.C.R. No. 11 HOUSE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE.	34		34	71	
H.C.R. No. 12 HOUSE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001.	34		35	71	

NUMBER AND TITLE	Offered Referred	Report of Committee	Adoption	Action of Senate	Subsequent Action
H.C.R. No. 13      HOUSE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION.	35		35	71	
H.C.R. No. 14      HOUSE CONCURRENT RESOLUTION URGING THE HAWAII STATE DIRECTOR OF TRANSPORTATION TO GRANT HAWAII-BASED SCHEDULED AIR CARRIERS HIGHEST PRIORITY ON AIRPORT FACILITIES' WAITING LISTS, AND TO MAKE LAND, HANGAR, AND TERMINAL SPACE IMMEDIATELY AVAILABLE TO SUPPORT ESSENTIAL AIR SERVICE OPERATIONS AT KAHULUI AIRPORT.	37		74		
H.C.R. No. 15      HOUSE CONCURRENT RESOLUTION AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO LEASE SUBMERGED LANDS AND TIDAL LANDS OF THE ALA WAI AND HONOKOHAU SMALL BOAT HARBORS TO PRIVATE ENTITIES FOR COMMERCIAL, RECREATIONAL, EDUCATIONAL, AND RESEARCH PURPOSES.	37		75		
H.C.R. No. 16      HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE U.S. POSTAL SERVICE ISSUE A POSTAGE STAMP COMMEMORATING THE HAWAIIAN ALOHA SHIRT.	86		86		
H.C.R. No. 17      HOUSE CONCURRENT RESOLUTION URGING ALL PUBLIC SCHOOLS IN THE STATE OF HAWAII TO BEGIN THE DAY WITH THE PLEDGE OF ALLEGIANCE.	87		88		
H.C.R. No. 18      HOUSE CONCURRENT RESOLUTION URGING PUBLIC SCHOOLS IN THE STATE OF HAWAII TO OBSERVE A DAILY MOMENT OF SILENCE FOR THE SOLDIERS DEFENDING THE VALUES AND BELIEFS OF THE UNITED STATES OF AMERICA.	88		88		

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
H.R. No. 1        HOUSE RESOLUTION AUTHORIZING THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPROVE THE JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 7TH LEGISLATIVE DAY.	93			93
H.R. No. 2        HOUSE RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOSE OF REPRESENTATIVES, THIRD SPECIAL SESSION OF 2001, PURSUANT TO RULE 18 OF THE RULES OF THE HOUSE OF REPRESENTATIVES.	93			94

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1 A BILL FOR AN ACT RELATING TO SOCIAL WELFARE.	69 37	70									
S.B. No. 2 A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS.	69 37	70	72	81				87		Act 006	
S.B. No. 3 A BILL FOR AN ACT RELATING TO UNEMPLOYMENT.	69 37	70	72	81				87		Act 007	
S.B. No. 5 A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES.	69 37	70	72	82				87		Act 008	
S.B. No. 6 A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS.	69 37	70	72	82				87		Act 009	
S.B. No. 8 A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS.	71 72	71	80	86				87		Act 010	
S.B. No. 9 A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION.	69 37	70									
S.B. No. 10 A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS.	69 37	70	72	82				87		Act 011	
S.B. No. 11 A BILL FOR AN ACT RELATING TO TRANSPORTATION.	69 37	70	72	82				87		Act 012	
S.B. No. 12 A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND.	69 37	70	73	83				87		Act 013	
S.B. No. 13 A BILL FOR AN ACT RELATING TO STATE FINANCES.	70 37	70	73	83				87		Act 014	



NUMBER AND TITLE	Received Referred	Report of Committee	Adoption	Action of Senate	Subsequent Action
S.C.R. No. 1 SENATE CONCURRENT RESOLUTION EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001.	36		36		
S.C.R. No. 2 SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY.	36		36		
S.C.R. No. 3 SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	36		36		
S.C.R. No. 4 SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	36		36		
S.C.R. No. 5 SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	36		36		
S.C.R. No. 6 SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY.	36		36		
S.C.R. No. 7 SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF CHRISTINE SNYDER AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY.	36		36		
S.C.R. No. 8 SENATE CONCURRENT RESOLUTION ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS.	36		36		
S.C.R. No. 9 SENATE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES.	36		36		
S.C.R. No. 10 SENATE CONCURRENT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM.	36		36		
S.C.R. No. 11 SENATE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE.	36		36		
S.C.R. No. 12 SENATE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001.	37		37		



NUMBER AND TITLE	Received Referred	Report of Committee	Adoption	Action of Senate	Subsequent Action
S.C.R. No. 13      SENATE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION.	37		37		
S.C.R. No. 14      SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001.	4		4		
S.C.R. No. 15      SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001.	35		35		
S.C.R. No. 16      SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001.	80		80		