

## FORTY-SEVENTH DAY

Tuesday, April 13, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 9:10 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Pastor Mike Ohara of the Grace Bible Church – Pearl Side, after which the Roll was called showing all members present with the exception of Representatives Takai, Takamine, and Takumi, who were excused.

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

## SENATE COMMUNICATION

The following communication from the Senate (Sen. Com. No. 449) was received and announced by the Clerk:

Sen. Com. No. 449, informing the House that the Senate has made changes to Senate conferee assignments to the following Senate Bill:

S.B. No. 3238, Senator Kawamoto added as a Member.  
SD 2, HD 2

At 9:15 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:17 o'clock a.m.

## ORDER OF THE DAY

## COMMITTEE ASSIGNMENTS

The following Senate concurrent resolutions were referred to committee by the Speaker:

S.C.R.Nos.    Referred to:

- |     |  |
|-----|--|
| 29  | Committee on Consumer Protection and Commerce  |
| 56  | Jointly to the Committee on Health and the Committee on Consumer Protection and Commerce                                   |
| 93  | Committee on Consumer Protection and Commerce, then to the Committee on Finance  |
| 105 | Jointly to the Committee on Health and the Committee on Consumer Protection and Commerce, then to the Committee on Finance |

## COMMITTEE REASSIGNMENTS

The following resolutions and concurrent resolutions were re-referred to committee by the Speaker:

H.R.Nos.    Re-referred to:

117, Jointly to the Committee on Health and the  
HD 1 Committee on Legislative Management

142 Committee on Finance

157 Committee on Water, Land Use and Hawaiian  
Affairs

163 Committee on Finance

H.C.R.Nos.    Re-referred to:

172 Jointly to the Committee on Health and the  
Committee on Legislative Management

203 Committee on Finance

226 Committee on Finance

S.C.R.No.    Re-referred to:

9, Committee on Water, Land Use and Hawaiian  
SD 1 Affairs

## UNFINISHED BUSINESS

At this time, the Chair announced:

"Members, at this time we are on the Order of the Day for Unfinished Business. Members, Standing Committee Report Number 1149-04 for Senate Bill 2846, Senate Draft 1, House Draft 1 will be moved to 2 p.m. this afternoon. We will defer to a time certain, 2 p.m."

Representative Halford rose, stating:

"Thank you. Could you repeat that, please?"

Speaker Say: "Standing Committee Report Number 1149-04 or Senate Bill 2846, Senate Draft 1, House Draft 1, will be moved to this afternoon at 2 p.m. So we'll take up this issue at 2 p.m. Does everyone understand? It's to a time certain at 2 p.m. when we will be addressing it."

**Stand. Com. Rep. No. 1149-04 and S.B. No. 2846, SD 1, HD 1:**

By unanimous consent, Stand. Com. Rep. No. 1149-04 and S.B. No. 2846, SD 1, HD 1, was deferred until 2:00 p.m. this legislative day.

## SUSPENSION OF RULES

On motion by Representative Lee, seconded by Representative Meyer and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar. (Representative Chang was excused.)

## UNFINISHED BUSINESS

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

No. 1187-04) recommending that S.B. No. 2779, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2779, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in support of Senate Bill 2779, Senate Draft 2, House Draft 1, which seeks to change the word 'panel' to 'Elders' Council' in relation to regulating traditional native Hawaiian healing practices. This bill:

1. Renames the panel that recognizes and certifies traditional Hawaiian healers whose healing practices are exempt from the medicine and surgery licensing law, the Elders' Council;
2. Provides that nothing shall adversely affect rights of practice of traditional Hawaiian healing pursuant to the State Constitution;
3. Amends Act 162, Session Laws of Hawaii 1998, which provided that Papa Ola Lokahi convene the Elders' Council to address issues relating to the exemption and certification of Hawaiian healers, by providing that:
  - A. The Elders' Council is to be independent of the State and exempt from the Administrative Procedure Act and 'Sunshine Law,' and must develop policies and procedures without regard to the Administrative Procedure Act; and
  - B. Allows the Elders' Council to convene other Elders' Councils in the event that Papa Ola Lokahi ceases to exist or is unable to act.

"Mr. Speaker, there was compelling testimony in strong support of this bill, because the purpose is to contribute to the preservation and continuation of traditional Hawaiian healing practices. It is a dying art, and it is very important that we preserve the traditional Native Hawaiian arts before the Elders pass on.

"Mr. Speaker, the Waianae Coast Comprehensive Health Center and the Office of Hawaiian Affairs have voiced their support of this bill. They each addressed the issues of the Council's independence from the State, the renaming of the Council, the issue of race or ethnic origin in certification of healers, and the role of Papa Ola Lokahi in the Elders' Council. They testified that the Elders' Council should be made independent from the State in order to ensure that the practice of traditional Hawaiian healing will continue without unnecessary interference by the State.

"They also testified that the council should be called an 'Elders' Council' instead of 'panel' because it honors the 'kupuna' as the keepers and protectors of indigenous knowledge. Furthermore, they testified that race or ethnic origin should not be part in certifying any individual as a traditional native Hawaiian healer. The idea is to preserve the practice to ensure its longevity so that future generations will continue to practice learn about this ancient Hawaiian art.

"Act 162, Session Laws of Hawaii 1998 provides that Papa Ola Lokahi convene the Elder's Council. It has been offered that the Elders' Council should be allowed to convene other

Elders' Councils in the event that Papa Ola Lokahi is unable to act. Again, this action would ensure the longevity and preservation of traditional Hawaiian healing.

"Now I need to be candid, Mr. Speaker. At the very last moment I received some testimony faxed to my office concerning concerns by some groups. But it should be noted that this bill is not the last word. It is not the final chapter. This is a small start. I think it is in the right direction. And because every close Hawaiian friend I have has urged me to support this measure, I vote yes.

"This bill takes the necessary and important steps to ensure that the practice of traditional Hawaiian healing will not be lost to our kids and our grandkids, and for future generations. It is for these reasons that I stand in strong support of SB 2779, SD2, HD1. Thank you, Mr. Speaker."

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

Representative Kahikina's written remarks are as follows:

"Position: In strong support.

"Purpose:

Changes "panel" to "Elders' Council" in relation to regulating traditional native Hawaiian healing practices. Makes the Elders' Council independent from the State.

"Reason being:

The Council this legislation formalizes is warranted as Native Hawaiians have a plethora of information and resources to offer the purpose of healing. Further, I agree with Papa Ola Lokahi being held responsible for convening the council. It was developed in 1998 for that same purpose, and its programs include planning, advocacy, technical assistance and research projects for Native Hawaiian health in Hawaii. Their projects also serve the health care planning and advocacy needs of Native American Indian and Alaska Native, and Native Pacific Islander populations in Hawaii and the Western Pacific. I trust in their abilities to determine proficiency in traditional Hawaiian healing practices.

"It is most important that this Council remain independent of the State of Hawai'i. It should not be stifled by principles and processes that are not structured to expedite the work it is set up to do. This legislation allows tradition and technology to meet, affording Native and non-Native Hawaiian people in Hawai'i "the best of both worlds."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2779, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRADITIONAL HAWAIIAN HEALING PRACTICES," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 1188-04) recommending that S.B. No. 2897, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2897, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DENTAL EXAMINATION," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 1189-04) recommending that S.B. No. 2586, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2586, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 1190-04) recommending that S.B. No. 2908, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2908, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 1191-04) recommending that S.B. No. 3085, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3085, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Leong's written remarks are as follows:

"Mr. Speaker, I will be supporting this measure, but I must add my comments. My concern is that APRNs want greater prescriptive authority such that my feelings are: if you want to serve as a physician who is entitled to these distinctions, then one should consider medical school training to be qualified and to safeguard our medical patients.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3085, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NURSES," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 1192-04) recommending that S.B. No. 3190, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 3190, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1193-04) recommending that S.B. No. 3044, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3044, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I am rising in support of the measure but I do have some reservations.

"Mr. Speaker, we all want to provide access to the ocean and the shoreline. That's a very important right of the people to be able to reach the ocean, sea, and beaches. My concern is that the word 'transit areas' is not defined in the bill. If you look at page 2 of the bill, Mr. Speaker, no one is allowed to obstruct access to public property. And the access to public property is defined as a public right-of-way, a public transit corridor, or a transit area. It's not clear if the transit area, Mr. Speaker, is an area that is located on private property and if so, then we could incur some constitutional problems and some expenses from lawsuits being filed. I think as this bill moves forward into Conference Committee, it would behoove the conferees to look at a definition for that, to make sure that we're talking about public transit areas. Thank you."

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

"I rise in strong support.

"Just to clarify some of the remarks by the previous speaker, what we're doing is amending Chapter 115. Chapter 115, Section 5 defines transit area and public transit corridor. So it already is defined in HRS and there's no need for us to add in another duplicative definition. Thank you."

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

Representative Morita's written remarks are as follows:

"On Sunday, December 28th police cars with lights flashing headed down to a beach in my district to block over 75 participants on what is described on maps as a "government road" that leads down to Papaa Bay. Papaa Bay was prominently featured in the movie "Six Days and Seven Nights." The lands surrounding it is currently owned by one of Hollywood's most accomplished producers, Peter Guber, formerly the head of Columbia Pictures and Sony Pictures. Over the years Mr. Guber has tried to purchase this government road from the County to no avail. Now he claims to own it – blocking a historical access to Papaa Bay.

"On that December 28 the police arrested four Kauai residents for trespass. Last Thursday, the court dismissed the remaining three cases because the County could not prove that the government road was private.

"Mr. Guber has blocked access to Papaa Bay by placing physical barriers, planting vegetation and filing lawsuits against people who have questioned his claim to own this government road.

"As luxury homes are built around various Kauai shorelines the issue of public access is becoming more acute. Papaa Bay is just the tip of the iceberg – other areas include Kauapea, Aliomanu, Kahili, Haena, Moloaa, Kealia – and that is just shorelines within my district alone.

"Some of these owners want to re-route access over other private property sometimes over more circuitous trails. Some Kauai residents have developed a standard for those proposing new access, "Could Auntie Loke go?" If Auntie Loke Perriera, who is in her late 60's, cannot negotiate the new proposed access to go get her limu why should we give up the access that she and many people like her historically used.

"Mr. Speaker, may I submit several articles written by my constituents on this issue.

"Could Auntie Loke Go?" by Bill Young, *The Kauai*, January 2004

"Papa'a Just the Visible Tip of a Much Larger Iceberg, or Hornets' Nest?" by Peter Nelson, *The Kauai*, January 2004

"Kauai Beach Access – Thirty Years of Neglect . . . and Continuing", by Dr. Ray Chuan, *The Kauai*, January 2004"

"Could Auntie Loke Go?  
By Bill Young (Defendant)

Last spring, Peter Guber surprised everyone by offering to BUY the "government road to the beach," again.

He had tried without success to buy the road in 2001, and 2002, but due to the public outcry and discussion in the County Council about condemning part of his property to open a beach access, the subject faded from public view.

He tried to create an alternative access by purchasing a pedestrian access over the bluff at the south end of the bay from one of the owners of Aliomanu Estates. But that owner didn't want another easement on his property to the beautiful public beach.

He invited several county council members to take a tour of the proposed pedestrian path, from the gate at the top of the hill.

JoAnn Yukimura invited several community members to see the proposed route. Guber's attorney Max Graham was the tour guide, and he led a group of approximately ten, mostly Hawaiians, over the difficult trail. Less than ten minutes later, all of them had given up. Only Councilwoman Yukimura, and one could not negotiate such a difficult trail.

They thought they were coming to see a proposed beach access, and not a difficult to negotiate hiking and climbing trail, so in their minds, that was that.

In fact, the trail began at the top of the hill (where the road does a hairpin turn into the property) and wound along the property boundaries between Papa'a Bay Ranch and Aliomanu Estates. The route took hikers up and down and in and around and was so long that it was evident that the proposed route would never be a practical path to the beach.

From that time, the criterion for access became, "Could Auntie Loke go?"

If the terrain of any proposed access was so difficult that the elderly kupuna could not negotiate them, then, they would not be considered adequate as an access.

After all, common sense reasoned that if the property owner was serious about offering an access to the beach, it should be as good as the public road that already leads there. That would be the Hawaiian way. Sharing the 'aina.

The group, now only 3 people, was hiking down the rugged path to the point where people fish and launch their surfboards from. The surf isn't great most days, and the waves break far from shore; but some northeast swells give Papa'a Bay its surfable, left-breaking tubular waves that have always attracted locals. At the point, Yukimura spied a lone camping fisherman, and went down to ask him some questions. For him, the old access was already very far, "It takes 3 trips with all my gear. I'm parked on someone's land now. When I come with my family, it takes us five trips." When asked what he thought about having an access from the proposed location, he didn't take the question seriously, "With all this gear? Any further than now, and I'd never come to this beach." Councilwoman Yukimura sighed, and understood. An access far away from vehicles, over rough terrain isn't really an access.

So, once again, the question became, "Could Auntie Loke go?" Not to Papa'a Beach."

*The KAUA'I News:  
A Newspaper for People Who Love Kaua'i  
January 2004*

**"Papa'a just the visible tip of a much larger iceberg, or hornets' nest?"**

*Kauapea, Aliomanu, Polihale and dozens of other beaches are either in dispute, soon to be closed, or already closed  
A day at Kahili  
By Peter Nelson*

Morning beach goers at "Rock Quarries" were surprised Tuesday morning by a workman welding a chain across the access road, almost locking them in.

The attempt to place a padlocked heavy chain across the road was stalled as locals began driving out and asking questions. They protested about the chain.

The workman responded, "I'm only doing my job."

The work continued to stall, as more locals and tourists arrived, driving in and out. Another man arrived hastily in a large, shiny, newer pickup. He and the workman conferred for a few minutes, then they left.

The chain and padlock remained welded to the left side, but as of press time, the road is open.

The road to be closed is the one lane dirt road. It provides vehicular access to the beach from the upper parking area.

Large boulders have recently been placed in the upper lot to deter vehicles from certain areas, such as the surf check spot.

These were moved by locals (at least once), and now they have been moved back. The company doing the work was identified, by a local, as 'Sal,' phone number 639-2370. The chain still welded on the left side, ready to be locked.

Update 12/01/03: The chain is gone, boulders are still there, and some thoughtful signs regarding respecting the beach have been put up.

*The KAUA'I News:  
A Newspaper for People Who Love Kaua'i  
January 2004*

**"Papa'a Bay Access Celebration  
Exclusive to The KAUA'I**

ANAHOLA. On Sunday morning, December 28th, police cars with lights flashing streamed up Kuhio Highway into the entrance marked "Tara" in order to block would be beach-goers



from getting down to Papa`a Beach in anticipation of a celebratory, cultural event and picnic.

There were various messages coming from the mayor's office prior to the beach celebration appearing in *The Garden Island* newspaper.

On Wednesday, 4 days before the event, county public information officer Cyndi Mei Ozaki stated, "The mayor neither condones nor condemns the celebration." In Friday's Guest Viewpoint, Mayor Baptiste wrote, "Though some believe that the old government road does indeed extend to Papa`a Bay Beach, the County does not yet have enough information to take an official position on the legal status of access to Papa`a Bay". The mayor continued saying, "The County is currently in the procurement process for a title search to determine ownership and extent of the old government road at Papa`a Bay". By Saturday, the day before the event, the message from the public information officer had changed to "Officers are prepared to issue citations and even make arrests." Sunday's front page warned "Police will arrest trespassers at Papa`a".

By 11am on Sunday, approximately 75 people had gathered with people of Hawaiian ancestry, who'd used the road to Papa`a Beach over the years, leading the way. One of the kupunas using a walker, spoke out saying he'd used the road for generations to go fishing down at the beach.

Many of the participants had copies of the 5th Circuit Court Final Decree describing "the Government Road thirty (30) feet wide, leading to Papa`a Beach", a court map and a US Geological Survey map showing the government road leading through Guber's property down to the beach.

The police warned the beach-goers that they would be arrested if they went past cones they'd set across the county road in front of a gate. The private gate which had previously blocked the county road further up the road was moved several hundred feet closer to the beach in early December.

Someone in the group who wanted to get down to the beach asked the police and Mr. Guber's attorney, "Why aren't you upholding the 5th Circuit Court Order which proclaims this to be a government road instead of supporting Mr. Guber's claim that the road belongs to him?"

Mr. Alston replied, "This is not the place to discuss it." One of the participants, Greg Osborn asked, "What about giving us one hour? This would open the door to negotiations." Attorney Alston refused the offer.

Another person remarked to the attorney and the police, "You cannot turn away Hawaiians because of PASH rights protected by state law to access the beach" but there was no answer. The response came in the form of arrests. David Denson with four little girls of Hawaiian heritage in hand chanted a blessing in Hawaiian with the crowd joining in. He then stated he wanted to take his daughters down to the beach. When refused by the police, he walked toward the gate and was grabbed by the police who hand-cuffed him. His daughters with tears rolling down their cheeks cried out in terror, "Daddy, Daddy!"

Within a few minutes three others were arrested and hauled down to the police station in Lihue. Donations quickly sprang forth from among the people present for bail and those arrested were released within an hour. Their arraignment for "criminal trespassing" will occur on February 5th.

Those remaining stayed and had a picnic on the county road in front of the gate. Others used an alternative route to get to the beach, a steep trail along the coast which had been blocked

by boulders piled high. To reach Papa`a Beach by that route poses risks to all but the very sure-footed and would eliminate any possibility of kupuna accessing the beach they had reached over the government road throughout the years.

In 2000, then Councilman Gary Hooser and his wife were able to get down to the beach using the trail access but when they got there they were asked to leave the beach by one of Guber's guards.

The Anahola Ka Leo O Kaua`i access committee relayed their concerns to the mayor that access to Papa`a Beach was their top priority. Two members of the committee met with Mayor Baptiste in early October asking him to assure public access along the government road leading to the beach. At that time the mayor said he would order a title search. Members of the access committee reported at their Ka Leo O Kaua`i meeting in November that they were planning a cultural celebration at Papa`a Beach in December.

There was no Ka Leo meeting in December, but more and more members of the community became familiar with the Equity 80 documents. When they heard that the property was not only on the market, but possibly in escrow, they became concerned that the prospective buyer might not be aware that Mandalay had been trying to buy the road in 2001 and 2002, and that its use as a public road was in contention.

Community members suggested one of the Ka Leo members send the documents to both Peter Guber, and to Bali Hai Realty, which was listing the property for \$42.5 million. Guber had bought the area for around \$7 million, and had improved with a rumored \$10,000 worth of improvements.

Bill Young volunteered to send the documents. This volunteer effort would backfire on him, as a few weeks later, after the community began publicizing the Dec. 28th date for the "Celebration," he received letters from Mandalay's new lawyer in Honolulu, Paul Alston, threatening him with multiple lawsuits, and requiring him halt the celebration, and warn everyone planning to attend that Mandalay would treat them as trespassers.

Young responded, explaining that he would do all he could, but that it wasn't 'his' celebration to cancel. According to Young, people from all over the island were enthusiastically promoting the event, and there was no central planning committee, other than the coconut wireless.

Despite this, he received an even more threatening letter. He was advised by legal counsel not to respond again. Young, editor of *The KAUA`I* Newspaper, posted the warning on the paper's website, and did nothing to promote the celebration between the time he received the lawsuit threats from Mandalay, and the event. He also announced the Mandalay plans to arrest participants wishing to use the road to the beach on KKCR radio.

Ironically, while Young was forced to downplay the event instead of publicize it, the Garden Island's daily news coverage of the dispute had turned the fizzling event into a front page news story. Community members had been told as late as Dec. 23 that the gate would be open and that the owner would allow the event to take place. While debates continued, the Garden Island's front page story on Wednesday was titled, "Despite dispute, the party is on at Papa`a Sunday." This front page story and pro-access editorials that whole week made the event inevitable, while dozens promoted it.

Many community members didn't believe the gate would be closed, and fewer believed that the county would allow people to be arrested.

*The beginning of many lawsuits?*

Some people fear that this event will spark many lawsuits. Others are quite happy for the opportunity to finally have their days in court.

The issue of the orphaned government roads is one that is better to solve now and not later. While accesses are closing on a regular basis, the very definition of Kauai's essence is changing.

Kaua'i has always been thought of as an island where there were so many beaches and magical places to experience. But a new breed of owner has arrived, who wants to buy the beaches, close the accesses makai and mauka, and keep the public away wherever possible.

The caring, giving people of Kaua'i, can only be confused when access to their most precious beaches and mountains is being taken away from them.

No matter how difficult life is economically, there have always been the magical places Kaua'i has shared with us that have made us feel rich.

Now, even that beauty is being taken away. And citizens who are working hard to save it, are being taken to court.

If they lose, Kaua'i will lose too. Papa'a Bay may just be the beginning."

*The KAUA'I News:  
A Newspaper for People Who Love Kaua'i  
January 2004*

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

"Mr. Speaker, I also have reservations on this measure and I'd like to adopt the words of the Representative from Kailua. And in addition, I'd like to point out that the purpose clause refers to 'inland recreational areas' and I had thought that perhaps some of these recreational areas might be private property and in which case, I don't think we need to provide public access. But I will vote for the measure with reservations. Thank you very much."

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

"Thank you, Mr. Speaker. I also have the same reservations that my colleagues have expressed, and would ask that the words of the Representatives from Kailua and Kahala be put in the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3044, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROPERTY," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1194-04) recommending that S.B. No. 1362, SD 3, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 1362, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1195-04) recommending that S.B. No. 2021, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2021, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STREET ROD VEHICLES," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1196-04) recommending that S.B. No. 2200, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2200, HD 1, pass Third Reading, seconded by Representative Lee.

At this time, Representative Blundell offered Floor Amendment No. 12, amending S.B. No. 2200, HD 1, as follows:

SECTION 1. Senate Bill No. 2200, House Draft 1 is amended by deleting its contents and inserting the following language, to read as follows:

"SECTION 1. Article X of the Constitution of the State of Hawaii is amended by adding a new section to be designated and to read as follows:

#### "LOCAL SCHOOL BOARDS

Section . . . Public education in the State of Hawaii shall be provided through a decentralized system of four school districts with schools required to follow and satisfy statewide student performance standards.

There are established four local school boards, one in each of the counties of Hawaii, Maui, Kauai, and the City and County of Honolulu, to be elected by the voters of each county as provided by law. Each local school board shall:

- (1) Formulate district-wide educational policies;
- (2) Select principals to manage the schools in the local school board's school district;
- (3) Authorize the principal of each school to make the decisions that affect student performance, educational quality and use of resources;
- (4) Evaluate the principals managing schools in the local school board's school district;
- (5) Administer programs that the schools are not able to administer alone; and
- (6) Establish an open system that allows, to the extent practicable given each school's resources and capacity, the parents, guardians and caretakers of each public school student to select the school that the student will attend.

The legislature shall appropriate all general funds for school operations in a single amount to each local school board based on a formula established to distribute the general funds for school operations to all public schools based on the number and needs of students enrolled at each school.

SECTION 2. Article XVI, section 4, of the Constitution of the State of Hawaii is amended to read as follows:

#### "OATH OF OFFICE

**Section 4.** All eligible public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as ..... to the best of my ability." As used in this section, "eligible public officers" means the governor, the lieutenant governor, the members of both houses of the legislature, the members of the [board of education,] local school boards, the members of the national guard, State or county employees who possess police powers, district court judges, and all those whose appointment requires the consent of the senate."

SECTION 3. Article X, sections 2 and 3, of the Constitution of the State of Hawaii are repealed.

#### ["BOARD OF EDUCATION

~~**Section 2.** There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district. The Hawaii State Student Council shall select a public high school student to serve as a nonvoting member on the board of education.~~

#### POWER OF THE BOARD OF EDUCATION

~~**Section 3.** The board of education shall have the power, as provided by law, to formulate statewide educational policy and appoint the superintendent of education as the chief executive officer of the public school system."~~

SECTION 4. Article XVIII, section 7, of the Constitution of the State of Hawaii, is repealed.

#### ["1978 BOARD OF EDUCATION ELECTIONS

~~**Section 7.** Members elected to the board of education in the 1978 general election shall serve for two-year terms."~~

SECTION 5. The question to be printed on the ballot shall be as follows:

"Shall the existing public education system be reformed by replacing the existing department and board of education with four elected local school boards, one in each of the counties of Hawaii, Maui, Kauai, and the City and County of Honolulu?"

SECTION 6. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 7. This amendment shall take effect upon compliance with article XVII, section 2, of the Constitution of the State of Hawaii; provided that subsequent to ratification, sections 3 and 4 shall take effect on January 1, 2007."

Representative Blundell moved that the Floor Amendment No. 12 be adopted, seconded by Representative Halford.

Representative Blundell rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. Mr. Speaker, a school board is responsible for schools in its district. And on the mainland, a typical school board has less than ten schools in its district. In Hawaii, our school Board has more than 280 schools. It would be extremely difficult for one school board to provide timely support and effective oversight to that many schools, even if they were within one contiguous area. It would make no sense for a school on Oahu to be assigned to a school board on the mainland. It also would make no sense for a school on Oahu to be assigned to a school board on Kauai or Maui or the Big Island. So why do Neighbor Island schools get to be assigned to a school board on Oahu, that is not on those islands? Doing so has not resulted in efficiency.

"More importantly, it has not resulted in student success. It makes sense only to special interest that feed off the centralized system. What makes people on Oahu think they know best for the Neighbor Island people? No offense, but the Oahu-based school Board has not done a great job for us. To brutally honest, it has done a lousy job.

"Mr. Speaker, it is truly offensive to the Neighbor Island people when we are told that we should be happy with the current system. The current system is not working on the Neighbor Islands. Maybe there are some who live here on Oahu that think public education is doing fine. If so, I invite you to keep the current Board in charge of your schools. But please don't try and tell the Neighbor Island people that the current Board is not failing us. It is and we know it.

"Mr. Speaker, picture yourself as a principal of a school like McKinley, Farrington, or Kaimuki. Now imagine that the school Board is located on the Big Island. Does that picture make sense to you? Do you think that structure would service your needs? I honestly think you would raise cane. You would stand up and say, this doesn't make sense. Well, that's how those of us from the Neighbor Islands feel. That's how we on the Neighbor Islands feel about our schools having to look to Oahu for governance.

"Mr. Speaker, by adopting this amendment, we would allow the Neighbor Islanders to make those decisions that affect their own schools. I urge my colleagues to support this amendment. Thank you, Mr. Speaker."

Representative Hale rose to speak in support of the proposed floor amendment with reservations, stating:

"Thank you, Mr. Speaker. I rise with reservations on this amendment.

"And the reason, Mr. Speaker, is I'm not sure that four is the magic number. Nor seven, nor fifteen. But I do feel that, the Neighbor Islands are shortchanged by the State school Board that we have now. And the question should be given to the people whether we want a local school board of some sort. Thank you."

Representative Takumi rose to speak in opposition to the proposed floor amendment, stating:

"Thank you very much, Mr. Speaker. I rise in opposition to the floor amendment.

"Mr. Speaker, the first speaker mentioned the fact that on the mainland, a average local school board oversees ten schools, which would be in the State of Hawaii, we should have at least 28 school boards, if not more. If you go with this amendment, Mr. Speaker, the Island of Oahu, for example, that school board, if you read the amendment, shall have the power to select principals, to evaluate the principals, managing the schools, and so on. On Oahu, that would be 168 principals. That is a huge task for a volunteer board to undertake and it goes against the very grain of having manageability in the system.

"Secondly, I thought it was made fairly clear throughout the debate on school reform that the research linking the size of a school district, in and of itself, to student achievement is highly dubious at best. But nevertheless, Mr. Speaker, if the whole intent of this measure is to bring more accountability to the schools, I can assure you we will be debating that issue in another measure and I look forward to that debate. Thank you, Mr. Speaker."

Representative Stonebraker rose in support of the proposed floor amendment and asked that the remarks of Representative Blundell be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Stonebraker also requested a roll call vote at the appropriate time.

Representative Herkes rose to speak in opposition to the proposed floor amendment, stating:

"In opposition, Mr. Speaker.

"The first speaker made a blanket statement about the feelings from Neighbor Islands. I happen to be from the Neighbor Islands. And I can only judge based on what my family experiences. My granddaughter went to Honokaa High School, which has been described as a dysfunctional school. She was valedictorian. They can say, 'Oh that's easy. She was from Honokaa.' But she went to George Washington University, and as a freshman, she's on the Dean's List. And she's competing with students worldwide. So obviously she got a pretty good education. Thank you."

Representative Jernigan rose to speak in support of the proposed floor amendment, stating:

"I rise in support.

"Mr. Speaker, the people in my district on the Big Island, they want to have a say on what's happening with their schools. And they would like the ability to choose whether they want local school boards or not, in the form of a constitutional amendment on the ballot. To have Honolulu or the centralized school board based in Honolulu making decisions as far away as the Big Island, is just dysfunctional. And we need some change, some proper change. So I will be supporting this amendment."

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

"Thank you, Mr. Speaker. I rise against this floor amendment.

"The movant of this amendment said that he was not content with the current system. I don't think anyone here today on this Floor is content with the current system. In fact, if you take a look at a number of the measures that we're going to be considering today and we have considered in the past, we're going to revolutionize what currently is the Department of Education. In fact, the previous speaker, talked about people having a say in their schools. What this bill does is this bill does not do that. In fact, what this bill does is creates another level of bureaucracy, very far away from the people.

"In fact, if you take a look at another measure that we're going to be talking about later today, or on Thursday, we are putting local control directly into the schools. In other words, Mr. Speaker, the parents, the community members, the businesses near and around schools can participate directly in the success of their individual schools. Now I think that in fact is the best, the most local you can get in terms of local control.

"This proposed floor amendment, I believe, is flawed technically. It eliminates the Board of Education, a statewide board, which is mandated by federal law. We must by federal law have a state education agency, an SEA, to not only monitor the local educational agencies but also to carryout the mandates on federal law including the No Child Left Behind Act.

"Finally, Mr. Speaker, I think people need to be made aware of what this floor amendment will do if it passes. This floor amendment will set up four separate local school boards in each of the counties. People also need to know that the measure before us makes it an at-large race. So on the Island of Oahu for example, Mr. Speaker, if we opened this up, in fact, it doesn't even specify how many members will be on this board, it's silent. It rests with the Legislatures in their future. But if you take a look at what the Governor has proposed in the past. House Bill 2332, she proposes that these local school boards be made up of five people elected at large. So in fact the Island of Oahu could be electing the majority of their members from the eastside or from central Oahu, from the areas of our island that are predominantly strong poll turnouts during Election Day. And I don't think that's fair. In fact, this proposal goes counter to what we already have set up, and that is requirements for people to live in the Leeward district of Oahu to run.

"So I think you need to take a look at not only this measure, but the consequences and the underlying statutory provisions that are right now unspecified. So I strongly oppose this. Thank you."

Representative Halford rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In support.

"Mr. Speaker, I think everyone understands that this is a compromise proposal. That a lot of discussion this Session has been around seven school boards. Two years ago, we were talking about either seven school boards or fifteen school boards in this Legislature. This Legislature has been discussing seven, or just keeping it, or try to twitch the existing system. This proposal is reflecting a compromise on the previous discussion about seven school boards and making it four.

"I would like to observe the technical problems that have been brought up. I'm not sure that they are problems, but if there are any technical twitching that needs to be done, it can be done in Conference. By passing this amendment, it allows us a vehicle to move towards allowing the voters to choose to have local school boards.

"Mr. Speaker, the issue of local school boards has been debated widely in this Legislature. And I don't want to go back

and reiterate all the points. But I do want to make a couple points that should be made, given this proposal that the boards be by county. What this would mean for Maui county among many things, the two other observations that I haven't heard mentioned in the debate all along.

"One advantage is that all of the board members for Maui would be from Maui. And I believe that most of the voters would know all of the board members. Right now, Mr. Speaker, most of the Maui county voters really only know one board member and that's the board member from Maui. And as voting results have shown, many times, board members get beaten by blank votes. And that's simply a symptom that voters don't know the board members and are reluctant to vote for somebody they don't know. In this proposal, Mr. Speaker, I'm sure that most of Maui voters would be aware, be cognizant of all of the board members running, whether it be five or eleven or whatever the amount of board members. And that's a good thing.

"Another advantage, Mr. Speaker, is that I believe that our teachers, that teachers on Maui would know every board member on a first name basis. I believe that the only way to succeed in running for the Maui County Board of Education would be to win the support of the teaching community. And that every successful board member running would start first with teachers. And Mr. Speaker, it would be a good thing if every teacher on Maui knew every board member on a first name basis, where they could in Star Market say, 'Hey Bill, what about the proposal we were talking about. You know, getting my textbooks,' or whatever the issue. To have that level of interaction within a community is excellent. This amendment moves us in the direction to be able to have that kind of intimate community-based dynamic education. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Comments in support of the amendment.

"I briefly want to make some comments in rebuttal to some of the comments made by previous speakers. The comment about dubious evidence about local school boards, I believe that we have discussed that. That there appears to be a correlation and it suggests that there's some value to having smaller school districts. And that allows for faster assimilation of new ideas and creation of new programs.

"However, on the opposite side, I know that we have a current proposal, Mr. Speaker. Just playing devil's advocate, we have a current proposal that says we have school community councils in the schools. There's actually very little evidence that that works. I mean, it appears that we're following a model which is very well presented by a school district the size of Kahoolawe. That is showing that for a few years at least, I think three so far, that it appears to work. I would offer, Mr. Speaker, that that might not be the evidence that the school community councils are working but in fact may be evidence of extraordinary leadership that is being displayed by the professionals, the Superintendent and her principals.

"I want to say that the comment about a new bureaucracy, I know it's often heard, but the proposal aims to at least an eventual hope, it's to eliminate the statewide bureaucracy and put these local serving bureaucracies, if you will. That we intend to be more responsive to the Neighbor Islands in particular. And I hope eventually maybe not in five years but maybe in ten or twenty years, someone, my replacement, will be representing the City and County of Mililani. So we're hoping for that, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker. In support of the amendment.

"This is a compromise, and the fact that I find it a bit disingenuous for the Chair of the Education Committee to refer to one person selecting 165 principals when he is clearly in favor of a system that has one person selecting 280 principals. The closer we can move to smaller divisions, the better, but this is a compromise. This is a compromise that accepts that the Majority Party clearly wants to keep everything together on Oahu. We just say, what business do we, standing on Oahu, have telling the Neighbor Islands that they can't have their own school district? Sure we've got a majority of the votes, but let's look to the Neighbor Islands for signals as to what's best for them.

"The issue of electing the Oahu people at-large, they're elected island-wide right now. In fact, the Chair of the Higher Education Committee, the person who made that point, is a strong proponent of changing that way of electing. So it's odd for him to not be conscious of the fact that that's the current system. Everybody is elected island-wide right now. Nothing changes. Unfortunately, I would much prefer to have smaller school districts.

"We're hearing a lot about the school community councils as if they are local school boards. Mr. Speaker, I offer you a test. Will the local board select the principal? If the local board does not select the principal, the local board does not function as a board in the sense of a true board. It's the outfit that selects the principal that's the real board.

"The constitutional amendment abolishes the statewide Board of Education. And as the Representative from Mililani said, let's not get into an argument about extra bureaucracy. We're doing away with the current bureaucracy. We're replacing it with local school board bureaucracies. But nothing in the constitutional amendment prohibits setting up a statewide caretaker agency to fulfill the requirements of federal law. The constitutional amendment simply says there will be local boards and enumerates what they will do. Thus, still by statute, we can set up a statewide caretaker agency.

"Finally, Mr. Speaker, in 1997, the leadership of the Majority, the Speaker of the House, the President of the Senate, and the Governor of the State of Hawaii all signed off onto a reform measure that would create local boards. One for each county. It was a good idea then, it's a good idea now. Thank you, Mr. Speaker."

Representative Saiki rose to speak in opposition to the proposed floor amendment, stating:

"Mr. Speaker, I rise in opposition to this floor amendment.

"I'd like to just focus on two brief points. First as mentioned by the Representatives from Mililani, the issue of whether or not there is evidence that local school boards will impact student achievement. I would note that the Governor has relied on one study. One single study, to support her position that local boards will impact student achievement. And that was the study that was published by the Heartland Institute, which is a Libertarian organization. If you read the Heartland Institute's study very carefully, the premise of the study really is, and this is because Heartland is a Libertarian institute, and Libertarians do not believe in big government. The gist of the study is that states should not fund public school systems. The Heartland study supports a situation where local governments, counties, will fund school systems. They do not support state funding of

public schools. And they want to rework to a system where real property taxes assessed in various counties, which will result in uneven funding for schools, should be the practice.

"The second point that I wanted to make is that even if, even if local school boards will bring about student achievement, it's unclear what number of boards should be put into effect. My colleagues across the aisle in a single Session, in this Session, have advocated for eleven school boards, seven school boards, and now four school boards. My question is, and this is perhaps a test: What is the real number? Is it eleven? Seven? Or four? What will it take to bring about student achievement given the lack of evidence and a single study published by the Heartland Institute?

"I'd actually like to bring a third point to the Body. And that is that, and I'll say this in blunt terms, Mr. Speaker. We are past the issue of local school boards. Like it or not, we have gone beyond this issue. And I know that is difficult for some in this Body to reconcile. But I would even say that the public has gone past this issue. And the reason I say that is because the *Honolulu Advertiser* just published a poll that asked the public to rank the factors that will bring about increased student achievement in our State. And I'd like to read those factors very carefully in the order in which they were ranked by the public."

Representative Bukoski rose, stating:

"Will the current speaker yield to a question?"

The Chair responded, stating:

"Representative Bukoski, I will allow the Majority Leader to continue on in his debate and after he's finished, you can pose that question to the Speaker."

Representative Saiki continued, stating:

"Mr. Speaker, again I will assert that the public has moved beyond the issue of local school boards because this is how the public sees that we need to improve our schools.

"First, we need to provide enough textbooks for every student. Second, we need to reduce class size in the early grades. Third, we need to make needed repairs to school buildings and equipment. Fourth, we need to provide enough computers for students. Fifth, we need to give principals control over their operational funds. Sixth, we need to base principal raises on student achievement. Seventh, we need to base teacher raises on student achievement. And Mr. Speaker, the number eight and dead last, increase the number of school boards.

"Mr. Speaker, I believe that we have gone beyond this issue. We will be voting shortly upon some legislation that will bring about increased student achievement through very practical and reform-minded means. And accordingly, Mr. Speaker, I oppose this floor amendment."

The Chair then stated:

"Thank you very much. At this time, the Chair will call a recess to allow Representative Bukoski to confer with the past speaker in regards to his question. Recess."

At 10:47 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:48 o'clock a.m.

At this time, the Chair recognized Representative Bukoski who stated:

"Thank you, Mr. Speaker. I'd just like to share with the Body. My question was whether or not the survey was a statewide survey, and the answer was given in the affirmative. It was a statewide survey, Mr. Speaker. However, I would be interested to know, how much input the Neighbor Islands had in this particular survey because I think that's the question we're trying to address here. How much input do we have in the Neighbor Islands, not just here on Oahu."

The Chair interjected, stating:

"Representative Bukoski, would you like to stand in support of the amendment and continue on?"

Representative Bukoski continued in support of the proposed floor amendment, stating:

"I'm in support, Mr. Speaker. And I just want to close by saying that this periodical is a Honolulu paper. And it doesn't really necessarily indicate the input from the Neighbor Islands. Thank you."

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

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

"Mr. Speaker, contrary to what some speakers in this Chamber have said today, there are a number of studies, not just one. There are a number studies that not only address small schools, but also address smaller school districts, and I'd like to reference my prior speech on this same topic. I'd also like permission to insert comments from that prior speech," and the Chair "so ordered."

Representative Pendleton continued, stating:

"Thank you, Mr. Speaker. I referenced about a dozen different studies, which all reflected the fact that smaller schools, smaller school districts all tend to promote greater academic achievement.

"Mr. Speaker, I would submit that there is no secret number for local school boards. The gentleman is asking for a number that cannot be given. But the fact remains that more local school boards, rather than none, would be better. So whether you choose four, seven, eleven, fifteen, I would contend that you're moving in the right direction, especially when it comes to Neighbor Islands. I imagine that we could get along with a single school district on Oahu. That's because people can drive to downtown Honolulu. You don't have to take a ferry here to get here from Kailua. But I would think that at the very least, at the bare minimum, you'd want local school boards for the local counties. And probably more ideally, you'd want them for each individual island. I understand that Maui is a multiple island county and so it would seem to make sense to not force people to have to catch a plane or catch a ferry to Maui, Kahului, Wailuku, to speak to their school board. So again, there is no magical number. I'm open to any number.

"Just a few years ago, Mr. Speaker, we selected a number and that was different from the Senate version. We had different Chairs of the respective education committees at that time. And I don't think that we would have argued that one was the magic 'silver bullet' number versus the other. Unfortunately, even though both of those measures made it to Conference, neither of them emerged, nor did a compromise emerge. I would submit that any of those combinations of



numbers of local school boards would have been superior to one single, unitary school board.

"Regarding the amendment, Mr. Speaker, some people have suggested that the people have gotten beyond this and past this. I would suggest that no amount of ignoring this issue by the Legislature would cause the people to forget this. The fact is this was in the top eight, or top ten, on that particular poll. I would imagine that many bills we pass today aren't anywhere near that high on the radar screen.

"And so if we use that test to measure whether or not a certain resolution should pass, whether a certain bill should pass, many of the bills today would not qualify using that of those. But we're not talking about a mutually exclusive list. Many of the bills today address issues that the general public is just not cognizant of. Maybe they're technical adjustments to some insurance statute or what have you. And if we said, is this in the top 8 or top 10, the answer would be no. But we'd never use that to disqualify perfectly good measures from passing.

"And so I would suggest that those other issues, textbooks. Yes certainly. Principals having more authority. I support all of those. But we're not talking about a mutually exclusive list. We're not saying, is it textbooks or governance reform? I think this is a both/and situation, not an either/or. We can do both. And simply what we're asking for is the opportunity to place on the ballot this ballot question to allow the people to be able to speak clearly and as individuals on this measure.

"The speaker also, Mr. Speaker, suggests that this is a matter that the Caucus, the Minority Caucus, should just forget about and just give up on. But again, what we're saying is regardless of how we support individually, school boards. We're saying let the people decide. Even if we were to say, 'Okay, we've lost. We don't have the numbers.' We still believe that it's not about us. It's not about the Legislature. It's about the people of Hawaii being able to have a say. And let me tell you, if it went on the ballot in November and it decisively lost. People say, 'No, we love the single system. We love having to fly to Oahu from the Neighbor Island to meet our school board. We love the fact this is what we've had for the past several decades. And the test scores, this is as good as it's going to get.' I can tell you that we'll probably leave this issue alone once the people decisively say that they embrace the current system and the want the current unitary system. So for all of those reasons, Mr. Speaker, I support the current floor amendment. Thank you."

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in strong support of proposed Floor Amendment No. 12 which seeks to delete the contents of Senate Bill 2299, House Draft 1, and in its place insert a section that amends Article X of the Constitution of the State of Hawaii which would pave the way for local school boards. The floor amendment would establish four local school boards – one in each of the counties of Hawaii, Maui, Kauai, and the City and County of Honolulu. The boards will be elected by voters of each county as provided by law.

"The local school boards will be mandated to do the following:

1. Formulate district-wide educational policies;
2. Select principals to manage the schools in the local school board's school district
3. Authorize the principal of each school to make the decisions that affect student performance, educational quality and use of resources;

4. Evaluate the principals managing schools in the local board's school district;

5. Administer programs that the schools are not able to administer alone; and

6. Establish an open system that allows, to the extent practicable given each school's resources and capacity, the parents, guardians and caretakers of each public school student to select the school that the student will attend.

"Furthermore, the legislature shall appropriate all general funds for school operations in a single amount to each local school board based on a formula established to distribute the general funds for school operations to all public schools based on the number and needs of students enrolled at each school.

"Mr. Speaker, it is well known that educational reform is a top priority of this Administration and of the legislative body. We have had so many discussions about how to approach reform. We've discussed student-weighted formulas, giving principals control over their budgets, smaller school sizes and smaller district sizes. Although student-weighted formulas and principal controls are visionary ideas, they cannot work to their full potential in a centralized system. The behemoth Department of Education will add layers of bureaucracy that would impede the success of these programs.

"Dr. William Ouchi conducted a study to see if principals were put in charge of their schools, would they be more successful in running the schools rather than if the schools were under the control of a centralized body. He reported his results in his book *Making Schools Work: A Revolutionary Plan to Get Your Children the Education They Need* (Simon & Schuster 2003). One of the biggest points in his book is that principals who are in charge of their schools find more success if their schools are situated in a decentralized system. Overall, Dr. Ouchi concludes that the decentralized public schools were running more efficiently and produced better student achievement. Dr. Ouchi and his team of researchers found that there was less fraud, less centralized bureaucracy and staff, more money at the classroom level and higher student achievement in schools where the principals were in charge, and where the schools were in a decentralized district.

"Mr. Speaker, there is strong support for local school boards, especially from our Neighbor Island constituents who are suffering because we have one Board of Education that meets on Oahu and one Department of Education that oversees our State's entire educational system. Recent polls show that local school boards have strong support from Neighbor Islanders. They would know because they have been at a disadvantage all these years and they can truly testify to the pains and burdens of having one centralized bureaucracy to oversee our State's entire educational needs.

"Dr. Ouchi also says that, 'Phony Decentralization encourages teachers, principals, and parents to spend hours and hours in planning and discussions but gives them no authority or money with which to implement their creative ideas. Real decentralization... gives each local school control over its own budget.' We are giving principals authority over their own budget, yet we still place their schools under the giant umbrella of a one huge centralized system of governance. We are supplying principals the tools to better run their schools, but we need to give them a solid foundation by providing them with local school boards. I cannot stress enough the importance of breaking up our one giant Department of Education in order to ensure the success of all the educational reforms that we are planning to enforce. We are setting them up for failure if we



allow them to continue to do their work in a largely centralized system.

"In the HSTA 2004 report, 'Every Child Succeeds', they say that '[it] is common knowledge that the school and its community know best the needs of their students...we must streamline and simplify the existing governance structure and move decision-making as close to the school level as possible.' In order to streamline and simplify, we must, in the words of the HSTA, 'move decision-making as close to the school level as possible.' Local school boards foster the exact actions needed to accomplish this goal. Let us make reform possible by enhancing principals' newfound control over their school with local school boards.

"Thank you, Mr. Speaker, for the opportunity to stand in strong support of Floor Amendment No. 12 to Senate Bill 2200, House Draft 1."

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

"Thank you, Mr. Speaker. In strong support.

"Mr. Speaker, we've heard from across the aisle about the Heartland Institute and the *Advertiser* and all that. But that isn't the issue, Mr. Speaker. We don't care what some other people have said, possibly. And I've referenced on this very Floor, on one instance, of about I think it was 47 studies, and another instance of over 30 studies, that all showed that smaller school boards do make a difference. But I don't think that's the issue. We're not talking about only student performance. We're talking about the issues that formed our country. The United States was formed, why? Because people wanted to govern themselves. That was the main issue. And that's the issue today. It's self-rule. The Hawaiians want the same thing. They want some governance, some sovereignty over themselves. And the real question then, Mr. Speaker, is self-governance, home rule. If it brings increased student performance, that's good. But one thing we do know, the system we have doesn't work. It was said here again today from across the aisle that the system doesn't work and they're going to make some changes. Good, I welcome some changes. The system doesn't work, but the Neighbor Islands want homerule. They want to govern themselves with their own local school board. Thank you, Mr. Speaker.

"And the numbers, Mr. Speaker, again, the Big Island may decide they want two. Let them decide. Why do we have to decide right here? Right now, what we're asking for is one per county. Thank you, Mr. Speaker."

Representative Meyer rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I'm rising in strong support for this amendment.

"There's been much said about the *Advertiser* poll but the one thing we have to realize, this was only 605 Hawaii residents out of a population of 1.2 million. We have no idea whether the Neighbor Island people were equally represented in this 605 people. And of the various things, the questions the people were asked and what they thought were important, it's important to make note the fact that the respondents were equally divided at 41% on each side of the issue of local school boards. This is not something that the general public is not interested in. And as we've said many times on this Floor, what we're trying to do is get this on the ballot so that we can let the voters decide. But there seems to be such tremendous resistance to that.

"And it might be a little repetitive but I think the point that Representative from Kailua made about there is no magic number on these school boards. Mr. Speaker, the real magic is local school boards. School boards that are accessible. School boards that the principals would be accountable to. And that would be truly a tie in the accountability that the present measure that has been build as real reform does not provide.

"Of the 41% of the people of this 605 that were in favor of local school districts and 54% who thought that the school district councils would be a good thing. But what the public doesn't know is that the present bill that creates these school community councils strips away the School Community-based Management law. Eliminates the provision for waivers from collective bargaining agreements. Eliminates council input into the selection of personnel. Allows for consensus only, versus majority vote for decisions at council level. Gives principals absolute veto power over any decision made by the councils. Maintains agreements that allow unions to veto any principal or council decision. Circumvents procurement in sunshine laws."

Representative Takai rose, stating:

"Point of information, Mr. Speaker. I believe the current speaker is out of order. She is reading her speech on Senate Bill 2328."

Representative Meyer responded, stating:

"Mr. Speaker, I'm referring to the poll and the reasons why.

"Allows for diversion of appropriations for basic instructional support, teachers, textbooks, and supplies into other programs. Requires principals to determine contracts at complex level of majority vote.

"I'm just saying that these 605 people that were polled were not totally aware of what the real reform bill that we are moving along in place of local school boards, what their local school community site council, whatever you want to call them, their power is, they don't have any power. And they just add a diffusion. And everybody can point fingers at who's responsible. But the real thing with our amendment is to put this idea, this question of local school boards on the ballot, that's all. And it is something that has strong support in the community. Thank you, Mr. Speaker."

Representative M. Oshiro rose to speak in opposition to the proposed floor amendment, stating:

"Mr. Speaker, I stand in strong opposition.

"Mr. Speaker, this measure has nothing to do with compromising. This measure before us is evidence of capitulation by the Governor and her CARE group. That they have lost support ..."

Representative Thielen interjected, stating:

"Mr. Speaker, I think those are very inappropriate remarks to make in the House of Representatives. It demeans the Body when slams are made upon the Chief Executive of our State."

The Chair responded, stating:

"The Chair will recognize Representative Marcus Oshiro to continue on with his speech, and if you could confine some of your remarks as far as not being so abrasive or having those innuendoes stated."

Representative Luke rose to a point of order, stating:

"Point of order, Mr. Speaker. I think the prior speaker had reference a prior Governor as 'King Ben' and I think that's pretty derogatory too. So the Representative from Wahiawa should continue on with his speech."

The Chair responded, stating:

"I'm allowing the Representative from Wahiawa to continue, but I would like to see that we have some proper decorum in both sides of the aisle. And I think the Representative from Kailua is absolutely correct."

"Vice Speaker Luke, you're correct that she did mention that the former Governor was called that, and I allowed the Representative from Kailua to record that in the Journal. But the Chair will allow Representative Marcus Oshiro to continue on, and I would like to see if he could tone it down a little."

Representative Halford rose, stating:

"Mr. Speaker. Point of personal privilege."

"Thank you. Mr. Speaker, I was the second to this floor amendment. And I offered this floor amendment for progress, educational progress. I think that I take umbrage at the fact that he's trying to express what my motives are in advancing good legislation for the State of Hawaii."

Speaker Say: "Okay, your point is well taken."

Representative Saiki: "Mr. Speaker, point of order."

Speaker Say: "Representative Saiki, state your point."

Representative Saiki: "It's not a proper point of personal privilege. The Representative from Wahiawa was not referring to the Representative from Kihei."

Speaker Say: "Representative Saiki, your point is well taken. Representative Bukoski, would you please sit? And at this point, the Chair will allow the speaker from Wahiawa, to continue."

"In regards to Representative Halford's point of personal privilege. Representative Halford, you rose on a point of personal privilege. And he feels that he has been aggrieved by the comments made from the speaker from Wahiawa. The Chair will rule at this point, listening to the debate that it was never intended for any Representative, on both sides of the aisle. So I will allow the Representative from Wahiawa to continue on with his debate. So please continue, Representative Marcus Oshiro."

Representative Bukoski: "Mr. Speaker."

Speaker Say: "Representative Bukoski, state your point."

Representative Bukoski: "Point of information. Is it not improper to speak to the motives?"

Speaker Say: "There is no motive at this point in time, Representative Bukoski."

Representative Lee: "Mr. Speaker. Point of order. You've made a ruling."

Speaker Say: "Yes. So please ..."

Representative Bukoski: "Brief recess, Mr. Speaker."

At 11:04 o'clock a.m., Representative Bukoski requested a recess, and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:07 o'clock a.m.

Representative Bukoski rose, stating:

"I move to strike the comments made by the Representative from Wahiawa regarding the motives of this amendment, Mr. Speaker. He's not speaking to the merits or demerits of the amendment itself but speaking to the motives of why we're introducing this amendment to begin with."

The Chair responded, stating:

"Representative Bukoski, the Chair has not even ruled as far as this particular amendment, and his statements being retained in the Journal at this point in time. So until I make that point ... You can challenge the Chair, but at this point are you challenging the Chair that Representative Marcus Oshiro's comments should be stricken from the Journal?"

Representative Bukoski: "If you haven't made a ruling yet, Mr. Speaker. I would ask ..."

Speaker Say: "I have not made a ruling because he hasn't finished with his debate on the Floor. And until his debate is completed, I'll ask you to stand up if you want to challenge me on the ruling. I'll allow you and then we'll have a short recess."

Representative Bukoski: "Well then, point of order."

Speaker Say: "State your point."

Representative Bukoski: "I'd just like to state that his comments were out of order and they speak to the motive. And I'd ask that they be stricken. Thank you, Mr. Speaker."

Speaker Say: "Thank you. Representative Marcus Oshiro, please proceed."

Representative M. Oshiro continued, stating:

"Mr. Speaker. I'm speaking against this floor amendment because it does not have the endorsement of the people. The people of Hawaii have already spoken on this issue. The current Board of Education, elected duly by the people of Hawaii, have said, 'no.' The Superintendent, who has been retained for another term of her contract does not support this. The principals at all our schools do not support this. A majority of our teachers do not support this. A majority of our Neighborhood Boards where they exist, do not support local school boards. In fact, Mr. Speaker, I would even go to state that I believe members of the CARE Committee itself probably do not support this particular amendment with four local school boards. I guess Mr. Speaker, how can they? When for the past three, four, five months, the CARE group has been lobbying, has been going out, throughout the community, to wage its campaign ..."

Representative Thielen: "Mr. Speaker."

Speaker Say: "Representative Thielen, for what purpose do you rise at this point?"

Representative Thielen: "Mr. Speaker, we have a bill before us and you know when I look at this ..."

Speaker Say: "Representative Thielen, yes. This floor amendment ..."

Representative Thielen: "When I look at the amendment, Mr. Speaker, I do not see anything in this amendment that is as far afield as the Representative from Wahiawa ..."

Speaker Say: "Representative Thielen, the Chair will allow the Representative from Wahiawa to continue. The proposed floor amendment addresses all of the concerns of these individual bodies who have presented a particular proposed legislation, which is known as the CARE group. And we have had a lot of debate on this particular issue from the State Board of Education down to the Superintendent, to the principals, to the teachers, and that's the reference the Representative from Wahiawa is making at this point. And I will allow him to continue because I have allowed everyone in this House to speak."

Representative Saiki: "Mr. Speaker, point of order."

Representative Thielen: "Mr. Speaker."

Representative Saiki: "Mr. Speaker, the Representative needs to provide a basis for standing on the Floor."

Representative Thielen: "Mr. Speaker, then I would like a chance to refute his allegations when he is through."

Representative Saiki: "Mr. Speaker, this is out of order."

Speaker Say: "Representative Thielen, would you please sit. This partisanship has gone too far at this point on just a particular floor amendment. Where is it proper decorum that this House is to represent? I've given you a lot of latitude these past three months. And I think you are taking it very, very personally. It is the issues that you are supposed to be addressing and debating. Not personalities and clashes that you may have against one another."

"This has gone on for an hour and fifteen minutes at this period in time. And we'll continue on the debate, which I have promised you. But if there is any interruption in regards to one speaking on a point of information, on a point of personal privilege, I will consider ruling you out of order."

"So Representative Marcus Oshiro, please proceed. And we'll ask one more speaker to speak on this particular floor amendment and I think I'll call for the question with a roll call vote requested by Representative Stonebraker. So Representative Marcus Oshiro."

Representative M. Oshiro continued, stating:

"Mr. Speaker, thank you. The people have decided against any local school board issue. I will take that with me as I leave this Chamber. And I will honor that. The people have decided and my vote against this floor amendment is no. Thank you."

The Chair then stated:

"Thank you very much. Representative Ching, you will be allowed since you have never spoken up at this point in time."

Representative Ching rose to speak in support of the proposed floor amendment, stating:

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

"Thank you. Local school boards remind me of the philosophy of smaller classrooms. And one of the philosophies behind smaller classrooms, as teachers well know, is that when you are allowed to know your students more and have more

time with them, and you're not distracted by so many students, you are allowed to make better decisions and catch things that maybe another teacher, who has too many students cannot catch. With that philosophy in mind, local school boards I believe are the most efficient course. The efficient course in representation, as well as the State's direly needed resources. So I think this is a sensible amendment because we do have to remember our State's resources in education. Thank you."

The Chair then stated:

"Thank you very much. Excuse me, Representative Tamayo. I'm sorry I missed you because you were supposed to be after Representative Marcus Oshiro. So you're the last speaker on this particular floor amendment debate."

Representative Tamayo rose to speak in support of the proposed floor amendment with reservations, stating:

"Thank you, Mr. Speaker. I'll keep it brief. I'm rising with some very serious reservations."

"My reservations lie in a lot of the points that my colleagues have brought up in problems and flaws that they see in this amendment that's offered. One of the biggest concerns that I've had since the day that I was elected to this seat, and as long as we've been debating this issue last year and this year, is the number of school boards that have been proposed. Whenever this issue has come up, I've always questioned the wisdom of the number because it has changed over time. And the statement that the number doesn't matter kind of scares me, because changing the governance and throwing out our system and completely overhauling the governance of our education system is a really big deal that we need to take very seriously. Our parents, teachers, principals, everyone in this State takes this very seriously and we can't just say any number will work. We need to tread lightly and make sure that we really study everything and put forward the best proposal to the voters."

"Lastly, saying all this, with my reservations, I think that since this issue is so important that everyone needs to get a chance to weigh in on it. Thank you, Mr. Speaker."

Representative Thielen: "Mr. Speaker, before we do roll call, I would like to rule a potential ..."

Speaker Say: "Representative Thielen, for what purpose do you rise?"

Representative Thielen: "Potential conflict ruling, Mr. Speaker."

Speaker Say: "Representative Thielen, there is no conflict."

Representative Thielen: "Mr. Speaker, I'm the mother of a member of the Board of Education, Laura Thielen. She's also a member of the CARE Committee and she believes in local elected school boards."

Speaker Say: "There is no conflict. Representative Sylvia Luke. I'm sorry, Members. Representative Luke."

Representative Luke rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. If I may be permitted to submit written remarks in opposition. The words of the Majority Leader and also the *Advertiser* poll. Thank you," and the Chair "so ordered." (By reference only.)

Representative Luke's written remarks are as follows:

"Priority is classroom, not boards, poll finds

By Derrick DePledge  
Advertiser Education Writer

Donald Graber, a retired accountant, can't figure out why public schools don't seem to have enough textbooks or other essential supplies.

Marie Triner — whose son, a Solomon Elementary School fourth-grader, has struggled to adjust since his father left with the Army for Afghanistan — wonders why class sizes aren't smaller.

Nicole Turner, the mother of a toddler in 'Ewa Beach, hope that all classes are wired for computers by the time her son is ready for kindergarten.

Gov. Linda Lingle and Democrats in the Legislature have made education reform the state's most urgent public policy question and have described this year as a historic opportunity for change. However, a new Honolulu Advertiser Hawai'i Poll has found a sharp disconnect between the political debate and what people really believe would improve lagging schools.

The governor and lawmakers have concentrated on structural and financial changes to schools, proposing local school boards or empowered school councils and giving principals more control over school spending. But people interviewed for the poll were much more likely to value more basic solutions.

Asked to rate several possibilities, people gave the highest marks to textbooks for every student, smaller class sizes in the early grades, school repair and maintenance, and enough computers so every student can use one daily.

Sixty-three percent said they would be willing to pay more in taxes if they were confident the state would dedicate money for the things they favored. While strong, that number has declined since January 2003, when the Hawai'i Poll found that 77 percent would pay more in taxes to improve public education.

"They need to talk to the educators themselves," Diane Chong, a Web designer who has children in both public and private schools, said of politicians. "They're not hearing that side of the story. They need to find out what's going on."

People also suggested some innovative ideas. Maybe parents could receive report cards grading their own involvement in their children's education. The state, businesses and parents could work together so every student has a laptop computer of one's own. Maybe students should take an achievement test before moving on to the next grade.

The statewide survey of 605 Hawai'i residents was conducted March 24-27 by Ward Research Inc. of Honolulu. The margin of error is 4 percentage points, meaning that in a survey of all Hawai'i registered voters, the percentage of support for each proposal could be 4 points higher or lower.

Several people who participated in the poll and were interviewed separately afterward also said teachers should get a pay raise and have a greater role in school policy.

But the poll found that people were not enthusiastic about basing teacher and principal raises on the performance of their students. "They're saying that it's not fair to hold teachers and principals accountable if they don't have the tools they need," said Rebecca Ward, the president of Ward Research.

Steven Smith, a Navy electrician who lives in 'Ewa Beach, said society talks about the importance of education, yet many bus drivers make as much as or more than average teachers.

"They're out there on the battlefield," Smith said of teachers. "I know teachers who say they are constantly paying for things out of their own pockets."

Travis Berry, a telemarketer in Kane'ohe, left Castle High School before graduating and is now going back to school to get his diploma. While far from a model student as a teenager, he said some of his teachers left a strong impression.

"I had a few good teachers, and in those classes I did well," Berry said. "Maybe we should pay them more."

For many parents, all the attention on reform makes a difficult decision — where to send their children to school — even harder.

Heather Metcalf, who does administrative work for her family's construction company on the Big Island, is concerned about the mixed messages children receive from popular culture and how that might influence their education. She is torn over whether to keep a television in the house, let alone whether to choose public or private school or opt for home schooling.

"There is definitely a lot of improvements that need to be made everywhere, in both public and private schools," she said.

The Hawai'i Poll turned up some interesting patterns. People who lived here longer than a decade were more likely to rate repair and maintenance and more computers as priorities, probably because they are more familiar with the poor condition of many schools.

"I don't know why our schools are so short on supplies," said Graber, the retired accountant. "I'm always hearing about fund-raisers, and I'm surprised that they seem to be for basic things."

Patricia Sofos of Makiki, a sales manager, said she used to work for a company that supplied the state Department of Education, so she has seen some of the maintenance problems up close. She doesn't believe that the state is making wise use of the resources it has. "When I look at some of the older schools,

I just can't believe it — especially the restrooms," she said.

Turner, the 'Ewa Beach homemaker, said it should be a given that students have enough textbooks and, hopefully, access to computers. "The way society is going is so computer-generated, I think that's important," she said.

People ranked reducing class sizes second only to textbooks as a priority, and women were more likely than men to say it would significantly improve schools. Research has suggested that many students, particularly those from low-income families, do better in smaller classes in the early grades where they can get more individual attention from teachers.

Triner, whose home is at Schofield Barracks, said she is thankful that her son's teacher at Solomon has been so attentive since his father left for duty a few weeks ago. "He is having difficulty with some things," she said, "and his teacher has been really good at taking time with him."

She wishes politicians would talk more about class size — which would require spending more money on new teachers and classrooms — than school governance. "It's not as big an issue as far as children's learning (is concerned)," Triner said.

Both Lingle and Democrats in the Legislature believe that a new student spending formula basing school finance on student need, instead of enrollment, would bring more transparency and, eventually, more equity to school spending. Both sides also want to give principals much greater control over spending decisions, so money and other resources could go to a school's individual needs.

Democrats say new school councils — improved versions of existing school/community-based management councils — would have more control over school budgets and curriculum and could identify and respond to each school's unique circumstances.

Lingle believes that the DOE should be broken up into seven school districts with locally elected boards that would oversee school performance and hold schools accountable. The governor would also replace the state Board of Education with an appointed standards and accountability commission.

Chong, the Web designer, said politicians could help schools by reducing what she sees as too much "red tape" — and believes there could be a compromise between Lingle and the Democrats — but she has also heard the calls for education reform before without seeing much progress.

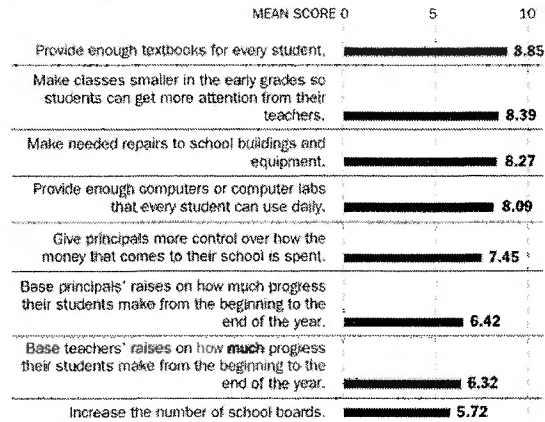
"Every time they say they're going to do something for education, when it comes right down to it, nothing ever gets done," she said."

*The Honolulu Advertiser*  
Posted on: Wednesday, April 7, 2004

## The Honolulu Advertiser HAWAII POLL

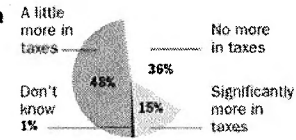
### Ranking what's most important for education

There's been a lot of discussion this year about ways of improving public education in Hawai'i. I'm going to read you a list of possibilities and ask you to tell me how much you believe each would improve the public schools. Please use a 10-point scale, with 1 meaning you think it would not improve public education at all and 10 meaning you think it would significantly improve education.



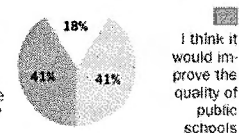
### Paying for education reform

If you felt confident that the state would dedicate the funds to achieve the things you said would most improve public education, would you be willing to pay:



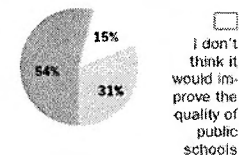
### Support for local school districts

One proposal being discussed this year is to break up the state Department of Education into seven local school districts with elected school boards. Which of these responses describes your opinion on that?



### Support for school councils

Another proposal being discussed is to keep a single state school board and strengthen the role of school councils made up of principals, teachers, parents, students and community representatives. Which of these responses describes your opinion on that?



Source: The statewide survey of 605 Hawai'i residents was conducted March 24 to 27 by Ward Research Inc., of Honolulu. The margin of error is 4 percentage points, which means a survey of all Hawai'i residents would not be likely to produce a result more than 4 percentage points above or below the poll results.

I don't know enough about it to have an opinion

The Honolulu Advertiser

*The Honolulu Advertiser*  
Posted on: Wednesday, April 7, 2004

Speaker Say: "Representative Bukoski, the Chair recognizes you finally."

[This section left blank.]

Representative Bukoski: "Mr. Speaker, I rise on a point of order."

Speaker Say: "State your point of order."

Representative Bukoski: "Previously, I rose on another point of order and requested a ruling on striking the words that are now in record from the speaker from Wahiawa. And I believe it is proper to dispose of a ruling on a point of order before proceeding with any further business. And you haven't done that yet. And I would ask that you please rule on the striking of those words in question from the speaker from Wahiawa."

Speaker Say: "Okay. Representative Bukoski has questioned the Chair's ruling that whatever Representative Marcus Oshiro has stated will stay in the Journal. All those who support the Chair's ruling that the comments made by the Representative from Wahiawa please your raise your ..."

Representative Bukoski: "Mr. Speaker. I don't think you made a ruling. I believe you mentioned that."

Speaker Say: "I'm just stating my ruling right now."

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

The House of Representatives reconvened at 11:29 o'clock a.m.

At this time the Chair addressed the Members, stating:

"Members, I will not allow odious innuendoes, etc., to be a part of the operations of this House. You will look at each and every one of yourselves, inside of yourselves, to determine what your motives are in your debate on all issues."

"So at this point roll call has been called on the proposed floor amendment. All those who support the floor amendment will vote aye. Those oppose will vote no. Madame Clerk, please call the roll."

Roll call having been previously requested, and by unanimous consent, granted, the motion that Floor Amendment No. 12 amending S.B. No. 2200, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," be adopted, was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 33: Representatives Abinsay, Arakaki, Caldwell, Chang, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai, and Waters.

Ayes, 18: Representatives Blundell, Bukoski, Ching, Evans, Finnegan, Fox, Hale, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Stonebraker, Tamayo and Thielen.

(Main Motion)

Representative Luke rose, stating:

"Mr. Speaker, in light of your ruling on the Representative from Wahiawa's statements, may I make a motion to strike the word 'disingenuous' from the Representative Waikiki's statement as well?"

Speaker Say: "Was that particular statement made during the previous debate?"

Representative Luke: "Yes."

Speaker Say: "The Chair will ask the Clerk to strike that word out also from the Journal at this period in time."

Representative Fox: "Point of order, Mr. Speaker."

Speaker Say: "Representative Fox, state your point."

Representative Fox: "I said dis-ingenuous."

At 11:34 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:34 o'clock a.m.

Representative Luke rose, stating:

"Mr. Speaker, in light of the new information, that it wasn't disingenuous, it's dis-ingenuous, I ask that the record reflect that, and I withdraw my motion. Thank you."

Speaker Say: "Madame Clerk, just leave that word in the Journal for now."

Representative Stonebraker: "Thank you, Mr. Speaker. I think that transparency ..."

Speaker Say: "Representative Stonebraker, for what purpose do you rise? State your point."

Representative Stonebraker: "I rise, I'm not sure if it's on a point of personal privilege, or point of information, or what."

At 11:35 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

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

Representative Stonebraker rose, stating:

"Thank you, Mr. Speaker. To apprise the Body of our discussion, my point of rising was so that we do not make a practice, or I would urge the Body not to make it a practice to strike words or speeches from the record. I don't believe that either party or any citizen in the State of Hawaii will be benefited by this. I think that the transparency that we can bring to this process is advantageous for all the people of Hawaii. And I would beg this Body not to quickly fall into a mode of striking words, which we don't like, regardless of the position of the speaker. And while I may disagree with some of the words of speakers on the other side of the aisle, I do not want those words stricken from the record because the people deserve to hear those. And while I may not agree with the speaker from Wahiawa, I appreciate his speaking."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order. This is not a point of information."

The Chair responded, stating:

"Your point is well taken. Representative Stonebraker, would you please sit at this point? Your statements have been recorded in the Journal at this point."

"There has been a lively debate on all issues, Members. I think it's up to you individually to look at yourselves as far as having that proper decorum and respect for one another and I stated that earlier."

"Can we move on, Members, to Stand. Com. Report 1196?"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2200, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1197-04) recommending that S.B. No. 2606, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2606, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BREWPUB LICENSES," passed Third Reading by a vote of 49 ayes, with Representatives Kahikina and Takamine being excused.

At 11:40 o'clock a.m., the Chair noted that S.B. Nos.: 2779, SD 2, HD 1; 2897, SD 2, HD 2; 2586, SD 2, HD 2; 2908, SD 1, HD 1; 3085, SD 2, HD 2; 3190, SD 1 HD 1; 3044, HD 1; 1362, SD 3, HD 2; 2021, SD 1, HD 2; 2200, HD 1; and 2606, SD 1, HD 2; passed Third Reading.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1198-04) recommending that S.B. No. 2056, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2056, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker, in opposition.

"This bill puts the Auditor in the position of representing agencies of the Executive branch including the Department of Education. The Auditor is not the State auditor. The Auditor is the auditor residing in the Legislative branch who is free to conduct management audits of any part of the Executive branch. That is her job. But this is in a different role. And for that reason, I'm opposing it."

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

"Mr. Speaker. I rise in strong support of this measure.

"This measure was specifically requested by the Auditor, because while she was assisting us during the Joint Felix Investigation, Felix Task Force, Committee, that had sought to take a look at whether proper services were being implemented, and whether we were paying for the services to get to the children, one of the main problems she encountered in terms of assessing the implementation and ability for students to access the services was her inability to access student records. We did try to create an exception that deals with the federal restrictions. And this measure is similar to a measure that was vetoed last Session. And all of those concerns that had been indicated by the Governor were addressed in the form of this HD 2.

"So at this point that we are in, I think we really should pass this bill because as we've seen, the State is just about on the verge of getting out of the consent decree. And if we are to make sure that we properly maintain the services so that we do not fall back into that horrible day of coming under the federal courts again, whereby we lost control of our educational system for special needs children. If we don't want to see that happen again, we need to give the Auditor the tools to make sure that she can go into the records and make sure that whatever money we are paying is properly going to the students, and that the services are properly going to the students because right now

she cannot get that information. And that is what this bill is mainly trying to do. Thank you."

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

"Thank you, Mr. Speaker. In opposition.

"Mr. Speaker, I believe it's useful for the Legislature to get information that is important to it, or us that is. But Mr. Speaker, the problem with this bill is not our hopefulness of getting information. The problem with the bill is that it designates the Auditor as an authorized representative of two administrative departments.

"Mr. Speaker, our Legislative Auditor is important to us. We should not create confusion with that office by asking the Auditor to go outside the scope or purview of the Legislature. And what is being asked in this case is that the Legislative Auditor become a representative of an Executive department. And for that reason, I'm voting no. Thanks."

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

"Mr. Speaker, in strong support.

"And the reason why the Auditor needs to be designated is that's the only way that she could get records from these departments. This is an ongoing request by the Auditor's office in her search and pursuit to help the Legislature to sort out what happened in the Felix situation and to better provide services for Felix kids. And this is one of the tools that we're providing her. So in strong support."

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

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

"I'd just like to address the very narrow issue that was raised by two of our colleagues across the aisle. And that was the argument or perhaps a play on words as to whether or not the Auditor is a State Auditor or the Legislative Auditor. I'd like to note that the Constitution creates the State Auditor. Governor Lingle has referred to the Auditor as the State Auditor as well. I really don't understand this argument that because the Auditor is placed under the Legislative branch that the Auditor automatically is deemed to be the Legislative Auditor and is thereby confined to only auditing legislative matters. If that is the case, then I would say that the Ethics Commission should be considered the Legislative Ethics Commission.

"The Constitution creates the Ethics Commission, yet it is placed under the Legislative branch for administrative purposes like the State Auditor. The State Ethics Commission has jurisdiction over ethical matters throughout the entire State. It is not confined to the Legislature. I don't understand this argument. Perhaps it is the dis-ingenuous one. But it is a play on words."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. Totally unnecessary to reintroduce that word."

Representative Saiki continued, stating:

"Mr. Speaker, I will retract that term because it does not exist in the first place. But to summarize, to distinguish or to argue that the Auditor is the "Legislative Auditor" is totally



irrelevant. And accordingly, I support this measure. Thank you."

Representative Fox rose to respond, stating:

"Thank you, Mr. Speaker. Brief rebuttal.

"The Office of the Auditor is created in the Constitution. It does not say the word 'State Auditor'. I don't know where the previous speaker found the word 'State'. It's not in the Constitution. The problem here is not that the Auditor shouldn't have the full right to access the documents. It's that the Auditor is being constituted as an authorized representative of the Executive branch. And the Campaign Spending Commission, the State Ethics Commission never operated in that fashion. In fact the role of the State Ethics Commission and the Campaign Spending Commission relative to State Executive departments is the subject of intense scrutiny by the Majority. Thank you, Mr. Speaker."

Representative Halford rose to respond, stating:

"Thank you, Mr. Speaker.

"It is important to make the distinction between the branches of government, co-equal branches, which were designed to be, while cooperative for the benefit of the people, competing branches. That's a purposeful, clear design in American style democracy. It is significant that the Auditor is the Legislative Auditor to facilitate primarily our designated authority with controlling the 'purse strings'. It's a mistake when we start blurring the lines and asking the Legislative Auditor to be an agent of the Executive branch.

"Mr. Speaker, for too long in this State, in fact I would say throughout statehood, the lines between the Legislative branch and Executive branch have been blurred. We have not audited all State finances as required by the Constitution. We have not significantly taken control of the 'purse strings'. The Legislature has been too complicit with the Executive, all throughout statehood.

"Another symptom of blurring of the lines is literally hundreds of bills passed by this Legislature, 100% of them unanimously vetoed. We would not come back and override a veto."

Representative Luke rose to a point of order, stating:

"Point of order, Mr. Speaker. The speaker is no longer talking about the contents of this bill."

Speaker Say: "Representative Halford, would you please confine your ..."

Representative Halford: "Mr. Speaker, I am in fact, referring to this bill because what I am saying is that it is important, for the benefit of our State and the benefit of our people, that we have co-equal, competing branches of government. And that this, asking that our Legislative Auditor, the person of our branch now become an operative of the Executive branch is blurring the distinctions and the natural competitiveness of the branches of government. And when used the examples of how the Legislature has proceeded in the past, being complicit with the Executive branch, that has been harmful, as is this apparently, in appearance, a small thing. But in meaning, a large thing. That the issue is similar. That we need to identify, define ourselves as competitive, co-equal branches of government. And it is through that, that we will best serve the people of Hawaii. This takes us away from the distinction. And that is significant. Thank you."

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

"Thank you, Mr. Speaker. In opposition.

"And I've always been one for separation of powers. And I'm just going to read very briefly from the bill. It says that the Office of the Auditor shall be an authorized representative of the Department of Education and Department of Health. Those are Executive branch agencies, Mr. Speaker. And a State educational authority or State educational official. I don't see how we can do that, Mr. Speaker. That is no separation of powers. Thank you."

Representative Luke rose to respond, stating:

"Mr. Speaker, just a brief rebuttal.

"The reason why the Auditor is designated as an authorized representative, and I said this the first time I stood up. Apparently people didn't hear me. The only reason why she is designated as an authorized representative is that's the only way that she can get these records. So if you want her to get the records, then this is the only way she can do it. If you don't want her to get the records, then you don't support it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2056, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," passed Third Reading by a vote of 42 ayes to 9 noes, with Representatives Blundell, Finnegan, Fox, Halford, Meyer, Moses, Ontai, Pendleton and Stonebraker voting no.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1199-04) recommending that S.B. No. 3041, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 3041, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VOLUNTARY ADMISSION FOR NONEMERGENCY TREATMENT," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1200-04) recommending that S.B. No. 2165, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2165, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In strong support.

"Purpose:

Requires the Department of Human Services to implement a program that would provide drug affected newborns and their families with referral services, safe care, and triage procedures. And requires DHS to seek federal grants and adopt necessary rules to obtain federal grants.

"Reasons being:

The group this legislation represents is not able to speak for itself. If they were, they would have asked their biological mothers and fathers to stop doing illegal drugs. Because of this, we must speak up for them; it is the humane thing to do.

"The earlier in life the effects of illegal drugs on their development are addressed, the less money society is going to have to spend on them in the long run. Otherwise, taxpayers will end up paying even more for the bad choices this generation will end up making because their brains and cognitive processes were ill-treated during the first trimester of fetal development."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2165, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE AND PROTECTION," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1201-04) recommending that S.B. No. 2840, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2840, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'm rising to speak against the tobacco bill.

"Thank you. Mr. Speaker, the provision to which I object is the putting a cap on the bond that a tobacco company must post in order to appeal a judgment that has been rendered against that tobacco company.

"Mr. Speaker, the settlement money was obtained by the State suing the tobacco companies for the damages those companies' product inflict upon people in America, the people that end up with lung cancer or other devastating diseases, people that have lost their lives from those products, the cigarettes. What the tobacco companies now are saying is, 'Okay State, we've got you hooked on this money that you're getting under this settlement agreement. Because we've got you hooked, now you have to cap the amount of the bond that we have to post in order to appeal another adverse judgment against us.' I don't like that blackmail, Mr. Speaker. I look at it as 'blood money' that we're receiving. And I don't like the tobacco companies to be able to use that fact and now bring us to the point of saying that we'll give you further help.

"And as I said in the hearing, Mr. Speaker, do I care if that tobacco company goes out of business? Frankly, no. I don't care because I think of all the lives that will be saved from not having those products available.

"And Mr. Speaker, you know this is very personal to me, that my son had throat cancer. He was never a smoker. So he was inflicted from cigarettes, second hand tobacco smoke. So do I care about those companies? No. And I think that this is a very good message to send to them saying, no. No to limiting the bond that you have to post. And if you have to find another product to produce other than the deadly one that you're now produce, then so be it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2840, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO

TOBACCO," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Stonebraker and Thielen voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1202-04) recommending that S.B. No. 2926, SD 1, HD 2, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2926, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In strong support.

"Purpose:

Increases the bond authorization amount under the Hula Mae Multi-Family Housing Program from \$200,000,000 to \$300,000,000 to facilitate the development or rehabilitation of affordable rental housing projects.

"Reasons being:

More and more of Hawai'i's people need affordable housing and comparative programs. The increase in appropriations under the Hula Mae program will ultimately (and significantly) increase the number of housing units available to people who need and deserve them.

"Multi-family housing is culturally-appropriate and of great benefit to Hawai'i's families. With the high cost of living in our island home, many families, above and below the poverty line, have had to resort to living more-than-one-family in one home. This type of legislation demonstrates applicable responsiveness to the needs of Hawai'i's people."

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

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I rise in strong support. This bill gives much needed, and much deserved, assistance to the Hula Mae Multi-Family Program.

"The Housing and Community Development Corporation of Hawaii has established a solid track record of making affordable rental housing available through Hula Mae. So far four hundred and seventeen low-income rentals, on four islands, have been made available to low-income renters through this program. This bill will increase the bond authorization amount by \$100 million, and far increase the opportunities owners and developers have to finance low-income housing construction and renovation at below market rates. This is a win-win situation for everyone.

"This legislation is a positive, effective and responsible step toward meeting the housing needs of the least fortunate segment of our population. We can be proud of that. This is a good bill, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2926, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING LOAN AND MORTGAGE PROGRAMS," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1203-04) recommending that S.B. No. 2929, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2929, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In support.

"Purpose:

Changes the effective start date of the revised reimbursement methodology for long-term care services from 7/1/03 to 7/1/08. Eliminates the "sunset" provision of the original Act to enable the new reimbursement methodology to continue.

"Reasons being:

This legislation brings more fairness into the methodology for long-term care service reimbursement. It promotes less disparity by unfair categories like locale and equal determination of payback based on the quality of care provided."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2929, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID REIMBURSEMENT," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1204-04) recommending that S.B. No. 2976, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2976, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEPARTMENT OF PUBLIC SAFETY," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1205-04) recommending that S.B. No. 3148, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3148, SD 2, HD 3, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In strong support.

"Purpose:

Allows the establishment of a noncontiguous host culture charter school district under the Board of Education to be monitored by a host culture district council as a 5-year pilot demonstration project.

"Allows the establishment of a noncontiguous charter school district under the board of education.

"Reasons being:

Much like traditional Hawaiian healing practices are important to the people of Hawai'i and the world, there is much to learn from Native Hawaiian epistemology (the way Native Hawaiians come to know the world and everything in it).

"The educational system in Hawai'i is in dire need of reform, and this legislation provides for one way of helping charter schools function as a district in a way that is appropriate to the needs of their students. Elders and experts in Native Hawaiian epistemology will be able to collaborate as they move toward the development of an educational system that truly puts the Native Hawaiian learner at the forefront of all educational goals."

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

Representative Meyer's written remarks are as follows:

"Mr. Speaker I'm rising in support of S.B.3148, S.D. 2, H.D. 3

"I am a long time supporter of charter schools and have introduced legislation in the past proposing the repeal of the caps on the number of New Century Charter Schools that may be established.

"Charter schools are the most dynamic and progressive aspect of education in Hawaii today. Most Charter schools excel at many of the fundamentals of sound education administration that our public system continues to struggle with, namely accountability, parent and community involvement, performance and achievement, clearly defined goals, responsiveness, and fiscal responsibility. Unfortunately they are constantly under-funded which puts them in jeopardy.

"Charter schools offer many of Hawaii's youth educational opportunities their parents never had. They encourage innovation and excellence in public education and often are better able to address specific educational targets, such as language immersion. They have proven to be more responsive to student needs and are more easily held accountable for their results. Another distinct advantage of charter schools is that they foster greater involvement and support of parents and community members and that usually translates into a better educational environment for the student to learn and succeed in. Hawaii's charter schools are a noteworthy example of how the private and public sector can work together to produce outstanding results.

"At a time when education is finally receiving the attention it deserves, I support the innovation and efforts of Hawaii's charter schools. I am pleased that this legislation will establish a Charter School District structure that will enable charter schools to obtain much needed federal funding.

"If the price we pay for a prosperous and stable future is the price of public education, then it may well be that the price to maintain and ensure a future for the Hawaiian language is to ensure equitable funding for Hawaii's Charter schools.

"Hawaii needs educational reform, while we may disagree on what form that reform will take, we certainly should be able to agree that Charter schools are doing outstanding work and deserve to be better funded. I urge the members of this body to support this measure that will see to it that Hawaii's Charter schools get the money they deserve.

"Charter schools are not asking for extra funding, but merely equitable funding, and this measure will help them get the money they need to operate and continue the great work they have been able to do thus far."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3148, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

At 11:57 o'clock a.m., the Chair noted that S.B. Nos.: 2056, SD 1, HD 2; 3041, SD 2, HD 2; 2165, SD 1, HD 1; 2840, SD 2, HD 2; 2926, SD 1, HD 2; 2929, SD 1, HD 1; 2976, SD 1, HD 1; and 3148, SD 2, HD 3; passed Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1206-04) recommending that S.B. No. 2364, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2364, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in support of S.B. 2364, S.D. 1, H.D. 1. This is a time of great challenge for our nation, as I know my colleagues know. Because of this challenge, many Hawaii residents in the National Guard and Reserve of all branches of the armed forces have been called up to active duty to take part in the war on terror. For many of them and their families, this activation will mean financial hardship on top of the burdens of worry and separation. The hardship stems from the fact that many will end up making less as active duty soldiers, sailors, airmen and Marines than they do in their civilian lives. It is a sacrifice they make gladly, but that does not make it any less difficult to bear. Nonetheless, I feel it is an obligation for us to help them and reduce at least this one burden as much as we can.

"That is why I am supporting this measure as a vehicle for increasing the income tax deduction for activated Guardsmen and Reservists. I hope the Conference Committee will produce a generous deduction. And in the future, I hope the Legislature will revisit the Governor's proposal to make income earned while serving in a designated combat zone free from State income tax, as the federal government already does. That would be an appropriate step for the State to take and an important way of showing our support for all of our residents who place themselves in harm's way to protect us.

"Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2364, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1207-04) recommending that S.B. No. 2226, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2226, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I'd like to speak in strong support of Standing Committee Report 1207 and Senate Bill 2226.

"Mr. Speaker, this past Good Friday, a few of us walked barefoot, I guess to make a point about the pain and suffering that some of the people have to go through in our State of Hawaii. And one of our stops was at the Institute for Human Services. Mr. Speaker, if you could see the number of children and families outside the Institute, I think it would just break your heart. The thing is we're finding out that more and more families are becoming homeless. They're not only at programs like IHS, but they're on our beaches. They're in our cars, and on our streets. Sometimes, they're not seen. And sometimes they go in and out of homelessness.

"And Mr. Speaker, I know people and rightly so, we try to focus on transitioning these people and enabling these people to move out of homelessness. But the fact is the market for affordable rental homes is starting to dissipate. I think you know that, Mr. Speaker. I think you mentioned that to us as well. There's no affordable rental homes for families with low incomes. And so a lot of these families that we see, they're single parents, they're immigrants, mainly from the Pacific Islands. And we haven't been able to respond. And although we don't like to see our children and families in institutions like IHS, I think we would much prefer having them in programs like that, in places that are safety nets, rather than seeing them on the streets or on the beaches.

"And so Mr. Speaker, even though the Director of Department of Budget and Finance said that taking from the Unclaimed Property Trust Fund would not reflect the priority, I think it does reflect the priority. And I want to congratulate both the Senate Chair of Human Services and our own House Chair of Human Services for looking at this method of financing services for the homeless, because I think it is our way of expressing the desire to meet the needs, these basic needs, and showing compassion for these people. So I urge everyone to support this measure."

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

"Thank you, Mr. Speaker. Mr. Speaker, I rise in support of this measure but I have some concerns and reservations.

"Mr. Speaker, I strongly agree with the remarks of the Chair and wholeheartedly support the goal, and intent, and motive behind this measure. I just have a concern about how it actually functions. If I could Mr. Speaker, if you look at the actual text of the bill, there are two sections that are new to the law that make this bill work. The first part is on page 3 of the bill. Lines 18 and 19 refer to: "... except for the disposition of unencumbered and unexpended moneys pursuant to subsection (d), moneys in the Unclaimed Property Trust Fund shall be used for the payment of the following." So it references the disposition of unencumbered and unexpended moneys.

"Then on page 4, Mr. Speaker. Lines 18 through 21 talk about unencumbered and unexpended moneys in excess of \$1.3 million remaining on balance in the Unclaimed Property Trust Fund. As I read this provision, Mr. Speaker, what would happen would be that you would have to have moneys in excess of that particular floor. So in order for moneys to go to the homeless, as is the goal of the measure, it would have to be

in excess of \$1.3 million. I wasn't at that hearing so I don't know if we consistently have funds far exceeding that or if it is only a few hundred thousand, or a few million. I just don't know.

"And again, I don't know if the practices of people in terms of unclaimed property is something that we can predict into the future. It could be that while we think that we're creating a dedicated source, that we're only doing so in words, but we can't guarantee the behavior of other people. If other people tend to claim their property more often and that dollar figure drops below \$1.3 million, then there is by the very terms of this bill no unencumbered or unexpended moneys. That would be the purpose of the floor.

"Also a few things in the Section 1 of the preamble cause me some pause, Mr. Speaker. The first line says research-based evidence indicates that the problem of chronic homelessness can be solved rather simply managed. I've read a lot of research and I think this phrasing here in the preamble is probably more aspirational rather than actual reflection of the research. I would hope that that would be true. I would aspire that that would be actually true. But it seems to me that history itself has shown that you'll always have a percentage of the poor for whatever reason, whether it's dislocation, famine in the past, conquest in foreign countries in ages past or drug addiction and those kinds of modern plagues that we have. And so while I wish that that they were true, we do need to be realistic and say how can we best manage and best seek to address this problem. I certainly wouldn't want the public to think that we think by this bill that we will solve the problem. That's my main concern there, that I think that would be a great ambition to have but I certainly don't think that this measure will solve the homeless problem. We can vote this, 76 to nothing in the Legislature and I can almost guarantee you, even if we have plenty of millions, there will be people who because of their drug addiction will not avail themselves of all the services that the government makes available.

"My church for example regularly works with River of Life. And we are there every month serving food, bringing food, helping people. There are people who will not accept our assistance in terms of job skills, training, and the ability to become independent. I mean, there are people who refuse even though our church offers them free services on how do you prepare for a job interview. How do you fill out an application. We will send our church elders to accompany them. To help get them cleaned up and dressed. There are people who literally refuse our assistance in that accord. And some of them, perhaps because of their drug use, maybe they aren't fully able to comprehend the nature of the assistance we're trying to give. A hand up, and not just a hand out.

"The other phrase I had concerned about in the preamble occurs right at the end of Section 1. Those are lines 13 and 14 on page 3. It says the purpose of this Act is to secure a dedicated source of funding for homeless assistance to end homelessness in Hawaii. I totally agree with wanting to end homelessness. We want to do that. I totally agree with securing a dedicated source of funding for homeless assistance, but we need to be clear, to make sure that the people of Hawaii won't misread this. We again have set a floor. Only those unencumbered and unexpended moneys in excess \$1.3 million will go to the stated purpose of this measure. It's different than if we had line item budgeted \$1.3 million in our general fund or in the State budget or used a special fund that we knew we could count on funds."

Representative Leong rose to yield her time, and the Chair, "so ordered."

Representative Pendleton continued, stating:

"I'm going to wrap this up. Again, Mr. Speaker, I just want to make sure that we continue to look at this issue. This is a good measure. I'm going to support it but I have those reservations. We may have to revisit this in the future if we find out that the funds exceeding \$1.3 million aren't that great or aren't sufficient. Thank you."

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

"Thank you, Mr. Speaker. In opposition.

"And by my opposing this measure, it doesn't mean that I don't agree with the previous two speakers that homelessness is a tremendous issue and we should deal with it appropriately. My opposition is the fact that I don't believe by this measure that we're really dealing with it. You've already heard about the unencumbered amounts unclaimed from the Property Trust Fund. And it's an unspecified amount at that.

"I believe that we really do need a dedicated source of funding. I believe it should be some line item funding. And then we know year by year that we're going to have a source of funding to help alleviate this problem. And that is why HCDC and the Departments of Human Services, and Budget and Finance were opposed to this measure. Because it's tying our hands and it's saying that you're going to get funding from this source, which is not necessarily a source. It can fluctuate year to year. You can't plan on it. You can't start programs with it. You have to just look at it year by year and say, 'Oh, we got some money. This year we don't. This year we do. This year we have twice as much.' So it's a very, very unwieldy way I think to try to dedicate sources of money for anything especially for the homeless problem which I really believe we should address. Thank you, Mr. Speaker."

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

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

"Thank you, Mr. Speaker. In support.

"Thank you, Mr. Speaker. I want to request the words of the Chair of Health to be entered in the Journal as my own," and the Chair "so ordered." (By reference only.)

Representative Kahikina continued, stating:

"And Mr. Speaker, I really appreciate this discussion because the homeless are our brothers and sisters. We are our brothers' and sisters' keepers. And in fact I think people elect us unfortunately, to solve problems. And as the Chair of Health had shared, our barefoot walk, the walk of passion, this is a passionate bill.

"I admit, I don't know the answer. But I know the problem, Mr. Speaker. Our previous speaker spoke of the River of Life and I agree with him, that those people that the River of Life serves. They serve the people with mental and physical disabilities. And I would expect that some of them do not want to go to work because they've got very serious problems. But as the Chair of Health had indicated, we saw other homeless. And the homeless that I saw, and I was very compassionate, were homeless with little children. The single moms. We got even single dads. In fact, we've got even parents with children. It's just unfortunate that they're in this situation.

"But if you look at the housing stock, we have been losing the housing stock because of policy calls not on the State level, but from the federal level. And so we need to raise the consciousness, that our people are hurting out there. And when we see our federal funding going into foreign countries and not taking care of our states at home, we should raise that question. That 48 states are operating in deficit. And we need help from our federal government. And maybe perhaps we need to have this discussion that we need to increase the stock of housing so that we can get our homeless into housing. So I support this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2226, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOMELESS SERVICES," passed Third Reading by a vote of 48 ayes and 3 noes, with Representative Moses, Ontai and Stonebraker voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1208-04) recommending that S.B. No. 2538, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2538, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR IOLANI SCHOOL," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1209-04) recommending that S.B. No. 2671, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2671, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. In strong support. Damien Memorial High School has ambitious plans to improve their campus and a number of creative and innovative programs."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2671, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR THE CONGREGATION OF CHRISTIAN BROTHERS, INC. DBA DAMIEN MEMORIAL HIGH SCHOOL," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1210-04) recommending that S.B. No. 2790, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2790, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HALEAKALA WALDORF SCHOOL," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1211-04) recommending that S.B. No. 2791, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2791, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR MONTESSORI SCHOOL OF MAUI, INC," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1212-04) recommending that S.B. No. 3086, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 3086, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR ISLAND PACIFIC ACADEMY," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1213-04) recommending that S.B. No. 3020, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3020, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In support.

"Purpose:

To provide funding for the staffing and facilities needed to ensure that the intent of a multi-track schooling approach does not result in lower-quality education for communities with high population growth.

"Reasons being:

Hawai'i's education system is in need of reform. The multi-track school approach, though still in its infant stage in Hawai'i, is one way, I believe, to do something to solve problems NOW. This approach allows schools to pilot overlapping of school years and flexible scheduling.

"School buildings, facilities, equipment, and other resources are in use more of the calendar, and though some will and do depreciate in value, they are used to a greater capacity for which they were purchased.

"There are fewer children on campus on any given day, thus addressing overcrowding in some schools and making more resources available to more students.

"Frequent breaks for both students and teachers make for less burn-out in either group. Greater retention of material covered is ensured by year-round school schedules.

"I believe once the private and public workforce sees the improvement in the quality of school-to-work product they are getting, it will be easier for the community to "buy in" to the approach."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3020, HD 1,



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

At 12:12 o'clock p.m., the Chair noted that S.B. Nos.: 2364, SD 1, HD 1; 2226, SD 1, HD 1; 2538, SD 1, HD 1; 2671, SD 1, HD 1; 2790, SD 1, HD 1; 2791, SD 1, HD 1; 3086, HD 1; and 3020, HD 1; passed Third Reading.

At 12:10 o'clock p.m., Representative Saiki requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:15 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1214-04) recommending that S.B. No. 2909, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Ito and carried, the report of the Committee was adopted and S.B. No. 2909, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO APPLICATIONS SEEKING GENERAL RATE INCREASES FILED BY PUBLIC UTILITIES HAVING ANNUAL GROSS REVENUES OF LESS THAN \$2,000,000," passed Third Reading by a vote of 50 ayes, with Representative M. Oshiro being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1215-04) recommending that S.B. No. 3153, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Ito and carried, the report of the Committee was adopted and S.B. No. 3153, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR BIOREMEDIATION RESEARCH," passed Third Reading by a vote of 50 ayes, with Representative M. Oshiro being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1216-04) recommending that S.B. No. 2558, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2558, SD 2, HD 2 pass Third Reading, seconded by Representative Ito.

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

Representative Thielen's written remarks are as follows:

"Mr. Speaker I stand in support of SB 2558, HD 2, Relating to the Entertainment Industry. The purpose of this bill is to provide incentives to attract film, video and sound recording production companies to our State.

"Building a diversified economy is essential in developing a strong economic base. The entertainment industry is an expanding industry that provides local job opportunities, increases the State tax base, offers people another means to prosper, and touches lives throughout the world.

"We have seen the devastating affects of relying on limited economic industries. Depending heavily on big agriculture and

tourism taught us the wisdom of diversification. Our sugar business has closed shop and migrated to low-cost-friendly shores. The tourist industry suffered a major setback after the September 11th attacks in New York and Washington DC generated fear of air travel.

"For years now, the entertainment industry has provided local jobs, inspired tourists to visit, and stimulated the local economy. Think "Don Ho," "Hawaii 5-0," "Magnum PI." Since the beginning of 2004, three television pilots have shot on location here with the hope that an exotic location combined with interesting plots and attractive actors will charm viewers and win a place on the season's roster. And currently teenager Jasmine Trias is wowing audiences in her quest to be the best on "American Idol."

"While art can stimulate the economy, it can put Hawaii on the map. The explosion of local music being recorded, released, and marketed continues to have a world-wide impact. For people who may never be able to visit Hawaii, the music they listen to from our local artists bridges the gap between cultures and people and provides an opportunity to celebrate the uniqueness of our people living in the middle of the Pacific.

"For anyone who doubts this impact, consider Israel Kamakawiwo'ole. His amazing renditions of "What a Wonderful World/Somewhere over the Rainbow" and "Over the Rainbow" are featured in Meet Joe Black, Finding Forrester, You've Got Mail, 50 First Dates, and in the television series ER (Dr. Green's last episode) and inspire moving reviews over the internet. It's not surprising that IZ's CD, Facing Future, remains one of the world's top-selling Hawaiian music releases. And IZ reflects only one local artist's impact on the world. Award-winning Henry Kapono Ka'aihue has been touching the world with his music since the seventies!

"If the music industry has played an important part in spreading aloha around the world, so has the film industry. Films hitting the screens earlier this year provide a glimpse of paradise through the comedies - 50 First Dates, Along Came Polly, and The Big Bounce. Action and war movies have filmed here: From Here to Eternity, Pearl Harbor, Windtalkers, Raiders of the Lost Ark and Jurassic Park. And local, independent filmmakers, Edgy Lee, Stephanie Castillo, and Nathan Kurosawa weave beautiful, authentic stories for film audiences.

"The Hawaii International Film Festival and Cinema Paradise provide venues for independent film, in which international films share unique visions from other cultures and attract filmmakers and audiences from around the world. Further, in order to prepare storytellers and artists for a creative future, the Academy for Creative Media at the University of Hawai'i provides students with the tools to create games and films and build local businesses.

"Hawaii boasts a successful history and claims a current interest in the entertainment business, but Hawaii faces stiff competition from other states and countries that provide attractive tax incentives to the entertainment businesses. We have a unique and exotic local to offer, but in order to compete we must sweeten the deal and offer more than aloha, big surf, and the Ko'olau range.

"It is our responsibility to foster a friendly business climate if we want to diversify, grow our economy, and provide a wide range of economic opportunities for our people. Encouraging and supporting our entertainment industry is smart business. It provides another alternative to those looking toward their educational, professional and economic futures. But it does more than pad the economic bottom line; it builds bridges between people in different countries. And in a world



challenged by so much intolerance, art provides a hopeful opportunity to create understanding and develop peace."

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

"Thank you, Mr. Speaker. I'm going to be voting no on this measure.

"And I don't want to go and repeat a lot of things that I've said previously on this bill, but my major reason for going no is we have a great number of tax credit bills that are moving through. And I think the idea here is to make it attractive for the film industry to come and make movies in Hawaii. But what I object to is that we're extending this credit to existing recording companies as if we wanted them to stay in business. I think they're doing all right. They're already here. And the tax exemption is supposed to attract new business. And that's my reason for voting no."

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

"In support with reservations. I have a concern that the language may be overly broad. And hopefully we can fix that in Conference if anything does emerge. Thank you."

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

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

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

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

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

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

"Yes, Mr. Speaker, I wish to speak in favor of this measure.

"I believe the intention of this are very good. I've noticed in the bill, they don't have any amounts in it yet. They don't have any percentages yet. I think that can be determined during the Conference if it goes to that area. But in the cost, I would also hope that this Body would look at the hotel room tax credit. I think that's very important. It's a very important industry. Thank you very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2558, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENTERTAINMENT INDUSTRY," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Blundell, Meyer and Moses voting no and Representative M. Oshiro being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1217-04)

recommending that S.B. No. 2063, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2063, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

At this time, Representative Fox offered Floor Amendment No. 13, amending S.B. No. 2063, SD 2, HD 2, as follows:

SECTION 1. Senate Bill No. 2063, Senate Draft 2, House Draft 2 is amended by deleting its contents and inserting the following language, to read as follows:

"SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§302A- Funding for school operations.**

(a) The weighted student formula adopted by the board of education pursuant to section 302A- , shall determine the allocation of funds to all schools, including, if they so choose, new century charter schools and new century conversion charter schools.

(b) The legislature shall appropriate all general funds for school operations in a single amount to each local school board to be allocated to each of the schools in their respective school districts in accordance with the weighted student formula.

(c) Of the total amount appropriated by the legislature each fiscal year for school operations pursuant to this section:

- (1) No later than the 2006-2007 school year, at least seventy-five per cent shall be expended by the individual schools principals;
- (2) No later than the 2007-2008 school year, at least eighty per cent shall be expended by the individual schools principals;
- (3) No later than the 2008-2009 school year, at least eighty-five per cent shall be expended by the individual schools principals; and
- (4) No later than the 2009-2010 school year, at least ninety per cent shall be expended by the individual schools principals."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2004."

Representative Fox moved that the Floor Amendment No. 13 be adopted, seconded by Representative Pendleton.

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

"Thank you, Mr. Speaker. I would be very comfortable calling this amendment a compromise. The amendment deals with the subject of getting funds to individual schools. And that is certainly related to the subject of the underlying bill. We're trying, under the underlying bill, to make sure that there are enough textbooks and that they're financed at each school. With this amendment, we will not only take care of textbooks, we'll take care of computers, we'll take care of school maintenance, we can deal with smaller classes and more individual attention at each of the schools. That's because this amendment will say that the primary control over spending and

education resides with the principal at the individual school. And it will be up to the principal, teachers, and students at each school to put forth the needs that they have and make sure that they get them.

"Mr. Speaker, we are fortunate in Hawaii. We have one of the leading experts on education reform, who came here and settled here, and has gotten involved with, through the League of Women Voters, in the issue of education reform. She's well-known to many of us. Her name is Mary Anne Raywid. After a long look at our education system here, more than a decade, nearly a decade and a half, she said that the single worst problem with education in Hawaii is the micromanagement of education by us, the Legislature. She said that, you've got to get the Legislature out of the business of running the schools.

"Mr. Speaker, to bring before us the underlying bill which authorizes a certain percentage of expenditure on textbooks is not the way to go. The right way to go is with real reform that puts control over the spending on education in the hands of the principal.

"Now I did say that this was a compromise measure. In the spirit of compromise with the vehicle that is moving by the Majority, it starts with a level of 75% of control under the hands of the principal in the year 2006, and goes up by 5% a year until finally in the year 2009, the amount reaches 90%. It's very important, Mr. Speaker, to get that percentage up from 75% to 90%, or from 70%, is I think the latest version of the reform bill. The reason is that the first 70% to 75% is basically fixed cost. And to put it in the hands of the principal really isn't going to make much difference in how things are handled at the individual school. But when the principal moves from 75% control, up to 90% control, that's where the principal and the schools really gets a chance to do something about textbooks, about computers, about school maintenance, about smaller classes and more individual attention.

"Let's take a bold step forward, let's support this amendment. Let's put control over operating expenditures that go for education into the hands of the principals and solve the problems that we have in financing activities at our local schools. Thank you, Mr. Speaker."

Representative Takumi rose to speak in opposition to the proposed floor amendment, stating:

"Thank you very much, Mr. Speaker. I stand in surprise and stand in opposition to the proposed floor amendment.

"Just a couple of points as we go down to the amendment. We take the first one, the weighted student formula. Charter schools, if they so choose, may come under the weighted student formula. As has been mentioned before, this is the first time on the Floor however, in my discussions with the charter schools, with the Executive Director, charter schools have decided they do not want to come under weighted student formula. As a result we have taken charter schools out of the weighted student formula. I realize this bill says, if they so choose. And a Conferee that was on the Conference Committee from the other side of the aisle raised that point. And I asked her to confer with the Executive Director of the charter schools to see what he thought. In my discussions with the Executive Director this morning, he said he had not had any discussions with anyone about this amendment. Seems to me we're doing something for the charter schools that they themselves have not even discussed up until now. I think that's the worst form of micromanagement.

"The concern I have about if the charter schools choose, it's still unclear in the wording of this amendment with the 26 charters. What if 5 want to choose to come under the weighted

student formula, and the others don't? Or what if in the following year, those 5 decide they no longer want to come under the weighted student formula, but an additional 7 of the ones who weren't in the student formula decide that they do? I think it deserves further discussion. We're not allowing any of the other schools within the school system to choose whether they go in and out of the weighted student formula at their request, because that would make the system simply unworkable. I would be more than willing to revisit this issue next year if the charter schools, in dialogue with them. I believe in involving the charter schools in discussion and being a part of the discussion on whether or not they want to be included under the weighted student formula. I simply do not believe it is good public policy to make a decision on their behalf without even speaking to any of them.

"Second point. Part (b), it rests upon that we will have local school boards. There is no measure that I'm aware of that would create local school boards at this point. So I don't know how we can appropriate the general funds to local school boards that do not exist.

"Lastly, on the point that was raised by the previous speaker and I totally agree with him, that we have micromanaged the system. This amendment in my opinion epitomizes micromanagement. Here we are by law, saying that you shall have this amount going to the schools. Whether it makes good policy sense, whether it makes good educational sense, whether or not that 5% in percentage in every subsequent school year makes any sense at all, you shall do it or you shall be in violation of the law.

"I haven't talked about this, this Session, about what exactly does it mean to go up to 90%. And why do the ... Okay, I was going to use the wrong word. Why the passion for going up to the 90%? First of all, you have to take into account the various funds that the Department has: the special funds, trust funds, interdepartmental, revolving funds. These funds are very difficult to divvy up for each school since they include rental fees, lost textbooks, reimbursements, driver education, adult education fees, lunch and breakfast income, donation and athletics.

"Secondly, it did not take into account EDN 500 which is Adult Education and A+. Do we simply abolish these programs and divide up the money for each school? Frankly Mr. Speaker, that changes the A+ Program into a C- Program because I simply do not see ... I only see minuses in this approach.

"Third, what about EDN 400? Do we simply mandate to each school to handle their own custodial, food service, and transportation? There's a compelling reason why, Mr. Speaker, no school district, I repeat none, which have adopted the weighted student formula, have given this function to the schools immediately. And indeed, the schools that we are looking at, the school districts such Seattle and San Francisco, have yet to do it. It's because the main priority should be, must be, on student achievement and not on weighing down the principal, no pun intended, and school personnel and functions that take away from the priority of student achievement. It's a recipe for failure, Mr. Speaker.

"Fourth, what about EDN 150, in particular the high-end special needs students? Don't we want to avoid what happened in Seattle? When those schools were given the authority over the special ed kids and they ran a big deficit?"

Representative Lee rose to yield her time, and the Chair, "so ordered."

Representative Takumi continued, stating:

"Thank you very much. What happens when the Department of Education runs short of funds for the special needs population? Again, that's what happened in Seattle. Did they reach into every school and take back the funds to make up the shortfall? And again, Mr. Speaker, this is why San Francisco for example, does not allocate the high-end special ed money to each school even though they are four years into the weighted student formula.

"Fifth, if you look at the programs in EDN 100, and that's really the bulk of the funds that we give to the Department of Education. I'm sure all of us had scrutinized in detail what EDN 100 includes, because after all, that really is the difference between the so-called 'true reform', and the so-called 'fake reform'. It is really apparent that there are programs in the operational budget that again, are very difficult to simply divide up among every school in the system. The Onizuka State Museum; all the at-risk programs that are housed in specific schools; JROTC; armored car services; the Hawaiian Language Emersion Program; the Pregnant Teen Center on Maui; the boarding school at Lahainaluna; the Artmobile; the Hawaii Center for the Deaf and Blind. You simply cannot take the funds that are allocated for these programs, throw them in a pot, give them to all the schools, and hope for the best.

"Or how about all the grants-in-aid and purchase of services such as those we appropriate to the Read to Me Program, the Pacific and Asian Affairs Council, the PTSA and the Frank Delima Student Enrichment Program. There are dozens of these programs within the DOE. In fact, literally hundreds. Ironically, many of them were created by us. And now we're saying we need to wipe them all out in order for 90% to be given to each school.

"Let me make my position clear, Mr. Speaker. I don't mind eliminating all of these programs. There should be no 'sacred cows'. However, I believe that this decision should be made by those who are most affected by it, and that includes the principals. It seems to me, Mr. Speaker, a prudent approach would be to say, let's start at a certain minimum and that's still very innovative; very radical. Give that to the individual schools and then ask the principals, what other duties would you like to do? Would you like to be in charge of the lunch program to ensure that the federal nutritional standards are met? If you think that will help student achievement, we should give you that responsibility instead of mandating it from the top down, one size fits all, by law. I do not think that's the most prudent approach.

"I do believe again like with the Charter schools, we need to involve them in this discussion rather than forcing it down their throats, by law. And again, no other school district in the United States has done it in this manner. I do not believe this is the best course for us to take. Thank you, Mr. Speaker."

Representative Fox rose to respond, stating:

"Thank you, Mr. Speaker. I would like to address some of the points just raised by the Chair of the Education Committee. His concern about Charter schools and their involvement, if they so choose. This is a very gradual amendment. It doesn't even begin until 2006. There's plenty of time for the Charter schools to sort out how they will respond to this amendment. And I would think most of them would come aboard.

"Various questions are raised about A+, Adult Education, the use of small programs, cafeterias, things like that. This has all been worked out in Edmonton, which by the way, is in North America. And we have had this reform in North America. Perhaps not in the United States, but in North America, we've reached over 90% of the funding under the control of the

principal at the school. And may I remind you, Speaker, we're talking about a system that's not in effect until 2009. And in 2009, 10% of the expenditures are still outside the control of the principals, so that could easily account for things like PAAC and various other student programs like 3R's.

"But the basic principle, and this is what I guess we are failing to get through, the basic principle is that the control is in the hands of the principal. That doesn't mean the principal has to change the spending pattern at all for the school. The principal can continue spending the money the way it is now. It just gives the local school the ability to change the way the spending is done and that can be for all the funds that are allocated to that school. That can be changed by the principal. That's the key reform. We either sort of step up to the plate and really have real reform, or we don't. And the real reform is putting the power in the hands of the principal at the local school, who can continue to fund all the programs that exist now or make changes. And if the principal feels rushed, doesn't want to make the changes right away, the principal does not have to. That's the key measure.

"Let's stop worrying about the Legislature deciding how much money goes for textbooks. Let's leave that up to the principal at each school. We can do that by passing the amendment right now. Thank you."

Representative Takumi rose to respond, stating:

"Volley, Mr. Speaker. Still in favor. Brief rebuttal. It is true that Alberta Province is in North America. I just want to make a comment about, if that's true, then prescription drugs should be roughly the same price it is in Canada as in the United States, but I would be out of order."

Speaker Say: "Yes, you are."

Representative Takumi: "So I won't mention that. Different issue, different time. But let's look at ..."

Representative Meyer: "Mr. Speaker, I think that the present speaker said he was still in favor. And I don't think he meant that."

Speaker Say: "He's in opposition to the floor amendment."

Representative Takumi: "In opposition to the floor amendment.

"If you look at Alberta Province, and in particular the Edmonton District, and reference has been made that Edmonton has done it. I would challenge anyone to tell me whether or not, Canada as a nation, Alberta as a province, or Edmonton as a school district, is under any kind of constraints like the No Child Left Behind Act of 2001. If my recollection serves me right, Canada is not required to adhere to that type of law of the United States. That has imposed a huge burden on every school district and every state in this nation because those services and the aggregation and the dis-aggregation of data must, I repeat Mr. Speaker, must be done at the state level. Alberta and Edmonton do not suffer from those kinds of constraints.

"Secondly, Mr. Speaker, the Felix Consent Decree which we are about to get out from under, Canada as a nation, Alberta as a province, and Edmonton as a district, do not fall under them.

"Thirdly, the school district in Edmonton, they're not required to have cafeterias in their schools. They're not required to have libraries. They're not required to have athletics. I think I mentioned once before on this Floor, we have made a decision and I hope we're going to keep to that

decision, that schools in our State should have libraries. They should have cafeterias. They should have an athletic program. Now if people here are comfortable with saying to the schools, it's up to you. It's up to you whether or not you want to have a sports program. Go to the Kauai high schools and say, if you guys want to not have football and only one high school decides to have football, you can play yourself. You'll be the champs, no doubt about it. But I don't think that's the direction we want to go. I'll end right there, Mr. Speaker. Thank you."

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

"Thank you. In favor of the amendment, Mr. Speaker.

"I am just looking for equity and equal funding for our Charter schools. And I think that the House budget only had the Charter schools in there for just under \$26 million, \$25.9 million, to be exact. And this was requested by Dewey Kim, the Executive Director of Hawaii's Charter School Association. They had recently requested \$28.4 million and got only \$25.9 million. But this equates to a loss of \$500 per pupil. In the 2002-2003 school year, charter schools were allocated \$5,355 per pupil."

Representative Takai rose, stating:

"Point of information, Mr. Speaker. I believe the current speaker is out of order. This information is not being discussed in this floor amendment."

The Chair responded, stating:

"But she is addressing the Charter schools and the Chair will allow her to continue on at this point in regards to financing, tied to the student weighted formula. So please proceed, Representative Marumoto."

Representative Marumoto continued, stating:

"Yes, I was just merely trying to give you an idea of how much the Charter schools had received in 2002-2003, and that was \$5,300. Whereas the regular DOE schools received \$10,422 per pupil. There's a very big discrepancy here and I think maybe CIP costs are the difference. But it's obvious that this is an equitable formula.

"The Hawaii Business Round Table has called for full funding for Charter schools. So we're wondering how could the State consider cutting the requested Charter school budget by the budget committees. It seems ironic that the solution suggested for funding Hawaii's failing school system is more charter conversion, if the DOE has no intention of really supporting Charter schools. The Legislature should support Charter schools by giving them an equal proportion of the pie. Please consider voting for this amendment. Aloha."

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

"Thank you, Mr. Speaker. In support.

"And I keep hearing about No Child Left Behind, and that's what all our problems are. And yet I believe that from what I've read, we get more money in the State from the No Child Left Behind from the federal government, than we spend on testing. And it appears to me that that's all that No Child Left Behind is saying. Let's not leave any child behind. And before the No Child Left Behind law was ever passed, we had problems in this State with our school system. So why are we blaming everything on the federal government giving us a

whole bunch of money to test our students? It just doesn't make any sense, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in opposition.

"Thank you. I agree with the previous speaker. This does not make any sense. In fact, Mr. Speaker, if you want to introduce a floor amendment on this Floor, I would think that the proponents of this measure would check with the people that they're trying to help. Again, I spoke with Dewey Kim from the Charter schools, just yesterday. And he said very clearly that the Charter schools chose not to go into the weighted formula.

"Additionally, Mr. Speaker, No Child Left Behind is a federal mandate. And the previous speaker is correct. It's additional money. But I will tell you, the mandates from the federal government are much more than the amount of money they are giving us. In fact Mr. Speaker, all I ask our friends on the other side is to go check with their colleagues on the mainland, all of the colleagues, the chairmen of education committees throughout the nation that are Republican led, in a Republican led Legislature. And they will tell all of them that this federal Act not only imposes things as a state issue, but also as clearly way under-funded. Thank you, Mr. Speaker."

Representative Meyer rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I'm rising in strong support of the amendment.

"I think we're making a 'mountain out of a mole hill' over the fact that we've include a choice in our amendment for the Charter schools to either participate in the weighted student formula or not. We're not mandating or dictating. It's simply offering them the choice. And as the Representative from Kahala mentioned, right now the appropriation for Charter schools is under what they asked for. And it is, it's certainly a possibility that if they opted for the student weighted formula, they would get more money and they might then decide.

"The Minority Leader also mentioned that this doesn't go into effect until 2006-2007, so there's plenty of time for the Charter school people to weigh in on this. But our concern is that the Charter schools get fair equitable funding.

"And another thing is I think it's been acknowledged on both sides of the aisle, that the Legislature has been guilty of sort of micromanaging the education system. And that's why we've introduced this bill because by getting more money down to the schools and allowing the principals to make the decisions, we give them the choice. One size does not fit all. There might be a school that would be happy not to have an athletic system, a small school. But we continue to know best and to say this is what's important. And we work in the State Capitol and we know. I think the move across the country is to have more flexibility. And by putting the decision making and the money in the hands of the school principals, they get that flexibility. And we don't have to keep telling them what to do. Thank you, Mr. Speaker."

The motion that Floor Amendment No. 13, amending S.B. No. 2063, SD 2, HD, 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," be adopted, was put to vote by the Chair and failed to carry with Representatives Abinsay, Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone,

Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tamayo, Wakai and Waters voting no.

(Main Motion)

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

"Thank you, Mr. Speaker. I'm rising in opposition to this bill.

"This bill is sort of like going back to the micromanagement. It creates sort of a pseudo ... I don't know. I want to say like a court proceeding, in the early part of the bill. Where the principal is going to decide whether a child is guilty or not guilty of tearing up a book, or destruction, and will the parents of their own volition come forward and say, 'Yes, my child was bad and we'll cover the cost.' And if they can't get to that situation, then they'd bump it up and the district superintendent will weigh in on it. This just seems like again getting into the minutia of things.

"The other problem I have in the bill, that it creates a new special fund. And allows the schools to assess a \$20 fee per child. They do exempt families that are on free lunch, reduced lunch. I guess it's an acknowledgement that this might be a burden. But the money that is collected will go into a special fund that is controlled by the DOE down here in town. And the bill further goes on and spells out that the schools cannot sell books or have merchandise. It just seems like we're making a big thing out of this. And again, these are our good idea, and it just doesn't happen to be my good idea. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2063, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 41 ayes to 9 noes, with Representatives Finnegan, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Stonebraker and Thielen voting no and Representative M. Oshiro being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1218-04) recommending that S.B. No. 2413, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2413, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Mr. Speaker. On that measure, on Standing Committee Report 1218-04, Senate Bill 2413, SD 1, HD 2, I rise to speak in strong support."

"Thank you, Mr. Speaker. The purpose of this measure is to amend the eligibility requirements for the State Enterprising Program as applied to agricultural businesses or operations. As we all know, Mr. Speaker, agricultural businesses such as farming, ranching, or even aquacultural operations are unique in that, more so than other types of businesses, can be subject to external events that are beyond their control.

"And one typical example is the flooding. The flooding that we had experienced in recent months are good examples of this types of major natural events that could cause tremendous damage to our agricultural crops. And when these natural

disasters occur, agricultural businesses that had been severely affected could benefit from the changes in this State Enterprising Program that this bill would provide.

"And so, Mr. Speaker and colleagues, I'd just to like mention that the companion House Bill Number 2784 has not moved in the Senate so this is the only vehicle we have to give our farmers the relief that they now so badly need, Mr. Speaker. So I'd ask for you strong support. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2413, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," passed Third Reading by a vote of 50 ayes, with Representative M. Oshiro being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1219-04) recommending that S.B. No. 2654, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Ito and carried, the report of the Committee was adopted and S.B. No. 2654, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Third Reading by a vote of 50 ayes, with Representative M. Oshiro being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1220-04) recommending that S.B. No. 3175, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Ito and carried, the report of the Committee was adopted and S.B. No. 3175, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL SOCIAL SECURITY FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 50 ayes, with Representative M. Oshiro being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1221-04) recommending that S.B. No. 2605, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2605, HD 1, pass Third Reading, seconded by Representative Lee.

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

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

"Mr. Speaker and colleagues, the purpose of this Senate Bill 2605, House Draft 1 is to ensure the continued operation and expansion of Adult Residential Care Homes, hereafter referred to as ARCHs, by amending the level of care payment for Type I and Type II ARCHs and appropriating an unspecified amount of moneys to pay for any increase in payments.

"The ARCHs have not received an increase in level of care payments in ten years. These ARCHs provide 24-hour care and testimony stated that it is estimated that ARCH operators earn less than \$2 per hour for 24 hours of care. Additionally, costs have risen dramatically in recent years and ARCH operators

find it difficult to care for residents with current levels of payment.

"Mr. Speaker and colleagues, this measure would address this disparity and would further ensure that the licensed Type I and Type II Adult Residential Care Homes and their administrators would be able to continue to provide quality care for our wards of the State. I urge you, Mr. Speaker and colleagues to pass this measure."

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

"Thank you, Mr. Speaker. In support with some reservations.

"My reservations ... Well first of all, let me say the support part These ARCHs definitely need a pay raise. And like we talked about, so many other agencies and people need pay raises, they do because they haven't had one in a long time.

"My reservations are that we're tying the hands of DHS, basically. We're going to set by law. It's kind of like micromanaging the DOE again. We're going to micromanage. We're going to set by law how much the Department has to pay for the care in these care homes. And then we're going to designate the funds out of the general fund. And I'm not sure that we'll allot enough money out of the general fund or not to match the money that we're saying has to be spent on the care homes because it's all blank amounts at this point.

"But we're saying that the Director can remove recipients to another facility and can do many other things in the Adult Care Homes. But we're telling them exactly how much they have to pay. And again then we're going to appropriate a certain amount out of the general fund. Maybe the Department of Human Services has other moneys that they want to use for this, but we're going to designate exactly what they have to pay. And that's my concern, Mr. Speaker. Thank you."

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

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

Representative Magaoay's written remarks are as follows:

"The purpose of this bill is to ensure the continued operation and expansion of Adult Residential Care Homes (ARCHs) by:

- (1) Amending the level of care payments for Type I and Type II ARCHs; and
- (2) Appropriating unspecified funds to pay for any increase in payments.

"The Hawaii Coalition of Care Home Administrators, Filipino Chamber of Commerce of Hawaii, Filipino Coalition for Solidarity, G. Inocencio's Adult Residential Care Home, Inocencio Adult Residential Care Home, Carlina Fernandez Adult Residential Care Home, United Group of Home Operators, Baris Care Home, and several concerned individuals testified in support of this bill. The Department of Human Services opposed this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2605, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES," passed Third Reading by a vote of 50 ayes, with Representative M. Oshiro being excused.

At 12:53 o'clock p.m., the Chair noted that S.B. Nos.: 2909, SD 1, HD 1; 3153, SD 2, HD 2; 2558, SD 2, HD 2; 2063, SD 2, HD 2; 2413, SD 1, HD 2; 2654, SD 2, HD 2; 3175, SD 2, HD 2; and 2605, HD 1; passed Third Reading.

At this time, the Chair announced:

"At this time we will recess until 2 o'clock."

At 12:53 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

### RECONVENE

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

At this time, the Chair stated:

"Members, at this time, will the House please come to order. As I stated to you earlier this morning, we did take out House Standing Committee Report Number 1149-04, which is on page 1 of our Order of the Day."

At 2:14 o'clock p.m., Representative Hamakawa requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:23 o'clock p.m.

### LATE INTRODUCTIONS

The following late introductions was made to the members of the House:

Representative Sonson introduced Mr. Kurt Spohn, Deputy Attorney General with the Criminal Justice Division of the Department of the Attorney General.

Representative Leong introduced her constituent, Mr. Tim Lyons.

### UNFINISHED BUSINESS

At this time, the Chair stated:

"Members, before we proceed on, on your desk, you have five proposed floor amendments starting with Floor Amendment No. 11, 14, 15, 16, and 17. Does everyone have their floor amendments? It has been circulated to all of you by the Clerk.

"Since there is no questions about it, at this time Members, we'll now be taking up Standing Committee Report Number 1149-04 on page 1, which was deferred earlier this morning."

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1149-04) recommending that S.B. No. 2846, SD 1, as amended in HD 1,



pass Second Reading and be placed on the calendar for Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2846, SD 1, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

At this time, Representative Saiki offered Floor Amendment No. 15, amending S.B. No. 2846, SD 1, HD 1, as follows:

SECTION 1. Senate Bill No. 2846, H.D. 1, (PROPOSING AMENDMENTS TO ARTICLE I, SECTION 14, OF THE HAWAII CONSTITUTION), is amended by amending sections 1, 2, 3, and 4 to read as follows:

"SECTION 1. The purpose of this Act is to propose an amendment to article I, section 14, of the Constitution of the State of Hawaii to permit the legislature to pass legislation providing for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor, or licensed mental health professional.

SECTION 2. Article I, section 14, of the Constitution of the State of Hawaii is amended to read as follows:

#### "RIGHTS OF ACCUSED

**Section 14.** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against the accused~~{}, provided that the legislature may provide by law for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor or licensed mental health professional~~; to have compulsory process for obtaining witnesses in the accused's favor; and to have the assistance of counsel for the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the Constitution of the State of Hawaii be amended to permit the legislature to provide by law for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor or licensed mental health professional?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored."

Representative Saiki moved that Floor Amendment No. 15 be adopted, seconded by Representative Lee.

Representative Sonson rose to speak in opposition to the proposed floor amendment, stating:

"Speaker, I stand in opposition to this floor amendment."

Representative Meyer rose, stating:

"Mr. Speaker. Has this floor amendment ... Did we have a motion and the second?"

The Chair responded, stating:

"Yes, by Representative Saiki and Representative Lee. Did everyone hear the motion made by Representative Saiki? Okay, the Chair recognizes Representative Sonson."

Representative Sonson continued, stating:

"Thank you very much, Mr. Speaker. My opposition to this floor amendment, Mr. Speaker, has nothing to do with my feelings towards the victims of crimes. It has nothing to do with me not believing that I am, or with my attitude that whether or not I am pro-crime, or weak on crime, or strong on crime. My statement against this floor amendment is a statement on behalf of our Constitution and our Bill of Rights.

"What's being changed here, Mr. Speaker, is Article I, Section 14, the Rights of the Accused. This amendment proposes to change this in a way so that it also includes, and I think it's misplaced because it does include a right specifically on the alleged witness or alleged victim. The alleged crime victim is the word that's used on line 4 on page 2 of this amendment. It's misplaced. This particular section, Section 14 is to preserve the right or the due process rights, the Bill of Rights of the accused. Not the alleged victim.

"More substantively, Mr. Speaker, what it does is it prevents the introduction or admissibility of any evidence whatsoever regarding a victim or alleged victim, and this victim's conversations with a physician, psychologist, counselor, or licensed mental health professional. Let me tell you how this works in practice, Mr. Speaker.

"If a particular victim would testify in court and would lie, this will protect that lie and make believe that it's the truth because it will be the only statement towards that issue that's being heard by the jury or a judge. Without this particular amendment, the accused would have a right to confront that victim's statement for its truthfulness. The attorney, or the accused in this particular situation, would have the opportunity to prove to the court or the jury that she's lying. With this particular amendment, we cannot inquire into the truthfulness of her statement. Therefore, if we agree with this, then we would be agreeing that no matter what an alleged victim says, we would consider it as truth although it is a lie.

"Lastly, Speaker, the rights of the accused is there, for one thing, because we have a philosophy. We have a belief in our judicial system that an accused is normally innocent until proven guilty. We need the protection. We need the protection of the accused so that when he's falsely accused, and there will be times when the person is falsely accused, we must be able to inquire to the truthfulness of the person accusing this person. That's why I encourage you, Mr. Speaker and the Members to take a look at this amendment and defeat it. Thank you very much."

Representative Caldwell rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, I rise in support of this amendment. And want to thank the Chairman of the House Judiciary Committee and the Vice Chair for working with a group of people, a nonpartisan group, and the Attorney General in trying to reach a compromise.

"I support the amendment. Right now Mr. Speaker, we do have several privileges that have been established by law to



protect confidential communications. It includes communications between spouses. It includes communications between a religious leader, a religious advisor. It includes an attorney-client privilege. These are all there to protect for public policy reasons, to encourage people to talk openly and honestly with the people they can trust the most. This is another one of those types of privileges.

"Sexual violence is very traumatic. You want the people who have been victims of this violence to be open and honest with counselors with their advisors. We want to make it as easy as possible for them to talk about their experience. And this privilege that we'll be establishing by passing this law would go a long way towards encouraging that. Thank you very much, Mr. Speaker."

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

"Mr. Speaker, along the same veins, in favor of the amendment.

"The speaker from Manoa mentioned that there are several types of privileges available between spouses, and religious leaders, and attorney and clients. And I might remind you that there's also a privilege between physician and patient. And this simply extends it to counselor and victim. It's a very necessary type of confidentiality that we need. It's a traumatic experience to be physically violated, but it's also a mental violation, one which people have a hard time getting over. So I would urge you to pass this amendment. Thank you."

Representative Sonson rose to respond, stating:

"One second of rebuttal.

"Mr. Speaker, the privilege has been used. And a privilege is usually something that can be taken away. The Bill of Rights is something that's more permanent. And it should not be taken away as a knee-jerk reaction to a bad court battle between the government and a particular individual accused.

"Mr. Speaker, the privileged and confidential information is already protected at law. By having this over here, it just makes it impossible to inquire as to again, the truthfulness. The confidentiality of the communication is protected in such a way that the judge in any inquiry by the accused, in the way it is today in our court system today, will already allow them protection because it is confidential. The accused must present evidence. They must first convince the judge in order to open this confidential information anyway. So it's not like they can dig into it at anytime. The judge still has the discretion to allow or not allow the accused to dig in into the truthfulness of the accuser's statement by opening up certain records or certain privileged communication, in this case it would be the psychologist, counselor, or health professional. I won't believe that there will be much chilling effect just because we don't have this in the Constitution. Thank you."

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

"Thank you, Mr. Speaker. In support.

"I'm reading this very carefully and I don't see anywhere that it says you can't get information from a sister, brother, mailman, neighbor, friend, it only says that it's confidential communications in these four limited cases, the physician, the psychologist, the counselor, or the licensed mental health professional. So I see a good lawyer making a case with many other witnesses. You just can't get information from these four. Thank you."

Representative Lee rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, I want to stand in strong support of the amendment.

"And first of all, I'd like to thank the Chair and the Vice Chair of Judiciary for working so hard on this amendment. I'd like to say many of us lived through the times of the 60s and the 70s when 'Rape Shield' laws were being developed. I think many don't know the history of 'Rape Shield'. I think this is an important addition to the 'Rape Shield' law. I had some additional written comments I'd like to add to the Journal. Thank you," and the Chair "so ordered."

Representative Lee's written remarks are as follows:

"Mr. Speaker, I would like to speak in support of the amendment.

"Rape Shield' laws prevent defendants from introducing irrelevant, prejudicial information about the victim's sexual history in a rape trial.

"The 'Rape Shield' law is an extraordinarily effective tool to ensure that a rape victim can receive a fair trial. It keeps the focus of the trial, on the defendant and on relevant issues. It ensures that a victim's sexual history will not be exposed. The 'Rape Shield' law helps to keep the 'victim blaming' that continues in our society out of the courtroom. This is essential if victims are to feel comfortable utilizing the criminal justice system after sexual assault.

"Rape victims are often in need of counseling both in immediately after the rape is reported and for long term treatment. This amendment is in line with the move in many states to create tougher sexual assault laws. It would amend the Constitution to permit the legislature to pass laws that provide for the inadmissibility of privileged confidential communications between an alleged crime victim, and the alleged victim's physician, psychologist, counselor, or licensed mental health professional.

"This would be an excellent addition to our 'Rape Shield' law and hopefully after the constitutional amendment is passed the Legislature will take action to protect rape victims in this manner."

The motion that Floor Amendment No. 15, amending S.B. No. 2846, SD 1, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE I, SECTION 14, OF THE HAWAII CONSTITUTION," be adopted, was put to vote by the Chair and carried with Representative Sonson voting no, and Representative Nakasone being excused.

(Main Motion)

At this time, Representative Saiki withdrew his previous motion on S.B. No. 2846, SD 1, HD 1, and Representative Lee withdrew her second.

Representative Saiki then moved that S.B. No. 2846, SD 1, HD 2, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative Lee.

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

"Thank you, Mr. Speaker. I rise in favor of this motion, however, I do have a reservation.

"The amended bill, if passed this Session and enacted by voters this November, will provide confidentiality to the communications between licensed mental health professionals, sex abuse treatment centers, counselors, physicians and their sex abuse clients. But it does not provide further protection to victims from being placed on the stand, cross-examined, and prosecuted all over again. That is because in an aggressive defense of an accused defender, a defense attorney might try to question a victim on previous sexual history. It's my understanding that the accused would claim, as in *Peseti*, the Constitutional right to confront witnesses. That is why we are now taking these steps to protect communications between counselor and victim.

"Victims need the same constitutional protection. And while there is some statutory language preventing the divulging of a victim's history, there may come a day when this language would no longer hold. By using the defendant's constitutional rights as a 'battering ram', a victim can be placed on the stand and cross-examined. In other words, the rape shield protecting the witnesses can be breached. It still exists but needs guarding. If it fails, you can rest assured that many of us will work for a constitutional amendment to restore it. Thank you."

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

"Thank you, Mr. Speaker. In strong support.

"I would like the words of the previous speaker because I'm also concerned that we may find ourselves back here if the prosecutors go awry in cases. But I'd like to just thank all the members of the Attorney General's office and the Majority and the Minority for working together to get agreeable language that got us to this point. Thank you."

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

"Mr. Speaker, I stand in strong support.

"I really wanted to clarify something. I've never heard the constitutional rights of an individual described as a 'battering ram'. Constitutional rights are actually a shield. They're never ever used as a weapon. What they are is to protect your rights from the government going too far, and not having proven its case and needing to go into evidence that normally it shouldn't, because you have basic fundamental rights that have been established by the Constitution and should be guaranteed to every single person.

"Specifically, as it comes to the 'Rape Shield' law, we already have in statute, protection for victims when it comes to their sexual history. It's quite a detailed statute. Hawaii Rules of Evidence, Rule 412, specifically provides a procedure whereby there's only 3 exceptions whereby such evidence can be delved into. And if you are going to go into those types of evidence, you need to provide notice to the court before you can even go near that type of evidence. And once you provide that notice, then you go to an in-camera hearing before the judge away from the jury. And at that point, the judge would determine whether such evidence is relevant or not.

"So I believe that our statutory protections are there and there's no need for us to be going into a constitutional amendment at this time so that we have competing rights, again, when we have the proper protections in our statutes. The Hawaii Supreme Court has not yet even attempted to address this issue. So at this point, I stand in strong support of this bill

and feel that it is meeting the concerns of the people who have requested that we pass something. Thank you."

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

"Thank you, Mr. Speaker. I stand in strong support of House Draft 2 also.

"Thank you. And Mr. Speaker, I would like to request that the dissenting report to the House Draft 1 version be printed in its entirety in the Journal and these remarks authored by Representative from Kahala and from Salt Lake [Aiea and Foster Village], and myself from Kailua-Kaneohe Bay, show why House Draft 2 is needed. Thank you, Mr. Speaker."

The Dissent to Stand. Com. Rep. No. 1149-04 is as follows:

DISSENT TO STAND. COM. REP. NO. 1149-04  
April 8th, 2004  
RE: Senate Bill No. 2846, S.D.1, H.D.1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Second State Legislature  
Regular Session of 2004  
State of Hawaii

Sir:

We respectfully dissent from the recommendation of your Committee on Judiciary recommending passage of Senate Bill No. 2846, S.D. 1, H.D. 1. The purpose of original version of this bill was to amend the Hawaii Constitution to make clear that the Legislature may pass legislation to provide that the prior sexual history of an alleged sexual assault victim is inadmissible in court, and legislation establishing the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged victim's physician, psychologist, or counselor to the extent permitted under the Constitution of the United States. The proposed amendment to this bill would ignore the threat to Hawaii's rape shield statute that is posed by recent court rulings, and limit the proposed constitutional amendment to the issue of whether or not defendants can demand access to the records of sexual assault crisis counselors. The House draft passed by a vote of the 15 Committee members as follows: 5 ayes, 5 ayes with reservations, 2 noes, and 3 excused. Therefore, only 33% of the members of your Committee on Judiciary have cast an aye vote, without reservation, on this important bill that will profoundly affect sexual assault victims in Hawaii.

The decision of the Hawaii Supreme Court in *State v. Peseti*, 101 Hawai'i 172, 65 P.3d 119 (2003), effectively eviscerates previously enacted legislation designed to protect sexual assault victims from unwarranted fishing expeditions by criminal defendants into the victims' sexual histories and confidential communications with treatment providers. A recent case by the Intermediate Court of Appeals, *State v. French*, 104 Hawai'i 89, 85 P.2d 196 (2004), is evidence that those fears are not mere speculation. The *French* case involved an unfortunate extension of *Peseti* to include allowing defendants access to probation records. Although the *French* decision ruled on an issue related to probation records, without the original language of the constitutional amendment proposed by this bill, the defense bar will undoubtedly argue that the *French* rationale should be applied to the records of sexual assault counselors and to other information intended to be protected from dissemination by the rape shield law.

The original language of this bill is needed because, after *Peseti*, rape victims are again unfairly forced into a decision

either to not report the rape, or to have their deepest secrets examined by a judge, and possibly even by the victim's rapist and his attorney. Additionally, there is no guarantee that these supposedly confidential communications will go no further than the in camera review. To force this choice upon rape victims is a giant step backward toward the dark ages. What victim would not seriously consider declining to report the rape, considering the current potential penalty for doing so? The proposed amended language would not provide the same protection to victims that the original language would provide.

The proposed amendments would leave intact the possibility that a victim's prior sexual history will become the subject of defense motions or defense cross-examination at trial. The proposed amendments would also "water down" the language of the bill to the extent that certain counselors would still be required to inform victims that information disclosed to the counselor might not be confidential, and that their prior sexual history could become an issue in the case.

For the reasons discussed above, we cannot and should not support the changes contained in Senate Bill No. 2843, S.D. 1, H.D. 1. Others who oppose these changes include the Governor, the Attorney General, every Prosecuting Attorney in Hawaii, every Chief of Police in Hawaii, and virtually every sexual assault victims' advocacy organization in Hawaii. We therefore urge that Senate Bill No. 2843, S.D. 1, be passed without amendments.

Respectfully submitted by the following members of your Committee on Judiciary

/s/  
CYNTHIA THIELEN, Ranking Minority Member

/s/  
BARBARA MARUMOTO, Member

/s/  
LYNN FINNEGAN, Member

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2846, SD 1, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE I, SECTION 14, OF THE HAWAII CONSTITUTION," passed Second Reading, and was placed on the calendar for Third Reading.

The Chair then announced:

"Members, at this time, may we turn to page 10. The Chair will now be taking up Standing Committee Report Number 1260-04. Is everyone on page 10, Stand. Com. Report 1260-04? The Chair recognizes Representative Saiki."

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1260-04) recommending that S.B. No. 2842, SD 1, as amended in HD 3, pass Third Reading.

[Note: Certain comments made during the debate on S.B. No. 2842, SD 1, HD 3 (as amended by Floor Amendment No. 16 to its final form in S.B. No. 2842, SD 1, HD 4) are applicable to the debate on S.B. No. 2843, SD 1, HD 1 (as amended by Floor Amendment No. 17 to its final form in S.B. No. 2843, SD 1, HD 2).]

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2842, SD 1, HD 3, pass Third Reading, seconded by Representative Lee.

At this time, Representative Saiki offered Floor Amendment No. 16, amending S.B. No. 2842, SD 1, HD 3, as follows:

SECTION 1. S.B. No. 2842, S.D. 1, H.D. 3 (RELATING TO CHAPTER 846E, HAWAII REVISED STATUTES), is amended by adding two new Sections to read:

"SECTION 6. The legislature created a sex offender registry in 1997 (chapter 846E, Hawaii Revised Statutes). In 2001, the Hawaii supreme court held that the public access portion of the law was unconstitutional because it did not provide sex offenders with an opportunity to be heard before their information was posted on the Internet. In 2002 and again in 2003, the legislature amended the law to provide for hearings so that Internet information would once more be available to the public.

In the interim since the enactment of a process by which sex offender information could be placed on the Internet, almost no hearings have been requested. As a result of the supreme court's decision and delays in hearings, there is a backlog of offenders whose information should have been available to the public.

For the sake of processing the nearly two thousand cases waiting to be put on the list, a constitutional amendment has been proposed to:

- (1) Allow the legislature to define what sex offender registration information constitutes registration information to which the public will have access; and
- (2) Decide the manner in which public access to the registration information is obtained.

In anticipation of the enactment of the amendment and before any legislation is enacted pursuant thereto, a task force should be convened to study proposed legislation. The task force should make recommendations to the legislature in the event the constitution is amended. However, should the proposed amendment fail, the task force recommendations need not be implemented since legislation would be unnecessary to effectuate the constitutional amendment. Although the task force may submit its recommendations prior to the enactment of the constitutional amendment, in no way should the creation of the task force be construed to endorse or support the proposed constitutional amendment.

SECTION 7. The judicial council of Hawaii, established pursuant to section 601-4, Hawaii Revised Statutes, shall convene a task force to engage in a comprehensive review of public access to information regarding persons convicted of sexual offenses and to recommend to the legislature amendments, if any, to existing procedures.

The task force shall serve without compensation, and its membership shall comprise a balanced representation of interested parties in the community, which shall include but not be limited to representatives of:

- (1) The judiciary;
- (2) The department of the attorney general;
- (3) The office of the public defender;
- (4) The department of the prosecuting attorney for each county;
- (5) The police department of each county;
- (6) The Hawaii State Bar Association;

- (7) The Hawaii Association of Criminal Defense Lawyers;
- (8) The American Civil Liberties Union of Hawaii;
- (9) Private citizens interested in criminal law and civil liberties;
- (10) Attorneys in private practice involving the criminal law; and
- (11) Victim advocate groups.

The task force shall review the applicable offenses that subject a person to possible publication of registration information under chapter 846E, Hawaii Revised Statutes, and review:

- (1) Standards and criteria that may be required by the federal government in order for Hawaii to receive funding to support registration and publication of information;
- (2) Differing requirements for publication of information throughout the nation;
- (3) Applicable state statutes and rules from jurisdictions other than Hawaii;
- (4) Cost factors involved with various procedures used in other jurisdictions;
- (5) Evaluations of such statutes and procedures and the anticipated impact of enacting similar laws and procedures in Hawaii; and
- (6) Other relevant issues as deemed appropriate for discussion by the task force.

Findings shall provide the legislature with factual information, the national experience, and "best practices" for the purpose of assisting the legislature in determining and developing proposed legislature to ensure:

- (1) The most appropriate identification of offenses that are subject to chapter 846E, Hawaii Revised Statutes;
- (2) The nature, scope, and extent of information to which the public has a right of access;
- (3) The manner of access to the registration information; and
- (4) Any periods of time or procedures by which convicted persons may petition for termination of public access in Hawaii.

Further, findings shall specifically include but not be limited to:

- (1) A compilation of the relevant Hawaii statutes and rules;
- (2) A compilation of the number of cases in each judicial circuit of Hawaii affected by the proposed changes in procedures;
- (3) A compilation of statutes and practices in other jurisdictions; and
- (4) An evaluation of statutes and charging practices and their impact on the administration of justice.

The task force shall also review and evaluate the issue of the lifetime requirement for public access to registration

information and shall issue findings that provide the legislature with factual information, the national experience, and "best practices" for the purpose of assisting the legislature in determining whether there is any period for any of the offenses whereby a person may be relieved of a requirement of public access to registration information or request that the person may be relieved of the requirement.

The task force shall report its findings and recommendations to the legislature no later than twenty days before the convening of the regular session of 2005."

SECTION 2. S.B. No. 2842, S.D. 1, H.D. 3 (RELATING TO CHAPTER 846E, HAWAII REVISED STATUTES) is amended by renumbering Sections 6 and 7 to Sections 8 and 9.

SECTION 3. S.B. No. 2842, S.D. 1, H.D. 3, (RELATING TO CHAPTER 846E, HAWAII REVISED STATUTES) is amended by renumbering Section 8 to Section 10 and amending renumbered Section 10 to read as follows:

"SECTION 10. This Act shall take effect upon its approval."

Representative Saiki moved that Floor Amendment No. 16 be adopted, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In support.

"Purpose:

- Requires persons convicted of crimes involving child pornography to register as sex offenders.
- Makes other amendments to the sex offender registry statute.

"Reasons:

- This is a bill for the people – it doesn't matter whether one has or has not been a victim of a sexual offense. Requiring sex offenders to register whenever they arrive in our State or when they are done 'doing time' is yet another way we are ensuring the safety of our citizenry.
- Recordkeeping is updated with each registration and patterns are tracked and will help in court when establishing sentences."

Representative Caldwell rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, I rise in support.

"But briefly, again I want to thank the Chair of Judiciary and the Vice Chair for working over the long Easter holiday to hammer out a compromise with our Attorney General and with Members of the Minority Party. And again, I think this is a good compromise in addressing the concern that we all have. And that is that we want to protect the people of Hawaii from violence, sexual offenders, and crimes against minors. And this goes a long way towards doing that.

"The other good news I'd like to report, Mr. Speaker, is that as a result of the Judiciary Committee's hard work, we've actually now got an agreement between the Attorney General and the prosecutors to right now, start the process for putting people on the registry. As you know, approximately 2 years ago, more than that now, Mr. Speaker, this Body amended the statute at the request of the Attorney General to provide a hearing process. Last year, we amended again, both times at

the request of the AG to make it easier. Very little has been done in terms of trying to put names on that list. But as a result of what's occurred over the weekend, there's a firm commitment now to start that process, which will protect our children and others from violent sexual crimes and ensure that during this interim period, between now and when we come back, after the constitutional amendment, should the people decide to support it and pass the legislation, we'll at least maybe put the worst, the most violent offenders on that list to start to protect people in our neighborhoods. Thank you much, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm rising in strong support of the amendment.

"Mr. Speaker, this is known as the Megan's Act and named after the tragic situation where a 7 year-old girl was killed by the neighbor, assaulted and killed. There was no registry then. And since that period of time, Mr. Speaker, all states, have with the exception of two, have adopted a registry where parents or grandparents can go onto either the internet or find it through another way through the government registry to find out the names and addresses of convicted pedophiles or sex offenders. This has made neighborhoods safer.

"Mr. Speaker, we had the list for a period of time. And it was available. And I know a number of us accessed that. And we're very glad to be able to at least provide counsel to people in communities, where they had heard rumors but weren't quite sure what was happening. It was a very good thing to have because those parents and grandparents then could protect their children.

"The Supreme Court struck our Megan's list. We are now taking action to put the question before the voters again and provide certain protections in the bill too. The bill as amended is a very good compromise. It's tremendous progress to keep our children safe.

"Mr. Speaker, I would like to also insert the dissent to Standing Committee Report 1296, submitted on April 8, 2004, authored by my colleagues from Salt Lake [Aiea and Foster Village] and Kahala and myself to the original Megan's Bill to show why this amended draft is so important."

[Note: Stand. Com. Rep. No. 1296-04 accompanies SB No. 2843, SD 1, HD 1, which is the subject of Floor Amendment No. 17. See Stand. Com. Rep. No. 1296-04 for comments and debate.]

Representative Lee rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, I stand in strong support of the amendment.

"Again, I would like to thank the Chair and the Vice Chair of the Judiciary and others for working so hard on this amendment. I think it's a strong statement in favor of victims' rights. And after all, that's what we're here for. Thank you."

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

"Thank you, Mr. Speaker. In strong support.

"And again, I'd like to thank the Attorney General for leading the way with the Minority and the Majority to work out the wording and come to an agreement on this measure. And also

to clarify that, due to the Supreme Court striking down the law, it was only a few short months ago that it became apparent that people that had been offenders would have to go through a hearing process before their names were placed on the list. And since that time, the Attorney General and all the prosecutors have been meeting to work out the details on how they could do that. And so now I'm glad to hear that they're finally able to start up again this Friday with the first hearing. If this measure is passed of course, it will no longer need the hearing process. Thank you, Mr. Speaker."

Representative B. Oshiro rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker. I rise in support of this amendment.

"I did want to clarify some of the statements said by the previous speakers. To clarify, our Chapter 846E already has a list in existence. There's two parts to the list. One is when we collect the information, which is called registration. The other part is how to publicize that. And that's about the public access. We've always had the list. I mean, since 1997, we've had the list. Unfortunately in 2001, in the *State v. Bani* case, what happened was they found that publication of this list was a violation of the defendant's due process rights. And thereby we essentially had to shut down the publication of the list. But we still have the list. Since that time, we've actually twice tried to fix Chapter 846E, and so any statement that only a few months ago, the prosecuting attorney or the AG found out that we needed to do this is inaccurate.

"In 2002, we passed Act 234. In 2003, we passed Act 40. So since 2002, they've had the opportunity to try and put people on the list. Unfortunately to date, we are aware of only a very, very few that have been attempted. And even with the last attempt that we made, Act 40, which was enacted I believe on July 1, 2003, that gives them 10 months. And to date, unfortunately, there is still very little people, if any, that have been processed. And that's why I believe we are trying to come up with a compromise because we want the list up and running.

"They have the information. All they need to do is go to the hearings. I mean, they've had it since 2002. Maybe they didn't like Act 234, but it was there. So they didn't need to wait for the changes in Act 40 in 2003. So I think that's the reason why we're very pleased to hear that the Attorney General himself, has promised to get personally involved in this issue so that we can be sure that community will have the access that they have been calling for. Thank you."

Representative Leong rose to speak in support of the proposed floor amendment, stating:

"Thank you, Mr. Speaker. I stand so strongly in favor of this amendment.

"As a real estate broker, one of the things in a contract is to have Megan's Law so that they know, the potential buyers know, they can have access to this so that they can protect their families in their neighborhoods. Thank you, Mr. Speaker."

Representative Sonson rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Mr. Speaker. In opposition. First, I'd like to request to incorporate the words of the Vice Chair of Judiciary into the Journal as my own," and the Chair "so ordered." (By reference only.)

Representative Sonson continued, stating:

"Because his statements speaks on how the government has actually had a tool to implement Megan's Law. What they tried to do this time is to tell the Legislature that it's too hard to go through the process. Well they're saying that it's too hard to go through the process which is actually a hearing, a public hearing in front of a judge to test whether or not certain individuals should be or should not be placed in the publicized list of sex offenders.

"My opposition, Mr. Speaker, is based on the fact that every time, every time that there's a court decision made, why is it, why is it that they come to us? Is it because it's easier to convince us than the Judiciary? We should not make it a practice. It should be a policy that these certain constitutional rights, these constitutional rights should be amended only when it's a matter of importance. Not when it's a 'knee-jerk' reaction to a court case that you lost. It should not be because of a public outcry or because of certain misinformation.

"The misinformation regarding this particular amendment, Mr. Speaker, is that we cannot do it. We need this to do it. In actuality, the statement by the Vice Chair of Judiciary is clear. They had the tools to do it. Over the two years from '02 to '04, according to the front page of this floor amendment, it says that no hearings had been requested. So this is an amendment of convenience. What? Sacrifice my due process rights guaranteed to me in the Constitution for convenience?

"Again I want to make it clear, I am not in support of child molesters. I'm not protecting them by being placed there. I am protecting the due process rights embedded in our Constitution. They are there for a reason. They are there to protect us from the government when they are overly ... I don't know the exact word, but when they do their job in such a way that it would infringe on these guaranteed rights. These come into play to protect us from ourselves, basically. This constitutional amendment is for convenience and it has no merit. Thank you, Mr. Speaker."

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

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

"Mr. Speaker, what we're talking about is providing an opportunity to amend the Constitution so as to allow for sex offender registration, to make that available to the public via the Internet and perhaps other means. Mr. Speaker, I'm glad that we're moving this piece of legislation forward. And I imagine the people of Hawaii will be very, very supportive of this.

"Basically, what we're doing here is weighing the privacy rights of these people who have been convicted beyond a reasonable doubt in the court of law of these very terrible crimes. Weighing that, versus the right of families to keep their kids safe. And I think we're making the right policy call. If a person wants to keep his face off of the Internet and not allow the government to identify him as a sex offender, he had the decision before he molested that child. That's when they need to choose to keep their face off of the Internet by not committing the crime in the first place. And so I'm glad that once this is passed, I imagine the subsequent legislation will flush out how this actually works, which offenders, which crimes get on the Internet, so forth. The Legislature will then have full authority to take care of those details. But I look forward to giving as much information as quick possible, as soon as possible, and in a format that is most helpful to parents. So that when someone suspicious moves into the neighborhood, that they can quickly look up and confirm whether or not their suspicions are justified.

"This is about giving parents the tools to take reasonable steps to protect their kids. And so I'm glad we're moving this forward. I'm glad this is passing Third Reading in this amended version. And I'm glad that we heard the public speak about how the early drafts were absolutely unacceptable. So I look forward to being able to vote on this, not only today, but in the ballot booth and ballot box on Election Day. I'd like to also insert additional remarks into the Journal. Thank you," and the Chair "so ordered."

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in support of the proposed floor amendment to Senate Bill 2842, House Draft 3. Floor Amendment No. 16 seeks to establish a task force to study public access to the sex offender registration. The task force would complement the proposed constitutional amendment (SB 2843, SD1, HD2) which has been proposed to:

1. Allow legislature to define what sex offender registration information constitutes registration information to which the public will have access; and
2. Decide the manner in which public access to the registration information is obtained.

"Mr. Speaker, we've done away with providing hearings for convicted sex offenders to challenge their placement in the State's registry. In its place, we have passed a measure which proposes a constitutional amendment which provides for the public right to access of information regarding persons convicted of certain sex offenses, as determined by the legislature.

"Mr. Speaker, in anticipation of the enactment of the SB 2843, SD1, HD2, there is a need for a task force to be convened to provide factual information, the national experience, and 'best practices' for the purpose of assisting the legislature in determining and developing proposed legislation. The task force will serve without compensation, and will be comprised of a balanced representation of interested parties in the community. The task force would make recommendations to the legislature in the event the constitution is amended.

"Floor Amendment No. 16 paves the way for our State to provide the public access to information regarding convicted sex offenders in the best manner. It will add strength to our laws governing convicted sex offenders. It is imperative that we pass a strong Megan's law so that parents and the public can know who the sex offenders are.

"For these reasons, I am in support of Floor Amendment No. 16 which seeks the establishment of a task force to assist the legislature in determining the criteria for placement in the registry and how the public will gain access to this information.

"Mr. Speaker, I want to make it clear that although I am in support of creating a task force to guide the legislature in determining who is placed in the State's sex offender registry, I believe that sex offenders should immediately be placed in the registry upon conviction. As the term 'convicted' implies, the convicted sex offenders have already gone through a process wherein they did have full due process rights and hearings. Additional hearings would be burdensome and would defeat the purpose of creating the registry in the first place, which is to protect our citizens from convicted sex offenders by allowing citizens timely access to information. I am in strong support of a constitutional amendment which would ensure that the public has access to information regarding convicted sex offenders who may live in their neighborhoods and pose a danger to their families, especially their children. That is what I would prefer.



"But as a stop-gap measure, I support this task force. It would be superior to the status quo. It would be preferable to the current state of the law given the Supreme Court's decision.

"But my true preference would be a simple and clean constitutional amendment allowing the information in question to be immediately posted on the Internet without requiring a prior hearing to consider so-called privacy rights of the convict.

"Thank you, Mr. Speaker, for the opportunity to speak in support of Floor Amendment No. 16 to Senate Bill 2842, House Draft 3."

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. Just quickly, my colleague is not from Salt Lake. She represents Aiea and Foster Village. The colleague who helped to author the dissenting report to the underlying bill which we're amending.

"And Mr. Speaker, I did want to just note for the record too, the Attorney General and the Prosecutor have explained that there are 1,900 convicted pedophiles or sex offenders. That is a massive amount of hearings to have to hold. Many of the hearings will be virtually impossible because witnesses are not around. What they have to show is that person is a danger to the community. And we're talking convicted pedophiles, convicted sex offenders. But the requirement as it stands today is that the prosecutor has to demonstrate to a court that that convicted felon is a danger to the community.

"So Mr. Speaker, I believe that this amendment is an excellent move forward. And I may not have mentioned the only two states in the nation that don't have a Megan's Law in place, allowing parents and others to find out the whereabouts of convicted felons, sex offenders, and pedophiles, the only two states are Hawaii and Massachusetts. Thank you, Mr. Speaker."

Representative Ching rose to speak in support of the proposed floor amendment, stating:

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

"I think that this measure is important because it equips our parents with information and the ability for them to protect their children. But what is often overlooked is when we look at one of the number concerns we have this year, it is the war on crystal meth. What is often overlooked is the fact that that the war on crystal meth has increased sexual offenses, multifold. So this is something that is a part of our war. And it's a part of the suffering of our State. And it's a real problem. And so on this real problem of sexual offense, I think we need to help our parents with that.

"I'd also like to ask that the words of the gentleman from Kailua-Kaneohe be inserted as my own," and the Chair "so ordered." (By reference only.)

Representative Fox requested a roll call vote at the appropriate time.

Representative Saiki then called for the previous question.

The Chair then stated:

"Roll call has been requested. At this time, for those who support the floor amendment would vote aye. And those oppose will be nay. Madame Clerk, please call the roll."

Representative Fox interjected, stating:

"Mr. Speaker. I'm sorry, Mr. Speaker. Could I ask that you clarify what the amendment is? I'm not sure that people are quite aware of it."

Speaker Say: "For those who support the floor amendment, you would vote aye. Floor Amendment No. 16. I stated this earlier. What was the question?"

At 2:58 o'clock p.m., Representative Saiki requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:04 o'clock p.m.

At this time, Representative Fox withdrew his request for a roll call vote.

The Chair then announced:

"At this point Representative Fox has withdrawn his request for a roll call vote. And prior to the discussion on this floor amendment, I did announce the Members of this House that it was Floor Amendment No. 16, and if everyone had a copy. And I think we've had a lively debate that was in reference to the floor amendment that is coming up later on, which is Floor Amendment No. 17. So I'll call for the question."

The motion that Floor Amendment No. 16, amending S.B. No. 2842, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 846E, HAWAII REVISED STATUTES," be adopted, was put to vote by the Chair and carried with Representative Sonson voting no.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on S.B. No. 2842, SD 1, HD 4, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 846E, HAWAII REVISED STATUTES," was deferred for a period of 48 hours.

Representative Sonson rose, stating:

"Excuse me, Mr. Speaker. For the record, I think that I need to correct my opposition, because my opposition was on Floor Amendment No. 17. So on Floor Amendment No. 16, I am in favor of the task force contemplated."

The Chair responded, stating:

"Representative Sonson, you will have that opportunity because this amendment will sit for 48 hours."

Representative Sonson: "Yes. So just again for the record, I am voting yes on Floor Amendment Number 16."

Representative Ching rose, stating:

"I just wanted to make sure that my comments reflected that I meant to say the ice epidemic, that not the war on crystal meth, has caused an increase in sexual offenses. That the ice epidemic has caused this increased in sexual offenses."

The Chair then stated:

"Okay, Members, now we can turn to page 15 where there is another floor amendment. The Chair will be taking up

Standing Committee Report Number 1296-04. Representative Saiki."

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1296-04) recommending that S.B. No. 2843, SD 1, as amended in HD 1, pass Third Reading.

[Note: Certain comments made during the debate on S.B. No. 2842, SD 1, HD 3 (as amended by Floor Amendment No. 16 to its final form in S.B. No. 2842, SD 1, HD 4) are applicable to the debate on S.B. No. 2843, SD 1, HD 1 (as amended by Floor Amendment No. 17 to its final form in S.B. No. 2843, SD 1, HD 2).]

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2843, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

The Chair then stated:

"Any discussion on this particular issue which everyone's statements. Floor Amendment Number 17, everyone has a copy? Does everyone have a copy before Representative Saiki makes the motion for adoption? Everybody has a copy on 17? The Chair recognizes Representative Saiki."

At this time, Representative Saiki offered Floor Amendment No. 17, amending S.B. No. 2843, SD 1, HD 1, as follows:

SECTION 1. Senate Bill No. 2843, S.D. 1, H.D. 1 (PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII), is amended by amending sections 1, 2, and 3 to read as follows:

"SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii to provide that:

- (1) The public has a right of access to registration information regarding persons who have been convicted in the past or who will be convicted in the future of certain crimes against children and certain sexual offenses;
- (2) The legislature shall determine which offenses are subject to this public right of access;
- (3) The legislature shall determine what information constitutes registration information to which the public has a right of access;
- (4) The legislature shall determine the manner of public access to the registration information; and
- (5) The legislature shall determine a period of time and conditions pursuant to which a convicted person may petition for termination of public access.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

**"PUBLIC ACCESS TO INFORMATION CONCERNING  
PERSONS CONVICTED OF CERTAIN OFFENSES  
AGAINST CHILDREN AND CERTAIN SEXUAL  
OFFENSES**

**Section .** The public has a right of access to registration information regarding persons convicted of certain offenses against children and persons convicted of certain sexual

offenses. The legislature shall determine which offenses are subject to this provision, what information constitutes registration information to which the public has a right of access, the manner of public access to the registration information and a period of time after which and conditions pursuant to which a convicted person may petition for termination of public access."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the Constitution of the State of Hawaii be amended to provide that the public has a right of access to registration information regarding persons convicted of certain offenses against children and persons convicted of certain sexual offenses, and that the legislature shall determine which offenses are subject to this provision, what information constitutes registration information to which the public has a right of access, the manner of public access to the registration information, and a period of time after which and conditions pursuant to which a convicted person may petition for termination of public access?"

Representative Saiki moved that Floor Amendment No. 17 be adopted, seconded by Representative Lee.

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

"Mr. Speaker, I stand in strong support of this amendment. I would ask that the Clerk reference the remarks I delivered a few moments ago. And note that those remarks are applicable to this particular floor amendment. Thank you," and the Chair "so ordered."

Representative Luke rose to speak in support of the proposed floor amendment, stating:

"In support. If I could make that request for all those Members who spoke on Floor Amendment No. 16. If all their remarks could be incorporated in Floor Amendment No. 17.

The Chair responded, stating:

"If that is fine with everyone."

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

"Thank you, Mr. Speaker. And I appreciate the Vice Speaker referencing all of our remarks on the prior amendment too. And Mr. Speaker, I would like to have the Journal reflect the Dissent to Standing Committee Report 1296 authored by the Representatives from Aiea and Foster Village, and from Kahala, and myself as this applies directly to Floor Amendment No. 17 and why Floor Amendment No. 17 is so necessary. I am very much in support of this amendment. Thank you."

The Dissent to Stand. Com. No. 1296-04 is as follows:

DISSENT TO STAND. COM. REP. NO. 1296-04  
April 8th, 2004  
RE: Senate Bill No. 2843, S.D.1, H.D.1

Honorable Calvin K. Y. Say  
Speaker, House of Representatives  
Twenty-Second State Legislature  
Regular Session of 2004  
State of Hawaii

Sir:

We respectfully dissent from the recommendation of your Committee on Judiciary favoring passage of Senate Bill No. 2843, S.D. 1, H.D. 1, "PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII" ("Megan's Law"). The purpose of this bill, as originally introduced, was to propose a constitutional amendment to allow public access to registration information regarding persons convicted of sexual offenses and crimes against children, as determined by the Legislature. The Committee on Judiciary amended Senate Bill No. 2843, S.D. 1 to require a court hearing to determine if a convicted pedophile or sex offender is a danger to the public before allowing publication of information on the convicted pedophile or sex offender. This recommendation was passed by a vote of the 15 committee members as follows: 5 ayes, 5 ayes with reservations, 3 noes, and 2 excused. Therefore, only 33% of the members of your Committee on Judiciary have cast an aye vote, without reservation, on this important bill that would profoundly affect the safety of Hawaii's children and adults who are vulnerable to sexual assault.

On the issue of whether or not the Legislature should be able to designate particular crimes for which conviction would require public notification of sex offender registration information, we agree with the opinion of the United States Supreme Court and support the S.D. 1 version of this bill endorsed by your Committee on Public Safety and Military Affairs, the Senate Committee on Judiciary and Hawaiian Affairs, the Governor, the Attorney General, every Prosecuting Attorney in Hawaii, every Chief of Police in Hawaii, and virtually every sexual assault victim's advocacy organization in Hawaii.

We note that the changes to Senate Bill No. 2843, S.D. 1 recommended by your Committee on Judiciary convert the proposed constitutional amendment into a meaningless measure because the changes would, for all practical purposes, simply restate the existing Hawaii case law that the original version of the bill sought to reverse. We believe it is absurd to require the presentation of evidence to a court to establish the dangerousness of every sex offender before the public is allowed access to information regarding sex offenders. Surely some sex offenses are so egregious that public access should be allowed by virtue of the fact that the sex offender has already been found to be guilty beyond a reasonable doubt. The original version of this bill would have proposed a constitutional amendment that would have allowed the Legislature to choose which offenses involve such violent and inexcusable violations of the rights of children and others that the public should have access to the records of these sex offenders. The proposed changes to the bill would require presentation of evidence and a court ruling on each and every sex offender, no matter how many violent rapes of children the offender has perpetrated.

The original version of this bill would have permitted the Legislature to change the current process. The current process requires a hearing for each and every sex offender before public notification can occur, no matter how violent, how brutal, or how repetitive the sex offender's behavior was. Because there are approximately 1,900 convicted sex offenders currently living in Hawaii, it has been estimated that hearings for these previously convicted sex offenders will take six or more years. Once a judge sets a hearing date, then receives evidence involving exhibits, expert testimony, and lay testimony, and finally renders a decision, the defendant then has a right to appeal, and can request that his information not be made available to the public until his appeal is decided, possibly years after the initial decision by the judge. To a certain degree, this time delay defeats one of the primary purposes of Megan's Law (to provide information to families in a timely

way that enables them to take precautions against sex offenders).

The current process is required because the Hawaii Supreme Court in *State v. Bani*, 97 Haw. 285 (2001), struck down the public notification component of Hawaii's sex offender law that had been passed unanimously by the Legislature. This law had been in effect since 1997, and had been providing information to concerned community members and parents who wanted to ensure the safety and protection of their children. In passing Hawaii's original sex offender registration and public notification law, the then House Judiciary Chair offered the following comments in support of the bill:

Mr. Speaker, this year the House of Representatives committed itself to addressing the concerns of the community when an incarcerated sex offender is released on parole or has served his full term and takes residence in our neighborhoods.

Children are by far the most helpless and vulnerable members of our society and are the individuals most in need of our support and protection. With this in mind, last year President Clinton signed legislation popularly known as 'Megan's Law' requiring states to release relevant information that is necessary to protect the public. 'Megan's Law' is named after 7 year-old Megan Kanka of Hamilton, New Jersey, who was killed two years ago. Charged with the crime was a convicted sex offender who, unknown to the Kankas, lived across the street from the Kankas' home. This tragedy may have been averted had the Kankas known of the criminal history of their neighbor.

Although our House members are aware that the privacy rights of those who have served their time and paid their debt to society are important, they are outweighed by the rights of parents to protect their children. As President Clinton stated when signing the federal measure into law, 'there is no greater right than a parent's right to raise a child in safety and love...Today, America circles the wagons around our children. Likewise, we must ensure that Hawaii's children receive the protection and support of their government. (Emphasis added.)

The United States Supreme Court has already ruled that, under the United States Constitution, no hearing is required prior to allowing public access to information regarding convicted sex offenders. Given this ruling by the highest court in the country, the question we must face is whether to accept, without question, the edict of the Hawaii Supreme Court that convicted sex offenders be given even greater rights than those provided under the federal Constitution, or to amend the Constitution of the State of Hawaii to provide Hawaii citizens and residents with the right to access sex offender information that citizens of nearly every other state currently have. We see no reason why parents in Hawaii should have fewer rights to sex offender information than parents in other states.

By amending S.B. 2843, S.D. 1 to let the courts to determine the issue of public access to information regarding sex offenders (thus, letting the Bani decision stand), this Committee's recommendation is turning its back on concerned communities and parents who want to protect and safeguard their children. We remind this Committee that the reasons for Hawaii's original sex offender registration and public notification law are as important and compelling now as they were in 1997.

We do not agree with this Committee's amendment to S.B. 2843, S.D. 1. Instead, we agree with the purpose clause of the original sex offender registration and public notification law when it noted that, "[F]or too long, the interests of justice have been heavily weighted on concern for the offenders' rights, and there is a need to balance the scales of justice between the

rights of the offenders and the rights of victims." We agree with the findings of the Senate Committee on Judiciary and Hawaiian Affairs in the 2004 Senate Standing Committee Report No. 2612, that "the current statutory law is cumbersome and time consuming, and by implementing this measure, your Committee believes that the process would be more streamlined and better balance the right of the public to know about threats to their children and the rights of the defendants."

For the reasons discussed above, we cannot and should not participate in this effort to change the proposed amendment to a virtually meaningless form. We are not alone in this conclusion. Among those who oppose the changes to the bill proposed by your Committee on Judiciary are the Governor, the Attorney General, every Prosecuting Attorney in Hawaii, every Chief of Police in Hawaii, and virtually every sexual assault victim's advocacy organization in Hawaii. We therefore firmly support the passage of S.B. 2843, S.D. 1 without any further amendments.

Respectfully submitted by the following members of your Committee on Judiciary

/s/  
CYNTHIA THIELEN, Ranking Minority Member

/s/  
BARBARA MARUMOTO, Member

/s/  
LYNN FINNEGAN, Member

Representative Lee rose in support of the proposed floor amendment and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Lee's written remarks are as follows:

"Mr. Speaker: I rise in support of the Floor Amendment to SB 2843 a bill to implement Megan's Law here in Hawaii.

"Mr. Speaker, I fully support the compromise that has been worked out between the Attorney General and the Democratic leadership here in the Legislature and embodied in Floor Amendment 17. Hawaii citizens have the right to know where dangerous sex criminals live. Nothing could be a higher priority than protecting our keiki from the physical and emotional trauma that sex offenders can cause.

"This Floor Amendment makes significant changes to the HD1. Most importantly, while both the HD1 and the Floor Amendment make it clear that the public has the right to be kept fully informed about sexual predators, the language in the Floor Amendment is broader in scope and potentially covers sex offenders who are not as obviously dangerous to society. Second, the Floor Amendment shifts the responsibility from the court system to the Legislature for determining which offenses are serious enough to warrant public posting. Third, and related to the previous point, the Floor Amendment spells out more clearly what areas the Legislature will need to address in implementing the amendment, assuming the voters approve it.

"There are four areas that the new constitutional amendment language will authorize the Legislature to address. Those are: 1) which offenses will be subject to public disclosure; 2) what information should be made public; 3) how the information will be provided to the public; and 4) after what period of time and in what circumstances a sex offender will be allowed to petition to have his/her information taken out of the public domain.

"Mr. Speaker, I am glad a compromised has been reached. This is an important issue that needed to be resolved quickly. The stakes are too high to wait until next Session."

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

"Thank you, Mr. Speaker. In support of the amendment.

"Mr. Speaker, it is not a badge of honor to be only one of two states that does not have a registry in place. This is overdue, and thank goodness, going into place. The Supreme Court rendered a decision that was very hard on the people of Hawaii and very good for pedophiles and convicted sex criminals when it required an individual hearing before anybody could be placed on the sex registry. That happened two years ago.

"One of the reasons for delay in prosecuting, the very laborious process of taking 1,900 people and taking them to hearing one by one to meet the conditions of the State Supreme Court, was that there were measures finding their way to the U.S. Supreme Court on the question of sex registries in the 48 states that do have them. And as we know, last year, the U.S. Supreme Court ruled that it is perfectly within the bounds of the U.S. Constitution to have such registries. And then it became a matter of urgency for this Legislature to move ahead in light of the U.S. Supreme Court decision and overturn the State Supreme Court requirement of an individual hearing for each person before they could go on. And thank goodness, that is finally being done with this bill. So it would have to be done in the upcoming election. Couldn't be done any sooner. So within the framework of the period of time between the U.S. Supreme Court decision and the upcoming election, we are thank heavens, taking the appropriate action to clarify this problem.

"It is nice that the Attorney General and the prosecutors will try to clear names as they can under the laborious process of an individual for each. But the real solution is the one that's before us now. Let's have a sex registry like the 48 other states. Let's not stand alone with Massachusetts without this protection for parents and those concerned about the operation of sex criminals and convicted sex criminals.

"And as you know, Mr. Speaker, this is the crime with the highest rate of recidivism of any crime. So thank heavens we're moving forward."

At this time, Representative Fox requested a roll call vote at the appropriate time.

Representative Sonson rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Speaker. I'd like the record to reflect my opposition to this particular amendment, and reference my comments made on Floor Amendment No. 16. It was meant for Floor Amendment No. 17," and the Chair "so ordered."

Representative Sonson continued, stating:

"Despite my opposition, I do thank the, I guess, the interested people and third parties for working very hard in coming up with an amendment that has some good, meaningful language in it. What I'd like to state is that at least there is a protection where a certain individual may petition the court to remove this person's name out of registry for a good cause. And the Legislature will have control in how that will be.

"In addition, to oppose this particular amendment for me, because I don't, I personally don't take it very lightly when we

just go ahead and amend the Constitution. I believe that we can accomplish the same thing with law. We already have a law that deals with this registry. We should actually amend that so that the particular hearing, which if it's too difficult for the prosecutors, then we can have it in a different way. The reason why it's difficult for them to do it is because they ask for it to be that way.

"As I understand the history of it, Mr. Speaker, there was an opportunity for them to have the hearing to determine whether or not a particular person deserves to be placed in this list by having the hearing done at the same time as the sentencing, when everyone's already there. Instead as I understand it, they chose to have it as a separate hearing. It was the government's own choice to do so. So after a while, they changed their mind because, now what? Probably because now, it's too difficult. Because they don't have the manpower. Is it because they don't have the funding? Is it hard or difficult to locate witnesses? What? I don't know what the problem is. All I know is that they had this tool and they didn't do it. And by golly, they asked for it. And again, why come to the Legislature to do it this way? Of course, it's simple. It's out of convenience."

Representative Souki rose to speak in support of the proposed floor amendment with reservations, stating:

"Yes, thank you, Mr. Speaker. I wish to vote with strong reservations on this measure. I would want also to have the previous speaker's comments to be incorporated as my own," and the Chair "so ordered."

Representative Souki continued, stating:

"Mr. Speaker and Members, I do not believe we need a constitutional amendment. And I don't want to belabor this but we do have a statute right now. All that needed to be done was to amend the statute to provide the proper language in there without going to the Constitution. Thank you very much."

Representative B. Oshiro rose to speak in support of the proposed floor amendment, stating:

"Mr. Speaker, I stand in support.

"I just want to clarify some of the previous comments stated as to this burdensome procedure. The procedure established under Chapter 846E, it's not entirely, that burdensome. It was actually requested by the Attorney General and we have, in the last Session as I've said, in Act 40, we basically adopted all of the recommendations.

"Very briefly, this hearing is described as, the prosecuting attorney for each county is allowed to come forth in a civil action. And the reason they requested that was they didn't want a public defender there. After this civil action, what has happened is the State shall have the burden of proving by a preponderance of evidence that the sex offender is required to register under this Chapter. Basically, as long as they show that this guy was convicted of one of the crimes listed in the statute, you've met your burden. The burden then shifts to the sex offender who is given an opportunity to present evidence to rebut the presumption, and show that the offender does not represent a threat to the community. So basically, the offender without a public defender will have to try and show that they're no longer a danger to community. That's a very heavy burden to show, and I doubt there will be very many of these people who will be able to hire the psychologist or psychiatrist necessary to establish such evidence and rebut the presumption.

"Secondly, as to this 1,900 backlog of cases, unfortunately we don't have the most recent breakdown, but in 2002, the Attorney General does issue their Registered Sex Offenders in

Hawaii Report. And when we take a look at this report, on page 27, table number 17, when you look at the most heinous crimes, the ones that we really want to be put on the registry, Sex Assault 1, Sex Assault 2, Rape, Incest, Sex Abuse 1, Sex Abuse 2, when you add those all together, that comes out to about 55%, by my estimate. Of course, this is only about 1,450 cases. But we can see from that, there's 700 of these cases out of this alleged 1,900, that are the most heinous and most critical for the public to gain access. And again, our primary point, and consideration, and concern, is that since this law was enacted, in July 1 of 2003, there have been almost no hearings requested. Not even filed for an action.

"And again, they may say there's a backlog but until you even try one case, all the way through the process, all the way until a judge has issued a decision, I don't see how you can say it's burdensome. Don't start with the cases that are in 1960 or 1970. Start with the ones you did last week. Start with the ones you did last month. I mean really, what we are asking is please, the public has cried for this information, you have the tools available. Please just try and get this done. Thank you."

Representative Caldwell rose in support of the proposed floor amendment and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Caldwell's written remarks are as follows:

"I rise in support. We must protect our children and others from sexual offenders.

"Nothing is more important than protecting the people of Hawaii from violent sexual offenders and crimes against minors.

"Like every other Democrat and Republican, I want to see the names and faces of dangerous offenders posted on the Internet as soon as possible.

"We have now reached a compromise that hopefully will achieve this goal.

"It took the vote of the Judiciary Committee last week to help make this happen.

"It brought all the interested parties to the table to decide what action is necessary now, and I emphasize NOW Mr. Speaker, to protect our children and others from violent sexual crimes.

"In 2000 the Hawaii Supreme Court shut down Bani on constitutional grounds, Hawaii's sexual offender registry that had been posted on the Internet.

"During the 2002 legislative Session, the State Attorney General and the Prosecuting Attorney requested new legislation in response to the Bani decision. SB 2698 and HB 2440 were introduced to get the sexual offender registry up and running again.

"The State Attorney General and the Prosecuting Attorney both strongly supported these measures.

"In testimony before the House Judiciary Committee on February 2, 2002, supporting HB 2440, the Attorney General explained:

"It should be noted, however, that any statute that is enacted can be invalidated again by the Hawaii Supreme Court if it does not correctly anticipate the Hawaii Supreme Court's opinion regarding future constitutional challenges. Therefore, this bill addresses not only the letter of the Bani

opinion, but attempts to address the spirit of the Bani opinion as well."

"In testimony before the House Judiciary Committee on April 2, 2002, in support of this legislation the Prosecuting Attorney stated:

"We strongly support these amendments which will satisfy the concerns of the court and will permit continuance of both the registration and notification components of the state law."

"The Attorney General at the same hearing explained that prior to drafting the bill, in response to the Bani decision:

"Many attorneys, staff members, and supervisors within the Department of the Attorney General studied these issues in depth and conferred with each other in numerous meetings. Then, after conferring in-house for weeks, the first draft of the bill was submitted to outside federal, state, and county agencies for comments. After weeks of additional drafts designed to address the comments of outside agencies, the final form of the bill was submitted to the legislature."

"The Legislature agreed to the Attorney General's and the Prosecuting Attorney's requests and set up a hearing process to get the registry up and running again.

"It was a criminal hearing process.

"Nothing happened.

"The next year, in 2003, the Attorney General and the Prosecuting Attorney requested that the hearing be made a civil proceeding.

"The Legislature agreed to this request.

"Again, nothing happened.

"This year the Attorney General and Prosecuting Attorney asked for a constitutional amendment doing away with the very hearing process that they had requested two years before.

"Mr. Speaker, the public is frustrated. The Legislature is frustrated. And I am frustrated. We have been waiting for more than two years. The Attorney General's office has not completed a single hearing against a single sex offender. As a consequence, not a single name of a sex offender has been published on our registry since the Bani ruling in 2000.

"Two years wasted, and now they are asking for a sweeping constitutional amendment that would take another 18 months to two years to implement.

"Mr. Speaker, the public cannot wait that long. The public, and indeed the heroic survivors of sexual abuse, should not have to wait another day.

"I am confident that, with the compromise struck with the Attorney General, we will now see the Attorney General working aggressively with the Prosecuting Attorney to put violent, habitual and dangerous sexual offenders on the sexual offender registry so that our children and others can be better protected while the constitutional amendment is implemented during the next 18 months, should the people of Hawaii decide to approve it.

"Thank you, Mr. Speaker."

Representative Finnegan rose in support of the proposed floor amendment and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in support of the amendment. I am glad that my colleagues across the aisle have decided to reverse the decision of the Judiciary Committee and restore to this bill the right of parents and other members of the community to know if a potentially dangerous sex offender is living in their neighborhood. The floor amendment restores the bill to allow a constitutional amendment that would give the Legislature the power to determine which categories of offender would be subject to publication of their registration information; what information could be accessed and how; and when and under what conditions an offender would be able to petition for the termination of publication. This mechanism will protect the public's right to know while still leaving the Legislature the flexibility to respect the privacy rights of those convicted of only minor offenses.

"Also, I would like to say that I was glad to see the House Majority and the Attorney General work together on this issue to find a workable compromise. I hope we will see more of that this Session.

"Thank you, Mr. Speaker."

Representative Kahikina rose in support of the proposed floor amendment and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Kahikina's written remarks are as follows:

"Position: In support.

"Purpose:

Proposes a constitutional amendment providing for a public right to access information regarding persons convicted of certain sexual offenses, as determined by the Legislature.

"Reasoning:

Children and innocent adults have a right to be left alone without worrying about the potential of being the victim of a sexual offense more so than a child molester has the right to be left alone. People who have violated the law have given up some amount of protection in order that the public is protected.

"Finding sex offenders in order to give them due process rights without reliable up-to-date contact information could be quite difficult and dangerous.

"I believe the greater the offense they are convicted for, the more information the public should be able to access.

"The monitoring, supervising and treating those convicted of sexual offenses is important to everyone. Recidivism rates for sex offenders, according to numerous studies, are far higher than for most other criminals; therefore, knowledge of their whereabouts is considered essential.

"Children are the most vulnerable population in our society. Many things in our society can be replaced. But you cannot replace a child's life or a child's emotional well being."

At 3:18 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:19 o'clock p.m.

The Chair then stated:



"At this time, roll call has been requested by one of our colleagues. To state it once more, for those of you who support the floor amendment, you will vote aye. Those who oppose the amendment will vote no. Madame Clerk, please call the roll."

Representative Thielen interjected, stating:

"Just to clarify, this is the floor amendment ..."

The Chair responded, stating:

"Representative Thielen, there is no need to mention that it is. It's there for everyone and I did share with everyone that this is Floor Amendment No. 17. Is there a reason for trying to interrupt when the Chair is trying to facilitate the decorum of this House, Representative Thielen? Madame Clerk, please call the roll."

Roll call having been previously requested, and by unanimous consent, granted, the motion that Floor Amendment No. 17, amending S.B. No. 2843, SD 1, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII," be adopted, was put to vote by the Chair and carried on the following show of Ayes and Noes:

Ayes, 50: Representatives Abinsay, Arakaki, Blundell, Bukoski, Caldwell, Chang, Ching, Evans, Finnegan, Fox, Hale, Halford, Hamakawa, Herkes, Hiraki, Ito, Jernigan, Kahikina, Kaho`ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Leong, Luke, Magaoay, Marumoto, Meyer, Mindo, Morita, Moses, Nakasone, Nishimoto, Ontai B. Oshiro, M. Oshiro, Pendleton, Saiki, Say, Schatz, Shimabukuro, Souki, Stonebraker, Takai, Takamine, Takumi, Tamayo, Thielen, Wakai and Waters.

Noes, 1: Representative Sonson

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on S.B. No. 2843, SD 1, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII," was deferred for a period of 48 hours.

At 3:23 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:25 o'clock p.m., with the Vice Speaker presiding.

### UNFINISHED BUSINESS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1222-04) recommending that S.B. No. 3051, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3051, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition.

"This measure gets the State Agricultural Department into land use issues at a time when we're basically trying to streamline the process and turn over much of that function to the counties through a reform measure that may or may not see

the light of day. I think this is going in the wrong direction and that's why I oppose this."

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

"Thank you, Madame Speaker. In strong support.

"This bill contains provisions which would promote farming and in particular, increase agricultural viability on lands which we intend to designate as important agricultural lands. Specifically, this bill provides for: one, research and marketing on the part of the Department of Agriculture and the Farm Bureau; two, the development of new agricultural products by the University of Hawaii College of Tropical Agriculture; and three, this bill allows for the purchase of development rights or the donation of such agricultural easements by land owners, which would help ensure the availability of prime agricultural lands in perpetuity. These are excellent actions unto themselves but will also strengthen the landmark important agricultural lands legislation, which we will shortly address. Thank you, Madame Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3051, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fox, Meyer and Ontai voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1223-04) recommending that S.B. No. 3222, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3222, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In strong support.

"This bill allows people who are injured in car accidents a choice in the kind of doctors that they want to go and see. Naturopaths don't cut you open. The other doctors do. So therefore giving them this choice, or giving me a choice in case I get into a car accident. I may want to go to someone who won't have to cut me open to cure me. Thank you."

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

"Yes, Madame Speaker. You're very good. You're going in high gear now. Madame Speaker, I wish to speak in favor of this program and basically of this bill. And I basically want to thank the Chairman of CPC for the passage of this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3222, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fox and Stonebraker voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1224-04) recommending that S.B. No. 2134, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2134, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1225-04) recommending that S.B. No. 2302, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2302, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm rising to speak in support of this measure.

"Thank you very much. The purpose of this bill, Madame Speaker, is to appropriate funds to the Filipino Centennial Celebration Commission for the planning, preparation, implementation of programs and events to commemorate the one hundredth anniversary of the arrival of the first Filipinos in Hawaii in the year 2006. When the first Filipinos arrived in Hawaii on December 20, 1906, they were brought to work at the former Olaa Plantation on the Big Island. They were only the second to the last of ethnic races to have immigrated to these islands. The Spaniards came a year later in 1907. But long before that Madame Speaker, the first Chinese came in 1852, the South Sea Islanders between 1859 and 1865, then the Japanese in 1868, followed by the Portuguese in 1878, the Norwegians and Germans in 1881, and the Puerto Ricans in 1900. And of course just last year, in 2003, the Korean people celebrated their centennial in Hawaii.

"The Filipinos here in Hawaii have come a long way from 1906. And the Filipino people have made their mark on Hawaii's island life since coming here 100 years ago. More and more Filipinos in America or those of Filipino ancestry are assuming power and responsibility in this State and in the private sector.

"I think it is appropriate that they are able, and subsequent achievements, to be commemorated not only as an integral component of Hawaii's rich history but more importantly, we want to leave a legacy for future generations of Filipinos and Filipino-Americans to continue to make their mark in the future of our island home.

"The Centennial Commission Madame Speaker, has been tasked to do that. And I'm very proud to see a group of highly intelligent and committed individuals that make up this Commission. The Commissions first met in February of 2003 and continues to meet regularly on the second Saturday of every month. And so far, they have put together a theme and a vision of the celebration, and that is, 'Filipinos in Hawaii: A Hundred Years and Beyond.'

"Madame Speaker, to me this theme is very important. And if I may just share my own personal experience. Being an immigrant and coming from the Philippines, in a remote area in the Philippines. It's a barrio. And being able to come to Hawaii in particular, is indeed a major accomplishment, as far as opportunity is concerned. And this celebration, I would like

to believe that this is just a recognition of those who have paved the way for us and because of the many opportunities given to us. And I'm just hoping that this recognition is not only to showcase what we have accomplished as Filipino-Americans in Hawaii, but hopefully it's going to be translated to responsibility. Responsibility in preparing the next generation and our young children.

"And so Madame Speaker, this celebration will officially start on December 17, 2005 and culminate on December 23, 2006. And the plan is for programs and events to be held statewide so that Filipinos on all islands can participate. And I encourage you Madame Speaker and colleagues to log on to their website which was up and running only three weeks ago. And this the website: [www.filipinosinhawaii100.org](http://www.filipinosinhawaii100.org).

"First off is the logo. The Commission has enlisted input from the public by creating a logo contest with the winner to be announced at the centennial kickoff event on Saturday May 8, 2004. And so as you can see, Madame Speaker and colleagues, the Commission is hard at work already a year and a half into its opening ceremonies in December of 2005. And the Commission has started and will continue to seek partnerships with public and private agencies not only here in Hawaii but also elsewhere throughout the United States, the Philippines, and other parts of the world where Filipinos now reside to come to Hawaii to participate in this very important celebration.

"So this is a great milestone for Filipinos and Filipino-Americans in Hawaii. And this occasion however, will not only be the Filipinos' pride alone, but the whole State as well. Because as envisioned by the Commission, the event will give Hawaii, the opportunity to showcase its diversity and dynamic landscape that is due in large part to the contributions of all the ethnic populations."

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

Representative Abinsay continued, stating:

"Thank you Majority Leader. And thank you Madame Speaker.

"And this is what makes our islands so unique and so inviting. So I'm a little bit disappointed that House Bill Number 2186, HD 2, SD 1 which is the companion bill to this measure has not moved in the Senate. So Madame Speaker and colleagues, this measure is now the only measure alive for the Filipino Centennial request for funding.

"Madame Speaker, on behalf of the Centennial Commission, and the Filipino community in Hawaii, on the mainland, and around the world, I'm asking for your support for this special celebration, the Filipino Centennial, and it's asking for some more funding. And this is through the Senate Bill 2302. Thank you."

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

"Thank you, Madame Speaker. On the same measure, I'd like the words of the Representative from District 29 to be entered in the Journal as mine. In strong support," and the Chair "so ordered." (By reference only.)

Representative Magaoay continued, stating:

"But I want to echo that also being a Filipino, local born, I'm very proud to be what I am. And I appreciate my colleague for

expressing what the Centennial will be bringing forth to us in year 2006. Thank you."

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

Representative Sonson rose to speak in support, stating:

"Thank you, Speaker. As you know, I'm from Waipahu. And when they say Waipahu, that's where the Filipinos are usually accused of living. Well, Waipahu is a nice place. I'm in support. Because there's a lot of Filipinos there. They have to travel all the way to Waikiki because they work there to support our economy. Aside from being the workforce since they came here, they've also tried to share their culture. We tried to share our culture. It's not all about Frank Delima's version. So I wanted to have this opportunity for the State of Hawaii to actually see how Filipinos act by having a party that's all year around.

"We should support this because as I understand it, there's probably a Filipino in every corner of this island, the next island and so forth. We represent about 16% of our State population and we're the fastest growing of all the ethnic groups that have come. In other words we're still coming and coming. And we'll all soon be here.

"So please welcome our visitors from the Philippines, who will be joining us, who will express their thankfulness that they got rid of us, and now we're here. And that we who already live here, moved here, have given this precious opportunity to move to Hawaii, to the United States even, we would like to express our love for this State and the people that live here because truly this is a land of opportunity.

"I tell you Madame Speaker, where I went to school in the Philippines for four years before I came to America. And I'm so thankful because the person that was valedictorian in all those four years ahead of me, they didn't amount to much, because there are no opportunities in the Philippines. He became a security guard. Because I made it here, I am here today holding this microphone and talking to you. I think that the opportunities in Hawaii, in this great State and also in the United States of America are so awesome. I am so happy to be able to say this to you.

"Please support this bill. There are a lot of Filipinos out there who would like to ask you for your help. It's \$1 according this. I don't think we're asking for \$1 and I know that's just a figure that they put there because they intend to fully fund it. So thank you very much."

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

"Thank you, Madame Speaker. I stand in strong support as a non-Filipino, but a Filipino at heart.

"Thank you, Madame Speaker. I'd like to share some accolades with my colleague, my *compadre* from Kalihi, for the work and his leadership in putting together the Commission. I had a chance to go with him, along with the Representative from the North Shore and also the Representative from Ewa, to a place called Fort Salamagi in Cabugao, in the home province of my colleague from Kalihi. And there, he shared his vision of the Commission and he told of the many immigrants who left from Port Salamagi to pursue their dreams in Hawaii, the *Sakadas*. And he also shared how important it was to commemorate this occasion not only here in Hawaii but also in the Philippines. And I have to tell you it

was a 'chicken skin' feeling. Not fighting chicken, but 'chicken skin' feeling. And I just want to acknowledge him because I think because of his leadership and his vision, this will be truly a momentous and memorable centennial celebration that we can all look forward to, Filipinos and non-Filipinos alike. So I'd like to say to him, *maraming salamat po*. Thank you."

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

"*Magandang hapon*, Madame Speaker. Good afternoon. I rise in strong support of this measure.

"Madame Speaker, I'm just thankful to my own relatives who made the sacrifice to come here so that I could be here. We haven't been here quite a hundred years. Our family came over in 1930. But we are delighted and honored to be here in the United States and the United States citizens. I would like to insert remarks into the Journal in support of this particular measure. Madame Speaker, I'd also like to thank all the Members for supporting this and for their vote in support of this I want to say, *maraming salamat po sa inyong lahat*."

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2302, Senate Draft 2, House Draft 1, which seeks to appropriate matching funds to the Filipino Centennial Celebration Commission for the Filipino centennial celebration.

"Mr. Speaker, the year 2006 marks the 100th anniversary of the first significant arrival of Filipinos in Hawaii. During the first half of the twentieth century, Hawaii's agricultural economy was in need of a constant supply of labor. To respond to this huge demand, the Hawaiian Sugar Planters Association set up recruiting centers in the Philippine cities of Vigan, Ilocos Sur, and Cebu. In response to the recruiting, in 1906 the first group of fifteen Filipino laborers migrated to Hawaii. After numerous success stories of the first sugar workers or 'sakadas' reached the Philippines, Filipino migration rapidly increased. From 1906 to 1934 more than 120,000 Filipino sugar workers, called 'Hawayanos' in the Philippines, arrived here to work in the plantation fields. By the 1930s, Filipinos composed the largest ethnic group of workers in Hawaii's plantations. My grandmother was among those who arrived here in 1930 from the Philippines to work in a Kahuku plantation. The hard work of these Filipinos helped to form the base of Hawaii's predominantly agricultural economy of the early 20th Century.

"In 1942, Filipinos were finally allowed into military service. During World War II, many Filipinos from Hawaii and all over the country demonstrated their patriotism by joining the military effort. Approximately 142,000 Filipinos fought side by side with the United States soldiers under the American flag in Europe and Asia during the War. Other groups of Filipinos contributed to the effort by involving themselves in the mobilization efforts. Through their valor and work-ethic demonstrated in World War II, Filipinos earned the admiration and respect of the mainstream American public.

"Mr. Speaker, over the years, the Filipino business community in Hawaii has grown significantly. In a census taken by the federal government in 1997, there were over 7,500 Filipino owned businesses in Hawaii with sales and receipts totaling over \$500 million. Filipino business owners have also formed associations such as the Filipino Chamber of Commerce and the Honolulu Filipino Junior Chamber of Commerce. These groups have committed themselves to giving back to the Hawaii community while supporting the personal and professional development of their members who now come from all different cultures and backgrounds.

"Filipinos have also had great influence in the health care field of Hawaii. The Filipino values of family support and care for the elderly have greatly contributed to the success of Hawaii's home care industry. In fact, over 90% of Hawaii's adult residential care homes are owned and operated by Filipinos. Elsewhere in the medical field, Hawaii's Filipinos have made huge contributions to both the state and the nation. Dr. Jorge Camara, for example, made national headlines in 1998 when he became the first physician in United States to use telemedicine to conduct eye surgery. Organizations such as the Philippine Nurses Association and the Filipino Physician Coalition have shared their extensive health related knowledge to all of Hawaii by participating in community programs to promote health awareness and education.

"Mr. Speaker, Hawaii has also produced many talented Filipinos in the field of arts and entertainment over the years. Our very own Miss Hawaii 2000 Angela Baraquio made history when she became the first Asian-American Miss America in 2001. Byron Acohido of Wahiawa, while working at the Seattle Times as a reporter, won a Pulitzer Prize in 1997 for his report on rudder system problems in the Boeing 737. Filipino-American athletes such as Major League Baseball player Benny Agbayani and 1999 Boxing Amateur World Champion and 2000 Olympian Brian Viloria have enjoyed national success in their respective sports. And recently, millions of Americans from all across the nation have shown their support for Hawaii's own Jasmine Trias and Camille Velasco on Fox's American Idol singing competition, both of whom are Filipinas.

"Filipino-Americans have been very involved in Hawaii's political process over the last half century. Ever since 1954, when Peter Aduja was elected to the Territorial House of Representatives and 1962, when Benjamin Menor became the first Filipino-American to serve as a Hawaii State senator, Filipinos have continued to serve the State of Hawaii in the political arena. In fact, our own former governor, the Honorable Benjamin Cayetano, became the first Filipino-American governor in the history of the United States when he was elected in 1994. Today, myself and several of my colleagues in the House of Representatives and the Senate serve the state of Hawaii as proud Filipino-American legislators.

"Since the arrival of the first laborers, the Filipino population in Hawaii has grown immensely. It now accounts for approximately 23% of our total population in Hawaii. The Filipino population is the second largest Asian population, second in size only to the Japanese. That is a lot of people, with a lot of history, and a lot of stories. Many Filipinos came to Hawaii because they saw the islands as a paradise of happiness and prosperity. They were hard working and deeply committed to their families and homeland, traits that are still richly ingrained in our people today. The unceasing friendliness, unique culture, and traditions that the Filipinos brought to this island paradise almost 100 years ago have been embodied into our unique Hawaiian culture and the Spirit of Aloha that exists in our State today.

"Mr. Speaker, I myself am a product of the Filipino migration to Hawaii. As I said earlier, my family is originally from the Ilocos Norte region of the Philippines. My late mother, Alohalinda Cadelinia Sales Pendleton, was born in Kahuku shortly after our family immigrated here from Ilocos. My family has continued to reside in Hawaii since 1930.

"I am also married to a Manila-born Filipina, Noemi Protesta Pendleton. I am proud of my Filipino-American heritage and am honored to number among the handful of Filipino-American legislators in the United States. As a legislator, it is a great honor and pleasure to speak in support of the many Filipinos

whose hard work, rich traditions and cultural contributions to our state have enriched all of our lives. They deserve our recognition of their accomplishments.

"Thank you, Mr. Speaker, for the opportunity to speak in strong support of Senate Bill 2302, Senate Draft 2, House Draft 1."

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

"Thank you, Madame Speaker. Just in strong support. I think our multicultural heritage is the strength of our State. I'm proud of it. And I might add that I have a true joy and pleasure when I was teaching at Maemae, to have children whose parents came from various parts of the Philippines speaking Tagalog or Ilocano, Bisayan. And it is indeed an asset to our State. Thank you."

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

"As a native of the Philippines, I rise in strong support. And I just note that my father spent most of his life before and after the war, in the Philippines."

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

"Yes, Madame Speaker, a potential conflict of interest. My wife and children are of Filipino blood," and the Chair ruled, "no conflict."

Representative Souki continued in support of the measure, stating:

"Okay, thank you very much. I wish to speak in favor of this motion. And if I could insert the comments of the Representative from Kalihi as my own, I would be very proud. Thank you very much," and the Chair "so ordered."

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

"I must stand in strong support because I lived six years in the Philippines and one of my children was born in the Philippines. So I think this is a very good resolution. And I'm strongly in support of it."

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

"Well with a name like Moses, I'm definitely not Filipino. But I did spend about a year in the Philippines through different military tours. And I have a lot of Filipinos in my district. I'm in support. In strong support.

"I was very surprised one day when I was down at one of the hotel fairs, and they had a name tag that they gave me and it had a 51 on it. I said, what's the 51? It says that's how many Filipinos from your district work in the hotel. And I was amazed because that's a long drive from Kapolei. I mean this is a long drive, but that's an even longer drive. And I said at that point, we just have to build more hotels if that's what they want to do, right out in Kapolei. And of course we're doing that. But there's other things for them to do too. And that's exactly what we're trying to do. Create more jobs out there. Thank you."

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

"In strong support, Madame Speaker. And written comments. And just a short comments also. Just saying that this will be of economic benefit for us as well, as people are already spreading the word to the mainland. Filipinos will be coming here to help celebrate throughout the year, as well as from the Philippines. And also just like to comment that my name is Finnegan but yes, I am Filipino.

"And another short comment is aside from the workforce, we've been experiencing that Filipinos also are great entrepreneurs and have lot more to give to our community than just from being hotel workers. Thanks."

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in strong support of S.B. 2302, S.D. 2, H.D. 2. As a Filipino woman, proud of her heritage and her culture, I am very happy to see the Legislature appropriate this money to the Filipino Centennial Commission for the Centennial Celebration in 2006. We just completed the Korean Centennial Celebration, which was a wonderful celebration of our Korean community and all they have contributed to our islands. I have equally high hopes for the Filipino Centennial Celebration. Our Filipino community has contributed countless business people, health care providers, civic and community leaders, members of the armed forces, and political leaders to our State and to our nation. They have made profound contributions to our culture. They deserve an opportunity to celebrate, and I know our state looks forward to celebrating with them.

"Thank you, Mr. Speaker."

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

"Madame Speaker, I'll stand in strong support. And as the previous speaker mentioned her name, my name is Tamayo but I'm not Filipino. My husband's from the Philippines. I spent a few years there when I was younger. A lot of my best friends still live there. And I'm very proud and honored to have such wonderful friends and family. Thank you."

Representative Kaho'ohalahala rose to speak in support of the measure, stating:

"Thank you, Madame Speaker. In strong support. And I just want to say on behalf of the Filipinos that are on the Islands of Lanai and Molokai, Kalaupapa, and East Maui, that I stand in strong support of this measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2302, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FILIPINO CENTENNIAL CELEBRATION COMMISSION," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1226-04) recommending that S.B. No. 2686, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2686, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1227-04) recommending that S.B. No. 2869, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2869, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MAINTENANCE OF PROPERTIES WITHIN THE KALAELOA COMMUNITY DEVELOPMENT DISTRICT," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1228-04) recommending that S.B. No. 2948, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2948, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HEALTH NURSING SERVICES," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1229-04) recommending that S.B. No. 2994, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2994, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE USE TAX," passed Third Reading by a vote of 51 ayes.

At 3:46 o'clock p.m., the Chair noted that S.B. Nos.: 3051, SD 2, HD 1; 3222, SD 2, HD 2; 2134, HD 1; 2302, SD 2, HD 1; 2686, SD 2, HD 2; 2869, SD 2, HD 1; 2948, SD 2, HD 1; and 2994, SD 1, HD 2; passed Third Reading.

At 3:46 o'clock p.m., Representative Pendleton requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:47 o'clock p.m.

#### LATE INTRODUCTION

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

Representative Pendleton introduced a choral group from the Mesa Grande Adventist Academy of Southern California.

#### UNFINISHED BUSINESS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1230-04) recommending that S.B. No. 3170, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3170, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I rise in opposition.

"Madame Speaker, I think this bill goes a little bit too far. I think it might raise the price of gasoline by requiring 85% of all gasoline sold to contain 10% of ethanol by volume by the year

2006. I don't believe that our industry for producing ethanol in this State will be geared up to produce that much ethanol that we'll be importing ethanol. And it just might compound our problems. Thank you."

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

"Thank you, Madame Speaker. In support.

"Madame Speaker, this bill does two good things. It repeals and starts off with a new bill or a new concept for law. Madame Speaker, what's being repealed is a law that states that all of our gasoline must have 10% ethanol. Madame Speaker, this law has never been implemented. However it was useful when we passed it. It was useful for interaction with anyone with environmental sensitivities. To let them know we're sympathetic with environmental concerns. And that we in fact did require ethanol in our gasoline. I think probably everyone in the community has forgotten that because it was several years ago that we passed this in the first place.

"But Madame Speaker, now we get to come back and do that again. With this bill, we're saying that in 2006, I believe the beginning of '06, that 10% ethanol will be in the 85% of all of our gasoline, almost all. So we can again tell our environmentally conscious constituents that in fact we're concerned with our environment. And that we're going to have better gasoline, better fuel, better environmentally friendly practice. So for those reasons, I'm in favor of it Madame Speaker.

"I would like to point out a caveat, perhaps a 'poison pill' to this bill. There are many, many fuel vessels, underground fuel vessels at service stations throughout the State of Hawaii that cannot hold ethanol fuel. They will just fail. Madame Speaker, more than half of what are called fiberglass tanks, whether pure fiberglass tanks or fiberglass-lined steel tanks, are made with resins that while they are very compatible with petroleum products are not compatible with ethanol. And they will fail if we put ethanol in them. So if by some reason, we ever do implement this new law requiring ethanol, we're going to need to solve that extensive problem. Thank you."

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

"Thank you. In opposition.

"Madame Speaker, I just want to state that I am in very strong support of the production of ethanol. But I believe my opposition to this particular bill is that in Committee it was clear to me that the amount of locally produced ethanol wasn't going to quite meet the mandate presented in the bill. So I believe strongly that if we're going to support ethanol, it needs to be tied to local production. And what I heard coming out of Committee is that more than likely we're going to end up having to import ethanol from foreign countries in order to meet the mandate set up by this bill. So for that specific reason, I'm in opposition. Otherwise, I support ethanol in general. Thank you."

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

"Thank you, Madame Speaker. Like the previous two speakers, and I'd like to incorporate their words. I am for the use of ethanol, and I am in opposition.

"I think the Body needs to realize that cars won't run on ethanol. They just won't work on 100% ethanol. You have to keep gasoline around. And as you heard, you can't put the

ethanol in most of the tanks we have here in Hawaii. So there's going to be tremendous problems here.

"But this bill was really a job retention bill. It was to keep sugar workers working the sugar fields. The problem is they told us in hearing, they probably can't make enough sugar to make the ethanol. So as the previous speaker said, they're going to have to import it. So we have to understand what we're doing. We're actually not creating all the jobs we want. And we're exporting our money to some place else to get the sugar cane or the molasses or whatever they're going to use to make the ethanol. And then, we don't have the tanks to hold it. So we're going to create a whole bunch of problems. Thank you."

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

"Thank you, Madame Speaker. In support.

"I'd like to disagree with the last two speakers. Although the sugar folks said that they currently don't have or grow enough sugar, if we pass this bill, they will guarantee that they will grow enough sugar. They're waiting for us to pass this bill. Thank you."

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

"Madame Speaker, I rise in opposition. And I totally agree with the comments made by the previous speakers in opposition.

"I'd like to point out that we are worrying about the high price of gasoline right now and looking at a gas cap bill. But this may actually increase the cost of gasoline in that it will require a lot more equipment, separate pumps, separate underground tanks, separate holding facilities on each island to accommodate this requirement. So I'm sure that it won't be free and that somebody will be paying for it. I'm not sure who that would be. Probably it would trickle down to the consumer to pay the increased cost.

"In addition the penalties on this bill seem to be very heavy, \$2 a gallon. And quite an onerous bill and heavy requirement. I don't think we should pass this measure. Thank you very much."

Representative Blundell rose in opposition to the measure and asked that the remarks of Representatives Halford, Bukoski and Marumoto be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Bukoski rose to respond, stating:

"Thank you, Madame Speaker. And respectfully, I'd like to disagree with my colleague from Waimanalo. It was clear when we asked the question of all the facilities that are being built and that are planned to be built, that they will not have the capacity to satisfy the forty million gallons of ethanol that's going to be required to satisfy this mandate. We will end up being importing. And it was also stated that it would be financially beneficial for these ethanol distributors to import versus growing it locally. So again, if we tie it to local production, I would be in full support of this bill. Thank you."

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

"Madame Speaker, in strong support. This is a long time coming, in my mind. If some of you will remember back in the mid-70s when we had the oil embargo and the price of a barrel



of oil went over \$30 a barrel, there was very strong support for ethanol. And in fact, Senator Inouye got over \$10 million to build an ethanol facility along the Hamakua Coast. It's unfortunate that when Carter lost the election, that money disappeared. And I wonder what would have happened today if in fact we had that facility. Maybe we'd still see sugar growing along the Hamakua Coast. And maybe we'd see people being gainfully employed and not having to drive over to the Kona side to find a job to clean a hotel room.

"Having said that Madame Speaker, this bill does address concerns raised by some of the other people who were in opposition. And that it gives a relief valve to the DBEDT should they not be able to meet their targets to put off this 2006 deadline. So what it does, it provides incentives to try and get people to start to build these facilities. And hopefully there will be enough cane land to grow the sugar cane that then is refined into ethanol. The country of Brazil, Madame Speaker, is a 100% on ethanol now. Blended. It works wonderfully down in that country. It's a Third World country. If they can do it, a first world country like that United States can also do it. Our State can do it. Thank you."

Representative Jernigan rose to respond, stating:

"I'll stand for a second time. Thank you. I just want to clarify that I do support ethanol. I support alternative fuels. I support our farmers that would be growing it. I just wanted to clarify that my concerns are more economic and just our ability to do it."

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

"Thank you, Madame Speaker. Just rise in support. I'd like to adopt the words from the Representative from Manoa as my own," and the Chair "so ordered."

Representative Morita continued, stating:

And also point out that ethanol is being used in other states. California, Nevada, they don't have any problems with having separate facilities or cars breaking down from the use of ethanol. I mean these are just kind of 'red herring' issues. So that's all I wanted to say. Thank you."

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

"Thank you, Madame Speaker. I'm rising in opposition to this measure.

"I wanted to just sort of echo the comments made by the Representative from Kahala. It's ironic that we are looking at a bill that will, without a doubt, raise the cost of each gallon of fuel that we put in our cars while we are trying to pass another bill which will establish caps on what the industry can charge.

"But there are also some other ramifications to this bill because there will be a fairly large loss of tax dollars. Ethanol blended gasoline in this bill has an excise tax waiver of 4 cents per gallon. What that pencils out to is a loss of about \$16 million in State revenue if we are to pass this bill. Ethanol also enjoys a partial 5.3 cent per gallon exemption from the federal excise tax on gasoline. So that would be a loss of about \$52 million.

"The other hidden cost is that they cannot put the ethanol in at the refinery. It has to be done at the tank farm where tanker trucks are going to pick up the gas. They can't mix it in a container where they have straight petroleum. So each one of these locations will have to be retrofitted with some kind of a

mixing tank that they can mix in the appropriate amount of ethanol to meet the standards asked for in this bill.

"And in Committee, it was also made clear in the questioning period that Gay and Robinson said if they didn't have enough of their own homegrown sugar that they would not have a problem buying bulk sugar on the world market because the cost was low. And they'd bring it in to make as much ethanol as they could. And that sort of goes counter to the part of what the testimony was that this would assure many more agricultural jobs. But you can see that these people looking to make ethanol have other plans. So for those reasons, I'll be voting no."

Representative Morita rose to respond, stating:

"Just a brief rebuttal. The ethanol issue is one of the most studied energy alternatives within the Department of Business, Economic Development, and Tourism. And the most recent cost benefit analysis shows an overall benefit to the State, not any kind of revenue loss, but an overall benefit. And not only keeping people employed in the agricultural sector but also generating revenues for the State. Thank you."

Representative Meyer rose to respond, stating:

"Thank you. I just realized I forgotten a few points I wanted to make.

"The Representative from Hanalei had talked about how ethanol, as a oxygenate, is added to gasoline in other states across the country. But just recently, Governor Schwarzenegger in California has asked the EPA to waive the requirement that they do that because the cost is of great concern to them.

"There's one other point I wanted to make but that's all right."

The Chair then stated:

"If you remember, you can just incorporate them into the written remarks. Okay, now can we move on?"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3170, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PETROLEUM PRODUCTS," passed Third Reading by a vote of 35 ayes to 12 noes, with Representatives Blundell, Bukoski, Finnegan, Fox, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Stonebraker voting no and with Representatives Herkes, Hiraki, Nakasone and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1231-04) recommending that S.B. No. 2595, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2595, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. Real briefly, I'd like to stand in support of Senate Bill 2595.

"I believe it's been about 5 years that the counselors have tried to secure licensing. And I think with this measure, they'll finally succeed. I want to congratulate them on their perseverance. I also want to thank the Director of the

Department of Commerce and Consumer Affairs for accommodating some of these changes to allow them to with the start up funding. This measure will take effect next year. And hopefully we can assure people who do use counselors assurance of quality service. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2595, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL COUNSELORS," passed Third Reading by a vote of 47 ayes, with Representatives Herkes, Hiraki, Nakasone and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1232-04) recommending that S.B. No. 2404, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2404, SD 2, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EXPENSES OF THE 2005 NATIONAL ASSOCIATION OF COUNTIES MEETING IN HONOLULU," passed Third Reading by a vote of 47 ayes, with Representatives Herkes, Hiraki, Nakasone and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1233-04) recommending that S.B. No. 2396, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2396, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm rising in opposition to this measure.

"The proposed bill exempts certain charitable groups from the GET for certain conventions, conferences, trade show fees. It also exempts contributions to such groups from the gross excise tax. I oppose this bill because for the following reasons.

"This measure will negatively impact our State's available budget resources due to a projected revenue loss that is greater than \$2 million according to the Governor's Tourism Liaison. Without more specific language, the bill will be too difficult for the Department of Taxation to administer. And also the bill also does not specify what conditions an association, order, society, or organization must satisfy in order to qualify for the GET exemption.

"It is unclear what types of meetings would fall within this exemption. Since the terms "convention, conference" are not defined in this bill. Any meeting may be characterized as the conference or convention merely to circumvent the imposition of the GET tax.

"Exempting particular nonprofit organizations, Madame Speaker, with respect to the gross income that is not related to their exempt activities opens the floodgate to similar requests from other nonprofit organizations with respect to fundraising income. For those reasons, I am voting in opposition to the passage of this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2396, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE

GENERAL EXCISE TAX," passed Third Reading by a vote of 43 ayes to 4 noes, with Representatives Ching, Finnegan, Meyer and Moses voting no and with Representatives Herkes, Hiraki, Nakasone and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1234-04) recommending that S.B. No. 1615, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1615, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you. Madame Chair and colleagues, I speak in strong support of Senate Bill 1615, House Draft 2.

"Madame Speaker and colleagues, for many, many, many years, the *kahuna nui* of the Mo'okini Luakini Heiau have preserved the secrets and *tabu* of the *heiau*. And moreover, the *kahuna nui* have served as both guardians and protectors over this important historical and cultural site.

"And today, Mrs. Leimomi Mo'okini Lum is the *kahuna nui* of the Mo'okini Luakini Heiau, the Kamehameha birth site, and other historical sites in the area since 1977 for her great, great grandfather, grandfather, and her father. These lands remain unspoiled and isolated as the ancient Hawaiians intended it to be. Senate Bill 1615, HD 2, provides a buffer zone surrounding these lands, thus preserving the "spiritual sense" or "mana" of these historical sites.

"It is imperative that this bill receive strong support from our Legislature in order to reinstate the rightful blood descendent of Kahuna Nui Kuamoo Leimomi Mo'okini Lum, as the protector and caretaker of the Mo'okini Heiau. For these reasons, I ask for your strong support of this measure. Thank you, Madame Speaker."

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

"Yes, Madame Speaker. Thank you very much. I wish to speak in strong support for Senate Bill 1615 and I wish to incorporate the remarks of the Representative from West Kauai as my own. And I do hold the Luakinis in great regard. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you. Madame Speaker, I too support this bill very strongly.

"And I would just like to say that persistence pays off. I've seen Mrs. Lum here at the Legislature ever since I have been here. And I know she came long before. So I saw her the other day and kissed her and congratulated her and told her I thought we would pass this bill. Thank you."

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

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

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

"Thank you, Madame Speaker. I'm rising in strong support of this measure.

"Momi Lum does indeed need to be congratulated. She has worked tirelessly. She oversees the *heiau*. Under her tutelage, they built a wall around the exterior far away from the *heiau*. Planted in grass. Students at Kamehameha School have gone up there to help with that work. Of course she has grand ideas for this but this is a magnificent *heiau*. It's truly a cultural treasure. And something that all people that visit Hawaii would just be in awe of. And so we should do all that we can to protect this. Thank you."

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

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

Representative Kaho'ohalahala rose to speak in support of the measure, stating:

"Thank you, Madame Speaker. Strong support.

"Thank you. I think the other point that I'd like to make here today is that when the Kahuna Nui Leimomi Mo'okini Lum came before us, it was very clear in her view that this legislation was a necessary part for her to keep a relationship with the Department of Land and Natural Resources. Without a bill that gives her legislative relationship with the Department, she was being perhaps coerced into becoming a caretaker or tour guide for the Department in interpreting the Mo'okini Heiau. So in her own personal view, she needs this kind of legislation to make very clear that her relationship to and her responsibility or *kuleana* to the Mo'okini Heiau and its heritage and its history is one that goes very, very far back. And without this kind of recognition perhaps she might be reduced just as being simply a caretaker or tour guide for Mo'okini, which she is not. So I want to encourage all of us to give her the kind of support she needs. Give her the tools that she needs to maintain her position as *kahuna nui*."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1615, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NORTH KOHALA," passed Third Reading by a vote of 47 ayes, with Representatives Herkes, Hiraki, Nakasone and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1235-04) recommending that S.B. No. 3129, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3129, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, in opposition. And I will be voting against these and other bills that seem to be taking care of a

special narrow community needs rather than statewide needs. Thank you, Madame Speaker."

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

"Madame Speaker. I stand in strong support of this measure.

"Madame Speaker, this is an appropriation measure to determine and implement the best mitigation measures to control flooding of Lake Wilson. Many of us might be familiar with Lake Wilson due to the incidents of *salvinia molesta* taking over the lake last year. And to the credit of the Governor, working with the Department, the Army, various community groups and the area Representatives and Council persons were able to restore Lake Wilson to its current prime use.

"What this bill does is allow for a study by the Department of Land and Natural Resources to address some of the flooding issues that occur periodically during the year when there are heavy rainstorms in the Wahiawa area. Lake Wilson created by the confluence of two streams, the Kaukonahua North and South Streams, damned at the Kaukonahua fork along Wilikina Drive.

"Madame Speaker, this is an important measure because should we not be able to address the severe rain storms in the Wahiawa area, it is the people downstream of Lake Wilson, namely in the Haleiwa, Waialua, Otake Camp area who will be the victims of our negligence. And I say negligence, Madame Speaker, because the Department of Land and Natural Resources currently under law in statute, there's the responsibility to ensure that the streams are kept clear of debris. So part in part and parcel of this study would be to direct the Department of Land and Natural Resources in addressing the mitigation of potential storms. To look at those issues and come out with a plan to address these flooding concerns.

"This is not a special interest group for just one particular individual or one particular community. This is for my community. This is for the Haleiwa, North Shore community. These are for people's lives and property. And it's an important measure for these people. So I ask that Members vote for this measure despite some of the assertions and accusations of those who might not understand and appreciate what goes on at Lake Wilson and our North Shore community. Thank you."

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

"Thank you, Madame Speaker. On the same measure, strong support.

"And just want to echo my colleague for giving a little brief history regarding this Lake Wilson because the community that it's going to affect is my community, the North Shore and Waialua area, as well the farmers are after displaced by sugar. Within the last 10 years, we had a dozen floods affecting the farmers in that particular area. With this measure, hopefully we could find some solution for the hard work that the farmers and all the small businesses in my area to hopefully, so one day we could see a clear area where they're not going to be flooded. Thank you."

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

"Madame Speaker, briefly in support.

"I think that these two Representatives have identified an issue that is not only important to their communities but has

statewide concern. I want to point out that just because a particular project may be located geographically in a particular House or Senate district, that does not mean it's narrow in terms of its scope. This project and many others have statewide import. Thank you."

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

"Madame Speaker, I stand in strong support. As a resident of a community downhill on the other side of Lake Wilson, I have strong concerns about flooding there too."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3129, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO DETERMINE AND IMPLEMENT THE BEST MITIGATION MEASURE TO CONTROL FLOODING OF LAKE WILSON," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Fox voting no and Representatives Herkes, Hiraki, Nakasone and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1236-04) recommending that S.B. No. 3062, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3062, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

Thank you, Madame Speaker. In opposition. I don't have problems with the bill, the bill as it originally started out. I don't know if it was the way this bill originally started because I didn't see it, but I know that in previous Sessions we passed a bill out or we talked about it and I think maybe the House Bill started that way. Basically, the counties can collect an impact fee to help build the roads with the developers agreeing. And I had no problem with that. The only problem we had here at the State level was finding a mechanism for getting the money that the county already collected into the State so that we could use it to build the roads. So I have no problem with doing that.

"My problem with this measure is now it says it clarifies that schools and transportation infrastructure are included within public facilities to which impact fees must be applied. But in other places of the bill, it says that this money is to be used for roads, for highway development. And it goes into the Highway Development Special Fund. So now we're including schools but it's in the Highway Development Special Fund. And if we're going to put schools into this, that means we need more money than what's already been collected. So this then becomes a tax increase. And I'm opposed to tax increases. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3062, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IMPACT FEES," passed Third Reading by a vote of 40 ayes to 7 noes, with Representatives Ching, Finnegan, Fox, Jernigan, Meyer, Moses and Pendleton voting no and with Representatives Herkes, Hiraki, Nakasone and Souki being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1237-04) recommending that S.B. No. 643, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 643, SD 2, HD 3, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I am going to oppose this bill, whatever form it's in.

"I think the idea of bioprospecting is a term that's invented basically to take aim at science. Science that's being done to advance humanity to make medicines to help people get more out of the land in terms of feeding the population. I'm very suspicious of this term. And it is a very derogatory term. Thank you, Madame Speaker."

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

Representative Kaho'ohalahala rose to speak in support of the measure with reservations, stating:

"Thank you, Madame Speaker. I want to vote with reservations on this bill.

"Just brief comments. I think as the bill has found its way through the Committee on Finance, the thing that I am opposed is the section that was removed from the original bill, which is the Section 3 part of the bill. I realize that the bill is advancing and perhaps in the conferencing, those kinds of issues will be raised. And we'll come to terms. And we'll come to bear. Thank you."

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

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

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

"I stand with reservations. And one short comment. As the bill does finally give credence and recognition that we do have a political relationship with native Hawaiians and I appreciate that. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 643, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO BIOPROSPECTING," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Fox voting no and Representatives Herkes, Hiraki, Nakasone and Souki being excused.

At 4:21 o'clock p.m., the Chair noted that S.B. Nos.: 3170, SD 2, HD 2; 2595, SD 2, HD 2; 2404, SD 2, HD 1; 2396, SD 1, HD 1; 1615, HD 2; 3129, SD 1, HD 1; 3062, SD 1, HD 2; and 643, SD 2, HD 3; passed Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1238-04) recommending that S.B. No. 3052, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3052, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In strong support with written remarks for the Journal and some brief comments," and the Chair "so ordered."

Representative Kanoho continued, stating:

"Brief comments beyond the contents of this bill. The unsuccessful attempts by this Legislature over the past 26 years to develop an identification process, as well as the required standards and criteria to designate and reclassify important agricultural lands gives indication that this is an extremely complex and contentious issue. And it continues to raise concerns as evidence by the controversy experienced earlier this Session and the high number of votes with reservations on this and previous drafts.

"Passage of this bill, of this landmark legislation is the right thing to do. First, there's much more than meeting a 26 year-old constitutional mandate. A mandate which was deemed by the agricultural working group in its year-long deliberations to be as relevant or more relevant today than it was 26 years ago in 1978. The adoption of a reasonable important agricultural lands policy is critically important. Otherwise, we will continue to use lands and will encroach onto prime agricultural acreage with nonagricultural uses. Not only will we continue to lose our prime lands, but such piecemeal actions over time will eventually lead to a policy based on much less than desirable precedent setting actions.

"Additionally, this bill enabling IAL designation should be considered as a first important step towards more effective utilization of our lands. For example, the continuing use of agricultural lands for luxury estates is a travesty which must be addressed. This not only takes away agricultural lands, but increases the cost of adjacent ag lands. And therefore the cost of any farming on those adjacent land.

"There's now and will continue to be a need for housing. Affordable housing in particular, but also intermediate and luxury housing, and where is that to take place, except for limited lands now earmarked for specific projects? Additional needed housing can only occur on agriculturally classified lands. We need to subsequently determine where such housing should occur. And not make it such a lengthy, difficult and costly process to make it happen. Otherwise the cost of land will increase and we'll continue to experience the same circumvention of ag lands being subdivided by the counties into the estates, rather than be subjected to the Land Use Commission reclassification process.

"A final very significant point is that this bill recognizes the critical importance of incentives. Incentives in this case must be translated into making Hawaii-grown produce to be competitively priced with mainland supplies. Otherwise we can designate all the land in the world as IAL, but not have it farmed. There's only so much Hawaii-grown produce at premium prices that Hawaii's market can consume. This is to

say that we must and will address this important matter of incentives as provided in this bill and in other measures.

"Madame Speaker and Members, a yes vote on Senate Bill 3052, Senate Draft 2, House Draft 2 is definitely the right thing to do. Thank you."

Representative Kanoho's written remarks are as follows:

"I write in very strong support of this landmark legislation which will finally fulfill the State constitutional mandate of identifying important agricultural lands (IAL) throughout the State of Hawaii.

"The controversy experienced in this Session and the unsuccessful attempts by the Hawaii State Legislature over the past 26 years to develop the identification process and the required standards and criteria to both designate and to reclassify important agricultural lands is clear indication that this is an extremely complex and contentious issue.

"SB 3052 SD2 HD2 is the proud product of the "Agricultural Working Group" (AWG). Composed of approximately 120 individuals representing State and county agencies, private land owners, farmers, conservationists and others, the AWG was formalized by the 2003 Legislature to assess the issues involved and to prepare legislation which would fulfill the constitutional IAL mandate.

"Monthly AWG meetings of about 40-50 from all islands were preceded by subcommittee and facilitator/leadership sessions which conservatively consumed about 2500 hours from March 2003 through January 2004. Significant expenses were incurred in the entire AWG process, particularly on the part of Neighbor Island AWG members; also in bringing mainland resource persons from "American Farmland Trust" to share their expertise on this subject.

"This bill provides for "IAL" designation through two simultaneous processes. The "voluntary process" allows landowners to voluntarily identify their lands for "IAL" designation. In the "collaborative process" each county planning department will be required to designate "IAL" in consultation and cooperation with landowners, the department of agriculture, and all agricultural interest groups. Each county planning department shall involve the public through a series of public meetings during the identification and mapping process.

"The recommendations of each county planning department requires the approval of respective county councils by resolution.

"Both the landowners' and counties' recommendations would be submitted to the State Land Use Commission which is the final and sole authority for IAL designation.

"In accordance with constitutional requirements, this bill also contains standards and criteria to enable the reclassification and rezoning of important agricultural lands.

"The need for incentives is a critically important element in this bill and in the entire IAL identification process. Without incentives, it is very unlikely that these will be any one to farm the designated important agricultural lands. It is very clear that unless farmers can competitively price their products against mainland goods, Hawaii's prime agricultural lands will continue to remain idle.

"Therefore the bill requires the State Department of Agriculture to work with the Farm Bureau and others to develop incentives.

"The bill provides funding to assist the counties in the IAL designation and mapping process. These funds would be made available through the Department of Agriculture (DOA) through the submission of a plan satisfactory to the DOA. It is envisioned that a qualified professional consulting firm would be contracted by the DOA to assist the counties in its endeavor. This would better assure overall consistency, timely completion as well as avoid under or over designation of IAL.

"Funding is also provided towards the development of needed incentives to assist farmers and landowners.

"The adoption of a reasonable IAL policy is critically important lest we continue to use lands and encroach onto prime agricultural lands with non-agricultural uses whereby such "piece meal" actions over time could eventually lead towards a policy based on such less-than desirable precedent setting actions.

"Finally, the time has come and it appears that we are on the verge of fulfilling this important constitutional mandate!"

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

"Thank you, Madame Speaker. On the same measure, I stand in strong support.

"Thank you. As was stated by the Chair of Water, Land Use, and Hawaiian Affairs, indeed it has been a long and difficult process with regard to the identification, designation, and management of important agricultural lands. And at this time I would just like to thank him, Madame Speaker, the Chair of the Water, Land Use Committee for his leadership and patience in helping to craft a bill that attempts to balance the conflicting interests of so many groups.

"And although this bill as amended by House Draft 2 may still require significant compromising in Conference, I am very elated and grateful since it appears we may be on the verge of finally passing a measure that satisfies the constitutional mandate of Article XI, Section 3. And this is to require the State to conserve and protect agricultural lands and promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

"And if I may, Madame Speaker and colleagues, I would also like to echo or acknowledge the efforts of the Agricultural Working Group who rose to the challenge put them by House Concurrent Resolution 157. And this was adopted Madame Speaker by this Chamber in 2002. And it is the efforts of the Agricultural Working Group to identify the substantive issues for discussion that underlies this measure.

"And finally, Madame Speaker, I would like to request the words of the Chair of the Water, Land Use, and Hawaiian Affairs Committee to be entered into the Journal including his commitment of giving additional written comments. I would also like to request that it also be incorporated. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Madame Speaker. I rise with some reservations about this bill.

"As a member of the 1978 Constitutional Convention, I was very much for this because at that time sugar was 'king' in the State of Hawaii. And we were really concerned that sugar lands being owned by large corporations were finding that

maybe it was better to develop subdivisions and gated communities.

"My reservations deal with my particular district. I doubt that we will find any important agricultural lands in the district of lower Puna. We are Madame Pele's country. And we are a very rocky lava land. But we have very, very important agricultural products growing. We grow flowers. We grow papayas in the rocky soil. We grow macadamia nuts in the rocky soil. And my fear is that if we say only lands that have deep soil are good agricultural lands what we are doing then is opening the way to reclassifying our valuable lava lands as non-agriculturally important. And the proposal has been made that this be changed from agricultural to rural.

"We have over 50,000 subdivided lots in that lava land that nobody ever thought would be developed. And they cause problems today. We don't need any more subdivisions. We don't need any more land available in the Puna district. And my fear is that this will open up my district to even more development, more subdivisions, more gated communities that are already being proposed. So I have some reservations about this, although I'm happy to see that 26 years after we met for the 1978 Constitutional Convention, we at least have some Legislators who want to carry forth our mandate. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3052, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1239-04) recommending that S.B. No. 2693, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2693, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Magaoay's written remarks are as follows:

"The purpose of this bill is to direct the Department of Land and Natural Resources (DLNR) to investigate various types of community-based sponsorship options prior to the commencement of the U.S. Army Corps of Engineers' planned Helemano-Paukaiula-Kaukonahua watershed management project on the North Shore of Oahu.

"Specifically, this bill requires DLNR to:

- (1) Conduct a community-based information campaign in Waialua and Haleiwa to identify concerns and gather flood-related information; and
- (2) Report its findings to the 2005 Legislature, including submitting a financial plan for the creation of an agency-business-community partnership that focuses on serving local community needs.

"The Board of Land and Natural Resources provided comments.

"Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to promote further discussion."



The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2693, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FLOODS," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Blundell, Finnegan, Fox, Meyer, Moses and Pendleton voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1240-04) recommending that S.B. No. 3025, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3025, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, in opposition.

"At one time, the Department of Business, Economic Development, and Tourism was called the Department of Planning and Economic Development. But that was a different department. That was long ago, and before the main mission of the Department was turned to one of economic development. And one need only look at the Department and the work that it does to understand how completely related to expanding the economy that department is.

"The appropriate place to deal with land use issues is the Department of Land and Natural Resources, the shepherd of our conservation land which is approximately half the land in the State. And so to have the Office of Planning in the Department of Land and Natural Resources is the right place for it to be. And this is a very misguided bill that we should vote down. Thank you."

Representative Kaho`ohalahala rose to speak in support of the measure, stating:

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

"I just want to relate why I think that this bill is really just asking for us to exercise our Legislative authority in placing these agencies within the appropriate departments. And in this case, the Office of Planning was placed within DBEDT. I think some of the issues that have arisen at least in our Committees have been the Office of Planning coming to testify on measures before us. And because of a letter that was written to the Department thereby asking the Office of Planning to report directly to the Director of DLNR, even though they're housed in DBEDT. That most of the testimony that comes forth in our Water, Land Use, and Hawaiian Affairs Committee by the Office of Planning seem to defer their opinions to that of the Department of Land and Natural Resources. And that is where I believe, Madame Speaker, that what this bill intends to do is give the Office of Planning its proper place. Give it its own ability to speak to the integrity of the issues.

"They are responsible for viewing the social, economic, and environmental issues throughout the State of Hawaii. They are given the responsibility to respond to the different political subdivisions, the counties and the State, for projects that are being proposed throughout the Hawaiian Islands. And without that kind of oversight, it becomes difficult to see that the Office almost seems to not have an opinion any longer because they have been asked by the Governor to report directly to the Department of Land and Natural Resources.

"I want to just share an incident that I think speaks to why I think that this measure is an important one. On the Island of Maui, there is a project that was being initiated by a developer on the West Side, there at Launiupoko and at Kauaula. The residents that lived in the area of Kauaula petitioned the Land Use Commission because they believed that what was being proposed by the developer for an agricultural subdivision was in fact not proposed for the purpose of keeping agriculture. But in fact that this subdivision was being proposed to create what we just talked about, 'gentleman' subdivisions.

"In the review before the Land Use Commission, the Office of Planning in reviewing the issues brought forth and in its testimony to the Land Use Commission, agrees with the petitioners or the residents from Kauaula by saying that they view that what is being raised here is in fact evident by what has already occurred on the Island of Maui. And has already occurred in the Launiupoko subdivision which is an agricultural subdivision. That these are not farmers. These are 'gentleman estates,' who have no intention of conducting any agricultural farming. After midway through the Land Use Commission's hearing process, the developer, and it's all recorded in the minutes of the Land Use Commission, states that he called the Office of Planning, he called the Department of Land and Natural Resources, and he called the Governor's Office to get them to change their position. And in fact, following that portion of minutes before the Land Use Commission, the Office of Planning now comes forward after making two previous statements before the Land Use Commission saying that they support the petitioner, they have come in later following these actions and saying, now the Office of Planning has no position. It even threw the Land Use Commissioners for a loop. Because they were proceeding on this entire petition with that Office of Planning's original position that the petitioner was correct in their assumption, that this was not farming.

"I think this is a demonstration here where we are saying now that you're going to place the Office of Planning directly under the jurisdiction and authority of the Department of Land and Natural Resources whose responsibility, while the previous speakers talked about their role in taking care of conservation lands throughout the State of Hawaii, you see more and more that the Department of Land and Natural resources is now supporting perhaps these kinds of agricultural gentleman estate projects. So I think that if we do not exercise our ability to keep the Office of Planning where they have the ability to respond because they believe they're correct, and because it's their responsibility to review these kinds of projects, in light of social, economic, and environmental issues."

Representative Lee rose to yield her time, and the Chair, "so ordered."

Representative Kaho`ohalahala continued, stating:

"Thank you. That what we are experiencing is a compromising of the Office of Planning. And when Mary Lou Kobayashi, who's the acting, or I guess appointed Director currently, came before our Committee, I questioned whether or not she was simply deferring action because of the letter sent by the Governor, or that she did not feel that she had the integrity to stand for those issues as the Office of Planning. Because too often sentences in her testimony before our Committee just said, 'We defer to the Department of Land and Natural Resources.' And that is what I think is of issue here.

"We rely on the Office of Planning to be objective. We rely on then on looking at it from a planning perspective. But if it's going to continue to be compromised in this way, I think that this is where we must look very close into what is actually happening here. And as I said earlier, these issues that I bring before you are all documented in the Land Use Commission

proceedings. You can look at it for yourself. But having had that experience, I think that is why I come here before this Body and ask that they support this measure and be sure that we allow the Office of Planning to have the kind of ability to give us what they believe is the best planning advice in today and in the future. So thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3025, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF PLANNING," passed Third Reading by a vote of 37 ayes to 14 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1241-04) recommending that S.B. No. 1556, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1556, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I rise in favor of this bill.

"This deals with the shoreline certification process. And I believe that the current law calls for a 12-month certification. And apparently the realtors testified that the period is too short and the time should be increased. They suggested 18 months. There are numerous steps that have to be undertaken before a permit is granted. And if after 12 months, plans or construction plans have not received all the pertinent permits, all the steps must be repeated again. This results in significant additional costs and time for a project.

"So I would hope that the Conference Committee could consider this matter considering that some soil survey cost a minimum of \$1,600. If this problem cannot be addressed this Session, then perhaps we will address in the future Sessions. But it is an important point and I'd like to just bring it to your attention. Thank you."

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

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

"Rise in strong opposition to this measure.

"Madame Speaker, the business of *ma ke kai*, the definition of the shoreline has been worked out by the Hawaii Supreme Court in two very important rulings: the 1968 Ashford case and the 1973 Sotomura case. This is a very significant and difficult area of law. And the Supreme Court has set down guidelines and the reason it's difficult is we're looking for the shoreline and the shoreline is not easily defined. But through practice and through the Supreme Court rulings, we have a definition of shoreline that has been workable for a generation. And we don't lightly, pardon the figure of speech, tread into this area of deciding where the line in the sand should be. We've got a body of law behind us. We're going to have significant disruption of property values if we start redefining the shoreline. In many cases, the line can move forty to eighty feet.

"The Department of Land and Natural Resources, and I'm basically drawing from their testimony, has found in three key areas that the back up of the shoreline *mauka* would be double where it is in the three areas where they surveyed. Where the highest wave run up is, which this bill requires as opposed to the natural shoreline defined over time by the deposit of debris as used in the Ashford and Sotomura cases.

"Beyond that, there are actually instances where the use of vegetation as required in this line, will look at a line that's running *mauka* of where the debris line is and in fact do the reverse of what I'm sure the drafters of this legislation intend. And add property line to the property owner because you have to use the debris line rather than the vegetation line according to this bill.

"This is a major change in the way we handle our property use in Hawaii that's going to require that it be adequately advertised that everybody be part of the process. It is amazing that we are looking at this bill in Final Reading, something this significant, something so much a part of our heritage, that we're planning to overturn for what interest I understand naught. Let's protect something that's been in this case been carefully worked out through the courts over a generation. Let's vote down this bill. Thank you, Madame Speaker."

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

"May I remove my request to insert remarks in the Journal, and I'd like to stand in support and give my reasons for support of this bill.

"Currently, the Department of Land and Natural Resources' Administrative Rules defining shoreline violates statutory provisions all to the detriment of an important public trust resource, Hawaii's beaches and shorelines, thereby exceeding the statutory authority of that agency. Based on the public trust doctrine, it is paramount that the longstanding public policy to extend to public use and ownership as much of Hawaii shoreline as possible be reiterated and reinforced and this is what this bill accomplishes.

"DLNR's rules and practices, again, are contrary to Section 205A-1 in our statutes preferring the vegetation line in determining shoreline. There should be no stated preference in implementing the existing statute, which reads, 'shoreline means the upper reaches of the wash of the waves other than storm or seismic waves at high tide during the season of the year in which the highest wash of the waves occurs usually evidenced by the edge of the vegetation growth or the upper limit of debris left by the wash of the waves.' DLNR rules in that Section, 13.222-2 reads, 'shoreline means the upper reaches of the wash of the waves other than storm or tidal waves at high tide during the season of the year in which the highest wash of the wave occur usually evidenced by the edge of vegetation growth or where there is no vegetation in the immediate vicinity, the upper limit debris left by the wash of the waves.' By adding the words, 'or where there is no vegetation in the immediate vicinity', DLNR created an inadmissible preference for the vegetation line over the debris line in locating the shoreline. Simply put, an Administrative Rule cannot contradict or conflict with the statute it attempts to implement.

"The position of shoreline in Hawaii is defined by multiple criteria including interpretation and judgment. The State surveyor processes over 200 shoreline certifications each year resulting in 5 to 6 contested case hearings a year. The majority of the cases involved a dispute over the interpretation of the field evidence to locate the upper reaches of the wash of the waves.

"The planting of salt tolerant plants can easily confuse the identification of a naturally vegetated shoreline that in the past have evidenced the upper reaches of the wash of the waves. Landscape vegetated burms are now widely planted on coastal properties and are leading to heavy abuses of the shoreline certification process. A typical beach is only 100 feet wide. Therefore a manipulated vegetated shoreline may represent a loss of 10 to 100% of beach width for public use. This bill clarifies that planting cannot take place prior to the shoreline certification process.

"In Ashford, the State of Hawaii successfully argued that traditional rights of public access existing under the Monarch Land Tenure System prior to the Great Mahele extended to the present and include the right to traverse along the rocky shoreline to swim, fish, and seek other varieties of seafood. The Hawaii Supreme Court decision in Ashford states that the location of a boundary, described as *ma ke kai*, is along the upper reaches of the wash of the waves usually evidenced by the edge of vegetation or by the line of debris by the wash of the waves. And serves as a foundation of the present legal definition of Hawaii shoreline and longstanding public policy of extending to the public use and ownership as much of Hawaii's shoreline as is reasonably possible. This measure recaptures, reinforces, and strengthens the same public policy of that Supreme Court decision. Thank you."

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

"Thank you, Madame Speaker. In strong support and the words of my sister colleague from Kāuāi in the Journal as my own," and the Chair "so ordered." (By reference only.)

Representative Kanoho continued, stating:

"And Madame Speaker, your Committee has spent the past two years on this subject working with the best minds involved. People have spent almost their lifetime on shoreline certification and determination. And I do believe that we've come out with a very good product and does justice for all. Thank you."

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

"I'd just like to support this particular bill and request that the words of the Chair of EEP and the Chair of Water, Land be inserted in the Journal as my own," and the Chair "so ordered." (By reference only.)

Representative Sonson continued, stating:

"I'd like to sum it up. Actually, this bill just closes a loophole. I guess there's vegetation that's available now that you can plant, that will actually survive the salt water. There's a way to steal land. That's a practical effect of what's happening with the state of the law. That's why this fix was needed. It's actually a pretty good deal if you leave it. The thing is it was but only a good deal for those people who owned land close to the shoreline. And all those fortunate people out there, they don't need to have the status quo where you can just plant and increase their, I guess their property, by sort of using this loophole in the law. The explanation of the Chair from EEP was well-thought out, but I think all that boils down to one thing. Let's just close the loophole and prevent stealing of public land. Thank you."

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

"Madame Speaker, just ruling on a potential conflict. You heard about the In Re Ashford case. I'm a partner of the firm of Ashford and Wriston. It was our firm, who brought that case. We were on the losing end of the opinion by the Supreme Court, but to the extent that causes a conflict, I'd like a ruling," and the Chair ruled, "no conflict."

Representative Kaho'ohalahala rose to speak in support of the measure, stating:

"Thank you, Madame Speaker. I'm rising in support.

"And just briefly, I want to just state that this is in particular, the bill that was before the Water, Land Use, and Hawaiian Affairs Committee, and as important a decision as this bill is, here again is where the Office of Planning in coming forward, rather than coming up with a position or an opinion, having to deal with shoreline as part of the responsibility, the Office of Planning simply deferred to the Department of Land and Natural Resources. So again, while this is an important issue before us, again, Planning just simply deferred."

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

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

"Thank you, Madame Speaker. I'm rising in opposition to this measure. First, I'd like to declare a possible conflict of interest. My husband and I own a home on the ocean," and the Chair ruled, "no conflict."

Representative Meyer continued in opposition to the measure, stating:

"Thank you. I just feel that this bill with this definition of shoreline being defined by multiple criteria will allow for a subjective interpretation and judgment. I also feel that altering the shoreline certification process without an analysis of the ramification of the changes is not very responsible. Thank you."

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

"Madame Speaker, I rise in strong support of this measure.

"I really appreciate the opportunity to learn so much about this particular bill from the Chair of Energy and Environmental Protection Committee. I would like the record to reflect her words as my own," and the Chair "so ordered." (By reference only.)

Representative M. Oshiro continued, stating:

"Madame Speaker, I believe this is one of the most important measures before us. It may not be a million dollar appropriation measure but as far as setting public policy for this generation, all future generations of Hawaii's people, I believe this would be one of the most important measures.

"What this bill does is reaffirm the Ashford ruling that basically set the *ma ke kai* as far as the public access or public area for our public shorelines. And it's important, Madame Speaker. Living in island state, we are constantly being kept out of our beach access points. And numerous stories appear in our daily papers about how we the people always need to fight to gain access to our beaches and our oceans to enjoy the resources that make us as an island people unique.

"This measure before us, Senate Bill 1556, leads us in the right direction by establishing the public policy of this State. That as much as possible, default in the law should be made to give the public maximum accessibility to its beaches. And for these reasons, I'd like to commend the Chairman of the Water, Land Use, and Hawaiian Affairs Committee and the Chair of Energy and Environment Protection Committee for moving this bill forward. And I hope that this measure becomes enacted into law, establishes the public policy of this State that we the people of Hawaii shall give maximum use to our beaches for all our people. Thank you."

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

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in opposition to Senate Bill 1556. While this bill would ostensibly clarify the definition of 'shoreline' and make other changes relating coastal zone management, it does so in a problematic fashion, and may very well, I believe, lead to adverse though unintended consequences.

"Mr. Speaker, these changes may appear small, but they could have broad ramifications and consequences. I believe that we are not fully aware of these ramifications and consequently should reconsider making these seemingly small changes. In addition, SB 1556 creates more confusion in an already complex and delicate situation.

"The definition of 'shoreline' was established by the Hawaii Supreme Court and later clarified in 1973. It was defined as the upper reaches of the wash of the waves. The current wording provides for a stable line by which to determine the shoreline. However, SB 1556 would complicate the definition by establishing the line at the highest wave run-up.

"This new definition will not only adversely affect property owners, but also the people who issue shoreline certificates. It could move the shoreline up 30 feet or more. This is not only an inconvenience to property owners, but also a violation of their property rights. SB 1556 will also unnecessarily reduce the amount of land suitable for development.

"The new definition also adds confusion to the shoreline certification process. In the words of the Board of Land and Natural Resources, 'implementation will be difficult to impossible and even more subjective than it currently is since the definition no longer relies on a stable line.' The process of determining a shoreline is difficult by its very nature. Taking these circumstances into consideration, the current statutes provide for the most stable standard. Let's keep it that way.

"In other words, Mr. Speaker, the BLNR believes that the status quo is better than this bill. That is something to think about. When change is worse than the already difficult situation we are in, it gives one reason to pause. Or at least it should.

"Mr. Speaker, there is one final issue I would like to address. The Department of Land and Natural Resources already has Administrative Rules in place that deal with and speak to the issues listed in Sections 7 and 9 of the bill. Altering these rules would unnecessarily complicate matters. That is the bottom line.

"SB 1556 exchanges an established and fair system for a complicated and unproven one. No one is arguing that the current process is perfect. We can always improve things. However, this bill is a step back. It is worse than what we presently have. And we are now passing this without sufficient realization of the bill's ramifications and workability. In the words of DLNR, 'the issues surrounding the shoreline certification process are extremely complex. It is therefore not a simple thing to tweak the definition of shoreline and could lead to major, unintended consequences'.

"Thank you, Mr. Speaker, for the opportunity to speak in opposition of Senate Bill 1556. I urge my colleagues to read the testimony and to vote this measure down."

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

Representative Fox rose to respond, stating:

"Madame Speaker, I'm still in opposition.

"The difference between the *ma ke kai* line and the highest wave run up is what we're really talking about. And it has tremendous implications. In some areas, there will be no buildable property left at all for property owners. I mean the Department of Land and Natural Resources is very concerned about this for a reason. And I believe that we are rushing into an area of extreme significance without the proper caution. Thank you, Madame Speaker."

At 4:55 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 4:57 o'clock p.m.

Representative Morita rose, stating:

"Madame Speaker, I would just like to insert additional comments in the Journal. Thank you," and the Chair "so ordered."

Representative Morita's written remarks are as follows:

"Currently, the Department of Land & Natural Resource's administrative rules defining shoreline violates statutory provisions all to the detriment of an important public trust resource, Hawaii's beaches and shoreline, thereby exceeding the statutory authority of that agency. Based on the public trust doctrine, it is paramount that the long standing public policy to extend to public use and ownership as much of Hawaii's shoreline as is reasonably possible be reiterated and reinforced, and that is what this bill accomplishes.

"DLNR's rules and practices are contrary to section 205A-1, Hawaii Revised Statutes, preferring the vegetation line in determining the shoreline. There should be no stated preference in implementing existing section 205A-1, HRS, which reads in pertinent part:

*"Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.(emphasis added)*

"DLNR's rules, defining "shoreline," section 13-222-2, Hawaii Administrative Rules, reads in pertinent part:

*"Shoreline" means the upper reaches of the wash of the waves, other than storm or tidal waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or where there is no vegetation in the immediate vicinity, the upper limit of debris left by the wash of the waves.*(emphasis added)

"By adding the words "or where there is no vegetation in the immediate vicinity," DLNR created an inadmissible preference for the vegetation line over the debris line in locating the shoreline.

"Simply put an administrative rule cannot contradict or conflict with the statute it attempts to implement.

"The position of the shoreline in Hawaii is defined by multiple criteria, requiring interpretation and judgment. The state surveyor processes over two hundred shoreline certifications each year resulting in five to six contested case hearings a year. The majority of the cases involve a dispute over the interpretation of the field evidence to locate the upper reaches of the wash of the waves. The planting of salt-tolerant plants can easily confuse the identification of a naturally vegetated shoreline that in the past have evidenced the upper reaches of the wash of the waves. Landscaped vegetated berms are now widely planted on coastal properties and are leading to heavy abuses of the shoreline certification process. A typical beach is only one hundred feet wide; therefore, a manipulated, vegetated shoreline may represent a loss of ten to one hundred per cent of beach width for public use. This bill clarifies that planting cannot take place prior to the shoreline certification process.

"In In Re Application of Ashford, 50 Haw. 314 (1968), the State of Hawaii successfully argued that traditional rights of public access existing under the monarch land tenure system, prior to the Great Mahele, extend to the present and include the right to traverse along the rocky shoreline to swim, fish, and seek other varieties of seafood. The Hawaii Supreme Court decision in Ashford states that "the location of a boundary described as "ma ke kai" is along the upper reaches of the wash of the waves, usually evidenced by the edge of vegetation or by the line of debris left by the wash of the waves" serves as the foundation of the present legal definition of Hawaii's shoreline and a long-standing public policy of extending to public use and ownership as much of Hawaii's shoreline as is reasonably possible. This measure recaptures, reinforces and strengthens the same public policy of that Supreme Court decision.

#### **Additional Remarks**

"Madame Speaker, I find the Minority Leader's last remarks disturbing and disingenuous where he is willing to forgo long standing public policy to accommodate an individual private property interest. There are processes and procedures in each county where unusual circumstances can be addressed through variances. The Chair of the Board of Land & Natural Resources has used the Minority Leader's argument to justify the DLNR's position in giving away what rightfully belongs in the public trust. What is being experienced in my district is the planting of salt tolerant plants such as naupaka and spider lilies in the hopes of increasing an individual landowners' buildable area which, at times, may put the structure in harm's way as well as cause lost of beach area.

"Finally, Madame Speaker, over a decade ago the planting of vegetation to influence the shoreline certification process was not done and therefore the administrative rule was not an issue. However, today no one can deny this deplorable practice which the DLNR is rubber stamping to the detriment of a public trust resource."

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

"Thank you, Madame Speaker. I'd just like to rise in opposition and insert the words from the speaker from Kailua and Waikiki as my own," and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1556, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Fox, Meyer, Moses, Ontai and Pendleton voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1242-04) recommending that S.B. No. 2073, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2073, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1243-04) recommending that S.B. No. 2131, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2131, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DEPARTMENT OF DEFENSE," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1244-04) recommending that S.B. No. 2438, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2438, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SHARK MONITORING," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1245-04) recommending that S.B. No. 2748, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2748, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DRUG DEMAND REDUCTION ASSESSMENTS," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1246-04) recommending that S.B. No. 3068, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3068, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I believe I'm in opposition to this.

"Madame Speaker, I am totally confused about the difference between Senate Bill 3068 and House Bill 2796, which we have a Conference Committee Draft. They both pertain to taking money out of the 'rainy day fund'. And I am personally not clear as to whether we're going to choose one vehicle or the other. Or whether we've got two separate raids on the 'rainy day fund'. And if anybody could clarify it for me, I'd really appreciate it. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. In opposition.

"I think there's some good things in the bill that are being funded. Unfortunately, it's a raid on the 'rainy day fund' and I don't like that at all. So I'm in opposition."

Representative Fox rose, stating:

"Madame Speaker, am I going to get an answer to my question?"

The Chair responded, stating:

"Representative Fox, were you requesting a question?"

Representative Fox: "Indeed. Indeed. Are we dealing with two separate raids on the 'rainy day fund' or one overlapping raid? Is one of these bills to be discarded or are they both to go into effect with two completely separate raids?"

Vice Speaker Luke: "The Chair will call a recess so that the Representative can get his answer."

At 5:04 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:05 o'clock p.m.

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

"Thank you, Madame Speaker. I'm rising in support of this measure with some reservations.

"My concerns are about Senate Bill 3068, House Draft 1 and not about the programs this bill seeks to fund. They are all worthy programs. Rather it is the source of the funds I have misgivings about. We are again, proposing to take a substantial sum from our State's 'rainy day fund' to finance entities that should not be financed by an emergency source of money. Hospitals and health centers on Neighbor Islands and in rural areas of Oahu are not stop-gap measures to be dealt with as if they were temporarily in a crisis. These health service organizations should be funded through a line item on the Department of Health's budget. That was done at one time in the past and that's what should be reinstated. These are all dire, ongoing resources to the communities they serve and they must have our support. Thank you, Madame Speaker."

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

Representative Fox rose to respond, stating:

"Madame Speaker, in opposition.

"Madame Speaker, the two bills I mentioned are apparently, potentially two separate raids on the 'rainy day fund'. And I wanted to put that on the record, and also point out the amount of money that's involved. The bill that we're considering is approximately \$17 million, and the Conference Committee Draft that was laid on our desk is another \$9.5 million. Collectively it's \$26.5 million, which Madame Speaker, is half the entire 'rainy day fund'.

"I am extremely concerned about a means of financing that would deplete the 'rainy day fund' by 50%. One more time, a raid, the money is gone. It's not there anymore to take care of our needs to finance what is essentially an ongoing problem that we're facing. And that is the year-by-year increase in the salaries for the employees that we have in the public sector. In other words, instead of paying for these programs out of the general fund, which as the Minority Floor Leader pointed out, is exactly what we should be doing, we're raiding a 'rainy day fund' that's supposed to be there when we're in dire circumstances. Not a correct description of the current situation, except we're putting ourselves in dire circumstances by insisting on turning so much money over to our employees in the form of collective bargaining increases that we can't pay. That we're irresponsibly conducting these one-time raids on pools of money that currently exist, and in the future will be gone. Thank you, Madame Speaker."

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

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

"Thank you, Madame Speaker. In very strong support of this measure.

"I would like to agree with the Minority Floor Leader. That these are very important measures and it should, for all practical purposes, should be funded in the Executive budget. The fact is it was not. And I don't know if we want to take the chance of finding that money somewhere else, especially given all the various demands being made on the budget. I would hate to think that some of these programs are going to be left out.

"However, I do want to point out that some of these measures that are being proposed for funding in Senate Bill 3068, will be funded under the House Bill. However, there are some others that we can take to Conference, and those that are duplicates that of course, can always be eliminated.

"Another area was our hospitals, our health systems, Hawaii Health Systems Corporation. And I think many of us know how important our rural hospitals are. And that was one of the things that the Health Committee added on.

"And I really want to thank the Finance Committee for helping us to address many of the needs, especially in the areas of health and human services. And we'd like to keep this measure alive and take it to Conference in case there are other areas where we need that safety net for people who need them the most. So I want to urge everyone to support this measure. Thank you, Madame Speaker."

Representative Kahikina rose in support of the measure and asked that his written remarks be inserted into the Journal, and that the remarks of Representative Arakaki be entered in the



Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Kahikina's written remarks are as follows:

"Position: In strong support

"Purpose:

Fund appropriations for various hospitals and health care providers.

"Reasoning:

The urgency to meet the needs of each section of this bill is the obvious reason.

"Many of the entities impacted by approval of this bill is located in rural areas nowhere near any hospitals or health centers, some many miles and several hours away.

"Wai'anae Coast Comprehensive Health Center's emergency room may close unless the Legislature funds its operations. With the nearest emergency room over 20 miles away, Wai'anae continues to be a medically underserved community on the island of O'ahu.

"Economic, geographic, or cultural barriers limit access to primary health care for a substantial portion of the population, and health care providers, such as, Wai'anae Coast Comprehensive Health Center tailors services to the needs of the community.

"Other entities such as Hana Community Health Center and Molokai General Hospital possess even worse scenarios and subsequently considerably more potentially fatal consequences."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3068, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fox, Moses and Ontai voting no.

At 5:13 o'clock p.m., the Chair noted that S.B. Nos.: 3052, SD 2, HD 2; 2693, SD 1, HD 1; 3025, HD 1; 1556, SD 2, HD 2; 2073, SD 2, HD 2; 2131, SD 1, HD 1; 2438, SD 2, HD 2; 2748, SD 1, HD 2; and 3068, SD 2, HD 2; passed Third Reading.

#### LATE INTRODUCTIONS

The following late introductions was made to the members of the House:

Representative Mindo introduced his Knights of Columbus brother and former Wing Commander, Col. Stan Fernandez.

Representative Arakaki introduced members of the T-Shirt Theater: Ms. Catherine Trono of Kalaukua Middle School; Mr. Richard Evans, Mr. Johnrey Obuta, Mr. Miechol Canteros, Mr. Dougals Tualo, and Mr. Loc Chieng of Farrington High School, and director, Mr. George Kon. The theater members than gave a short performance for the members of the House.

#### UNFINISHED BUSINESS

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1247-04) recommending that S.B. No. 2380, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2380, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE ART MUSEUM," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1248-04) recommending that S.B. No. 14, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 14, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REHIRING RETIRED SCHOOL ADMINISTRATORS," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1249-04) recommending that S.B. No. 214, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 214, SD 3, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Briefly, Madame Speaker, I will be voting against this bill.

"It does no longer play a 'shell game' of moving federal funds to support this project. Federal funds that were intended to meet the most serious needs of this community and relating to the migration of Micronesians and Marshallese to Hawaii, which has created substantial needs throughout, certainly, the Island of Oahu. I'm also reassured by the fact that currently this isn't going to go into effect for another thousand years. And that helps ease my concern a little. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 214, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WORKFORCE DEVELOPMENT," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fox, Meyer and Pendleton voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1250-04) recommending that S.B. No. 2355, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2355, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEE HEALTH BENEFITS," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1251-04) recommending that S.B. No. 2861, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee

was adopted and S.B. No. 2861, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1252-04) recommending that S.B. No. 2906, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2906, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CERTIFICATES OF GOOD STANDING," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1253-04) recommending that S.B. No. 2936, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2936, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL ASSISTANCE FOR PREGNANT LEGAL IMMIGRANTS," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1254-04) recommending that S.B. No. 762, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 762, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Ching and Stonebraker voting no.

At 5:20 o'clock p.m., the Chair noted that S.B. Nos.: 2380, SD 1, HD 1; 14, SD 1, HD 2; 214, SD 3, HD 2; 2355, SD 2, HD 2; 2861, SD 1, HD 2; 2906, SD 1, HD 2; 2936, SD 2, HD 1; and 762, SD 1, HD 2; passed Third Reading.

At 5:21 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:21 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1255-04) recommending that S.B. No. 2928, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2928, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, I'd like to speak in favor of Senate Bill 2928 but with some reservations.

"Madame Speaker, we spoke before about a situation with the growing number of homeless people and the fact that we don't have affordable rentals or rentals for low income families.

It took many years to establish the Rental Housing Trust Fund as a way of encouraging developers to develop rental homes specifically for low-income families. And part of that was establishing also the Rental Housing Trust Fund Advisory Commission, which would help to expend the funding that we provide. And it's been a struggle to provide a consistent resource of funding, a funding stream for this program. But we were able to finally succeed by dedicating part of the conveyance tax for the Rental Housing Trust Fund.

"We know that it would be expedient for the Housing and Community Development Corporation Board to not have to deal with another advisory commission. And I thought part of the solution might be to have a representative or advocate for low-income housing sit on the Board. But I understand now that that may not be possible. And that is my reservation. Because I really feel that given the pressing needs for rentals for low-income families, we need to have that voice. We need to have that representation. And we have to make sure that the Corporation does not lose sight of that priority because if we don't, then we're going to continue to see more and more people homeless, and more and more people lined up for shelters.

"And I think rather than do that, we want to encourage developers to develop rentals for low income families. The fact is we don't even have public housing anymore because those housing stocks are starting to diminish. And so unless the private developers come in and develop, especially for Section 8 certificate holders, I think we're going to have a real crisis on our hands, if we don't have one already. So I just wanted to express that concern and I hope, I have every faith in our Chair of Human Services and Housing, to express that concern as well. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2928, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE RENTAL HOUSING TRUST FUND ADVISORY COMMISSION," passed Third Reading by a vote of 47 ayes, with Representatives Fox, Schatz, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1256-04) recommending that S.B. No. 2996, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2996, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF ALTERNATIVE FUELS," passed Third Reading by a vote of 47 ayes, with Representatives Fox, Schatz, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1257-04) recommending that S.B. No. 2033, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2033, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm rising in opposition to this measure.

"This measure essentially seeks to statutorily impose conditions contained in collective bargaining contracts on

parties who are not signatories to the contracts. Under current law, Chapter 104 of the HRS, governs what a worker such as a laborer, mechanic, assistant, etc., on the job site should be paid based upon the proper classification. However, Chapter 104 does not dictate what kind of workers should be on the job site, which is what Senate Bill 2033, Senate Draft 1, House Draft 2 attempts to do.

"In doing this, the bill imposes a new and unprecedented requirement on construction contracts for public works. It applies union work rules to non-union contractors under the guise of prevailing practice. It is discriminating against smaller contractors who are not signatory to collective bargaining agreements. If this amendment to the law is adopted, non-union contractors will be obligated to follow union work rules in complying with the so-called staffing requirement. A contractor will need to assign unneeded workers to a project simply because of a collective bargaining agreement requirement that does not apply to the non-union contractor's employees. These employees chose not to be represented. Having to use more employees than they would in the absence of the proposed legislation boils down to increased labor cost for public works.

"Madame Speaker, these unnecessary increases are then folded into all contractor bids and eventually paid for by the taxpayers of this State.

"Further, some contractors will see this as a loss of competitive advantage. Unwilling to accept union work rules, some contractors just might not bid. What we are left with is less competition to hold down the cost of public works construction. At a time when sorely needed repairs are rampant in our schools, roads, and public buildings, it is bad policy to artificially drive up labor cost by imposing higher staffing requirements on contractors who can safely perform the work without the imposed assistants, helpers, and apprentices that this bill would require. We don't need another cost driver. For these reasons, Madame Speaker, I am voting no."

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

"I rise in strong support of this measure, Madame Speaker.

"Madame Speaker, the effect of this measure will be to protect the safety of workers and others at public works construction projects by requiring that they be fully staffed according to the Department of Labor and Industrial Relations' staffing requirements. This will prevent contractors, eager to increase their profits, from cutting corners on safety by reducing the number of quality assistants, helpers, tenders, or apprentices below the prevailing practices.

"This measure will also protect the bids of reputable contractors from being undercut by those unconcerned about safety. Thank you, Madame Speaker."

Representative Ching rose in opposition to the measure and asked that the remarks of Representative Meyer be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2033, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EXPENDITURE OF PUBLIC MONEY," passed Third Reading by a vote of 34 ayes to 13 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen voting no and with Representatives Fox, Schatz, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1258-04) recommending that S.B. No. 1138, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 1138, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERMEDIATE SANCTIONS," passed Third Reading by a vote of 47 ayes, with Representatives Fox, Schatz, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1259-04) recommending that S.B. No. 2941, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2941, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE WORKERS' COMPENSATION PROGRAM," passed Third Reading by a vote of 47 ayes, with Representatives Fox, Schatz, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1261-04) recommending that S.B. No. 2873, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2873, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 47 ayes, with Representatives Fox, Schatz, Takai and Takumi being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1262-04) recommending that S.B. No. 3019, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 3019, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH BENEFITS," passed Third Reading by a vote of 47 ayes, with Representatives Fox, Schatz, Takai and Takumi being excused.

At 5:30 o'clock p.m., the Chair noted that S.B. Nos.: 2928, HD 2; 2996, SD 2, HD 2; 2033, SD 1, HD 2; 1138, SD 1, HD 1; 2941, HD 1; 2873, SD 1, HD 2; and 3019, SD 1, HD 2; passed Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1263-04) recommending that S.B. No. 3106, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 3106, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1264-04)

recommending that S.B. No. 473, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 473, SD 1, HD 3, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In support.

"Purpose:

Requires public informational meetings as part of the county zoning permit process for group living facilities (halfway houses) housing persons convicted of sexual and other violent offenses.

"Reasons being:

If these meetings are coordinated and implemented correctly, the public will receive information ahead of time and be able to process any changes to their community. Community residents will also be able to voice any concerns they may have, which will be helpful to the halfway house planning to start up in their area.

"The halfway houses may be able to solicit much-needed resources the community may be able to provide as well as inform the community how they can make the move into the area smooth for everyone concerned. A good working relationship could be established at the onset and this could prove to be mutually beneficial over time."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 473, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HALFWAY HOUSES," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1265-04) recommending that S.B. No. 2834, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2834, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1266-04) recommending that S.B. No. 2839, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2839, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I just wanted to declare a possible conflict. I'm on the corporate board of the American Cancer Society," and the Chair ruled "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2839, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1267-04) recommending that S.B. No. 2878, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2878, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE FEDERAL TAX LIMIT ON COMPENSATION APPLICABLE TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1268-04) recommending that S.B. No. 2879, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2879, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1269-04) recommending that S.B. No. 2930, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2930, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'd like to speak in strong support of Senate Bill 2930.

"Just a brief comment because this is an Administration bill. But I just wanted to hold this up as an example of how when working together with the Administration, both the Human Services and Health Committees had been able to address a problem. This is something that we had brought up to the previous Administration as a problem in terms of a conflict of interest. And it wasn't until we brought it up to the current Director, Lillian Koller. She looked into it. She saw the problem. And she saw a way to remedy the problem and she provided it as a measure for our consideration.

"So I really want to thank her for her efforts and for recognizing this injustice and helping to solve the problem. Thank you, Madame Speaker."

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

Representative Kahikina's written remarks are as follows:

"Position: In support

**"Purpose:**

Extends the statutory authority for the licensing of home and community-based case management agencies and the certification of community care foster family homes until 6/30/06.

"Makes the Department of Human Services or its designee responsible for certifying any community care foster family homes.

"Requires adult protective services perpetrator checks as a requirement for certification

**"Reasons being:**

Home- and community-based case management agencies and community care foster family homes provide much-needed service to many Hawai'i citizens. They cost much less than long-term institutional care services do and they are many times more holistic and appropriate to the clientele they serve."

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

Representative Meyer's written remarks are as follows:

"Madame Speaker, I rise in support of this bill.

"Improvements in healthcare, diet and nutrition are helping people to live longer, at the same time our families are more dispersed than ever before. Long term care is a critical issue to Hawaii's senior population and their families. In addition to improving the certification and licensing process by discouraging impropriety and abuse that might result from conflicts of interest, this bill also addresses the important issue of safety in regard to the personnel to whom our loved ones are entrusted.

"I support this measure because extending the statutory authority for the licensing of home and community based care agencies will result in an increase of the choices and options available to those that need this kind of care. These changes will increase the likelihood that people will be able to find a licensed care provider in their area, allowing them to remain close to the people, community and area they have strong ties to. Separating the licensing and certifying process, conducted by the Department of Human services or a designee, will serve as a needed check and balance and help discourage potential abuses and conflicts of interest.

"Another significant benefit of this measure is that it will enable the Department of Human Services to obtain background checks on operators and employers of these care centers, by requiring this information as a part of the certification process. Doing so will allow for a safer and more secure environment for patients, and increased peace of mind for families of those entrusted into the care of these licensed facilities.

"For these reasons, I support SB. 2930, S.D.2, H.D.1 and urge the members of this body to do the same."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2930, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOME AND COMMUNITY-BASED SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1270-04) recommending that S.B. No. 779, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 779, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative M. Oshiro's written remarks are as follows:

"Madame Speaker, I rise to speak in favor of Senate Bill No. 779, House Draft 2, Relating to the Employees' Retirement System. This bill would create a "hybrid" contributory plan in the Employees' Retirement System, a new class H membership that provides a defined benefit retirement allowance while providing a minimum hypothetical account balance that is based on employee contributions.

"During the Regular Session of 2001, the Legislature adopted Senate Concurrent Resolution No. 159, which directed the ERS to conduct a study of current public sector pension benefits and make recommendations for enhancement or change, and to study the feasibility of adding an alternative defined contribution plan.

"The ERS conducted a comprehensive study and presented its findings and recommendations to the 2002 Legislature. In its recommendations, the ERS proposed a hybrid contributory plan that would apply to new employees, class C noncontributory members, and class A contributory members.

"It was believed that the hybrid contributory plan could enhance public sector pension benefits and, in turn, improve the recruitment and retention of public sector employees. Based on these findings, this bill was introduced during the Regular Session of 2003 to promote further discussion on the mechanics of the "hybrid" contributory plan.

"Despite proceeding through the Senate, this bill was deferred last year at the request of the ERS so that an actuarial study could be performed, and the design of the plan could be further refined. The actuarial study was performed pursuant to House Concurrent Resolution No. 97, 2003, the design was refined, and proposed legislation as embodied in House Bill No. 2401 was submitted to your Committee on Labor and Public Employment for review and deliberation.

"Your Committee on Labor agreed with the ERS' findings that the "hybrid" plan would greatly benefit the employees of the State. Many employees have neither the discipline to save and invest their money wisely, which is a necessity under a non-contributory plan. Many employees and retirees who opted out of the contributory plan in the past have regretted that decision because they either spent their money that should have gone toward their retirement or made investments that performed poorly. The same can be said of many employees who were hired after the contributory plan was discontinued.

"Your Committee on Labor also acknowledged that the "hybrid" plan was designed to be cost neutral -- an important

factor given the escalating costs of employer contributions for pension accumulation.

"Mr. Speaker, I believe this is one of the most important bills that we take action on this session. It has the potential to greatly enhance the benefits provided to employees and retirees at no additional cost to the State. As such, I urge my colleagues to support this notable measure.

"Lastly, I would like to personally commend the exemplary efforts of the ERS, and in particular, Administrator David Shimabukuro, who devised the original concept of the hybrid plan and worked tirelessly with his staff over the past two years to bring this idea to fruition."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 779, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 50 ayes, with Representative Takamine being excused.

At 5:33 o'clock p.m., the Chair noted that S.B. Nos.: 3106, SD 1, HD 2; 473, SD 1, HD 3; 2834, SD 2, HD 2; 2839, SD 2, HD 2; 2878, SD 2, HD 2; 2879, SD 2, HD 2; 2930, SD 2, HD 1; and 779, SD 2, HD 2; passed Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1271-04) recommending that S.B. No. 2424, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2424, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NEW CENTURY CONVERSION CHARTER SCHOOLS," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1272-04) recommending that S.B. No. 3207, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 3207, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ETHANOL TAX CREDIT," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1273-04) recommending that S.B. No. 3049, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3049, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'd like a ruling on a potential conflict of interest. I'm an Executive Director of a nonprofit organization," and the Chair ruled "no conflict."

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

Representative Magaoay's written remarks are as follows:

"The purpose of this bill is to allow more of Hawaii's charitable organizations to raise funds through the issuance of charitable gift annuities by relaxing net worth requirements under the State's insurance laws.

"Hawaii Health Systems Foundation, The Trust for Public Land, Maui Youth and Family Services, Inc., Myerberg Shain & Associates, Big Brothers Big Sisters of Honolulu, Hawaii Conference of the Evangelical Lutheran Church in America "Hukilau", Royal State Learning Foundation, Saint Patrick Church, School, & Monastery, Life Foundation, Honolulu Zoo Society, Pacific Health Ministry, Hale Kipa, Pohai Nani Good Samaritan, Waialua United Church of Christ, Hale Ipu Kukui Alaka'i, and 17 concerned individuals supported this bill. The Department of Commerce and Consumer Affairs supported this measure with an amendment. The Nature Conservancy and Punahou School opposed this bill. The American Cancer Society and the American Heart Association of Hawaii commented.

"Your Committee has amended this bill by:

- (1) Increasing the foundation or organization's net worth requirement from \$100,000 to \$200,000 in cash, cash equivalents, or publicly traded securities, exclusive of the assets funding any annuity;
- (2) Specifying that segregated assets shall not be considered in determining net worth;
- (3) Requiring that the foundation or organization invest and manage assets according to the standards of a prudent investor;
- (4) Requiring that annuities be issued with payout rates not to exceed the rate recommended by a to-be-determined entity."

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

Representative Marumoto's written remarks are as follows:

"I strongly support this latest version of SB 3049 to allow smaller charities to launch annuity programs. Larger, more established non-profit eleemosynary and educational institutions have long used this device to raise funds for their organizations.

"However, in lowering the net worth requirement from \$5 million to \$200,000, there is a danger that the charity may not have sufficient resources to support its outstanding annuities.

"The new requirements in this measure will ensure greater safety for the annuitant and for the charity. This is important because if one program fails, then donors may start to question the safety of all annuity programs. It helps all charities to hold to high standards of investment and safe amount of reserves."

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

"Thank you, Madame Speaker. I'm rising in opposition to the bill.

"I have concerns about how we have reduced the amount of liquid assets that an organization, a nonprofit that is setting up an annuity program has. Right now it's \$5 million and we are reducing it to \$200,000. While the representative from Punahou School, who testified in Finance said, she could go



along with \$300,000. I realize she has now come down to \$200,000.

"But I think the conservative way that our original law was scheduled gives the most protection to donors. I really worry about people that are on in the years, and they go into one of these annuity programs, and if something goes awry, they will be left up the proverbial 'creek without a paddle'. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3049, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE ANNUITIES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Meyer voting no.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1274-04) recommending that S.B. No. 2004, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2004, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR VETERANS CEMETERIES," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1275-04) recommending that S.B. No. 2045, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2045, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In strong support.

"I stand in support of the Civil Air Patrol, Senate Bill 2045. CAP is manned by an all-volunteer force of 600 members, statewide. There are no paid members in the Hawaii Wing CAP. The Hawaii Wing CAP benefits the citizens of Hawaii in the following ways.

"One, it provides airborne tsunami warning aircraft patrol with ten aircrafts.

"Two, it provides search and rescue assistance to the U.S. Coast Guard in locating downed aircraft and personnel. Just recently, CAP was instrumental in locating the air ambulance aircraft on the Island of Hawaii that crashed last year. CAP was instrumental in assisting the search for a downed aircraft on the Island of Maui. CAP is frequently called upon to provide search in locating activated emergency locator beacons, which are usually received during an emergency. This service is provided for all islands.

"Three, CAP assists the Hawaii Army National Guard by providing escort rides for the helicopters when they fly helicopters inter-island. CAP was highly instrumental during Hurricane Iniki in providing the only operation of radio communication between the islands of Oahu and Kauai to the respective civil defense centers that significantly assisted in the recovery involving air force for the citizens of Kauai and Oahu.

"This year, the Hawaii Wing produced the National Outstanding Cadet of the Year for the Nation. Colonel Louis Gabriel was selected out of 26,000 cadets in the nation. Louis is currently attending the Air Force Academy, first year.

"Nationally, CAP produces 10% of the cadets entering the Academy. CAP Hawaii presently has cadet squadrons on the island of Oahu, Maui, and Hawaii, and supports nearly 200 cadets.

"Madame Speaker, I urge the Members of this august Body to support this measure. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2045, SD 2, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE HAWAII CIVIL AIR PATROL," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1276-04) recommending that S.B. No. 2280, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2280, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, on the same measure, to be consistent with all the other bills, I am in strong support and have comments for the Journal."

Representative Magaoay's written remarks are as follows:

"The purpose of this bill is to appropriate matching funds to purchase stream gauges and to operate and maintain a flood warning system for Lake Wilson on Oahu.

"The Department of Land and Natural Resources submitted comments.

"Your Committee has amended this bill by:

- (1) Changing the effective date to July 1, 2010, to promote further discussion."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2280, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A LOCAL FLOOD WARNING SYSTEM FOR LAKE WILSON," passed Third Reading by a vote of 51 ayes.

At 5:38 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 5:38 o'clock p.m.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1277-04) recommending that S.B. No. 2718, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2718, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

At this time, Representative Moses offered Floor Amendment No. 14, amending S.B. No. 2718, SD 1, HD 1, as follows:

SECTION 1. Senate Bill No. 2718, Senate Draft 1, House Draft 1, is amended by renumbering and amending Section 11 to read as follows:

"SECTION 10. This Act shall take effect on July 1, 2004, and upon acceptance by the Legislature of the recommendations of the 2004 Executive Salary Commission."

Representative Moses rose, stating:

"Thank you, Madame Speaker. I rise in support of the amendment and request a roll call vote at the appropriate time."

The Chair responded, stating:

"You need to do that later."

Representative Moses moved that Floor Amendment No. 14 be adopted, seconded by Representative Pendleton.

The Chair then stated:

"Is there any discussion? Representative Moses, at this point in time the Chair will recognize that you have requested a roll call vote. So you don't have to reiterate that."

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

"Thank you, Madame Speaker.

"I hope this will be a short one. We'll all approve it and move along. Anyway, we've heard much about tight times and finding money for programs and for pay raises. And now we're giving workers pay raises in this measure that haven't had pay raises since the 1990s, and I agree with that. But neither have the Administration, the administrative heads, and the deputies. It's been the same length of time, about 14 years. It will cost approximately \$1 million to pay for these raises that the Executive Salary Commission has recommended to us. And unlike the raises in the underlying bill, the Executive raises are staggered over the next several years. Passage of this amendment simply means the personnel of the Legislative agencies and the Executive branch who haven't received raises for 14 years, all deserve raises and they will all get them. Thank you."

Representative M. Oshiro rose to speak in opposition to the proposed floor amendment, stating:

"First of all, I'd like to speak against this amendment.

"A couple of points, very briefly. I think if we want to look at the title of this measure, it's Senate Bill Number 2718, Senate Draft 1, House Draft 2, Relating to the Compensation of Officials in the Legislative Service Agencies. So I believe that by applying this particular amendment to this measure in regards to the 2004 Executive Salary Commission would not work, and technically would be defective measure. So I will not be voting for it.

"Secondly, Madame Speaker, I think we need to understand that the current bill before us is to provide compensation to the legislative service agencies. There is no salary commission for these agencies, the Auditor's Office, the Legislative Reference Bureau, or the Auditor. These people's salaries are fixed by statute. And unless we can come up with a system like the Commission for the Judicial and Executive branch, we ourselves have to amend the statute to provide them a pay raise.

"Third, Madame Speaker, I believe that many of these people who currently serve in these capacities as in the Legislative Reference Bureau, State Auditor's office, and Ombudsman, have been employed by the State of Hawaii for longer than 14 months. And the reason why I say 14 months Madame Speaker, is that when we talk about the Executive Salary Commission, we are talking about giving pay raises to our most recent employees in State government. The directors and deputies who have been employed about 14 months, and not 14 years. So let's not confuse the issues here.

"Finally, Madame Speaker, I believe that we have had a public hearing on the particular resolution regarding the 2004 Executive Salary Commission. I have deferred taking action on it. And that is the current status of it. For those reasons, Madame Speaker, I ask that we vote down this floor amendment. Thank you."

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

"Madame Speaker, I rise in strong support of the floor amendment.

"Madame Speaker, briefly, just a couple of points. Well, actually three. One point is that, the floor amendment is not defective. It falls squarely within the title of the bill. This legislative body is entitled to choose any sort of triggering event. Usually we say that the bill is effective by a given date. Sometimes we say, effective upon signature. But so long as that date is clearly identifiable and definite, we can do that. We can pick a date far into the distant future. We can say on Christmas Day. We can identify the date, however we wish. The date that's identified here is clear and we will know exactly when that date arrives so it is not defective. It falls within the title of this bill.

"The second point has to do with fairness. Madame Speaker, we're talking about individuals, as well as positions. We don't know if the individuals who currently receive paychecks in these positions will be around in those positions when the money is available. So we're really talking about a pay raise for various positions. None of us know if we'll be here tomorrow. Life is just contingent that way. But we're talking about positions.

"And with respect to these positions, when you look at how long these positions have gone on without an appropriate pay increase, even just to take into account inflation, we know that we need to correct a wrong here. There is an Executive Salary Commission. No one's accusing them of any bias or unprofessionalism. They came down with a very professionally arrived-at number. And all this bill does is seek to make the triggering event for this pay raise for this set of positions contingent on acceptance by the Legislature of the recommendations of the 2004 Executive Salary Commission.

"Number three, Madame Speaker, let's not be confused. We're not talking about specific named individuals. We're talking about positions. And in fact if you look at the measure, we're talking about phasing them in. Again phasing in salary increases. So whoever happens to be in that particular position, when the appropriate date comes, will receive that. But things change. People move into the private sector. So we're not talking about individuals named, identified persons. We're talking about positions. And when you look at the history of how long those positions have gone on without being adjusted even for inflation, we need to address this salary matter. So for those reasons, I strongly support this floor amendment. Thank you."

Roll call having been previously requested, and by unanimous consent, granted, the motion that Floor Amendment No. 14, amending S.B. No. 2718, SD, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF OFFICIALS IN THE LEGISLATIVE SERVICE AGENCIES," be adopted, was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 36: Representatives Abinsay, Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tamayo, Wakai and Waters.

Ayes, 15: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen.

(Main Motion)

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

"Thank you, Madame Speaker. I'm rising in support with some pretty strong reservations.

"Right now, in the statute, I think it's \$86,500 is the top amount. And I believe all of these folks, the Auditor, the Director of LRB, and the Ombudsman are receiving that compensation now. The bill before us has no figure in it. And when you take into account the HGEA agreement, and so many of the different bills that we're trying to fund, the money for ice abatement, and I have no idea what the top figure will be here. I do have some concern because in addition to the directors, it also includes the assistants and deputies. So for those reasons I'm voting aye but with reservations."

The Chair then stated:

"Thank you. Any other discussion? If not the Chair will call a short recess before we move on to the next item. Excuse me, Representative Moses. Before I go on."

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

"With reservations. In support, with reservations.

"I am also concerned about the amount of the pay raise because we don't know what it is yet. But also I find it very funny that we're going to fund our Legislative people, but we won't fund anything for the Executive branch. Thank you."

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

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

At 5:48 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:49 o'clock p.m.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2718, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF OFFICIALS IN THE LEGISLATIVE

SERVICE AGENCIES," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1278-04) recommending that S.B. No. 2690, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2690, SD 2, HD 2, pass Third Reading, seconded by Representative Lee.

At this time, Representative Blundell offered Floor Amendment No. 11, amending S.B. No. 2690, SD 2, HD 2, as follows:

SECTION 1. Senate Bill No. 2690, Senate Draft 2, House Draft 2 is amended by amending section 1 to read as follows:

#### "PART I

SECTION 1. The legislature finds that rapid response of emergency medical services is critical for positive outcomes for emergency patients. The need to provide adequate emergency medical care to residents of rural areas, particularly on the neighbor islands, is vital. There is also a need to expand emergency medical services on Oahu to meet nationally recognized guidelines for advanced life support response time to medical emergencies.

The legislature further finds that funding for emergency medical services has always been a critical issue. User fees for emergency medical services are deposited into the general fund but are not an adequate source of funding for emergency medical services.

The legislature further finds that the retention and recruitment of paramedics plays an essential role in maintaining quality emergency medical services.

The purpose of this Act is to:

- (1) Establish an emergency medical services special fund through additional state vehicle registration fees for the department of health to provide additional services by the State's comprehensive emergency medical services system;
- (2) Provide funds for additional emergency medical services to serve residents of the Waianae coast and Nanakuli;
- (3) Provide for development and training for paramedics to address recruitment and retention issue that would impede the State's emergency medical services system; and
- (4) Reduce liability exposure and to allow matching of program expansion with funding availability by making provision of emergency aeromedical services permissive."

SECTION 2. Senate Bill No. 2690, Senate Draft 2, House Draft 2 is amended by adding a new Part IV, to read as follows:

#### "PART IV

SECTION 9. Section 321-223, Hawaii Revised Statutes, is amended to read as follows:

"[§321-223] State comprehensive emergency medical services system, establishment. The department [~~of health~~]

shall establish, administer, and maintain the state comprehensive emergency medical services system to serve the emergency health needs of the people of the State. The department [of health] in the implementation of this part shall plan, coordinate, and provide assistance to all entities and agencies, public and private, involved in the state system. All emergency medical services or ambulance services conducted by or under the authority of the department [of health] or any county shall be consistent with this part. The department may include emergency aeromedical services as part of the state comprehensive emergency medical services system subject to the availability of funding."

SECTION 10. Section 321-224, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to other functions and duties assigned under this part, the department shall:

- (1) Regulate ambulances and ambulance services;
- (2) Establish emergency medical services throughout the State, ~~[including emergency aeromedical services,]~~ which shall meet the requirements of this part, subject to section 321-228;
- (3) Review and approve the curricula and syllabi of training courses offered to emergency medical services personnel who provide basic, intermediate, and advanced life support, consult and coordinate with the University of Hawaii, or any other accredited community college, college, or university, or any professional organization that provides emergency medical services training, regarding the training for basic, intermediate, and advanced life support personnel, as provided in section 321-229;
- (4) Collect and evaluate data for the continued evaluation of the state system, subject to section 321-230;
- (5) Coordinate emergency medical resources and the allocation of the state system's services and facilities in the event of mass casualties, natural disasters, national emergencies, and other emergencies, ensuring linkage to local, state, and national disaster plans, and participation in exercises to test these plans;
- (6) Establish, administer, and maintain a communication system for the state system;
- (7) Assist each county in the development of a "911" emergency telephone system;
- (8) Secure technical assistance and other assistance and consultation necessary for the implementation of this part, subject to section 321-230;
- (9) Implement public information and education programs to inform the public of the state system and its use, and disseminate other emergency medical information, including appropriate methods of medical self-help and first-aid, and the availability of first-aid training programs in the State;
- (10) Establish standards and provide training for dispatchers in the state system, and maintain a program of quality assurance for dispatch equipment and operations;
- (11) Establish a program that will enable emergency service personnel to provide early defibrillation;

(12) Establish within the department the emergency medical service system for children;

(13) Consult with the advisory committee on matters relating to the implementation of this part; and

(14) Establish and maintain standards for emergency medical services course instructor qualifications and requirements for emergency medical services training facilities."

SECTION 11. Section 321-230, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The department ~~[shall]~~ may, subject to the availability of funding, establish, administer, and maintain an aeromedical emergency medical services system designed to collect and analyze data to measure the efficiency and effectiveness of each phase of an emergency aeromedical program.

The aeromedical emergency medical services system shall, subject to the availability of funding, serve the emergency health needs of the people of the State by identifying:

- (1) The system's strengths and weaknesses;
- (2) The allocation of resources; and
- (3) The development of rotary-wing emergency aeromedical services standards;

provided that emergency helicopter use, including triage protocols, shall be based on national aeromedical triage and transport guidelines established by the Association of Air Medical Services, the American College of Surgeons, and the National Association of Emergency Medical Service Physicians. The department, in the implementation of this subsection, shall plan, coordinate, and provide assistance to all entities and agencies, public and private, involved in the system.

(c) The department ~~[shall]~~ may use an emergency aeromedical services quality improvement committee comprised of representatives of trauma, emergency, and tertiary care physicians and providers to analyze information collected from the aeromedical quality improvement performance measures as established by the American College of Surgeons, and to recommend system standards and resources to maintain and improve the Hawaii emergency aeromedical services system.""

SECTION 3. Senate Bill No. 2690, Senate Draft 2, House Draft 2 is amended by renumbering the original Part IV and its respective section numbers, to read as follows:

#### "PART V

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 2004."

Representative Blundell moved that Floor Amendment No. 11 be adopted, seconded by Representative Halford.

Representative Blundell rose to speak in support of the proposed floor amendment, stating:

"Thank you, Madame Speaker. Madame Speaker, the county of Maui is only one of two counties in the State that does not

have a helicopter emergency medical service. And the lack of this service continues to place the residents and the visitors of Maui in jeopardy.

"Madame Speaker, last year, this Body passed Act 2 which was to correct this very critical need, but unfortunately there seems to be a liability problem with the Act. And that problem seems to be the use of the word 'shall' instead of the word 'may'. By using the word 'shall' instead of 'may', this Act mandates that the State will provide statewide emergency helicopter service. But at this time, the State cannot afford to supply that service statewide. The State only has funding in place for the county of Maui.

"I would like to quote a State Attorney General's opinion. Section 321-224, Hawaii Revised Statutes, enacted as Act 2 during the 2003 Special Session currently mandates the establishment of a statewide emergency medical service to include emergency aeromedical services. In other words, emergency aeromedical service must be available throughout the State. However, Act 2 appropriates funding for these services for Maui County only. While the City and County of Honolulu and the County of Hawaii already have helicopter services for medical emergencies, the County of Kauai does not. Because the State has a mandatory statutory duty to provide aeromedical services throughout the State, and because the lack of funding prevents the State from providing that service on Kauai, if someone on Kauai were critically injured or seriously injured or death could have been avoided had a emergency helicopter services been available, the State could be liable to that person and that person's estate.

"While the State would certainly argue that the discretionary function exception and the State Tort Claims Act would protect the State, that view might not prevail. Senate Bill 2956 was proposed to amend the law by making the provision of the emergency aeromedical service permissive rather than mandatory. That's allowing the establishment of these services as funding becomes available.

"The Senate Committee on Health deleted the contents of the original bill and replaced that material with a requirement of monitoring the need for emergency aeromedical services in Kauai, and informing the Legislature when that need reaches sufficient sustained level.

"If the existing statute is not amended, the State is required to provide emergency aeromedical services statewide, whether or not it has the resources to do so. Senate Bill 2956, SD 1, finds that there is not a sufficient level of need for aeromedical services in Kauai county, and finds it is appropriate to require the Department of Health to monitor the need and inform the Legislature when the Kauai County reaches a sufficient sustained level of need for aeromedical services. The problem with this is that it conflicts with the current law that requires the Department of Health to establish emergency medical services throughout the State, including emergency aeromedical services.

"The original language in Senate Bill 2956 sought to protect the State from liability arising from insufficient aeromedical services by making a provision of those services permissive. Senate Bill 2956, SD 1 should have been amended to restore the language of the original bill so that this purpose is established. If the mandate for aeromedical services throughout the State is not made permissive, the State's liability will be expanded in the event of a delayed emergency response in the area without emergency aeromedical service. The Attorney General finishes by saying, 'We consider this an extremely important matter.'

"Subsequently, in talking with the Attorney General, the other day, he said and I agree, that there is absolutely no reason not to include this language. And I repeat that there is no reason not to include this language."

Representative Leong rose to yield her time, and the Chair, "so ordered."

Representative Blundell continued, stating:

"Thank you. It has no adverse ramifications and it adds liability protection to the statute. I am at a loss as to why we would not be heeding the advice of the State's top legal advisor.

"Madame Speaker, by adopting this amendment, we would show the people of Maui that we really care about their health and well being. I would encourage my colleagues to support this amendment. Thank you, Madame Speaker."

Representative Halford rose to speak in support of the proposed floor amendment, stating:

"Thank you, Madame Speaker. In support.

"Thank you, Madame Speaker. Madame Speaker, I want to thank you very much and to thank our colleagues in this Body for providing the mechanism for aeromedical services on Maui and being willing to commit to the funding for that. And I guess I need to thank also the Senate for the same thing, providing aeromedical services by statute and providing the funding for that.

"As you know, Madame Speaker, the County of Maui is stepping up to the table with money also, so the State's getting a pretty good deal on this. It's costing the State less than it would otherwise, considerably less. But nevertheless, Madame Speaker, I want to thank the Legislature for stepping up to the table on this issue. And Madame Speaker, I want to also thank our Governor for agreeing to fund our Legislative request.

"Madame Speaker, if I could develop some background. In this Session, at the very beginning of the Session, at the end of January, the Governor spoke at the Maui Chamber of Commerce and pledged to support, to provide the funding, on-time funding for the aeromedical services. On-time meaning July 1 of this year, which is what is provided in the statute.

"If I could just read one paragraph of this article, a Maui printing. It says, 'Lingle saved an announcement for the occasion, Chamber of Commerce'. She saved this announcement for the occasion. She is ready to release the funding of Maui's much needed air ambulance. And then the rest of this is a quote from the Governor. 'I vetoed the air ambulance bill because we had a legal issue, a liability problem. And I want to commend all the legislators for their work on this...' However, just to conclude, now she says, 'Now as soon as the language correcting the bill to resolve questions about statewide coverage passes, the medical transportation service will be funded and ready to go. It is scheduled to be in place on July 1.'

"Madame Speaker, again, I want to thank this Legislature for providing the funding for the service and thank the Executive for agreeing to fund it.

"As you know, Madame Speaker, this legislation that the Governor asked for, as she promised, the funding was a simply a matter of using the word 'shall' or 'may'. I find it a paradoxical discussion, or the thought process is paradoxical between the 'shall' or 'may' because 'may' gives us the funding and 'shall' doesn't.

"But if I could make this observation, Madame Speaker, the proponents of using the word 'shall' concede that even with the word 'shall', that if State doesn't have the money to fund, they don't need to fund it. There's not this compelling need to fund it if there's no money. And they would also say that the State has no liability in that circumstance. But nevertheless, they're saying just because of the word 'shall', the State is not acquiring a liability. But with the word 'shall' there's still no requirement to fund. So it seems to me, Madame Speaker, that really, what is being said is 'may'. The State 'may' fund. That's really the intention. Although, some legislators are asking for the word 'shall', the true meaning is that we 'may' fund.

"Madame Speaker, if we stick with the word 'shall' ..."

Representative Marumoto rose to yield her time, and the Chair, "so ordered."

Representative Halford continued, stating:

"Madame Speaker, ironically or paradoxically, given the strength with which our Governor has made the commitment to fund this, that if we use the word 'shall', we certainly will have no funding. If we use 'may', we certainly will have the funding.

"So Madame Speaker, let me just bring up one other point which was acknowledged in the *Maui News* Letter to the Editor today. I haven't misplaced it. Since it acknowledges and this is from one of Maui's Senators. The Administration's measures for action were held in the House and Senate money committees and cannot be acted upon now, as the Governor well knows. But Madame Speaker, this is a vehicle for us to use the word 'may' which will deliver, certainly deliver aeromedical services to Maui. It will prevent a 'showdown at the OK Corral' this summer, if I could use that metaphor. I think I've been clear. I won't go on for the sake of time. But if I could ask for a roll call vote. And Madame Speaker, again thank you and thank you, Members, for funding this."

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

"Thank you, Madame Speaker. I'd like to speak against the amendment.

"Madame Speaker, I think you and I are very blessed where we live because we both live within minutes of the finest medical facilities, the best technology, the finest trauma centers in the State. But I think many of our colleagues here on the Floor, many of our citizens here in Hawaii, don't have that blessing. And I got a taste of that. I drove, three weeks ago, I drove from Hilo to Kona at night, late at night. And I just couldn't imagine what would happen if there were an accident or something were to happen. The paramedics refer to the 'golden hour' as a time that where you have to access emergency care, urgent care, medical care. It's a difference between permanent disability and recovery. It might even be the difference between life and death. So I can't imagine any of our Neighbor Island people, any of our people who live in rural areas supporting this kind of change in the language. Because what it does is, it waters down our commitment to providing to the greatest extent possible the best emergency care we can. And for me as your Health Chair, Madame Speaker, that's really important. That's a priority. That always has been.

"It's important not to change the 'shall' nature of this service to a 'may', especially during challenging economic times like now, when general funds are short. All you have to do is look at the Order of the Day and look at ... We have at least three measures that talk about funding ambulance services. And for each of those communities, it's really important. I don't have to talk to them, I know. They send me letters, email, faxes,

because for them it's a matter of life and death. A 'may' service, if we use the language 'may', that means it's not a priority. You want to do it, you 'may'. I rather say, you 'shall' do it. The only reason you don't have to do it is because you may not have the funds. But when you do have the funds, you shall provide these services.

"Before the Legislature included aeromedical services, the State was already tasked and obligated with providing a State comprehensive emergency medical service system and specifically to establish emergency medical services throughout the State. And one of the important elements of an emergency system is transportation. And I know people usually think about ambulances. But in the modern era, we have to think about air, fixed wing and helicopter. That has to be included as part of a comprehensive system. And these provisions for an emergency system went back to 1978. That's how long it's been a priority. And all the services we've improved on to get us to that 'golden hour' or within the 'golden hour', that has been added on because as populations grow, we as policymakers have to be able to respond. And we should be telling the Department and the Administration, you shall provide these services to the communities that are in need.

"HRS 321.244, Department of Health functions and duties reads, in pertinent part, 'The department shall establish emergency medical services throughout the State.' So prior to the enactment of Act 2 of the Session Laws, there was already that expectation of a comprehensive statewide system of emergency medical services. And with the enactment of Act 2, the Legislature further clarified what another element of this system should be, and shall be. So the law already required a comprehensive emergency medical service system and we just expanded it because we need to modernize.

"I just want to read from a testimony from Scotty Schaefer, MICT."

Representative Lee rose to yield her time, and the Chair, "so ordered."

Representative Arakaki continued, stating:

"And I'm just going to end with this. He's a facilitator for Maui's EMS Advisory Committee. He says and I quote, 'The Administration has publicly stated that the funds will not be released until the Legislature has addressed their concerns about the State being liable if they are short of funds. I am not a legal expert, just an old paramedic tired of seeing people needlessly suffer and die. I believe the State needs to oversee and ensure that all Hawaii's citizens have access to specialized care on Oahu in an emergency. If there is no State oversight, it will never happen. I urge you to keep the words, 'subject to the availability of funds' but leave in the word, 'shall'. That way the State has oversight even if they do not have the money. It also leaves room to incrementally plan or change the current system."

"And this is from a paramedic on Maui. And I'd take his word, before I take the AG's advice. Thank you, Madame Speaker."

Representative Saiki rose to speak in opposition to the proposed floor amendment, stating:

"I'd like to speak in opposition to the floor amendment.

"I'm actually somewhat troubled for two reasons. First, as you know, Madame Speaker, the Legislature made a great effort last year to provide funding and a system for air ambulance services throughout the State last year. And I'm



troubled that the Administration, rather than implementing this program, has chosen to invite litigation.

"And that relates to my second point. I'm troubled by the Attorney General's opinion, as read by the proponent and the movant. What the proponent read, appeared to be very conclusory and lacked authoritative citations to stand or support his proposition. The Attorney General basically argued that the use of the word 'shall' may result in liability for the State if we do not fully fund this program. But as the Attorney General knows very well, because I discussed this with him last year on a different matter, federal appellate courts do not always define the term 'shall' to mean that there is a mandate. In other words, some federal courts have defined the term 'shall' to mean 'may'. And the courts have examined these cases on a case-by-case basis. They look at the factual circumstances to make a determination as to whether or not 'shall' really means 'shall', or whether 'shall' means 'may'.

"The other point that I wanted to make with respect to the Attorney General's opinion is that it is conclusory. And it is really unfair to bring an opinion like that to the Legislature that lacks substance, that lacks clarity, that lacks analysis. The Attorney General basically gave us a conclusory opinion that the State may be held liable for not fully funding this program. There are a host of issues. There are a host of issues that apply to a situation like this where you need to determine if the State can truly, in fact, be held liable for its actions. And I'd like to briefly go over the analysis that I hope the Attorney General will address at some point.

"The first question that you have to ask is whether or not the State can be sued in federal court or in State court, because the rules are a little bit different. In federal court, states enjoy a broad grant of immunity under the Eleventh Amendment. The Eleventh Amendment gives states immunity against lawsuits in federal court. There are only three exceptions to this rule. The first is where the Congress abrogates the state's immunity through a federal statute. The second exception is where the state has consented to be sued, usually in situations where it accepts federal funds in exchange for its own waiver of immunity. The third exception applies in situations where state statute or a constitutional provision provides explicitly for a lawsuit against the state in federal court. None of these exceptions would apply in this case because to begin with, it is not even clear if the State can be sued in federal court for violating a federal law or a federal regulation. It's not even clear if the federal court in the first instance would have jurisdiction over the State for a claim like this.

"The second question, or the second issue that needs to be addressed is whether or not the State can be sued in the State court. And again, the State enjoys sovereign immunity in State courts. It cannot be sued for anything. The State, as a general rule, can only be sued in the State court where it has waived its immunity. And the State has done this explicitly, through the adoption of Chapter 662 of the Hawaii Revised Statutes and this is called the State Tort Liability Act. It's through this chapter, if the State has consented to be sued only for the torts of its employees. This begs two questions. First, if as the Attorney General is arguing, the State or the Legislature could be held liable for not fully funding this program, are legislators employees ..."

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

Representative Saiki continued, stating:

"Are legislators employees, under Chapter 662?"

"The second question that needs to be asked is whether the Legislature's decision to not appropriate funds for a program is a tort. Even if it is a tort, the discretionary exception to Chapter 662 may apply. And I'd like to discuss that a little bit because the Attorney General mentioned it in his opinion, but only in a conclusory manner. It's discretionary because the Hawaii Supreme Court has explained it best. And I think I'd just like to read or recite a very short quote from this Hawaii Supreme Court where it explained that sovereign immunity for the performance of discretionary functions is retained to protect the decision making processes of State officials and employees which require evaluation of broad public policies. The exception makes clear that the State Tort Liability Act is not intended to provide a vehicle to review policy decisions by State officials or employees in the form of a negligent suit. This rule recognizes the separate powers and functions of the Legislative and Executive branches of State government and protects them from any attempted disturbance through the courts.

"Madame Speaker, the State could be held liable under the State Tort Liability Act if in fact the acts that give rise to the claim are not discretionary, but are operational in nature. And by operational, the Hawaii Supreme Court has meant that these are acts or conducts of State employees used to implement programs, to implement services, to implement specific governmental duties. I'd like to note that the case that I just cited from, one called Nakahira v. State of Hawaii. It's a decision of the Hawaii Supreme Court. And in that case, interestingly enough, the Supreme Court held that the State's decision to create a helicopter maintenance program within the National Guard was a discretionary function and therefore did not give rise to State liability in that specific lawsuit. That could be distinguished, Madame Speaker, from a situation where the State is operating a program. It's the operation of the program that gives rise to potential liability. It is not the State's decision to create a program.

"Madame Speaker, I am very troubled by the Attorney General's opinion. I know that the Attorney General represents the Governor. But the Attorney General also represents the Legislature. And to send such an opinion to the Legislature that lacks substance, that lacks analysis, that lacks citations, is irresponsible. And accordingly I am opposed to this floor amendment. Thank you."

Representative Souki rose to speak in opposition to the proposed floor amendment, stating:

"Yes, Madame Speaker, I wish to speak against the amendment and I would want to incorporate the remarks of the Majority Leader as my own," and the Chair "so ordered." (By reference only.)

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

Representative Bukoski rose, stating:

"Madame Speaker, I would like to say a few words. This directly affects my district. And I would like the opportunity to say a few words."

At 6:18 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:25 o'clock p.m.

At this time, the Chair stated:

"Members, before we recessed, I recognized Representative Souki, who called the question. And although he called the question, it's at the discretion of the Chair. So at this point in time, I will recognize Representative Halford, Representative Bukoski, and Representative Kaho'ohalahala to make very short remarks."

Representative Souki rose, stating:

"Point of information, Madame Speaker. I just want you to know that I respect you as the Chair, but I take umbrage at the choice that you made because I believe I called for the question in good faith. Thank you."

Representative Halford rose to respond, stating:

"I thank you Madame Speaker for the opportunity to rebut the Majority Leader's esoteric and theoretical discussion about the AG's opinion. And Madame Speaker, the AG's opinion is not where the 'rubber meets the road' on this issue. And as the Majority Leader acknowledged at two different points in his long dissertation, that even with the use of 'shall', there is still discretion. It's still discretionary. He made that point twice. And that's exactly the point that I was trying to make earlier. That if it is in fact still discretionary, then what's the harm in using 'may'?"

"In this case, Madame Speaker, where the 'rubber meets the road', are we going to fund aeromedical services or not? Is the Governor going to fund it? Are we going to have it? That being the bottom line issue. If we use 'shall', we certainly will have no funding. If we use 'may', we will certainly have funding. 'May' is more certain and drives us closer to what the 'shall' hopefulnesses are. We get the services by using 'may'. This perhaps is the last vehicle for us to use to deliver the good for the people of Hawaii. Thank you."

Representative Bukoski rose to speak in support of the proposed floor amendment, stating:

"Thank you, Madame Speaker. Madame Speaker, we have been hearing a lot of talk about aeromedical services. I'm in support of the amendment."

"We haven't heard much about other parts of this bill that if we don't change the language, that it will affect, and that has to do with ground ambulance service. When I first got elected, my number one priority was to get the Kula ambulance to 24 hours. It was my district's number one priority as well. Kula's number one priority. I can bring before this Body, a mother who lost her child because an ambulance service was not available when her child was injured and her child died because we didn't have 24-hour service in Kula. I was able to get the Kula ambulance put into the budget last session and it was cut. And then I was able to work with the various Senators and Representatives to get the Kula ambulance through this aeromedical service. And my district was very ecstatic, and very happy, and pleased that finally we were going to get 24-hour service in Kula."

"I've supported every other ambulance bill that has come before this Body for every other district that is very deserving of it. And to sit and watch something like this possibly die because the quibbling of 'shall' and 'may' is really disheartening. And I would hate to see it go down like this. The debate over 'shall' and 'may' really doesn't matter. If this Body has the will to do something, it can. And if we have 'shall' in there or 'may', it doesn't matter. If we wanted to put aeromedical services across the State we can do it if we have the will. So to change one word really, in my opinion, to do what's right not only for Maui, but for my district, for Kula, to

give them that ambulance service that they need so badly, to me is a small thing to ask."

"We question the AG's opinion yet we heed the remarks of a paramedic whom I actually respect. Scotty worked really hard on this issue. But to take his opinion over an AG's opinion, who is actually working in the best interests of this State, as far as from a legal standpoint to me, just doesn't make sense. And I would hate to see this theory, whatever way it turns out, tested in court. How much money are we going to waste if we get to that point? To me, let's just change the verbiage and move forward, and put politics on the side. Thank you, Madame Speaker."

Representative Kaho'ohalahala rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, Madame Speaker. May I rise in opposition?"

"I think that the previous speakers are correct in we're here talking about semantics, two different words. What is clear to me, Madame Speaker, is that this initiative for the aeromedical helicopter for Maui County was an issue in a bill that was supported by all of the islands of Maui County. It has been worked in every Committee, every subject Committee, even into the Finance Committee before that actually passed. What becomes very evident is that while we were all involved in the work of advancing this bill for its passage, the Administration took no time to come forward during that process, during the legislative process to be involved, to be informed, about what was being prepared here for passage."

"And as a result, we all know that the Governor then moved to veto the air helicopter medical services, emergency medical services for Maui County. That put us all in a dilemma because it meant that this Body now had to decide what we were going to do with this. And when we had moved forward in override of that veto, it became evident then that we were going to be divided by partisan lines. And that put the Maui County delegation in a very awkward position because while we all stood forward in the processes to support this bill, now we were going to be called upon to take sides. And I think that is what is really playing out here before us today."

"May' or 'shall', I think the issue here is real clear that this, I'm sorry but, I think that what's really happening here is that some of us have to be redeemed. And whether we may be redeemed or we shall be redeemed is what this issue really boils down to, and it's sad that we have to come to this juncture here to talk about emergency medical helicopter services for Maui County and perhaps for the State of Hawaii. But nonetheless, the fact that some of the testimony that preceded us against this measure that was provided, I think they're very compelling, and they give us a stronger foundation to stand on."

"So given that kind of testimony, given the fact that we have been playing around with this long enough, and that the people who are really suffering from this are the people from Molokai, Lanai, Maui, Kahoolawe, and Kalaupapa. So the Governor can put this in place. The County has supported it. We don't need to go fool around with this any longer. But mark my words, this may become, or perhaps shall become, much more of an issue as we depart today."

Roll call having been previously requested, and by unanimous consent, granted, the motion that Floor Amendment No. 11, amending S.B. No. 2690, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," be adopted, was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 36: Representatives Abinsay, Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tamayo, Wakai and Waters.

Ayes, 15: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen.

(Main Motion)

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

"Thank you, Madame Speaker, I'm rising in opposition to Senate Bill Number 2690.

"My opposition is the fact that we're raising the fee on registration for our automobiles. And I believe that trained emergency people who are extremely necessary, I just don't think it should all fall on automobile owners. It seems like it's not equitable. There are many people who use public transportation. People that are hurt hiking, out on the ocean, tourists. There are a lot of people that use their services and this just seems to target one group, and that's automobile owners. Thank you."

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

"Thank you, Madame Speaker. I rise in opposition.

"I cannot support a tax increase. And that's my reason for my opposition. Thank you."

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

"Thank you, Madame Speaker. In opposition.

"Without the nexus that is the connection between the fee collected and the service provided, it is a tax. And could you also incorporate the words of the speaker from Kahaluu as my own," and the Chair "so ordered. (By reference only.)

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

"Thank you, Madame Speaker. I'm also opposed.

"I'm all for the ambulance but this is charging every single member of the State that has a car and has vehicle registration for this ambulance service. If we're going to do that, why don't we provide ambulance service to all the State? Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. I'd like to ask for permission on possible conflict of interest. My brother is an EMT and firefighter," and the Chair ruled "no conflict."

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

"Thank you. I would like to express some reservations.

"I do feel that this is very important to make sure that our ambulances are funded, but again going through the fee increase, I think that that as a nexus is dubious. So with that, I go with reservations but I do see the importance of having this service. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2690, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Third Reading by a vote of 41 ayes to 10 noes, with Representatives Blundell, Finnegan, Fox, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Stonebraker voting no.

At 6:40 o'clock p.m., the Chair noted that S.B. Nos.: 2424, SD 2, HD 2; 3207, SD 2, HD 2; 3049, SD 2, HD 2; 2004, SD 1, HD 1; 2045, SD 2, HD 1; 2280, SD 1, HD 1; 2718, SD 1, HD 1; and 2690, SD 2, HD 2; passed Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1279-04) recommending that S.B. No. 2782, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2782, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE FUNDING OF A HABITAT CONSERVATION PLAN," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1280-04) recommending that S.B. No. 2919, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2919, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MILITIA," passed Third Reading by a vote of 51 ayes.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1281-04) recommending that S.B. No. 3080, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 3080, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Stonebraker and Thielen voting no.

Representative Magaoay, for the Committee on Legislative Management presented a report (Stand. Com. Rep. No. 1282-04) recommending that S.B. No. 2716, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2716, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition to 1282.

"This is a measure to redo the way the Board of Regents are selected, watered down to an Interim Study Group. I am leery of the whole process, that's why I'm voting no."

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

"Madame Speaker, just briefly in support.

"I just want to ease the concerns of the previous speaker. This measure was amended and now it has in it an Interim Study Group to look at the recodification of the higher education statutes. By next Session, we should have a bill in hand that we can take a look at to make sure that our State laws, as it pertains to the University and its affiliate organizations, are in line and make sense. It's been many, many years since we've had that opportunity. And just like we did the education statutes, I believe in 1995 or '96, we're going to do our best with higher education statutes. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2716, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 42 ayes to 9 noes, with Representatives Blundell, Fox, Jernigan, Leong, Meyer, Moses, Ontai, Stonebraker and Thielen voting no.

Representative Hiraki, for the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 1283-04) recommending that S.B. No. 2474, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2474, SD 3, HD 2, pass Third Reading, seconded by Representative Lee.

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

"I rise in support of Senate Bill Number 2474.

"Madame Speaker, Hawaii's recognized as a leader in the field of astronomy, aquaculture, and tourism. And now with the passage of Senate Bill 2474, Hawaii will become a natural leader in the production and use of renewable energy.

"Madame Speaker, this is the '20-20 Bill'. This bill requires that 20% of our electricity shall, and not may, be derived from renewable energy by the year 2020. This bill is significant, Madame Speaker, because 2004 marks the year that the State will finally embark on a long-term commitment toward the use of renewable energy.

"By jointly utilizing the resources of the utilities, DLNR, DBEDT, PUC, Legislature, and the public, Senate Bill 2474 sets up the framework for a renewable energy plan that is designed to succeed and not fail.

"I want to personally thank the Speaker, Director Ted Liu of DBEDT, and the wonderful chair of the Energy Committee for your assistance, support, and leadership. I also want to thank the advocates on this issue, such as the Sierra Club and my good colleague from Kailua for helping making this day possible. Members, please support this measure. Thank you."

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

"Thank you, Madame Speaker. I'm rising to speak in support of the bill, but with some concerns.

"Thank you. And I hope that the Chair of the Consumer Protection and Commerce Committee will listen to these and understand what the concerns are. These concerns may not be

able to be addressed this year but I would like to see them at the very latest, be addressed next year.

"I support the intent of requiring 20% of our electricity to be generated from renewable resources by the year 2020. And as the previous speaker said, it's known as the '20-20 Bill', but it's the '20-20 Bill, kind of'. And the problem is that the first 20, the 20% from renewable resources really gets eroded away and undermined by some particular measures in the bill.

"I'm particularly concerned about the definition of renewable energy that is in the bill. That definition includes several sources of power that are not fossil fuels by themselves, but they're generated by fossil fuel. So if it walks like a duck, quacks like a duck, it is a duck. For example, rejected heat from co-generation, and combined heat and power systems which are created by the incineration of fossil fuels is defined as renewable energy. That's not really renewable energy because it has a fossil fuel base. This makes no sense in a bill dedicated to reducing our dependency on these same economically volatile and environmentally degrading fossil fuels.

"The renewable portfolio standard should ensure that truly renewable energy be generated and used thereby keeping that money here in Hawaii. Otherwise, it's sent out-of-state as we know, to buy the fossil fuels to be imported to use those other systems that then have some rejected heat from co-generation or some other sort of side effect from the fossil fuel based system.

"When we develop the local renewables, it will contribute to local investment and job creation. And it will keep our environment healthy and our economy healthy. The whole purpose of a RPS, renewable portfolio standard, is to really move us ahead with renewable energy, the wind, the solar, the wave, all of those things for which Hawaii is truly blessed.

"This I can't really call it a '20-20 Bill', Madame Speaker. Maybe a '14.5%-20'. And I think it's unfortunate that we aren't really up front with what we should be doing which is saying we have the ability to use renewable energy and to reach the 20% mandate by the year 2020. You take a look at other countries in the world, Germany, England, of all things, where the sun barely ever shines. These other countries are moving ahead aggressively with their renewables. And they're going to reach their mandate. It is a mandate. By the year 2020. But we're taking, we've stumbled on this measure, Madame Speaker. And I'm not sure if it could be fixed in Conference Committee. I would hope so because the Senate sent over a pretty dynamic bill saying it should be 30% renewables by the year 2020. So it sounds as if the House needs to 'rev up' a bit on the Conference Committee and maybe use some good wind power to get the right bill out of there. Thank you."

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

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

"I think one of the things that's being overlooked is that we have to deal with a regulatory structure that sends out the right signals to move in the right direction. One of the most important elements in this bill is found on page 4, line 13, where it says, 'The public utilities commission shall by December 31, 2006, develop and implement a utility ratemaking structure which may include, but is not limited to performance-based ratemaking, to provide incentives that encourage Hawaii's electric utility companies to use cost-effective renewable energy resources found in Hawaii to meet these standards.'

"So while we'd like to move in the right direction by promoting truly renewable energy resources, we need to find the right mechanisms to also encourage conservation and efficiency. And with a ratemaking structure like performance-based ratemaking, which we are requiring the PUC to move towards, only then can we then move to something that's truly renewable. But I think while we focus on definitions, focus on whether this is a goal or mandate and how much renewables can be produced, we need to change the regulatory structure and that's a very important element in this bill. Thank you."

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

"In support. I'd just like to disclose a possible conflict. I'm a principal in a renewable energy company," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2474, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Third Reading by a vote of 51 ayes.

Representatives Hamakawa and Hiraki, for the Committee on Judiciary and the Committee on Consumer Protection and Commerce presented a report (Stand. Com. Rep. No. 1284-04) recommending that S.B. No. 2577, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2577, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Finnegan's written remarks are as follows:

"Madame Speaker, I rise in support of S.B. 2577, S. D. 1, H.D. 2. This legislation is intended to make it easier to address medical errors by allowing errors to be reported to a health care review organization without the fear of litigation. Many errors that lead to patient harm tend to stem from flaws in procedures rather than individual failures, and reporting them is an important way procedural and systemic problems can be addressed. However, the fear of litigation has made open and full reporting of errors difficult. By protecting health care providers in reporting errors to health care review organizations, this measure will enable open and full reporting and make it easier to address problems and improve patient outcomes.

"However, I would like to point out that this measure has weakened the protections that were included in the original version. The protections provided in the current draft might be too weak to enable the bill to achieve its stated purpose. I hope the Conference Committee will consider restoring the stronger protections so that we can get an effective bill passed this session, instead of having to come back to it again in the future.

"Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2577, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PEER REVIEW," passed Third Reading by a vote of 51 ayes.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1285-04)

recommending that S.B. No. 2395, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2395, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm rising to speak against this bill.

"Thank you. Madame Speaker, this bill relates to the Hawaii Convention Center. And the troubling part in it is that under this bill, the Convention Center will be able to keep secret the companies' name and address of anyone that books, any entity or person or corporation or organization that books the Convention Center, they'll be able to keep it secret until 10 days after the event has occurred.

"Madame Speaker, I would like to request to be able to place the remarks from Grace Furukawa, a director of the Pro-Democracy Initiative into the Journal," and the Chair "so ordered."

Representative Thielen continued, stating:

"Thank you. She is extremely opposed to this for the same purpose. As is the Society of Professional Journalists, the Hawaii Chapter. And it says, they are saying, this is the first time anyone who rents or uses public facilities, paid for with taxpayers' funds, and operated in the public interest, can claim anonymity. They have a couple of examples. What about a private group such as, and they're using rather dramatic ones, but private groups such as the Nazi Party or 'Skinheads' could mask their rental of the Convention Center. Is not the public entitled to know they're using a taxpayer paid facilities? Are not protestors entitled to know that these groups are renting the Center so they can protest the groups?

"Under this bill, it's extremely troubling. The name of the entity renting the Center, that's paid for by taxpayers' dollars, will be completely private and secret. And then 10 days after the event is held, it's disclosed. How is that in the interest of open government and good government? I can't vote for this bill, Madame Speaker. And I would hope others would feel the same way. Thank you."

Representative Thielen submitted the following testimony:

"From: Grace Furukawa, a Director of the Pro Democracy Initiative

Re: SB 2395, Relating to Information Practices

Date: Tuesday, April 6, 2004 at 2:00 pm in Room 325

Chair Hamakawa, Vice Chair Blake Oshiro and Members, I am Grace Furukawa and I am a Director of the Pro Democracy Initiative and I speak in OPPOSITION to this bill. As soon as any attempt is made to limit open access to information and prohibit sunshine, it should raise a red flag. This particular instance, where the public, who owns the Convention Center, would be prohibited from knowing who is renting its building is unbelievable. Why, for heaven's sake? Surely nothing in a rental agreement need be confidential? The law already provides government officials to remove trade secrets from public files. The public has a right to comment, protest before or during a convention if it sees fit. It really becomes suspicious when openness is denied.

I would be concerned if this bill passes and is used, that it becomes a precedent to exclude other government committees or contracts from openness. Secrecy is a dangerous thing in a democracy. I urge you to oppose this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2395, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Stonebraker and Thielen voting no.

At 6:54 o'clock p.m., the Chair noted that S.B. Nos.: 2782, SD 1, HD 1; 2919, SD 1, HD 1; 3080, SD 2, HD 2; 2716, SD 1, HD 2; 2474, SD 3, HD 2; 2577, SD 1, HD 2; and 2395, SD 2, HD 1; passed Third Reading.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1286-04) recommending that S.B. No. 1000, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1000, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Kahikina's written remarks are as follows:

"Position: In strong support

"Purpose:

Requires child abuse reports to be made by members of the clergy or persons who perform similar functions for a religious organization or the staff of any church, synagogue, temple, mosque, or other religious institution to report cases of child abuse or neglect to the police or DHS, except when the information is gained from confidential clergy communication.

"Reasons:

This legislation is in the best interest of child victims of child abuse because the process for reporting child abuse is expedited. Communication and confidentiality is kept intact, which keeps the primary function of the clergy reliable to those who require it.

"The processes in the Department of Human Services, the Child Protective Services, and the Honolulu Police Department need to be clarified so that each entity understands the role a clergy person plays in the reporting of child abuse and/or neglect. This measure will hopefully force these agencies to revisit their processes for the sake of the children."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1000, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Wakai being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1287-04) recommending that S.B. No. 1238, SD 2, HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 1238, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH,"

passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Wakai being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1288-04) recommending that S.B. No. 2114, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2114, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SAFETY AND SECURITY IMPROVEMENTS FOR UNIVERSITY OF HAWAII CAMPUSES," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Wakai being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1289-04) recommending that S.B. No. 2210, SD 2, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2210, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Wakai being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1290-04) recommending that S.B. No. 2835, SD 1, HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2835, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF THE ATTORNEY GENERAL," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Wakai being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1291-04) recommending that S.B. No. 3104, SD 2, HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3104, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition.

"Madame Speaker, this bill is opposed by the person that we would most want to hear from on this issue, the Chair of the Campaign Spending Commission. In his testimony, he pointed out that what this does is create a duplicate publicly funded program to the one currently in existence, which he's quite aware of because he runs it. And he says the public is going to be quite confused by this second duplicative program.

"He did some estimates on how much this new program, which I remind all of us, is to publicly finance election to the State House of Representatives starting in 2006. He did some calculations on what this would cost and if the three candidates went in for each House district, that's the maximum that can go for each House district and went up to the maximum amount, the total cost would be \$14 million an election. With two candidates, the excess would be over \$9 million. So we're dealing with a range of between \$9 million and \$14 million depending on whether we have 2 or 3 candidates.



"The current balance in the Fund that he uses to operate the publicly financed elections, that in all honesty, the level of support that we currently provide in publicly financed elections is related to the size of this Fund. We haven't gone completely wild yet. We only proposed to with the passage of this bill. So under the current thing where we limit public financing roughly to the amount that's available in the budget.

"We have a total Fund of \$5 million. So we're just going to sail right through that Fund very quickly if we adopt the bill under question. We'll be then dipping into the general fund, which we don't have money for. And he correctly points out that that has serious implications. We're not dealing with a proposed publicly financed system that's supported by the structure that's in place. We do not have the funds to pay for this system. We're talking about publicly financing people up to \$90,000 for each election. This is well beyond what we currently have, the average expenditure on a House election is \$36,000. I am uncomfortable opposing the Chair of the Campaign Spending Commission when he makes these legitimate points.

"I'm additionally uncomfortable with just asking the taxpayers when they haven't said they want to do it because we're going to go way beyond the check-off fund and dip into the general fund. Having taxpayers pay out of the general fund, money for candidates to run for public office, when we already have a workable system of publicly financed elections in place. I would urge all Representatives, who seriously consider this bill, since it directly affects them in 2006, to oppose the measure. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3104, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Third Reading by a vote of 44 ayes to 5 noes, with Representatives Finnegan, Fox, Meyer, Moses and Stonebraker voting no and with Representatives Herkes and Wakai being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1292-04) recommending that S.B. No. 2887, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2887, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE INSURANCE COMPACT," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Wakai being excused.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1293-04) recommending that S.B. No. 1318, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 1318, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Third Reading by a vote of 49 ayes, with Representatives Herkes and Wakai being excused.

At 6:59 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 6:59 o'clock p.m.

At 7:00 o'clock p.m., the Chair noted that S.B. Nos.: 1000, SD 1, HD 1; 1238, SD 2, HD 2; 2114, HD 1; 2210, SD 2, HD 1; 2835, SD 1, HD 1; 3104, SD 2, HD 1; 2887, SD 2, HD 2; and 1318, SD 1, HD 2; passed Third Reading.

Representative Takamine, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1294-04) recommending that S.B. No. 2344, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2344, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm voting no on the bill. But I would like to note that there's no vote record attached to the bill. I don't think mine is the only copy. I checked in caucus and others did not have a vote record attached to that. And I was wondering if we could just take a brief recess so we could see how people voted on that."

At 7:01 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 7:06 o'clock p.m.

At this time, the Chair stated:

"Members, we're on Stand. Com. Report 1294. During the recess, the Clerk's Office was kind enough to xerox the record of vote sheets for the Members. It should be on your desks. Is there any discussion on 1294?"

Representative Thielen continued, stating:

"Thank you, Madame Speaker, I'll continue with my opposition to the measure which is really sort of, the 'son of van cams'. And I appreciate receiving the copy of the vote record. It shows that there were three with reservations, three that were opposed, and there were only eight votes that said, okay, let's go ahead with this.

"I don't think it's a good idea, Madame Speaker. I'm sure I'm going to hear from the Chair of the Transportation Committee as to why it's a wonderful idea, but as I recall, before we were going through with something that would apply to Oahu not to the Neighbor Islands, the people spoke out very loudly and clearly that they did not want that. And I found that it was interesting that they Chair of the Transportation Committee is from Maui and that first van cam never hit the streets of Maui. I don't think this is a good idea. Thank you."

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

"Thank you, Madame Speaker. I rise in opposition to this.

"Even though I think there's some value to these cameras, I think we do need to move with caution on this, and so for that reason, I am opposed to this bill as it stands."

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

"Yes, Madame Speaker, I speak very strongly for the bill.

"Let me just remind some of the Members that may have some concerns about this bill. Number one, it is not a 'van cam' as the previous speaker so slightly stated.

"Number two, this program is to provide for the counties, the counties now, I remind you. Not us. For the counties. An option of whether they wish to continue with this program. Whether they wish to have an ordinance to have such a program. And the ordinance, if they so choose, could be to have cameras for red lights, cameras for speeding, or both. Or they could choose none at all. And this is for the four counties, not just Oahu County. Every county will have an opportunity to look at this and decide if they wish to have the program or not. This is not forced upon them. This is merely enabling legislation to give the counties a tool if they wish to use it. If they don't wish to use it, they don't have to.

"Also, this bill does provide, if the counties choose to have this bill, that whatever dollars or fines that come out of it will remain with the county. So Madame Speaker and Members, this is very different than the bill that we've had in the past. I don't think I have to go into the scare tactics of the fatalities that we've seen in Oahu, and on the Big Island, and on Maui because of speeding.

"Now, I'm not saying that this bill is going to do everything. It can't. It'll just be an additional tool for the police to use. The police can continue to use their radar guns, they can have highway patrols, and they can also choose to use this. It's just another accommodation, and I believe this addition to their 'speed arsenal' for the county police will significantly drop the speeding rate, and hopefully in the end, save lives. And that's what it's all about.

"As a Chair of the Finance [Transportation] Committee, I take it very serious upon myself and the Committee Members, not just to build highways, monitor the air, monitor the ocean, but to preserve and save lives on the highway. I think this is part of our function. And I need to remind the Members here, that I believe we have a very comprehensive package that came out of the Transportation Committee, and that it included the graduated licensing for young people. It includes a bill on speeding, and a bill on racing. And of course this bill here. I think with this combination, it gives us a nice package to preserve lives for our citizens. Thank you very much."

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

"Thank you. In opposition. I respect the last speaker's ..."

Representative Souki rose, stating:

"Point of order, Madame Speaker. I've been told that I stated that I'm the Chair of the Finance Committee. I'm the Chair of the Transportation Committee. If I said it, it was inadvertent. It was hardly a 'Freudian slip'. I've served my time as Finance Chair. I don't think I care to serve it again. Thank you very much."

The Chair stated:

"Thank you for the clarification. Representative Sonson, you have the floor."

Representative Sonson continued, stating:

"Thank you very much Madame Speaker. I appreciate the explanation of the Chair of the Transportation Committee regarding how important this bill is. But my opposition to this particular bill goes with my aversion of government intrusion

into our privacy. This camera that we place on these poles, if the county chooses to do so, doesn't only take pictures of individual who are racing, speeding, or whatever. It takes pictures of individuals, it takes pictures of everyone that stops at a light.

"I have gotten used to having a feeling of privacy within my own vehicle. I remember watching *Seinfeld*, where there was this episode where he was digging his nose because he thought that he was not being watched. Because we do get used to this. This vehicle becomes a part of us. It's something we control. We can direct it wherever we go. And when we stop at a traffic light, we know that we shouldn't be watched. So we do things.

"And having a camera there, taking a picture of me, whatever it is that I'm doing, sort of offends me because this is just another step in how government will intrude upon my privacy. And I value that very much. And I think I'm not alone in this. I think a lot of people who feel the same way feel that we can probably give the whatever benefits that they are trying to achieve with this bill in other ways. Perhaps SHOPO has a better idea. Let's fund our police officers, our police departments properly so that they can do their job a lot better to keep our streets safe.

"Having a camera on a pole is certainly not the right way to do it. Having to monitor every citizen gives you this eerie feeling that you're always being watched, just like facing you right now and I don't know who's behind me looking at me and listening to me. Just like I'm talking to you right now and I'm so aware that there's a camera pointing at me. It makes me uncomfortable if that's happening in my car. It doesn't make me uncomfortable if I'm standing here because I know that the people have a right to know what I say, what I do within these Chambers. But I don't think that every citizen of Hawaii is ready to be monitored at a place where they feel this certain expectation of privacy. And I believe that a car that we hold so dearly, which is part of our life, I think that has become something we're used to. That we almost live in these cars. We travel so much in them. We get used to feeling that this is a safe place for us. And that a camera looking in, is something that we should not welcome. Thank you very much."

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

"Thank you, Madame Speaker. I rise with reservations on this measure.

"I don't have any objections to these cameras ensuring that people are not running red lights, but I share the concerns of the Representative from Waipahu. I think it's not unreasonable to foresee a time where the Prosecutor's Office or others would see these mounted cameras as an opportunity to catch people committing other kinds of crimes, whether they be seatbelt violations or littering or anything more egregious. So I think I will reserve the rest of my remarks. But hopefully, if this measure emerges from Conference Committee, the conferees would see fit to specify that this is specifically to catch red light runners and that any evidence collected by these pole cameras would not be ... It wouldn't be ... I don't know the legal terms. The Vice Chair of the Judiciary Committee can help me with that. But I think the idea is that this would specifically and narrowly targeted towards red light runners and would not be a sort of a dragnet at every intersection. Thank you."

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

"Thank you, Madame Chair. In opposition.

"I greatly respect the Speaker Emeritus who was the Finance Chair, and who is the current Transportation Chair. And I defer to him many times in the Committee. But I have a problem with this particular bill. The preamble if you will, talks about speeding, hit and run drivers, who have run over children, etc. But we're talking about mounting these things on the poles. This is not going to stop people who are speeding unless they're speeding through the intersection. That's not stopping the racers on the streets or on the freeways. It must have some kind of a flash if it's going to take your picture at night. I think a flash would blind you. I can see people rushing to get through the intersection before the lights turn red. That might be very dangerous. There may be people in the intersection and maybe cars still turning. Or they'll stop suddenly to not get caught at the red light or as the light turns and then we could have a lot of rear-end collisions.

"If we're going to ID the driver to make sure it is the driver and not just the vehicle that we're ticketing, then we have to be able to see through the tinting on the windows. I know that front driver windows can't be tinted very much, but they're tinted some. And depending on the angle and the glare, etc., again we're going to have some problems.

"I see a 'may' in here. Each county may, that's good. And we're not saying 'shall', we're saying 'may'. It's such an easy thing to do.

"We talked about earlier, we were talking about the education bills, that we're not Canadians. Well, and we're not Brits. In England, I just heard it on the radio this morning. The average person in England has his picture taken, or at least he's seen on camera, 300 times a day. I don't know how, but I mean that's what they said. So that's what our friendly colleague was just saying a minute ago. We could be identified and seen all the time.

"Now there's authorized fines here and they're collected under county programs, and they deposit into a general fund account, and then we authorize the counties to expend funds from this general fund account. I take that to mean that it's a State general fund account. It's the general fund, a special sub-account. A special fund if you will, which is ripe for raiding at another time, whenever we deem necessary.

"So there are many reasons here why I have problems with this bill. 'The photo red light imaging and photo speed imaging detector equipment shall be operated from a fixed pole, post, or other fixed structure on a state or county highway.' So again, it's fixed. We're not really catching the speeders. I think as my colleague said, it would be better to have police officers. If they witness it, they can make a judgment call whether or not you tried to run the red light, got caught in a red light intersection, whatever, I mean it happens. And if an officer is there, he can use his best judgment. And you can't very well escape them because the officer spotted you if you did run the red light. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. In very strong support.

"Because with implementation of this provisions, there's absolutely no question that accidents will be reduced, and lives will be saved. And I wish that the words of Speaker Emeritus be recorded as my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Madame Speaker. I rise in opposition.

"Two years ago when we repealed the traffic cameras that were on the sides of the road, it was my second year in office, Madame Speaker. And it was quite enjoyable and rather invigorating to see the incredible amount of public outcry against something that the public really felt touched deeply and personally by. It didn't seem like a day could go by when this issue just regarding speeding tickets coming in the mail, anonymous tickets, going to court, and so forth was on the newspaper, radio, television. There was such an outcry that we were part of that group that many of us here in this Body today were part of that group that actually moved to repeal the traffic cameras at the time. I would have been shocked to imagine that we would be coming back with something, not the same thing, but something close.

"And there are many reasons that have been mentioned opposed to it. And I recognize all of those. I'm not sure about some of them, the flashing at night. And I recognize the privacy issues. And as one Representative mentioned, the dragnet that could be used. These are all valid concerns. Some would say this is the step in the wrong direction. Other countries and the amount of times people are caught on tape.

"Some would say that this is the wrong direction to create more safety. And we would all say that safety is probably the most important thing. But the main reason for me voting against it is that this is an area that the people have predominantly spoken with one voice that they don't want it. We want more safety. We want people to respect the laws and not run red lights. We want with all of our hearts to see fewer fatalities on the roadway. But here is an area where the people have really spoken loud and clear. And I would beg the Members of this Body to think back to that time and really respect the will of the people. And let's do this. Let's get greater safety. Let's get people to abide by the laws that we have on our highways. And let's cut the number of fatalities. But let's do it in a different way. This is not a way that the people of Hawaii find acceptable. And I believe that they would be opposed to this. Thank you."

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

"Thank you. In support.

"The issue of privacy, invasion of privacy has come up and turn on your television sets in the morning to the morning and watch the traffic cams. We're already on camera. That, everybody in the State can watch. And I got no assurance that those cameras can't zero-in on any individual car. So I think that the issue of privacy, we've already lost that. Thank you."

Representative Ching rose in opposition to the measure and asked that the remarks of Representative Stonebraker be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

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

"Thank you, Madame Speaker. I'm rising in support with reservations.

"First I'd like to commend the Transportation Chair and Vice Chair for all the work that they've done, as well as the Judiciary Chairs and really treating this bill seriously and looking at all the different constitutional concerns and concerns with privacy. It kind of bothers me that in this discussion we're having, we're kind of focusing so much on protecting people from getting their pictures taken when the real discussion should really be

about people who are breaking the law. And by breaking the law, they are endangering other people's lives, as well as their own, whether it's speeding or running red lights. And I think that we really need to focus on that more than we have been.

"And also I'd just like to mention there's a concern brought up about the taking the pictures at night and with the flash. And I also had that concern and had it cleared up with the Transportation Vice Chair. And technology, as it moves so quickly these days is great enough that a flash is not needed and they can take pictures at night. Thank you."

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

"I stand in support with some serious reservations.

"Very briefly. I'd like to thank the Transportation Committee and Finance Committee for amending the bill to take in some suggested language regarding the concerns by Judge Hayashi when she had dismissed all of the prior summons from the van cam program. I believe that the amendment contained herein addresses most of those concerns in terms of the constitutionality, in terms of the right of the defendant.

"However, upon further evaluation and actually sitting here, I do have to agree with the Chair of EDB. The privacy concerns are very serious. I don't think there's any limitation language in this bill that would prevent the State or prosecuting attorney from using any evidence obtained through the photo enforcement system for other purposes. And that does disturb me because that is not the purpose of this bill. And if we are going to be moving this forward, I would hope that we could clarify some of that language.

"I am glad to see that there's an effective date forcing this into Conference. And I hope some of those concerns can be addressed. Thank you."

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

"Madame Speaker, I rise in support.

"I can understand the great concern of this Body given that the bad rollout and the very bad van cams bill. As stated by other people in support of this measure, this is not van cams in any way. What this is, is a safety and enforcement bill. This Body has heard from the members of our community given the horrific accidents that have occurred over the past year due to speeding, that we need to do something about that. As a result, 21 bills were introduced in the House to deal with speeding in one form or another. Four remain and the Chair of Transportation covered those four.

"Having stated that, many people say that you can't legislate away speeding. Introducing these bills, increasing the enforcement and penalties is not going to stop people from speeding. What will, is enforcement. That comes down to dollars. People say we need more police on the roads. I support that effort. But as we saw with the attempts by the City to come up with the pay raise for the police for City and County Honolulu, it's easier to state it than to actually do it.

"So what are the solutions? One of them is providing traffic photo enforcement on poles at intersections, and along the highways on fixed poles, to capture speeders in areas where people are known to speed. Will it do away with all speeding? No. Will it have some effect of slowing down people who would otherwise be speeding late at night when the police aren't out on those roads? I would state, yes. Will it stop people from going through red lights? I would answer, yes.

There are several jurisdictions in our country that already have traffic photo enforcement, most commonly at intersections.

"The concerns raised that it was going to cause problems with people running red lights or stopping too quickly, have not been borne out in those areas. What it has done is it's cut down on people running red lights, and it's cut down on people speeding. And that's saved lives. And it's saved people from being injured.

"In our communities, as we've heard from many of our elderly who walk our streets, they're concerned about being hit. And what can we do to protect those people? This is just another part of the arsenal.

"Again, I want to emphasize this is not the State telling anyone that they need to do this. It's empowering the counties to go forward and implement this provision if they think it will help. The Mayor of the City and County of Honolulu, Mayor Harris, has stated he would not support it for speeding but he would support it for fixed photo enforcement in our intersections. So it's a homerule issue. I think each of the counties would look to their citizens to see if this is something that they want.

"Without doing this, I just wanted to emphasize, Madame Speaker, the last statistics for 2002, the economic cost just from crashes was \$655 million. Fatalities related to speed were 41 in 2002, or about 43% of fatalities. And the cost from those just due to speeding was \$160 million. This is not a small amount of money.

"And it doesn't even measure the tragic loss of lives and those affected by that. You can think back to the moving statements for Mrs. Elizabeth Kekoa regarding her death and the impact it had on her church community and on her neighbors. And if this bill will help save lives, it's worth at least allowing the counties the opportunity to have that choice.

"I do agree on the privacy issue. I think it can be addressed in Conference. It is something that would have come up in other jurisdictions, and I'm sure it's been addressed and it could be fixed so it would not be used improperly. Thank you very much, Madame Speaker."

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

"I would like to be in strong support of this.

"I feel that it is just a homerule issue. All of these arguments that are being brought up here will be brought up on the county level. And the local people can decide whether they want it or not. To me, it's a homerule issue and I think that I give it my full support. Thank you."

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

"Thank you, Madame Speaker. In opposition.

"I'd like to request that words that I spoke two years ago in opposition when we repealed the traffic camera program altogether be inserted as part of my comments, as well as the comments made by the Representative from Waipahu," and the Chair "so ordered." (By reference only.)

Representative Bukoski continued, stating:

"It's hard to know where to begin and where to end on this because I'm so strongly opposed to it. But I guess I'll start by addressing some of the comments made by the Chair of

Transportation. Although, I respect the Chair, his claim that this is not a van camera, I don't agree. It may not be in a van, but I think if you read the bill, it's exactly the same thing. The only difference is that it's not in a van and that the money supposedly goes to the county.

"As was mentioned before, the money that goes to the county, or actually it's a State fund, and then the money gets appropriated to the county just for the maintenance and implementation of the program of itself, nothing else. So is there a chance for us to raid the fund at a later time? Definitely. Does it create more money in our coffers? Definitely. For the State to use.

"Counties, it's just giving them an option. They already have the option if they want to implement it on county roadways or at county intersections that they control. They already have that option to do it. So why are we making it a State issue? The City and County already said that they weren't going to implement it.

"There are other ways to achieve the same objectives, if not better than going to an extreme where there was such an outcry against this kind of program. I don't understand why we're choosing to go to such an extreme before exhausting all other options, which I think the Chair, to his credit, was headed in. Increasing fines. Giving the fines to the counties in order to supplement their workforce. Put more police officers on the street. And then look at other ways that are created, but have been very successful in other states. Lengthening yellow lights and implementing all red intervals has reduced traffic accidents and incidents at intersections by 96% in some states.

"I've been very openly against these cameras for many reasons, including privacy. But not just because of privacy but because I honestly believe that there are other methods of achieving the same changes in social behavior that we're trying to achieve with these cameras. I've spoken with DOT. I've spoken with their engineers. And they agree that there are other methods that we can implement that would have better results if not the same.

"SHOPO is against the cameras. They've submitted testimony. We've already heard that the City and County will probably not implement it. And as being as open as I have, especially on Maui, but also here on Oahu, I have not received any calls, any emails saying that I'm on the wrong track, saying that they're upset with me for speaking out against the cameras. In fact, I've been receiving calls thanking me for speaking out against them again. And they can't believe that we're bringing it up after we just repealed it.

"So as far as saving lives, we've heard it many times on the Floor. And in my comments two years ago, I gave an example where I was a witness of an accident on the freeway right at the time we were discussing this issue. And if you put a camera there, a van, on a pole, I don't care what you did. If you put a camera there and you put a police officer there, what would have prevented that accident from occurring? It was two racers. And they rear-ended a motorcyclist. A camera would not have stopped that accident from occurring. A police officer would have. A police officer can prevent and preempt. He can pull someone over and not only cite him for speeding, but maybe for a DUI or maybe for other reasons why he was driving so poorly.

"In other words, a police officer has discretion. If you look at the traffic fatalities on our highways and at intersections, there are other variables that are the cause of those accidents, not just speeding. It could be inattentive driving. It could be DUI. It could be that you're yelling at your kid in the backseat. A lot of the young teenagers that I've spoken to about this that

actually race said that this isn't going to affect them at all because they steal cars, they steal license plates, they have ways to get around it. They're actually going to challenge the cameras."

Representative Meyer rose to yield her time, and the Chair, "so ordered."

Representative Bukoski continued, stating:

"I'm going to wrap it up, Madame Speaker.

"I just hope that my colleagues really, really take into consideration what we're doing here, and really vote against this. I also want to mention that there was no Senate hearing on this bill. The language was dropped in on the House, so there was no debate. There was only the person who wrote the bill and the prosecuting attorney that came out to Transportation in the House that testified in support of this bill. There's really no support. There wasn't any hearing in the Senate. There was no debate on this issue. So I just hope that we just kill it now and put it to rest. Thank you."

Representative Bukoski's remarks on HB No. 2167, HD 1 on Third Reading during the Regular Session of 2002 are as follows:

Stand. Com. Rep. No. 614 and HB No. 2167, HD 1

[Floor Amendment to HB No. 2167, HD 1 – offered by Representative Djou to repeal the law authorizing use of a photo traffic enforcement system]

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

"Thank you Mr. Speaker. The Speaker Emeritus alluded to our responsibility as legislators to pass laws and legislation to help the public safety. I also believe that it is our responsibility as legislators to invoke the people's will in the legislation and laws that we pass. I can tell you, from my point of view and from the e-mails and correspondence that I been getting from both sides of this issue, it has been 50 to 1 in favor of repealing these traffic cameras completely.

"I want to comment on a couple the statements that the Speaker Emeritus made in regard to this bill and this issue in general. He mentioned the success of other jurisdictions and what a success it's been in other jurisdictions. I have a report here that I pulled off the internet and there were a total of 57 jurisdictions, all of which were county by the way, no state jurisdictions have implemented this program. We are the first. Of these 57 jurisdictions, the programs that were implemented prior to 1996, there are 20 of them that have been repealed. The remaining have all been post-1996 programs. That leads me to believe that some of these programs that have gone through the course of implementation and several years of actually working, those states have found that it is not working, and so they repealed it. The ones after 1996 are basically still in the trial mode, as we have been since 1998.

"He mentioned speed related accidents. He threw out some numbers, in 1991 there were 91 speed related accidents, in 2001 there were 60. I have figures here from the National Highway Traffic Administration. In 1999, there were 98 total traffic fatalities. Of those, 29 were related to speeding. Of the 29, zero were related to any speeding above 55 miles an hour. There was one that was equal to 55 miles an hour or lower. Another one was non-interstate highway. One at 55 miles an hour, the rest were all below 40 and 35 miles an hour. That is 29, so that is a big disparity between the numbers that we heard earlier.

"As far as red light running, he threw out some numbers: 886 occurrences of red light running; 12 fatalities; 60% reduction due to the cameras in Washington D.C. and 40% reduction in Fairfax. That is interesting because in Virginia, I believe it was repealed. The traffic cameras were repealed by the Governor. In Fairfax, they did a study. Instead of implementing traffic cameras, they lengthened the yellow light by 1 and a half seconds, and by doing so, they reduced the incidents at those two intersections by 96%. They almost doubled the 40% that the speaker is referring to by these traffic cameras. So if we are looking for results, I think we are getting better results by other conventional means, like extending the yellow lights or increasing our speed limits to the 85% level.

"He mentions H.B. 2167 as fixing the problems. I want to just mention that one of the many problems that I see in this version of H.B. 2167 which was originally a total repeal, and which I signed on to as a co-sponsor. It was totally changed and I say that if our intent is to create a safer highway, then it should be across the board to everybody using our highways.

"In this bill on page 30, in line 8, it gives basically, preferential treatment to visitors and tourists that use our rental cars. It gives the ability for rental car agencies, if they can't get the name and address of the lessee or the renter of that car, they simply have to pay a \$50 fee. How are we going to address the unsafe visitors that cause a lot of accidents in our State? How is the traffic camera system going to stop them from causing all the accidents? I know on Maui a lot of the visitors cause a lot of our accidents, a lot of our rear-end accidents. How is this program going to prevent that from happening? I don't see it. They'll get maybe a ticket in the mail, maybe a week or two later. But it is not going to prevent that accident from happening.

"I'll give you an example, a personal example. I was driving home from the recent Janet Jackson concert. I was driving home on the freeway here on Oahu and two Hondas came zooming past me doing at least 100 to 110 miles an hour. I turned to my children and I said that something is going to happen. Sure enough, ten seconds later, and the press can verify this, on the night of the Janet Jackson concert, by the Farrington off-ramp, ten seconds later they rear ended a motorcycle rider. I pulled over to give aide and assistance. Where were the traffic cameras there? Could that traffic cameras have stopped that accident from occurring?

"Would the traffic cameras have stopped that accident from happening? I don't think so. Even if the traffic cameras were parked right there they wouldn't have stopped it from happening. The racers in the Honda would have gotten a ticket a week later. Luckily, the motorcycle rider did survive with some pretty big injuries.

"He mentioned that the proponents or the supporters of this amendment condone breaking the law. I think that is a weak argument. You know we are for safety. We are for public safety. We are for highway safety. I am, but there are other conventional ways to achieve those same objectives without subjecting our driving community to these kinds of invasive and draconian types of enforcement.

"I proposed a bill to give our counties the ability to impose additional fines, over and above what the State imposes, in order to supplement the law enforcement that we have. Speaker Emeritus eluded on Second Reading, that part of our problem is a lack of enforcement. If that is the problem then let's address it. Let's increase our law enforcement. Let's supplement our budgets. Let's give the counties the abilities to impose additional fines over and above. We are doing it for a private entity and they are pocketing the money and they are

taking it. Why can't we do the same for our counties and give them the ability to impose additional fines to hire more law enforcement, to pay our police officers a higher wage so that we don't lose them to other states.

"I talked to our police department and our Mayor from Maui. I have numbers that will give us six solo bike enforcement officers. The Lieutenant in charge of traffic control said, 'Kika, if you can get me six additional bikes we don't need the cameras.' Those six solo bikes, would be able to prevent accidents from happening. Pull drunk drivers off the road. Pull inattentive drivers off the road. Pull uninsured drivers off the road. Save lives. These cameras don't save lives. That is a lie.

"I hope that my colleagues will help to support this. There is a lot more I can say about it. I've got six inches worth of research that I have been doing on this. I've been following this issue for about a year and a half, but I hope my colleagues will listen to some of what I say and help support this amendment."

(Main Motion)

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

"I just wanted to thank my colleague from Mililani for pointing out the scientific aspects of the data that have been given to the media. I want to point out specifically the claim that the 30% speeders prior to this enforcement program dropped to 5%. I think that it is a totally arbitrary number and I can argue that it is using different methods of measurements pre-program versus post-program. So I think those numbers are totally invalid and basically you can argue it either way. Basically this has turned out to be a marketing issue and who can market it the best. I will keep comments really short. I apologize. I just wanted to comment or bring out two other issues that I didn't bring up before.

"The State of New Jersey outlawed these programs and prior to them outlawing these programs they did a three year comprehensive study on speeding and how it is related to accidents and fatalities. After that comprehensive study they outlawed the photo enforcement program in that State.

"I also want to point out that the Institute of Traffic Engineering has a handbook that determines how long the traffic light duration for yellow lights at intersections should be based on the approached speed, the distance of the intersection, and several other variables.

"I wanted to apply that formula to our situations here. So I went out one morning to Punchbowl and Vineyard and I timed the yellow light there. According to the formula by the Institute of Traffic Engineering, that yellow light duration should be seven seconds in duration, but that yellow light is five seconds. It is two seconds shorter than what it should be. It is interesting. I just read a editorial by a editorialist in one of our newspaper saying that he almost hit a family going through that intersection one morning, trying to speed through to beat the yellow light. And he was speaking in favor of this program. But should that yellow light have been extended an additional two seconds as proposed by the formula in our engineering handbook, then maybe he wouldn't have had that near miss. For those reasons and many others, I speak in strong opposition to this measure."

*2002 House Journal  
Day 25 – Friday March 1, 2002*

Representative M. Oshiro rose in support of the measure and asked that the remarks of Representatives Souki and Caldwell



be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

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

Representative Meyer rose in opposition to the measure and asked that the remarks of Representative Bukoski be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Kaho`ohalahala rose to speak in support of the measure with reservations, stating:

"Thank you, Madame Speaker. Reservations and I'd like the words of the Representatives from Ewa, Makiki, and Aiea to be entered as though they were my own," and the Chair "so ordered." (By reference only.)

Representative Kaho`ohalahala continued, stating:

"And just a quick note. I represent the rural islands of where there are no traffic lights, except perhaps one in Paia Town. So I'm trying to figure out how to apply this so what do we do on Lanai, and Molokai, and Kalaupapa, and Hana, for example. Just things to think about."

Representative Ching rose in opposition to the measure and asked that the remarks of Representative Bukoski be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

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

"In strong support, and I'd like the words of the Vice Chair and the Chair of Transportation in the Journal as if were my own.

"I'd just like to say that I don't think anybody has the right to put any other person at risk for serious injury or death."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2344, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Third Reading by a vote of 33 ayes to 17 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Leong, Marumoto, Meyer, Moses, Nishimoto, Ontai, Pendleton, Sonson, Stonebraker, Thielen and Wakai voting no and Representative Jernigan being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1295-04) recommending that S.B. No. 2607, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.B. No. 2607, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADOPTION," passed Third Reading by a vote of 50 ayes, with Representative Jernigan being excused.

At 7:41 o'clock p.m., the Chair noted that S.B. Nos.: 2344, SD 1, HD 2; and 2607, SD 1, HD 2; passed Third Reading.

### THIRD READING

**S.B. No. 1549, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 1549, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused.

**S.B. No. 3135, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 3135, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST ST. FRANCIS HEALTHCARE SYSTEM OF HAWAII AND ITS AFFILIATES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused.

**S.B. No. 3156, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 3156, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused.

**S.B. No. 53, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 53, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AMBULANCE SERVICE IN THE KIHAI/WAILEA REGION OF MAUI," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused.

**S.B. No. 2541, SD 1, HD 1;**

**S.B. No. 2542, SD 1, HD 1;**

**S.B. No. 2543, SD 1, HD 1;**

**S.B. No. 2544, SD 1, HD 1;**

**S.B. No. 2545, SD 1, HD 1;**

**S.B. No. 2546, SD 1, HD 1;**

**S.B. No. 2547, SD 1, HD 1;**

**S.B. No. 2549, SD 1, HD 1;**

**S.B. No. 2550, HD 1;**

**S.B. No. 2556, HD 1; and**

**S.B. No. 2551, HD 1:**

Representative Saiki moved that S.B. Nos. 2541, SD 1, HD 1; 2542, SD 1, HD 1; 2543, SD 1, HD 1; 2544, SD 1, HD 1; 2545, SD 1, HD 1; 2546, SD 1, HD 1; 2547, SD 1, HD 1; 2549, SD 1, HD 1; 2550, HD 1; 2556, HD 1; and 2551, HD 1; pass Third Reading, seconded by Representative Lee.

The Chair then announced:

"As we have done on Second Reading, what the Chair will do is take all the collective bargaining measures in one swoop. That means for clarification, it will be S.B. 2541, SD 1, HD 1; S.B. 2542, SD 1, HD 1; S.B. 2543, SD 1, HD 1; S.B. 2544, SD 1, HD 1; S.B. 2545, SD 1, HD 1; S.B. 2546, SD 1, HD 1; and on page 17, S.B. 2547, SD 1, HD 1; S.B. 2549, SD 1, HD 1; S.B. 2550, HD 1; also S.B. 2556, HD 1. We skip 2990. Included in the collective bargaining, will be S.B. 2551, HD 1. Is there any objection to that?"

Representative Fox rose to speak in opposition to S.B. No. 2542, SD 1, HD 1, stating:

"Thank you, Madame Speaker. I would like to object, to voice my objections to Senate Bill 2542.

"Senate Bill 2542 deals with Collective Bargaining Units 2, 3, 4, 6, 8, and 13. And Madame Speaker, we have a bill lying before us on 48-hour notice which covers exactly these same bargaining units. And it has the figures filled in. And I'm not quite sure why this issue is in front of us in this form, but since it is, I will speak to it."

The Chair responded, stating:

"Actually, Representative Fox, I was asking the Members if there's any objection to me taking up all the collective bargain measures at once."

Representative Fox: "I have no objection if I can make the same remarks following your solicitation of the information that we have no objection of taking them all at once."

Vice Speaker Luke: "Is there any objection to the Chair taking up all the collective bargaining at once? No. Representative Fox, you can speak on Senate Bill 2542."

Representative Fox continued, stating:

"Thank you. I don't think the bill is necessary because it is covered in the green sheets, the Conference Committee Report that's lying before us that will come before us on Thursday. However, the opportunity is here to have, sort of a Second Reading discussion of this bill.

"I just want to point out some of the parameters of this pay increase. It is, as we know, approximately an 8% across the board increase in the second year of the two-year bargaining period. And that includes a roughly 5% arbitrated awarded increase and 3% step increase for 8%. Madame Speaker, I want to bring out that over the period of 1996 to 2003, HGEA received pay increases totaling 25% on average. In that same period, the rate of inflation went up 13%. Fact one, HGEA increases over the previous 7 years exceeded the rate of inflation by 12% total.

"Second, I would like to point out that the increases, should they be followed in the other bargaining units that have yet to settle, UPW, HSTA, will according to the calculation of the Administration, result in a total cost over the current year and the next two years of the biennium, which will be a base for any future pay increase, a total of \$294 million. Interestingly enough, the deficit the State will face in fiscal year 2007, that's at the end of the next biennium, as a result of these pay increases will be \$296 million. So the deficit that the State will face is approximately the size of the total increase of these pay increases over the three-year period.

"And it's very difficult to compare some of the bargaining units to what's going on in the private sector. One bargaining unit that has pretty direct equivalence to the private sector is Bargaining Unit 3, which are secretaries and clerks. A comparison before the pay increases of this bargaining unit across the board with the private sector, inputting the value of the benefits that public sector workers have over the private sector, that is the longer vacation times, the longer sick leave, those more generous benefits, reveals in rough terms that Bargaining Unit 3, before the pay increase, was 9.5% higher than their equivalents in the private sector. It just adds up to a fairly hard to comprehend decision on the case by the Arbitrator. We've seen salary increases running way ahead of inflation. We see the Bargaining Unit 3, the only one where we can do the direct comparison, sitting at 9.5% above the private sector before the awards.

"We see the State with a complete inability to pay. Essentially being bankrupt over the next three years to finance this if the settlement ricochets through the rest of the bargaining units. And so it's an extraordinarily difficult thing to understand why we're so 'out of whack' with what the actual rise and the cost of inflation is at this period, very low rate. And it's going to pose tremendous problems for the State. It's going to result in pay increases going to middle class people at the expense of the people who can least afford it because that part of the government will have to be cut in order to finance these pay increases. Thank you, Madame Speaker."

Representative Schatz rose to speak in support of the measures, stating:

"Thank you, Madame Speaker. I rise in support of all of these measures.

"I just want to address a couple of the points that the Minority Leader made. First of all, I think it needs to be said that the Council on Revenues is projecting revenue growth conservatively between 4% and 8% over the several years. And the collective bargaining increases over the next two years for HGEA are about 4%. So they're about tracking with the revenue growth for the State. Actually, I think it's the '06 year the Council on Revenues is projecting nearly 8% growth. So to say that these increases are not in line with the expected increase in tax revenues is not true.

"The other point I want to make is this, the University professors got a really great and well-deserved settlement that amounts to about 5% per year over six years. It's heavily back-loaded, as we all know. But the fact of the matter is it's about 5% per year conservatively speaking. My calculation is that roughly speaking, the HGEA arbitrated award is roughly 4% per year. So the collective bargaining process has rendered about 5% for certain public employees and the arbitration process has rendered slightly less, 4% for other employees. And I think it's important for us to make a public policy declaration that if a University professor deserves a raise, so does his or her secretary. And if a teacher at the University deserves a raise, so does the teacher at Moanalua Middle School. If my father, the University professor deserves a raise, so does my brother, the Vice Principal at Waialua High School. Thank you."

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

"Thank you, Madame Speaker. I believe in response to the previous speaker, the Minority Leader was not talking about tax revenues, he was talking about inflation. Quite two different things. And I believe that all these people covered here ... I'm with reservations on all of these at the time being.

"And I'm with reservations for all of them because there's no amounts yet. We don't know what we're voting for yet. And I'm going to speak to one of them in particular in a moment. But I believe they all do deserve pay raises, as do I and as do the people in our Executive branch. And of course we just passed out a measure for the Legislative branch. But I believe that the University professor deserves a pay raise, and so does the Governor of this State.

"Anyway, I'm going to exclude, Bargaining Units 1, 5, and 7. That's S.B. 2549, SD 1, HD 1; S.B. 2550, HD 1; and S.B. 2551, HD 1 in the following statement. My statement is then concerning mainly S.B. 2542, SD 1, HD 1, which is an all inclusive measure that covers all the other bargaining units, 2, 3, 4, 6, 8, and 13. And I believe that the Governor has made a legitimate offer, which we really should consider, of 1.5% increase plus step movements and that will come to a grand

total of \$25,125,087. It makes it easier for the Clerk. \$25,125,087. And for each bargaining unit, it's \$622,801 for Bargaining Unit 2. \$10,611,217 for Bargaining Unit 3. \$907,390 for Bargaining Unit 4. \$2,304,744 for Bargaining Unit 6. \$2,738,533 for Bargaining Unit 8, and \$7,900,402 for Bargaining Unit 13. Again, a grand total of \$25,125,087. That is something, which we can afford. And I think it's a very legitimate offer. Thank you, Madame Speaker."

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

"Yes, Madame Speaker. Thank you very much. I wish to speak in favor of these bills. And particularly, S.B. 2542. I just want to give some comparison and take off from the Majority Floor Whip on the comparison between the arbitrated raise and the raise given to UHPA, which was through negotiations.

"The arbitrated raise came to approximately to 4% per year. If you're going to extend it for six years, and there's no guarantee because you have to renegotiate after two years again. So right now it's an average of about 4%. But let's say it goes for six years. They continue for six years. There's 23,500 employees. The cost over six years, of course it seems to be extraordinarily high, \$284 million.

"Now let's take a look at UHPA, which was negotiated between the Administration and the Union. And I'm not saying that they should not get what they did. Over six years, and most of it on the back end, they will get approximately \$160 million. There's 3,500 employees. If you divide that 3,500 employees into the \$160 million, it means over a period of six years, they will be getting \$40,000 each, or approximately \$6,667 a year.

"Now the arbitrated raise over a 6 year period. They will average \$11,000, versus \$40,000. They will be getting per year, roughly \$1,800 versus \$6,667. I just use this to illustrate that arbitration can, in fact, save money over a period of six years when you compare the both.

"And now UHPA, bless their souls, have come up with a very good contract. But if we should be concerned, it would be more concern with the Administration for kind of 'giving away the shop' in this issue. Thank you very much."

Representative Saiki rose, stating:

"Madame Speaker, I call for the question."

The Chair responded, stating:

"You can't call for the question. We still have one more bill."

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

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

"Yes, I'd like to register strong reservations on all the collective bargaining bills."

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

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

The motion was put to vote by the Chair and carried and S.B. No. 2541, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2542, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 46 ayes to 1 no, with Representative Fox voting no, and Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2543, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2544, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2545, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2546, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2547, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS FOR PUBLIC EMPLOYEES," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2549, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2550, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused;

S.B. No. 2556, HD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," passed Third Reading by a vote of 47 ayes,

with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused; and

S.B. No. 2551, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused.

**S.B. No. 2990, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 2990, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTEGRATED TAX INFORMATION MANAGEMENT SYSTEMS ACQUISITION BY THE DEPARTMENT OF TAXATION," passed Third Reading by a vote of 47 ayes, with Representatives Arakaki, Caldwell, Hiraki and Kahikina being excused.

At 7:58 o'clock p.m., the Chair noted that S.B. Nos.: 1549, SD 1, HD 1, 3135, SD 1, HD 1; 3156, SD 1, HD 1; 53, SD 1, HD 1; 2541, SD 1, HD 1; 2542, SD 1, HD 1; 2543, SD 1, HD 1; 2544, SD 1, HD 1; 2545, SD 1, HD 1; 2546, SD 1, HD 1; 2547, SD 1, HD 1; 2549, SD 1, HD 1; 2550, HD 1; 2556, HD 1; 2551, HD 1 and 2990, HD 1; passed Third Reading.

**S.B. No. 2077, SD 2, HD 1:**

Representative Saiki moved that S.B. No. 2077, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, in opposition.

"I spoke against this on Second Reading. Briefly in summary, the Functional Plans are not used. I suspect that if this bill passes, people who don't have anything better to do will be assigned to work on the Functional Plans. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried and S.B. No. 2077, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNING," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Ching, Finnegan, Fox, Meyer and Moses voting no.

**S.B. No. 2385, SD 2, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 2385, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIV/AIDS PROGRAMS," passed Third Reading by a vote of 51 ayes.

**S.B. No. 2399, SD 2, HD 1:**

Representative Saiki moved that S.B. No. 2399, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Chair, Madame Chair, you didn't look hard enough.

"Madame Chair, I rise in very strong support of this narrowly crafted bill that benefits only the people of Kahuku on the Big

Island. And may I insert written remarks," and the Chair "so ordered."

Representative Herkes' written remarks are as follows:

"Mr. Speaker, I rise in strong support of SB 2399, SD 2, HD 1. Mr. Speaker, the people in Hawaiian Ocean View Estates have worked diligently to acquire an ambulance on their own to give some degree of emergency support to this remote rural community. It seems only appropriate then that the State provide the necessary funding for equipment and personnel to have this ambulance in service.

"Mr. Speaker, this rural community lacks many government services that most of us take for granted. There is no potable water supply for residents and the low rainfall in the area makes it necessary to travel many miles to load up water containers to support life. There are no schools in the area due to no potable water supply. The community has built its own community center and community members do most of the work on the park. The least we can do is to fund the ambulance. I urge the members to support this important piece of legislation."

The motion was put to vote by the Chair and carried and S.B. No. 2399, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY AMBULANCE SERVICE," passed Third Reading by a vote of 51 ayes.

**S.B. No. 2469, SD 2, HD 1:**

Representative Saiki moved that S.B. No. 2469, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. I'm rising to speak against the HPOWER plant boiler SPRBs.

"Thank you. Madame Speaker, my reason for opposing it based primarily upon the fact that it's time that we start using waste disposal technology that doesn't depend upon fossil fuel to operate. I think burning fossil fuels in garbage to energy systems is the old way of doing things. So my vote against it is really a protest vote against thinking about the antiquated waste disposal techniques. I would like to see us move forward with better technology. Thank you."

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

"Thank you, Madame Speaker. I stand in strong opposition to this measure also.

"Thank you. Madame Speaker, the reason that I stand in strong opposition is the last thing Oahu needs is another landfill. All of the landfills are in my district. And only 6% of our rubbish goes into the landfill. Right now the question is Waimanalo. We've been to community meetings and it's a shame to hear other communities say, 'Oh, keep it in Nanakuli.' But Nanakuli has not said, 'Go take it to Kailua, or Kaneohe.' We say let's look at other alternatives. And we did that.

"The City and County of Honolulu negotiated in bad faith for new technology. I was present at the hearings and witnessed the misuse of business relationships to circumvent processes and influence the kind of information and the timing of that information that was received by the Council Members. In other words, the Council put up this RFP for alternative processing of our rubbish. And we brought in Plasma Arc Gasification, a new technology. In fact it is a renewable energy

plant that would take our rubbish and turn it into energy. We do have a viable and operational plant that I went personally, last year, to witness in Sapporo, Japan.

"HPOWER is an unreliable solution that will not provide viable solutions for the problems at hand. In my community, Waianae alone, we are aware that landfills and anything that can be done to enhance the amount of waste they hold, are not the answer to the problems associated with solid waste.

"Madame Speaker, I have to say that I do agree with the previous speaker. There are other technologies out there. It may be better than Plasma Arc. I really don't care. What I do care is that we should not be looking at landfills. We should not be pitting communities against communities. This is an island economy. We do not have large masses of desert to throw our rubbish. So the reason why I oppose this, I guess, it is a protest no vote for those reasons. I urge my colleagues to oppose it. Thank you."

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

"Thank you, Madame Speaker. On the same measure, I'm in support of this bill.

"The reason I'm in support of this bill because we have an existing HPOWER plant. All they're doing now is adding another boiler to burn more trash. We should support this because until we find a solution as to where the landfill is going to be, and what we're going to do, this is an interim solution, because if we do find alternative measures, we have to do a permit process. It could take a while. In the mean time, what do we do with our *opala* that we have?

"I think with the existing structure we have, we just need to add another boiler until the solution we have goes through our process because anything we build, it won't be built overnight. So basically, I appreciate the people who spoke against it, but I think in the mean time, we need to have an interim solution before the final solution. Thank you."

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

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

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

"Well, I'm kind of surprised by the comments from the Representative from Kailua, mainly because the basic source of energy for HPOWER is solid waste, not fossil fuel. And one of the ways to keep a landfill out of her district is through keeping HPOWER viable and because it's the only kind of technology that can accommodate the amount of waste that is being generated by the City and County of Honolulu.

"A lot of people are talking about new technology, different technology. But the fact of the matter is, the most reliable technology is incineration. And it is being used by countries like Japan, European countries, to deal with their municipal solid problems.

"Again, I'd like to adopt the words of the speaker, the Representative from Waialua, Haleiwa because he is correct. We need to keep all of our options open while we deal with this very critical issue of solid waste disposal. And we need to

continue to use proven technology to deal with the problem. Thank you."

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

"In opposition. I'd like to disclose a possible conflict. I'm a principal in a renewable energy company and I'm in direct competition with HPOWER," and the Chair ruled "no conflict."

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

"Thank you. I'd like to incorporate the words of the Representative from Nanakuli as if they were my own," and the Chair "so ordered."

Representative Bukoski continued, stating:

"And I'd also like to add that the Chair of Energy is incorrect in her statement that there is no other technology available to handle the kind of waste generated in Honolulu. There are numerous kinds of technology other than HPOWER. HPOWER is antiquated. There are other types of incineration that are more advanced in technology and that can be utilized to handle the waste in Honolulu as well as the other islands. Thank you."

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

"I'm in opposition to this bill. I don't know why we're discussing this on a State level, it should be a county level. And that's my main opposition. Thank you."

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

"Thank you. I'm rising in support with some reservations.

"I really feel that HPOWER is, maybe antiquated, but it gets rid of the waste and it sort of recycles the waste and turns it into electricity which is a good thing.

"I guess the reservation I have is that the City and County should be doing this SPRB, not the State of Hawaii. They have the ability to do that. So I don't think it's proper for us to be looking at this. But overall I think until something better comes along, we have to be happy that we do have an HPOWER plant here that is at this point operating at full maximum. And the need for another boiler will help to alleviate the landfill. Thank you."

The motion was put to vote by the Chair and carried and S.B. No. 2469, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HPOWER PLANT BOILER ADDITION," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Arakaki, Bukoski, Jernigan, Kahikina, Ontai, Sonson and Thielen voting no.

#### **S.B. No. 2246, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 2246, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 51 ayes.

#### **S.B. No. 2358, SD 2, HD 1:**

Representative Saiki moved that S.B. No. 2358, SD 2, HD 1, pass Third Reading, seconded by Representative Lee.

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

Representative Magaoay's written remarks are as follows:

"The purpose of this bill is to address the litigation factor in the construction liability insurance crisis, by requiring that any person who wishes to file a lawsuit alleging defects in construction, must first engage in a statutorily prescribed negotiation process. The process provides the contractor with an opportunity to offer to cure any defects or otherwise settle the dispute prior to litigation. The bill also requires that the potential litigants attempt to mediate their dispute before resorting to litigation.

"Testimony in support of the bill was received from the Insurance Division of the Department of Commerce and Consumer Affairs, Building Industry Association-Hawaii, General Contractors Association of Hawaii, Subcontractors Association of Hawaii, Paul Louie & Associates, Inc., CC Engineering & Construction, Inc., Kokea Construction & Consultants, Inc., Associated Builders and Contractors, Armstrong Builders Ltd., Armstrong Properties, Ltd., HSI Mechanical, Inc., the Hawaii State Council of the American Institute of Architects, Land Use Research Foundation of Hawaii, and a concerned individual. Testimony in support of the mediation requirement was received from the Judiciary.

"Testimony in opposition to various provisions of the bill was received from the Hawaii Chapter of the Community Associations Institute (CAI-Hawaii), Consumer Lawyers of Hawaii (CLH), and an individual.

"CLH objected to the provision disallowing an award of punitive damages arguing that these damages punish defendants for gross, wanton, or willful conduct and deter similar conduct by others. There being no evidence that punitive damages in Hawaii are awarded in excessive amounts or inappropriately, your Committees removed that provision.

"CLH also objected to the limitation on the recovery of a claimant that rejects a "reasonable" pretrial settlement offer, to the greater of the cost of repairs, or the amount of the rejected settlement offer.

"Your Committees find that the reasonableness of a pretrial settlement offer is highly subjective, at the time and under the circumstances that it is made. Judging reasonableness with the benefit of hindsight, after the discovery period is concluded and the evidence has been weighed by a jury, is still problematic and does not address the reasonableness of the action at the earlier time. Therefore, it is unfair to impose sanctions. Again, CLH was persuasive and the provision was removed.

"CAI-Hawaii objected to the 30-day period to respond to a settlement offer. Your Committees, in response, have extended the period to 45 days.

"CAI-Hawaii was concerned that section -12(f) of this bill would cause a waiver of the attorney-client privilege. That concern has been addressed. CAI-Hawaii was also concerned about the 100 percent approval requirement, and in two places, this has been reduced to require only a simple majority of the units.

"Your Committees also attempted to address the other concerns of the individual and organizations that opposed various provisions, and in addition to the changes mentioned above, the bill has been amended to make it easier for both

sides to understand the process and comply with the requirements.

"While the amended bill reflects the policy decisions of your Committees, there may need to be additional technical changes to provide a more precise interface with the condominium statute and with court rules and procedures. In addition, there may be a benefit to providing some alternative procedures for smaller disputes.

"Therefore, your Committees have included a defective effective date provision. This assures that the Senate will disagree with the House amendments and that the bill can be further refined in a Conference Committee."

The motion was put to vote by the Chair and carried and S.B. No. 2358, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONSTRUCTION CLAIMS," passed Third Reading by a vote of 51 ayes.

At 8:09 o'clock p.m., the Chair noted that S.B. Nos.: 2077, SD 2, HD 1; 2385, SD 2, HD 1; 2399, SD 2, HD 1; 2469, SD 2, HD 1; 2246, SD 1, HD 1; and 2358, SD 2, HD 1; passed Third Reading.

At 8:09 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:06 o'clock p.m.

#### **S.B. No. 3182, HD 1:**

Representative Saiki moved that S.B. No. 3182, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Madame Speaker, thank you. I have a few objections to this bill.

"Basically what it does is it tells the Executive branch where to cut and provides an extraordinary amount of inflexibility to deal with a tough economic assignment. I think the way to go about this is to provide the Executive branch the authority to decide where to cut. Just set an overall ceiling and then let the Executive branch cut within that ceiling, not specifically tell them where to cut. Thank you."

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

"Thank you, Madame Speaker. I second what the last speaker said. I asked the Director of DHRD, would they have a problem if we gave them a number and let them figure out who to cut? They said, 'No.' They do have a problem where we're giving this artificial thing, 30% here, 30% there, 40% here. It's no flexibility at all.

"And they said some of these positions have been vacant for quite a while and that's because some of the positions are very, very hard to fill, like social workers. Very hard to fill. Engineers in some cases, very, very hard to fill. That's why they're vacant. That doesn't mean they're not still looking. And here we're cutting the positions without giving them that opportunity to decide. Thank you, Madame Speaker."

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



"Thank you, Madame Speaker. Reservations.

"My reservations have to do with the cuts being made in the aquaculture program. The previous speaker did speak out regarding certain positions that is very hard to fill. But some of these positions in aquaculture department have been vacant because they cannot find someone to fill the position. It's a very specialized area. So I think that if we do an across-the-board cut such as this, it will be harmful to some programs. Thank you."

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

The motion was put to vote by the Chair and carried and S.B. No. 3182, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Blundell, Ching, Finnegan, Fox, Leong, Meyer and Moses voting no.

#### **S.B. No. 3179, HD 1:**

Representative Saiki moved that S.B. No. 3179, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. Just briefly, there's some onerous features in this bill. I will be voting no. And hopefully ... I'll leave it at that."

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

"Madame Chair. I would like to declare a potential conflict of interest. We have a series of supermarkets on our island," and the Chair ruled "no conflict."

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

"Yes, Madame Speaker, I wish to declare a potential conflict. I'm a director of a bottling distributor," and the Chair ruled "no conflict."

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

"Thank you, Madame Speaker. I'm rising in opposition to this bill.

"Thank you. We passed another bill on the same subject a week or two ago. That bill, while I didn't support that either because I really don't support the 'Bottle Bill' at all, I mean I think that this is an old model and we want to recycle more products. A more comprehensive program is what I favor. But I'm especially not happy with this bill because I believe the retailers made a very good argument that they are not ready to run this program yet. The rules have not been approved yet. And this bill, as it is written, will come into effect on the 5th of January '05. And I don't believe that gives them enough time.

"Another problem with this bill is that grocery stores will be able to collect deposits starting in November, but the customers will not be able to get their deposits back until January, which means that this puts a lot of pressure on people, especially when they live in condominiums. They'll be piling up plastic bottles and water bottles and cans. And they'll have the

problem with the sanitation. And I just don't think it's well thought out. Thank you."

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

"Thank you, Madame Speaker. In opposition.

"As we've said on this Floor many times, there's no redemption centers set up yet. The bottles aren't marked and I think it takes a little while to get the bottles marked. We're already collecting fees and not able to return them in time. Any kind of reverse vending machines aren't here. If we don't have redemption centers, the bottles have to pile up somewhere. And I don't know that the Safeway in my district wants them piling up in their driveway or in the parking lot. I'm sure they don't want them in the store because of vector control and such.

"And I'm sure they don't want them outside in a temporary storage hut because they have to be guarded because now they're going to be worth something. And somebody will come break in and steal them. Just like they do your hubcaps or anything else. So I'm opposed to this measure."

The motion was put to vote by the Chair and carried and S.B. No. 3179, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Third Reading by a vote of 28 ayes to 23 noes, with Representatives Blundell, Bukoski, Chang, Ching, Finnegan, Fox, Halford, Jernigan, Karamatsu, Kawakami, Leong, Marumoto, Meyer, Mindo, Moses, Nakasone, Nishimoto, Ontai, Pendleton, Sonson, Souki, Stonebraker and Wakai voting no.

#### **S.B. No. 2447, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 2447, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME REDUCTION," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Bukoski, Herkes, Kahikina, Kaho'ohalahala, Morita and Sonson voting no.

At 9:13 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:14 o'clock p.m.

#### **S.B. No. 2405, SD 1, HD 1:**

Representative Saiki moved that S.B. No. 2405, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

The motion was put to vote by the Chair and carried, and S.B. No. 2405, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE DISPOSAL," passed Third Reading by a vote of 26 ayes to 25 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Ito, Jernigan, Kaho'ohalahala, Leong, Marumoto, Meyer, Mindo, Nishimoto, Ontai, Pendleton, Schatz, Sonson, Stonebraker, Takai, Takumi, Tamayo, Thielen, Wakai and Waters voting no.

#### **S.B. No. 3113, SD 1, HD 1:**

Representative Saiki moved that S.B. No. 3113, SD 1, HD 1, pass Third Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition.

"Previously we pointed out that the Insurance Commissioner was stuck into this bill without any hearing, which was contrary to the practice of this Body. In addition the bill is very odd in that it leaves out things like the length of term of the people. It's odd in the sense that the Insurance Commissioner and the Attorney General's elections are handled in two completely different ways. The Attorney General is elected in the same fashion as the Governor, a partisan primary and general. The Insurance Commissioner is elected in a nonpartisan fashion. Very odd to put these two things together in a resolution. It would certainly be a much cleaner operation if the Insurance Commissioner were not included in this measure. Thank you."

At 9:16 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:17 o'clock p.m.

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

"I'll make it short, Madame Speaker. I am opposed.

"I do not think we followed the procedures we normally follow in this Body. There are too many holes in this bill. It doesn't provide all the details you need to do this. And I'll incorporate the words of the Representative from Waikiki. Thank you."

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

"With reservations, Madame Speaker. Thank you. Because I really think they're two different issues and they ought to be in two separate bills. Thank you."

At 9:18 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:19 o'clock p.m.

At 9:19 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 9:20 o'clock p.m.

The Chair then stated:

"Representatives, I know it's getting late, but may I remind you, you should still submit your green slips so that we can have it on the record. Thank you. Do I have everyone's?"

The motion was put to vote by the Chair and carried and S.B. No. 3113, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VOTING," passed Third Reading by a vote of 30 ayes to 21 noes, with Representatives Arakaki, Blundell, Bukoski, Caldwell, Ching, Finnegan, Fox, Halford, Jernigan, Kaho'ohalahala, Karamatsu, Leong, Meyer, Moses, Ontai, M. Oshiro, Pendleton, Schatz, Souki, Stonebraker and Thielen voting no.

S.B. No. No. 3113, SD 1, HD 1, passed Third Reading in the following form:

**S.B. No. 3113, SD 1, HD 1:**

A BILL FOR AN ACT RELATING TO VOTING

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The purpose of this Act is to propose an amendment to article V, section 6, of the Constitution of the State of Hawaii to provide for the election of the attorney general and to provide for the election of the insurance commissioner. Presently, the attorney general and insurance commissioner are nominated and, by and with the advice and consent of the senate, appointed by the governor under article V, section 6, of the Constitution of the State of Hawaii.

SECTION 2. Article V, section 6, of the Constitution of the State of Hawaii is amended to read as follows:

#### **"EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS**

**Section 6.** All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. ~~[Such] The single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor[—That person] except as otherwise provided for in this section. Appointed executives shall hold office for a term to expire at the end of the term for which the governor was elected, unless sooner removed by the governor[—except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate].~~

The attorney general, the chief legal officer of the State, shall be elected by the qualified voters of the State in the same fashion as election of the governor. The person receiving the highest number of votes cast in the general election shall be deemed elected. In the event of a tie, the selection of the attorney general shall be as provided by law.

The insurance commissioner shall be elected by the qualified voters of the State at a general election to a term of four years. Candidates for insurance commissioner shall be nonpartisan. The person receiving the highest number of votes cast for the office of insurance commissioner shall be deemed elected. In the event of a tie, the selection of the insurance commissioner shall be as provided by law.

Except as otherwise provided in this constitution, whenever a board, commission or other body shall be the head of a principal department of the state government, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and removal of ~~[such]~~ members shall be as provided by law. ~~[Such] The~~ board, commission or other body may appoint a principal executive officer who, when authorized by law, may be an ex officio, voting member thereof, and who may be removed by a majority vote of the members appointed by the governor.

The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise provided for by this constitution or by law. If the manner ~~[or]~~ of removal of an officer is not prescribed in this constitution, removal shall be as provided by law.

When the senate is not in session and a vacancy occurs in any office, appointment to which requires the confirmation of the senate, the governor may fill the office by granting a commission which shall expire, unless ~~[such]~~ the appointment is confirmed, at the end of the next session of the senate. The person so appointed shall not be eligible for another interim appointment to ~~[such]~~ that office if the appointment failed to be confirmed by the senate.

No person who has been nominated for appointment to any office and whose appointment has not received the consent of the senate shall be eligible to an interim appointment thereafter to ~~[such]~~ that office.

Every officer appointed under ~~[the provisions of]~~ this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding that person's appointment, except that this residency requirement shall not apply to the president of the University of Hawaii."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the attorney general, the chief legal officer of the State of Hawaii, and the insurance commissioner be elected by vote of the general public instead of being appointed by the governor?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

Representative Thielen: "Yes, may we have the count please on the votes? Or if I need to make a motion to request that the names be read. I'd like to know what the count is on them."

Vice Speaker Luke: "On which one?"

Representative Thielen: "Specifically on the 'Bottle Bill', on the solid waste disposal, and on the elected Attorney General and elected Insurance Commissioner."

The Clerk then announced the votes for S.B. No. 3179, HD 1, as follows:

Noes, 23: Representatives Blundell, Bukoski, Chang, Ching, Finnegan, Fox, Halford, Jernigan, Karamatsu, Kawakami, Leong, Marumoto, Meyer, Mindo, Moses, Nakasone, Nishimoto, Ontai, Pendleton, Sonson, Souki, Stonebraker and Wakai.

Representative Takai: "Point of information, Madame Speaker. Are we finished with the vote? Because I think this is inappropriate for the Clerk to announce the vote and to let other people turn in no votes. I would think that at this point, we should either keep it open or let the Clerk tell us what the final tally is."

Vice Speaker Luke: "Actually, I was going to tell you what the votes were because I have it recorded. So hold on. Representative Thielen, please sit down."

Representative Takai: "Point of information, Madame Speaker. Is the vote close?"

Vice Speaker Luke: "Yes."

Representative Saiki: "Madame Speaker, point of order. I believe it's not appropriate to interrupt the vote for any purpose whatsoever."

Representative Takai: "Absolutely, I concur."

Representative Saiki: "The Chair should announce the vote at this point."

Vice Speaker Luke: "At this point, I'm trying to count up the votes."

Representative Moses: "Madame Chair."

Vice Speaker Luke: "Okay. Hold on. Everybody sit down so I can count the votes."

Representative Moses: "Okay, but I didn't hear my name on one."

Vice Speaker Luke: "Okay, you need to sit down."

"The votes are as follows. S.B. 3179, HD 1, there are 23 no votes. S.B. 2405, SD 1, HD 1, 25 no votes. S.B. 3113, SD 1, HD 1, 21 no votes. Based on these, the said Senate Bills listed on page 19 pass Third Reading.

At 9:31 o'clock p.m., the Chair noted that S.B. Nos.; 3182, HD 1; 3179, HD 1; 2447, SD 1, HD 1; 2405, SD 1, HD 1; and 3113, SD 1, HD 1; passed Third Reading.

#### SUPPLEMENTAL CALENDAR #1 STANDING COMMITTEE REPORTS

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a report (Stand. Com. Rep. No. 1297-04), recommending that H.R. No. 93, as amended in HD 1, be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 93, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE HAWAIIAN ISLANDS ORAL HEALTH TASK FORCE TO RECONVENE TO ENCOURAGE DENTISTS TO PROVIDE SERVICES TO INDIVIDUALS COVERED BY GOVERNMENTALLY SPONSORED MEDICAL INSURANCE PROGRAMS," was referred to the Committee on Consumer Protection and Commerce, with Representative Nakasone being excused.

Representatives Kahikina and Arakaki, for the Committee on Human Services and Housing and the Committee on Health presented a report (Stand. Com. Rep. No. 1298-04), recommending that H.C.R. No. 135, as amended in HD 1, be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 135, HD 1, entitled: "HOUSE

CONCURRENT RESOLUTION REQUESTING THE HAWAIIAN ISLANDS ORAL HEALTH TASK FORCE TO RECONVENE TO ENCOURAGE DENTISTS TO PROVIDE SERVICES TO INDIVIDUALS COVERED BY GOVERNMENTALLY SPONSORED MEDICAL INSURANCE PROGRAMS," was referred to the Committee on Consumer Protection and Commerce, with Representative Nakasone being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented two reports:

(Stand. Com. Rep. No. 1299-04), recommending that H.R. No. 127, be referred to the Committee on Finance; and

(Stand. Com. Rep. No. 1300-04), recommending that H.C.R. No. 183, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted and that H.R. No. 127 and H.C.R. No. 183 be referred to the Committee on Finance, seconded by Representative Lee.

Representative Ching: "Thank you. We are on page 1 of the supplemental calendar correct?"

Vice Speaker Luke: "I will go back to page 1."

Representative Ching: "I'm sorry I was just getting my notes together. I hope I don't inconvenience everyone. I just wanted to stand, Madame Speaker, in strong support of Standing Committee Report 1299."

At 9:33 o'clock p.m., Representative Hamakawa requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:35 o'clock p.m.

At this time, the Chair stated:

"Members, generally, when we go back on a page, we would request that the Members submit their written remarks. But I'll make an exception on this case since we were switching from one calendar to the next. So Representative Ching, on page 1, Stand. Com. Nos. 1299 and 1300."

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

"Thank you very much, Madame Speaker. I truly appreciate that. I will be quicker next time. I'm just in support. I rise in strong support of this resolution of Project Cuddle.

"The purpose of the resolution is to urge the Department of Human Services to prevent infants from being abandoned by supporting Project Cuddle and assessing the feasibility of advertising its toll free number, so women and friends and relatives of women who are considering abandoning their baby have an alternative.

"Madame Speaker, I believe this is a wise and proper way to address abandoned babies. I know that I have spoken before on previous measures like the 'safe haven' bill. This however is an alternative to 'safe haven' laws in that it does not take away the identity of the child. It addresses the concerns of those who are adopted, the Adoption Circle, where a number of adopted children have the intense desire to find their birth parents or in the case of parents, birth children, and this helps the children to

reserve their right to know not only their heritage, their genetics, but also their medical information.

"And Project Cuddle started in California by Debbie Magnusen and her husband Dave, who took in some drug-exposed babies then later on eventually adopted five beautiful babies. But what they did is they started this Project Cuddle where they have an organization of volunteers that help the women who are the profile of the type of people who would drop off their babies and will put their babies in trashcans.

"One frightened young woman called and said, 'I saw you on TV and I know the trash is bad for the baby. You better figure out what to do with this baby or I'm going to leave it in the park.' And they were within hours, able to orchestrate the full legal alternative to abandonment. They were able to retain an attorney. A family wanted to adopt and rescue the baby, as well as the obstetrician hospital's social counselor. This is the proper way to go about taking care of our most precious, our most precious little ones, our babies, to make sure that they are not just left with no heritage, no identity, and no recourse to find those things. So I urge my fellow colleagues to support this resolution. Thank you."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 127, entitled: "HOUSE RESOLUTION URGING THE DEPARTMENT OF HUMAN SERVICES TO SUPPORT PROJECT CUDDLE AND ASSESS THE FEASIBILITY OF ADVERTISING ITS HOTLINE," was referred to the Committee on Finance, with Representative Nakasone being excused;

and

H.C.R. No. 183, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF HUMAN SERVICES TO SUPPORT PROJECT CUDDLE AND ASSESS THE FEASIBILITY OF ADVERTISING ITS HOTLINE," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1301-04), recommending that H.R. No. 150, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 150, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO CONVENE A TASK FORCE TO DEVELOP A DRUG ENDANGERED CHILD PROTECTION PROGRAM," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1302-04), recommending that H.C.R. No. 213, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 213, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO CONVENE A TASK FORCE TO DEVELOP A DRUG ENDANGERED CHILD PROTECTION PROGRAM," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1303-04), recommending that H.R. No. 165, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 165, HD 1, entitled: "HOUSE RESOLUTION SUPPORTING THE SCHOOL READINESS TASK FORCE IN ITS EFFORTS TO STUDY THE MANNER IN WHICH FUNDING STREAMS FOR CHILD CARE AND EARLY CHILDHOOD EDUCATION INTERACT AND TO DEVELOP RECOMMENDATIONS FOR BETTER COORDINATION AND OPTIMIZATION OF FUNDING SOURCES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1304-04), recommending that H.C.R. No. 228, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 228, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE SCHOOL READINESS TASK FORCE IN ITS EFFORTS TO STUDY THE MANNER IN WHICH FUNDING STREAMS FOR CHILD CARE AND EARLY CHILDHOOD EDUCATION INTERACT AND TO DEVELOP RECOMMENDATIONS FOR BETTER COORDINATION AND OPTIMIZATION OF FUNDING SOURCES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1305-04), recommending that H.C.R. No. 9, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 9, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF AN INTEGRATED TASK FORCE TO EVALUATE THE OPENING OF CHILD WELFARE FAMILY COURT PROCEEDINGS TO THE PUBLIC," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1306-04), recommending that H.C.R. No. 132, as amended in HD 1, be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 132, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES AND THE JUDICIARY TO EXAMINE THE RAMIFICATIONS OF ELIMINATING REPORTS OF "THREATENED HARM" FROM THE VARIOUS TYPES OF REPORTS UPON WHICH AN INVESTIGATION IS REQUIRED TO BE CARRIED OUT BY THE DEPARTMENT OF HUMAN SERVICES IN CONNECTION WITH CHILD PROTECTIVE SERVICES," was referred to the Committee on Judiciary, with Representative Nakasone being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1307-04),

recommending that H.R. No. 188, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 188, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO REVIEW, ANALYZE, AND RECOMMEND CHANGES TO STATUTES, RULES, AND COUNTY ORDINANCES THAT CRIMINALIZE NON-SERIOUS OFFENSES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1308-04), recommending that H.C.R. No. 261, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 261, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO REVIEW, ANALYZE, AND RECOMMEND CHANGES TO STATUTES, RULES, AND COUNTY ORDINANCES THAT CRIMINALIZE NON-SERIOUS OFFENSES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs a report (Stand. Com. Rep. No. 1309-04), recommending that H.R. No. 118, be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 118, entitled: "HOUSE RESOLUTION REQUESTING THAT THE IMMIGRATION AND NATURALIZATION SERVICE ALLOW FILIPINO NATIONAL LONGLINE FISHERMEN WITH A C-1 VISA TO ENTER HAWAII," was referred to the Committee on Judiciary, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs a report (Stand. Com. Rep. No. 1310-04), recommending that H.C.R. No. 173, be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 173, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE IMMIGRATION AND NATURALIZATION SERVICE ALLOW FILIPINO NATIONAL LONGLINE FISHERMEN WITH A C-1 VISA TO ENTER HAWAII," was referred to the Committee on Judiciary, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1311-04), recommending that H.R. No. 164, as amended in HD 1, be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 164, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A STUDY ON THE RIGHTS OF NATIVE HAWAIIANS," was referred to the Committee on Judiciary, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep.

No. 1312-04), recommending that H.C.R. No. 227, as amended in HD 1, be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 227, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE RIGHTS OF NATIVE HAWAIIANS," was referred to the Committee on Judiciary, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented two reports:

(Stand. Com. Rep. No. 1313-04), recommending that H.R. No. 101, as amended in HD 1, be referred to the Committee on Finance; and

(Stand. Com. Rep. No. 1314-04), recommending that H.C.R. No. 143, as amended in HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 101, HD 1; and H.C.R. No. 143, HD 1; be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Finnegan's written remarks are as follows:

"Madame Speaker, I rise in strong support of H.R. 101 and H.C.R. 143. These resolutions ask the Departments of Land and Natural Resources, Transportation, and Business, Economic Development, and Tourism to accept and support the City and County's master plan for the redevelopment of the Pearl Harbor Historic Trail.

"The Pearl Harbor Historic Trail will run from the shores of Pearl Harbor through Ewa and the Waianae Coast to Nanakuli. The goal is to run a train along the entire historic trail with stops at depots and sites along the way. It will be a wonderful way for tourists in Hawaii to visit this beautiful and historic part of Oahu. They will be able to explore local communities, eat in restaurants and visit shops, and see a different side of Hawaii than they can find on the beaches and in the hotels of Waikiki. Here they can see the plantation villages and sugar mills that make up part of Hawaii's past, the wetlands and undeveloped shoreline that are part of Hawaii's natural beauty, and the residential and commercial developments that are part of our future. They will be able to do so without further sprawl or adding any more cars to our crowded roadways. And by bringing tourists out to the Leeward side of the island, it can help in the economic growth and development of a part of Oahu that too often gets left behind.

"The development of the Pearl Harbor Historic Trail has a lot of promise for the benefit of the Leeward side and for Oahu as a whole. Because of this promise, it is vital that the relevant State departments get behind this community initiative and City master plan. For this reason, I support these resolutions.

"Thank you, Madame Speaker."

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

"Madame Speaker. I rise in support and would like the written comments of the Representative from the 32nd District entered as if they were my own," and the Chair "so ordered."

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

"Madame Speaker. Same request."

The Chair then stated:

"Same request? There's a lot of faith in you, Representative Finnegan. So ordered on 1313 and 1314."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 101, HD 1, entitled: "HOUSE RESOLUTION REQUESTING STATE DEPARTMENTS TO ACKNOWLEDGE, SUPPORT, AND ACCEPT THE CITY AND COUNTY'S MASTER PLAN FOR REDEVELOPMENT OF THE PEARL HARBOR HISTORIC TRAIL," was referred to the Committee on Finance, with Representative Nakasone being excused;

and

H.C.R. No. 143, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING STATE DEPARTMENTS TO ACKNOWLEDGE, SUPPORT, AND ACCEPT THE CITY AND COUNTY'S MASTER PLAN FOR REDEVELOPMENT OF THE PEARL HARBOR HISTORIC TRAIL," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1315-04), recommending that H.R. No. 115, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 115, entitled: "HOUSE RESOLUTION URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEVELOP A PLAN FOR THE FACILITATION OF COMMUNITY-BASED, MARINE COMANAGEMENT EFFORTS," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1316-04), recommending that H.C.R. No. 167, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 167, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEVELOP A PLAN FOR THE FACILITATION OF COMMUNITY-BASED, MARINE COMANAGEMENT EFFORTS," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1317-04), recommending that H.R. No. 126, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 126, entitled: "HOUSE RESOLUTION REQUESTING THE MARINE AND COASTAL ZONE MANAGEMENT ADVISORY GROUP TO CONVENE A WORKING GROUP TO DEVELOP GUIDELINES FOR A WATER QUALITY MONITORING



PROGRAM," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1318-04), recommending that H.C.R. No. 182, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 182, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE MARINE AND COASTAL ZONE MANAGEMENT ADVISORY GROUP TO CONVENE A WORKING GROUP TO DEVELOP GUIDELINES FOR A WATER QUALITY MONITORING PROGRAM," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1319-04), recommending that H.C.R. No. 263, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 263, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A MANAGEMENT AUDIT OF THE ADMINISTRATION OF MARINE LIFE CONSERVATION DISTRICTS BY THE DEPARTMENT OF LAND AND NATURAL RESOURCES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1320-04), recommending that H.R. No. 173, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 173, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES, WITH THE ASSISTANCE OF THE STATE SURVEYOR AND THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO INVESTIGATE TECHNOLOGIES, EDUCATION, STAFF POSITIONS WITHIN THE DEPARTMENT AND TO DEVELOP CRITERIA TO QUALIFY SURVEYORS IN THE DETERMINATION OF SHORELINES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1321-04), recommending that H.C.R. No. 239, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 239, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES, WITH THE ASSISTANCE OF THE STATE SURVEYOR AND THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO INVESTIGATE TECHNOLOGIES, EDUCATION, STAFF POSITIONS WITHIN THE DEPARTMENT AND TO DEVELOP CRITERIA TO QUALIFY SURVEYORS IN THE DETERMINATION OF SHORELINES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1322-04), recommending that H.R. No. 154, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 154, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A STUDY OF THE STATE CONSERVATION DISTRICT PROGRAM," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1323-04), recommending that H.C.R. No. 217, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 217, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF THE STATE CONSERVATION DISTRICT PROGRAM," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented two reports:

(Stand. Com. Rep. No. 1324-04), recommending that H.R. No. 136, as amended in HD 1, be referred to the Committee on Finance; and

(Stand. Com. Rep. No. 1325-04), recommending that H.C.R. No. 194, as amended in HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 136, HD 1; and H.C.R. No. 194, HD 1; be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Magaoay's written remarks are as follows:

"Madame Speaker, Members of the House, I stand in strong support of both these resolutions with it's title amended as discussed. The lands at issue hold significant meaning and value in Hawaiian culture and history and for our more recent plantation history. These resolutions begin to take steps necessary to retain and protect for the public good and posterity the historical significance of lands held privately by the Galbraith Estate. I urge these resolutions move forward."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 136, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO INITIATE CONDEMNATION PROCEEDINGS TO PURCHASE REAL PROPERTY OWNED BY THE GALBRAITH ESTATE," was referred to the Committee on Finance, with Representative Nakasone being excused;

and

H.C.R. No. 194, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO INITIATE

CONDEMNATION PROCEEDINGS TO PURCHASE REAL PROPERTY OWNED BY THE GALBRAITH ESTATE," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1326-04), recommending that H.C.R. No. 48, be referred to the Committee on Legislative Management.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 48, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A STUDY OF THE FEASIBILITY OF INCREASING THE OPERATING BUDGET OF THE UNIVERSITY OF HAWAII AT HILO IN ORDER TO ESTABLISH THE UNIVERSITY AS A FULL-FLEDGED COMPREHENSIVE UNIVERSITY," was referred to the Committee on Legislative Management, with Representative Nakasone being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1327-04), recommending that H.R. No. 40, be referred to the Committee on Public Safety and Military Affairs.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 40, entitled: "HOUSE RESOLUTION URGING HIGHER EDUCATION INSTITUTIONS TO REFUND OR REIMBURSE TUITION MONEY TO STUDENT MEMBERS OF THE HAWAII NATIONAL GUARD OR MILITARY RESERVES WHO ARE DEPLOYED DURING A SCHOOL SESSION," was referred to the Committee on Public Safety and Military Affairs, with Representative Nakasone being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1328-04), recommending that H.C.R. No. 61, be referred to the Committee on Public Safety and Military Affairs.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 61, entitled: "HOUSE CONCURRENT RESOLUTION URGING HIGHER EDUCATION INSTITUTIONS TO REFUND OR REIMBURSE TUITION MONEY TO STUDENT MEMBERS OF THE HAWAII NATIONAL GUARD OR MILITARY RESERVES WHO ARE DEPLOYED DURING A SCHOOL SESSION," was referred to the Committee on Public Safety and Military Affairs, with Representative Nakasone being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1329-04), recommending that H.R. No. 52, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 52, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE ESTABLISHMENT OF THE ALOHA CORPS," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1330-04), recommending that H.C.R. No. 142, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 142, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A TASK FORCE TO DETERMINE THE FEASIBILITY OF ESTABLISHING OF THE ALOHA CORPS BY IMPLEMENTING SEVERAL SMALL PILOT PROJECTS," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representatives Kanoho and Ito, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 1331-04), recommending that H.R. No. 116, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 116, HD 1, entitled: "HOUSE RESOLUTION SUPPORTING THE UNITED STATES NAVY'S REQUEST FOR A LONG-TERM LEASE OF STATE LANDS AS WELL AS THE PRESERVATION OF A PERMANENT AGRICULTURAL BUFFER AROUND THE PACIFIC MISSILE RANGE FACILITY," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representatives Kanoho and Ito, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 1332-04), recommending that H.C.R. No. 168, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 168, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE UNITED STATES NAVY'S REQUEST FOR A LONG-TERM LEASE OF STATE LANDS AS WELL AS THE PRESERVATION OF A PERMANENT AGRICULTURAL BUFFER AROUND THE PACIFIC MISSILE RANGE FACILITY," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representatives Kanoho and Ito, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 1333-04), recommending that H.R. No. 140, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 140, HD 1, entitled: "HOUSE RESOLUTION REQUESTING A TASK FORCE BE ORGANIZED TO ADDRESS THE HAZARDS OF ROCK AND LAND SLIDES ON OUR URBAN POPULATIONS," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representatives Kanoho and Ito, for the Committee on Water, Land Use and Hawaiian Affairs and the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 1334-04), recommending that H.C.R. No. 201, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 201, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A TASK FORCE BE ORGANIZED TO ADDRESS THE HAZARDS OF ROCK AND LAND SLIDES ON OUR URBAN

POPULATIONS," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1335-04), recommending that H.R. No. 66, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 66, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE FORMATION OF AN INTERIM COMMITTEE TO STUDY ISSUES OF EXPANDING THE STATE DNA DATABASE REGISTRY AND IMPROVING THE COLLECTION AND ANALYSIS OF DNA SAMPLES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Hamakawa, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1336-04), recommending that H.C.R. No. 97, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 97, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE FORMATION OF AN INTERIM COMMITTEE TO STUDY ISSUES OF EXPANDING THE STATE DNA DATABASE REGISTRY AND IMPROVING THE COLLECTION AND ANALYSIS OF DNA SAMPLES," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 1337-04), recommending that H.C.R. No. 99, be referred to the Committee on Consumer Protection and Commerce.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 99, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE EXPEDITIOUS CONSIDERATION OF ANY REQUIRED CERTIFICATION BY THE PUBLIC UTILITIES COMMISSION AND OF HAWAII SUPERFERRY, INC.'S APPLICATION FOR A TITLE XI GUARANTEE COMMITMENT FROM THE UNITED STATES MARITIME ADMINISTRATION FOR THE CONSTRUCTION AND PERMANENT FINANCING OF THE FAST FERRY VESSELS," was referred to the Committee on Consumer Protection and Commerce, with Representative Nakasone being excused.

Representative Souki, for the Committee on Transportation presented a report (Stand. Com. Rep. No. 1338-04), recommending that H.C.R. No. 151, as amended in HD 1, be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted and that H.C.R. No. 151, HD 1, be referred to the Committee on Judiciary, seconded by Representative Lee.

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

"Madame Speaker, may we go back to HCR 151? I'd just like to stand in strong support and just say that this is my suggestion for what to do about the speeding problem. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 151, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO REPORT TO THE LEGISLATURE ON THE AVAILABILITY OF SPECIAL EQUIPMENT THAT LIMITS AN AUTOMOBILE'S SPEED AND THE ADVISABILITY OF ENACTING LEGISLATION TO REQUIRE THE USE OF GOVERNORS TO LIMIT AN AUTOMOBILE'S SPEED," was referred to the Committee on Judiciary, with Representative Nakasone being excused.

Representative Souki, for the Committee on Transportation presented two reports:

(Stand. Com. Rep. No. 1339-04), recommending that H.R. No. 161, as amended in HD 1, be referred to the Committee on Finance; and

(Stand. Com. Rep. No. 1340-04), recommending that H.C.R. No. 225, as amended in HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 161, HD 1; and H.C.R. No. 225, HD 1; be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Meyer's written remarks are as follows:

"Red light violations are a significant contributor to traffic accidents and roadway fatalities. Solutions generally fall into either of two groups, enforcement or engineering. A solution that combines engineering, enforcement and education will produce the best results.

"Measures relating to traffic cameras have been heard and debated this session. Traffic cameras alone are an enforcement solution, punitive in nature, and primarily provide a deterrent to drivers who intentionally enter an intersection after the light has changes from yellow to red, but will do little for those that "unintentionally" run a red light. An unintentional red light runner would include those that noticed the light change too late to stop safely, or a driver inattentive to the degree that they are unaware that the light has changed and they need to stop. Lengthening the yellow light phase will directly target unintentional red-light-runners and result in safer streets.

"Lengthening the yellow light phase of a traffic signal cycle is a preventative engineering solution that will produce safer intersections. As stated in the resolution, numerous studies have found that by increasing the length of the yellow light cycle, incidences of red light running are cut dramatically. In July 2003 the Transportation Research Board submitted study findings for publication titled "Effect of Yellow Interval Timing on Red – Light Violation Frequency at Urban Intersections." This study found that increasing the yellow light duration by .05 to 1.5 seconds decreased the frequency of red-light-running by 50%. The benefits of adding an additional second to the yellow light cycle in terms of safety, significantly outweigh the costs and I am confident the study this resolution proposes will bear this out.

"Traffic cameras can aid in this research. Usage of traffic cameras can play a role in drawing attention to this problem and help educate people to the importance of caution at intersections. This resolution represents a preventative solution

the problem of red-light-runners and will lead to safer intersections and roadways in Hawaii."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 161, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION AND THE CITY AND COUNTY OF HONOLULU TO CONDUCT A STUDY ON LENGTHENING YELLOW LIGHTS TO ADDRESS THE PROBLEM OF RUNNING RED LIGHTS," was referred to the Committee on Finance with Representative Nakasone being excused;

and

H.C.R. No. 225, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION AND THE CITY AND COUNTY OF HONOLULU TO CONDUCT A STUDY ON LENGTHENING YELLOW LIGHTS TO ADDRESS THE PROBLEM OF RUNNING RED LIGHTS," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented two reports:

(Stand. Com. Rep. No. 1341-04), recommending that H.R. No. 32, as amended in HD 1, be referred to the Committee on Finance; and

(Stand. Com. Rep. No. 1342-04), recommending that H.C.R. No. 49, as amended in HD 1, be referred to the Committee on Finance.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 32, HD 1; and H.C.R. No. 49, HD 1; be referred to the Committee on Finance, seconded by Representative Lee.

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

Representative Fox rose to speak in opposition to both measures, stating:

"Thank you, Madame Speaker. In opposition.

"I'm very wary of this so-called precautionary principle. And I think this resolution is literally limping across the Floor. I'd just prefer to see it limp more. The Committee Report, it says, 'Your Committee finds that the concept of the precautionary principle policy warrants more discussion. Costs are unpredictable, specifics are vague, and outcomes are uncertain.' The report also makes it clear that virtually all who testified on this were against it. Why don't we just quietly put it out of its misery right now instead of printing more paper and take up more Committee time. Thank you, Madame Speaker."

Representative Moses rose to speak in opposition to both measures, stating:

"Thank you, Madame Speaker. Just on the principle of the matter, I'd like to vote no on both of them."

Representative Meyer rose to speak in opposition to both measures, stating:

"Thank you, Madame Speaker. I would like to register a no vote on both of them. I think that the LRB has a lot better things to do than do what as directed in this reso."

Representative Finnegan rose and asked that the Clerk record a no vote for her on both measures, and the Chair "so ordered."

Representative Shimabukuro rose to speak in support of both measures, stating:

"In strong support.

"Madame Chair, these resolutions are based on a law that's already in effect in San Francisco. And it has been tested successfully in that City.

"And this resolution arises out of frustration that a lot citizen groups have. When they are faced with an environmental injustice in their community. And they are forced to bare the burden of proving that there is environmental damage happening. And as you can imagine, Madame Chair, these citizen groups are often under-resourced compared to the developers or the people that are doing the environmental damage.

"And I think that the amendments made by the committee should offer a chance for the Legislative Reference Bureau to come up with a good suggestion. Thank you."

Representative Blundell rose and asked that the Clerk record a no vote for him on both measures, and the Chair "so ordered."

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

Representative Stonebraker rose and asked that the Clerk record a no vote for him on both measures, and the Chair "so ordered."

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

"Madame Chair. Thank you. I rise in support of this measure.

"I think one of our jobs as legislators is to learn more about a policy issue and to investigate different policy actions and weigh all of the pros and cons about moving in a certain direction. And that's all we're asking the Legislative Reference Bureau to do for us. Is to do a policy analysis for us so we can make a more informed decision and that's part of our job. Thank you."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 32, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A POLICY REVIEW TO EXAMINE THE PRECAUTIONARY PRINCIPLE POLICY FRAMEWORK AS A GUIDING PRINCIPLE IN CONDUCTING THE STATE'S AFFAIRS," was referred to the Committee on Finance with Representatives Blundell, Finnegan, Fox, Meyer, Moses, Ontai and Stonebraker voting no and with Representative Nakasone being excused.;

and

H.C.R. No. 49, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A POLICY REVIEW TO EXAMINE THE PRECAUTIONARY PRINCIPLE POLICY FRAMEWORK AS A GUIDING PRINCIPLE IN CONDUCTING THE STATE'S AFFAIRS," was referred to the Committee on Finance with Representatives Blundell, Finnegan, Fox, Meyer, Moses, Ontai and Stonebraker voting no and with Representative Nakasone being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 1343-04), recommending that H.C.R. No. 118, as amended in HD 1, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 118, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE FEASIBILITY OF ESTABLISHING A WATER QUALITY MONITORING PROGRAM FOR MARINE WATERS THAT EMPHASIZES ENVIRONMENTAL PROTECTION," was referred to the Committee on Finance, with Representative Nakasone being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1344-04), recommending that H.C.R. No. 199, be referred to the Committee on Public Safety and Military Affairs.

Representative Saiki moved that the report of the Committee be adopted and that H.C.R. No. 199 be referred to the Committee on Public Safety and Military Affairs, seconded by Representative Lee.

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

"Madame Speaker, I'm rising in opposition to House Concurrent Resolution Number 199, related to Haiku Stairs.

"Madame Speaker, I don't understand why, what this resolution is trying to accomplish. I do want to read a portion though, of the resolution itself because it actually strikes a negative blow to the Kaneohe Neighborhood Board who is trying to be ... I might want to disclose a possible conflict. My office manager is a member of the task force for Haiku Stairs and I've assigned him to follow this issue," and the Chair ruled "no conflict."

Representative Bukoski continued, stating:

"Thanks. The Kaneohe Neighborhood Board has been meeting trying to resolve the issue of the Haiku Stairs. And they've actually been making a lot of headway in gaining support from various county and State agencies and the community that's involved directly in the Haiku Stairs issue.

"And in one of the Whereas clauses, basically it says that the Kaneohe Neighborhood Board has not been effective. And I think that's incorrect to make a statement like that when they've actually been very effective as far as I can tell.

"I also want to point out in the Committee Report that it doesn't indicate that City and County has come out in opposition. Steve Holmes on behalf of the City and County Administration opposed this resolution. DHHL opposed this resolution. The Chair of the Kaneohe Neighborhood Board opposed this resolution. The Chair of the Haiku Stairs task force opposed this resolution.

"And when I asked the proponents of this resolution some questions, basically what this resolution is calling for is discontinue any easements for access to the City by any of the State agencies. And before, there's some security guards that are up there that are being provided by the City currently, and they have an agreement with DHHL to access the stairs, to provide security to limit the amount of trespassers coming up there.

"And I asked the proponents of this measure prior to the security guards being present, do they have a problem? And they stated in fact, that there were numerous complaints, hundreds of trespassers. It was terrible. And then when they introduced the security guards, they testified that the trespassing was tremendously decreased. What this will do if it's passed, and if the Department actually follows what it is recommending to do, is eliminate the access for the City to continue to provide those security guards, which would actually be negative for the people who are trying to keep the trespassers out. The security guards are actually minimizing the trespassers.

"In addition, the Kaneohe Neighborhood Board is getting close to coming to some kind of agreement in keeping the stairs open and trying to accommodate all the parties concerned. So I ask my colleagues to please consider voting against this resolution. It doesn't really ... I think it has some negative impacts on the people that it's trying to protect. And for those reasons, I'm in opposition. Thanks."

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

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

"Thank you, Madame Speaker. I rise in support of the House Concurrent Resolution 199.

"Thank you. Madame Speaker, first of all I want to thank the Chairman and Vice Chairman of the Water, Land Use, and Hawaii Affairs Committee for hearing this important resolution, and also for visiting the Haiku Valley last week.

"Madame Speaker, contrary to what some people might think, I'm not against the hikers. I am not against those people who want to use the Haiku Stairs for recreational purposes. In fact, I would support the future lawful use of the stairs.

"However, Madame Speaker, I have concerns. Many concerns about the present illegal use of the stairs and the proposals by the City for the premature opening of the Stairs to the public. I am concerned that the City went ahead and spent almost \$900,000 of taxpayers' money to improve the Stairs without first resolving the issue of access. I am concerned that the City continues to spend taxpayers' money for ineffective security guards at the illegal trespassing points to the stairs.

"I am also concerned that the recent proposals by the Neighborhood Board and the City to allow access through Windward Community College and the State Hospital are unacceptable. Even now, there is not adequate parking for these facilities. The proposed use of these existing facilities for public access is unacceptable. There is not adequate parking or restroom facilities available for the public. Already, parking is at a premium at the District Park when there are youth sporting events in that area.

"Madame Speaker, I am also concerned about the liability issue that the City 'sweeps under the rug' and ignores. The Stairs is a manmade structure. Therefore no matter what kind of signage, warning of potential dangers hikers may encounter, that is up to the City, the City will not be relieved of the potential liabilities from the injuries or deaths that could occur on the steps, or anywhere on the ridge, or the Haiku Valley below.

"I am also concerned that this liability may also extend to the State if it agrees to grant access to the Stairs through Windward

Community College, the State Hospital, the H-3 access road, or the Hawaiian Homelands controlled former Omega Station. That is why we need to be sure that all memorandum of agreements, all waivers of liability, and indemnification agreements are in place before the public is allowed access to the stairs.

"I'm also concerned, Madame Speaker, about the hikers trespassing on cultural resources and burials that are found throughout the Haiku Valley floor. And about the hikers trespassing through dangerous abandoned and dilapidated building and a hazardous waste dump at the former Omega Station.

"As you can see Madame Speaker, I have many concerns. But Madame Speaker, my main concern is for the residents of the neighborhoods that surround the area around the foot of the Stairs. Through the years, they have suffered from increasing hardships caused by persons who feel that they have a God-given right to the illegal trespass over their yards to get to the Stairs. Those people who arrogantly feel that they have the right to illegally park in front of the driveways. Who park in front of the garbage cans and mail boxes thereby hindering service. Whose traffic is endangering the children playing in the neighborhood. Who leave their trash in the yards of the neighborhood. And who confront and threaten the residents for having the audacity to ask them to leave and not trespass over their residence.

"Madame Speaker, I have residents come to me crying. They feel helpless. They feel ignored. They feel like nobody, not the City, not the Neighborhood Board, nobody is willing to help them. Madame Speaker, there are long-time residents of Haiku who have sold their home because of the anxiety and pain that is being suffered by these residents. Others are also considering leaving.

"Madame Speaker, this is not right. This is not fair. It is for those concerns for this long-suffering residents that I am in full support of this resolution. Thank you."

Representative Kaho'ohalahala rose to speak in support of the measure, stating:

"Thank you, Madame Speaker. I am rising in support.

"I just want to make some comments that in the hearing, I think the most compelling testimony that was provided to the Committee was that of the residents themselves who are being impacted by trespassers coming through their properties. So while there are other testimonies supporting the access to the Stairs, most of them didn't live there. And that became very evident that we were really talking about some of the concerns of the homeowners who were directly impacted and by others who were looking at this access as some part of a recreation. So I also would note that while we had testimony written and presented by individuals that talked about the Neighborhood Board, some of them served on the Board and on this task force. None of them were there to speak on behalf of the Neighborhood Board. In fact, they were reluctant to speak on behalf of the Board. So I want to just put it all in perspective.

"Again, I think the most compelling reason, and having gone there to take a look myself personally, it became very, very clear that our concerns should really be that of the residents. They're the ones that asked for this resolution to come forward. They're the ones that asked for support. They're the ones that have asked that the City and County of Honolulu fulfill all of the prior promises made to the community in terms of trying to mitigate access. And so far those have not been met. So I just want to say that that's why this resolution is now moving forward. Thank you."

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

"Thank you. In opposition.

"Madame Speaker, in general, as a generalization, I'm for traditional and historical access. And for that reason, since Haiku is not in my district, just as a matter of principle, I will apply that. Thank you."

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

Representative Bukoski rose to respond, stating:

"Thank you, Madame Speaker.

"Well, I'm disappointed because in the Committee I heard that there might be possibly be a tour of the Haiku Stairs area. I never got an invitation to go on this tour. And as a Member of the Committee, I would think that we would be invited to partake in these kinds of informational tours and briefings.

"However, I spent most of my childhood growing up and going to school in Kaneohe, so I know the area very well. And I can appreciate the personal concerns that the Representative from Kaneohe has. But the Kaneohe Neighborhood Board again, I have to say, is working on this issue. And they're making a lot of progress. They've passed resolutions and the people that the Representative from East Maui is referring to, if you look at the testimony, there's people that live right there that are actually opposing the resolution too.

"I've introduced a resolution to give the other side of the story. But that wasn't heard in Committee. Why not? Is it because my office manager happens to be on the task force? I don't know. But if we're going to listen to this story, let's hear two sides. And my side wasn't heard, and that a lot of the people that are opposing this resolution, live right there. And a lot of people that signed this petition, if you look at the questions on the petition, they're asking to provide security at trespassing points. This resolution may make that impossible to do. So this signature, this list of signatures, if you look at the questions that it asks, it's misleading, in other words. Shutting down the staircase completely if trespassing violations do not appear.

"The Kaneohe Neighborhood Board is trying to accommodate everything. But basically, we're stepping in and saying, well we discard it because of a few people's concerns. If you actually looked at the amount of people that are in favor of this resolution compared to the amount of people opposed to it, it's very outweighed. And it includes people that live right there. And they're affected."

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

"Thank you, Madame Speaker. I'm rising in opposition to the resolution.

"I represent the area that's just adjacent to the Representative from Kaneohe who introduced this resolution. And I have to say that the calls and emails and faxes that I've received have all been from people who said, 'Please don't shut the stairs down.' These were people that worked on a committee that helped to repair the stairs. People who lived in condominiums that enjoy the hike there.



"Like my colleague from Kula, I do believe that the Kaneohe Neighborhood Board and that task force that's been working on it has worked very hard and they are getting close. One of the big stumbling blocks is this land exchange which hasn't been worked out yet between the Hawaiian Homelands and the City and County of Honolulu. And when that occurs, they can have a for real park there at the foot of the stairs. But I would think, I would worry that this resolution might stop the security guards that are there now and that seems to be alleviating a lot of the problems that the homeowners were having with trespassers and hikers. Thank you."

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

"Thank you, Madame Speaker. I also rise to speak against the resolution.

"Thank you. Madame Speaker, my district is on the other side of the Representative from Kaneohe, who introduced this resolution. Madame Speaker, I think this is really an unfortunate situation of where the Legislature is going to meddle into something that is being resolved at the community level. I don't think that we should interfere at this point. That Neighborhood Board and its task force seems to be very capable of coming to a resolution that is going to be acceptable ultimately to everyone.

"I'm concerned too because the Haiku Stairs, it's really a landmark for our Windward side. And if all of a sudden we step in and do something that prevents people from being able to use that resource, I think that it's a mistake. I have not heard from anyone saying, please shut off access to the stairs. I have heard from a large number of people that are saying please don't pass this resolution. And including a key person for the City and County's Administration.

"Madame Speaker, I would also note that if there was a field trip to that area, I'm a Member of the Water and Land Use Committee. I was never notified about that. So I think selective outings are really not in the best interests of good government. Thank you."

At this time, the Chair announced:

"Members, it's 10 o'clock and we still have 5 more pages to go."

Representative Ito rose to respond, stating:

"I just want to provide a rebuttal.

"Thank you, Madame Speaker. The Kaneohe Neighborhood Board passed a resolution. And that resolution just brought everything back to the City. It just went around in a circle and it came back to the City. So the City has to solve this problem. And that's the beginning of the problem. That's not the solution. That's the problem right there.

"Another thing too, I was looking at this record of votes and I see that the Representative from Maui was excused during the vote, at the same time that the Chairman of the Kaneohe Neighborhood Board, who works down at the office of Senator Hemmings ..."

Representative Bukoski interjected, stating:

"Point of order, Madame Speaker. I see no relevance in my vote ..."

At 9:58 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:59 o'clock p.m.

The Chair then stated:

"At this point in time, the Chair ..."

Representative Bukoski interjected, stating:

"Madame Speaker, I rise on a point of personal privilege."

Vice Speaker Luke: "Please state your point."

Representative Bukoski: "Madame Speaker, I believe I was threatened on this Floor by the Representative from Kaneohe to lay out of his district. Madame Speaker, I grew up in Kaneohe."

Vice Speaker Luke: "Representative Bukoski, I don't think that's a threat."

Representative Bukoski: "I think that's a threat. Lay out of my district."

Vice Speaker Luke: "Representative Bukoski, please be seated. At this point in time, for all the Representatives, this is taking on a kind of a personal tone over here. And so on this issue, we're going to move on. It's going to the next Committee and you'll have an opportunity to debate this again. So at this point in time, because people are getting a little bit personal on the Floor, what we're going to do is we're going to ask people to submit written remarks. Representative Pendleton."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 199, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HAWAIIAN HOME LANDS, THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF LAND AND NATURAL RESOURCES, AND THE OFFICE OF HAWAIIAN AFFAIRS TO CEASE ISSUING ANY EASEMENTS TO THE CITY AND COUNTY OF HONOLULU FOR ACCESS TO HAIKU VALLEY AND TO "HAIKU STAIRS"," was referred to the Committee on Public Safety and Military Affairs with Representatives Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Meyer, Moses, Stonebraker and Thielen voting no and with Representative Nakasone being excused.

Representatives Arakaki and Kahikina, for the Committee on Health and the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1345-04) recommending that H.R. No. 91, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 91, entitled: "HOUSE RESOLUTION URGING THE GOVERNOR, DEPARTMENT OF HEALTH, DEPARTMENT OF HUMAN SERVICES, AND UNIVERSITY OF HAWAII TO RECOGNIZE THE IMPORTANCE OF THE CONTRIBUTIONS OF FAMILY CAREGIVERS AND TO SUPPORT THEM IN SERVING THE STATE'S LONG-TERM CARE NEEDS," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented four reports:

(Stand. Com. Rep. No. 1346-04) recommending that H.R. No. 181, be adopted;

(Stand. Com. Rep. No. 1347-04) recommending that H.C.R. No. 250, be adopted;

(Stand. Com. Rep. No. 1348-04) recommending that H.R. No. 186, be adopted; and

(Stand. Com. Rep. No. 1349-04) recommending that H.C.R. No. 258, be adopted.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 181; H.C.R. No. 250; H.R. No. 186; and H.C.R. No. 258; be adopted, seconded by Representative Lee.

At this time, the Chair stated:

"We'll take all four at one time since those are all related."

Representative Pendleton rose in support of the measures and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Pendleton's written remarks are as follows:

"Madame Speaker, I rise in support of House Resolution 181. This resolution requests support of HR 677 by President George W. Bush and Congress. HR 677 recognizes and rewards the outstanding service of Filipino troops by making veterans' benefits available to qualified Filipino veterans. This resolution is supported by the Office of Veterans Services and should be supported by all of us here today.

"Madame Speaker, during World War II, 142,000 Filipino forces fought side-by-side with American troops in the Far East. On April 9, 1942, 35,000 Filipino troops endured the infamous Bataan Death March. As American and Filipino troops fought together, so also they suffered and died together during their incarceration at Camp O'Donnell. Their courage and dedication were exemplary, making their country as well as the United States proud.

"Madame Speaker, about 24,000 surviving Filipino veterans now reside on Oahu. However these veterans, who served as key allies to the United States Armed Forces and who are now American citizens, are not being fully compensated for their service. Although they were not official members of the United States military at the time, their selfless service to America should indicate an affinity to the United States military that went beyond mere alliance. Filipino troops have contributed much to the United States. As a token of gratitude for their service, would it not be appropriate to recognize their service in a tangibly beneficial way? By providing Filipino veterans with

full benefits, we would send a strong message of appreciation and support.

"Under federal House Resolution 677, Filipino veterans would also be eligible for other programs administered by the Secretary of Veterans Affairs. It will open the door for a sustained relationship of assistance to Filipino veterans. Such a relationship would be greatly propitious to our veterans and would further fulfill the Department of Veterans Affairs' mission 'to care for him who shall have borne the battle.' Filipino veterans certainly qualify and deserve to be given proper respect and care.

"Madame Speaker, as a proud Filipino and American lawmaker, I strongly support our Filipino veterans and consequently, I support HR 181. Because Hawaii serves as home to many Filipino veterans, we as Hawaii State Representatives should lead the way in working towards providing much needed benefits to our veterans. I urge my colleagues to vote in support of Filipino veterans and in support of HR 181.

"Thank you Madame Speaker for the opportunity to speak in support of House Resolution 181."

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

"Thank you, Madame Speaker. On those same resos, in strong support.

"And just briefly comment that in my view, we were more than allies with Filipinos. We were in fact the same military. That's my view of this issue and so therefore I'm in strong support."

Representative Magaoay rose in support of the measures and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Magaoay's written remarks are as follows:

"Madame Speaker, Members of the House, I stand in strong support of both these resolutions that will acknowledge the valiant service rendered by Filipinos under the American flag in World War II. Each of these men were duly sworn into American military service and have earned veteran benefits. I urge these resolutions move forward."

"Madame Speaker, Members of the House, I stand in strong support of both these resolutions that urges the United States Congress to support the passage of Senate Bill 68 which aims to improve benefits for Filipino veterans of World War II. I, as well as other Americans of Filipino ancestry are proud and grateful for the service our fathers, grandfathers, brothers, uncles and granduncles have rendered for all Americans. We must acknowledge their deeds and patriotic service by caring for their medical needs in now, their old age. I urge these resolutions move forward."

Representative Sonson rose in support of the measures and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Sonson's written remarks are as follows:

"I strongly support the resolutions providing Filipino veterans with full benefits and compensation as those received by United States veterans. The fact is, these Filipino veterans are United States veterans.

"In July of 1941, during the time when the Philippines was a United States territory, President Roosevelt issued a military

order calling members of the Philippine Commonwealth Army into the service of the United States forces.

"Thousands of Filipino soldiers fought alongside the American soldiers as part of the United States Armed Forces. When inducted into service, these Filipino soldiers pledged their allegiance to the flag and the Constitution of the United States; they fought as American Nationals, under the American flag, and under the command of the United States military. These Filipino soldiers are United States veterans.

"However, the Rescission Act of 1946 withdrew the United States veteran's status of Filipino soldiers and limited the benefits to those Filipino soldiers who died in action or were suffering from a service-related disability.

"Since 1946, Filipino veterans of World War II have been fighting for recognition of their status as United States veterans and their full veteran's benefits.

"The time to correct this injustice is now. We must restore the honor and dignity to these proud veterans. There is no logical reason why veteran's benefits should be limited to those Filipino veterans who were killed or disabled in the war. All veterans who fought to protect a United States territory, under the command of the United States military, at the order of the President of the United States, should be given the same recognition and benefits of all other veterans that served in the military."

Representative Karamatsu rose in support of the measures and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Karamatsu's written remarks are as follows:

"Madame Speaker, I rise in support.

"I want to express my support of House Resolution 181 and House Concurrent Resolution 250, which urges the President of the United States and the United States Congress to pass House Resolution 677 (H.R. 677). H.R. 677 would deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veteran Affairs for qualified Filipino veterans. The resolution recognizes the courage and loyalty of the Filipino troops who fought along side our armed forces in the Philippines during World War II. Thus, H.R. 677 would make health benefits available to more of these qualified Filipino veterans.

"In addition, Madame Speaker, I want to express my support of House Resolution 186 and House Concurrent Resolution 258, which urges the United States Congress to pass S. 68 to improve benefits for certain Filipino veterans of World War II. The Rescission Act of 1946 withdrew the U.S. veteran's status of Filipino World War II soldiers, thereby denying them the benefits and compensation received by their American counterparts and soldiers of more than sixty-six other U.S. allied countries, which were similarly inducted into the U.S. military. The passage of S. 68 would extend full and equitable benefits, particularly health benefits, to Filipino veterans.

"Thank you."

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

Representative Meyer's written remarks are as follows:

"Madame Speaker, I rise in support of H.R. No. 181 and H.C.R. No. 250. These pieces of legislation demonstrate the commitment of this body to ensure that qualified Filipino veterans receive the military benefits they earned through service to this country. These brave people willingly joined our troops during the battles of World War II and fought shoulder to shoulder with American servicemen against the enemies of freedom.

"It is our country's obligation to recognize and reward them. They deserve the benefits earned by U.S. enlisted troops. We need to let our President and national lawmakers know we value these veterans' sacrifice and support the Congressional H.R. 677, which will grant these deserving people the entitlement they have earned.

"In addition, Madame Speaker, I rise in strong support of H.R. No. 186 and H.C.R. No. 258. These resolutions detail the services rendered by Filipino veterans during World War II at the request of our federal government. They further specify legal remedies to the deliberate and unfortunate exclusion of these veterans and their surviving spouses from the benefits enjoyed by their American counterparts.

"For over fifty years these loyal veterans have been denied the benefits and compensation they earned through service. The Rescission Act of 1946 actually singled out Filipino veterans as a group. Members of other national groups have been inducted into the U.S. military and subsequently received full military benefits, but the legislation of 1946 denied Filipino fighters those rights. Fifty years is long enough, much too long, to allow this inequity to exist. These veterans deserve full military benefits. Their surviving spouses deserve the same. These resolutions will send a message to our lawmakers in Washington that the legislature and people of Hawaii stand behind the passage of the Congressional S. 68, which will extend full and equitable military benefits to these loyal veterans. We need to send that message."

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

"Thank you, Madame Speaker. For all four, Filipino's have been great veteran allies for us in our conflicts and they deserve their benefits. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 181, entitled: "HOUSE RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT H.R. 677 EXTENDING VETERANS' BENEFITS TO FILIPINO VETERANS," was adopted, with Representatives Lee, Nakasone and Souki being excused;

H.C.R. No. 250, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT H.R. 677 EXTENDING VETERANS' BENEFITS TO FILIPINO VETERANS," was adopted, with Representatives Lee, Nakasone and Souki being excused;

H.R. No. 186, entitled: "HOUSE RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF S. 68, RELATING TO IMPROVING BENEFITS FOR FILIPINO VETERANS OF WORLD WAR II," was adopted, with Representatives Lee, Nakasone and Souki being excused;

and

H.C.R. No. 258, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF S. 68, RELATING TO IMPROVING BENEFITS FOR FILIPINO VETERANS OF WORLD WAR II," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 1350-04) recommending that H.R. No. 170, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted, and H.R. No. 170, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO REVIEW AND CONSIDER WHETHER THE EXCEPTION OF PSEUDOEPHEDRINE FROM THE REPORTING, RECORDKEEPING, AND PERMIT REQUIREMENTS GENERALLY APPLICABLE TO LIST 1 CHEMICALS SHOULD BE REPEALED," was adopted, with Representatives Lee, Nakasone and Souki being excused;

Representative Ito, for the Committee on Public Safety and Military Affairs presented a report (Stand. Com. Rep. No. 1351-04) recommending that H.C.R. No. 236, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted, and H.C.R. No. 236, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO REVIEW AND CONSIDER WHETHER THE EXCEPTION OF PSEUDOEPHEDRINE FROM THE REPORTING, RECORDKEEPING, AND PERMIT REQUIREMENTS GENERALLY APPLICABLE TO LIST 1 CHEMICALS SHOULD BE REPEALED," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1352-04) recommending that H.R. No. 151, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 151, entitled: "HOUSE RESOLUTION REQUESTING THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII TO EXPLORE HOME OWNERSHIP OPTIONS AND STUDY THE FEASIBILITY OF IMPLEMENTING A HOUSING DEMONSTRATION PROJECT AT HAUICI HOMES AND OTHER STATE-OWNED AND OPERATED HOUSING PROJECTS," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented a report (Stand. Com. Rep. No. 1353-04) recommending that H.C.R. No. 214, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 214, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII TO EXPLORE HOME OWNERSHIP OPTIONS AND STUDY THE FEASIBILITY OF IMPLEMENTING A HOUSING DEMONSTRATION PROJECT AT HAUICI HOMES AND OTHER STATE-OWNED AND OPERATED HOUSING PROJECTS," was

adopted, with Representatives Lee, Nakasone and Souki being excused.

Representatives Kahikina and Hamakawa, for the Committee on Human Services and Housing and the Committee on Judiciary presented two reports:

(Stand. Com. Rep. No. 1354-04) recommending that H.R. No. 190, as amended in HD 1, be adopted; and

(Stand. Com. Rep. No. 1355-04) recommending that H.C.R. No. 265, as amended in HD 1, be adopted.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 190, HD 1; and H.C.R. No. 265, HD 1; be adopted, seconded by Representative Lee.

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

"Madame Speaker, on Standing Committee Report 1354 and 1355, gender responsive environments, I'd like to stand in strong support and I believe we have an advocate in the gallery. I know we're not supposed to mention that but she's worked on this issue for many, many years and I'm glad to see this resolution finally coming through."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 190, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF PUBLIC SAFETY AND THE OFFICE OF YOUTH SERVICES TO DEVELOP A PLAN FOR CREATING AND IMPLEMENTING GENDER RESPONSIVE ENVIRONMENTS AT THE WOMEN'S COMMUNITY CORRECTIONAL CENTER AND AT THE HAWAII YOUTH CORRECTIONAL FACILITY," was adopted, with Representatives Lee, Nakasone and Souki being excused;

and

H.C.R. No. 265, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF PUBLIC SAFETY AND THE OFFICE OF YOUTH SERVICES TO DEVELOP A PLAN FOR CREATING AND IMPLEMENTING GENDER RESPONSIVE ENVIRONMENTS AT THE WOMEN'S COMMUNITY CORRECTIONAL CENTER AND AT THE HAWAII YOUTH CORRECTIONAL FACILITY," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented two reports:

(Stand. Com. Rep. No. 1356-04) recommending that H.R. No. 191, be adopted; and

(Stand. Com. Rep. No. 1357-04) recommending that H.C.R. No. 266, be adopted.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 191 and H.C.R. No. 266 be adopted, seconded by Representative Lee.

Representative Fox rose, stating:

"Madame Speaker, I am kind of at a loss to understand what is the purpose of House Resolution 191 and House Concurrent Resolution 266.

"Apparently, we're asking the Congress to reverse an action that the President took on the Clean Air Act. Do we have some expectation that Congress is going to respond to this resolution?"

The Chair responded, stating:

"I don't have an answer for that. But what was your position?"

Representative Fox: "One of query and puzzlement."

Vice Speaker Luke: "I'll take that as reservations."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 191, entitled: "HOUSE RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO REPEAL THE CHANGES MADE BY THE BUSH ADMINISTRATION TO THE CLEAN AIR ACT IN 2002," was adopted, with Representatives Lee, Nakasone and Souki being excused;

and

H.C.R. No. 266, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES CONGRESS TO REPEAL THE CHANGES MADE BY THE BUSH ADMINISTRATION TO THE CLEAN AIR ACT IN 2002," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 1358-04) recommending that H.C.R. No. 115, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 115, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE COUNTIES TO ADDRESS LIGHT POLLUTION ISSUES THROUGH THEIR BUILDING ORDINANCES," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 1359-04) recommending that H.R. No. 177, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 177, HD 1, entitled: "HOUSE RESOLUTION REQUESTING THE HAWAII FOOD INDUSTRY ASSOCIATION AND THE HAWAII RETAIL ASSOCIATION TO REPORT ON THE BACKHAUL OF SHIPPING AND PACKING MATERIALS AND PALLETS," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Morita, for the Committee on Energy and Environmental Protection presented a report (Stand. Com. Rep. No. 1360-04) recommending that H.C.R. No. 245, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 245, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE HAWAII FOOD INDUSTRY ASSOCIATION AND THE HAWAII RETAIL ASSOCIATION TO REPORT ON THE BACKHAUL OF SHIPPING AND PACKING MATERIALS AND PALLETS," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1361-04) recommending that H.R. No. 57, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 57, entitled: "HOUSE RESOLUTION URGING THE UNIVERSITY OF HAWAII TO SPEEDILY REBUILD A SCHOOL OF GLOBAL AND PUBLIC HEALTH," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1362-04) recommending that H.C.R. No. 84, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 84, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNIVERSITY OF HAWAII TO SPEEDILY REBUILD A SCHOOL OF GLOBAL AND PUBLIC HEALTH," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1363-04) recommending that H.C.R. No. 158, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 158, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING A COLLEGE OF PHARMACY AT THE UNIVERSITY OF HAWAII AT HILO," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Takai, for the Committee on Higher Education presented a report (Stand. Com. Rep. No. 1364-04) recommending that H.C.R. No. 111, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 111, entitled: "HOUSE CONCURRENT RESOLUTION STRONGLY URGING THE GOVERNOR TO RELEASE THE FUNDS APPROPRIATED FOR THE ACQUISITION OF PARADISE PARK IN MANOA," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1365-04) recommending that H.R. No. 153, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 153, entitled: "HOUSE RESOLUTION SUPPORTING EFFORTS BY THE KO'OLAU GREENBELT AND HERITAGE TRAILS SYSTEM TO PROVIDE A HOLISTIC APPROACH TO WATERSHED PROTECTION AND ENCOURAGE PUBLIC AND PRIVATE PARTNERSHIPS TO DETERMINE THE FUTURE OF THE ENTIRE KO'OLAU SYSTEM," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1366-04) recommending that H.C.R. No. 216, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee

was adopted and H.C.R. No. 216, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING EFFORTS BY THE KO'OLAU GREENBELT AND HERITAGE TRAILS SYSTEM TO PROVIDE A HOLISTIC APPROACH TO WATERSHED PROTECTION AND ENCOURAGE PUBLIC AND PRIVATE PARTNERSHIPS TO DETERMINE THE FUTURE OF THE ENTIRE KO'OLAU SYSTEM," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Kanoho, for the Committee on Water, Land Use and Hawaiian Affairs presented a report (Stand. Com. Rep. No. 1367-04) recommending that H.C.R. No. 197, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 197, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK WITH THE COMMUNITY TO ASSESS THE FEASIBILITY OF DEVELOPING A PARK AT KEHENA BEACH, HAWAII," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Hale, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 1368-04) recommending that H.R. No. 102, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 102, entitled: "HOUSE RESOLUTION SUPPORTING THE HAWAII HUMANITY UNITED GLOBALLY PROGRAM FOR ITS PROJECTS FOR INTERNATIONAL PEACE," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Hale, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 1369-04) recommending that H.C.R. No. 108, be adopted.

Representative Saiki moved that the report of the Committee be adopted and that H.C.R. No. 108, be adopted, seconded by Representative Lee.

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

"Madame Chair, I'd like to stand in strong support of this resolution, HCR 108.

"One of the reasons I want to stand in strong support and I know it's late and we've had a lot speeches and a lot of talk all day, but I want people to understand what this is about. It was actually mentioned in a newspaper article but it really wasn't made clear what it's about. So if I may and if you would indulge me, I'd like to speak to this."

The Chair responded, stating:

"As long as it doesn't go over 5 minutes."

Representative Lee continued, stating:

"No, I think I probably won't use more than my 5 minutes allowed.

"It's been four and one half years since Rebiya Kadeer was arrested on August 11, 1999. Ms. Kadeer was planning to meet with staffers from the Congressional Research Service while visiting China under the auspices of the United States Information Agency. Since her arrest for providing secret

information to foreigners, she's been held in a jail notorious for torture and ill treatment of prisoners. After her incarceration, the Chinese courts reexamined the prosecution case against her, refused to take it to trial, and returned it for further investigation. This did not however result in her release. On the contrary, on March 2000, she was convicted at a secret trial and sentenced to an 8-year term which was recently reduced by a year.

"In November of 1999, Chinese officials visited her relatives to demand a large amount of money apparently to pay for medical care. She was reportedly taken to a hospital but no details of this hospital visit are available.

"Before her arrest, Ms. Kadeer was a well known business woman, an advocate for the rights of the minority Uighur women. She is also the mother of 10 children. In 1995, she was a delegate to the U.N. Fourth Conference that women have in Beijing. Ms. Kadeer was the most prominent woman from among the Uighur ethnic group in China. And in 1997, she created a forum, the Thousand Mother's Movement, for promoting rights and creating employment for ethnic minority Uighur women.

"Rebiya Kadeer is a prisoner of conscience detained arbitrarily. And the charges against her are believed to be entirely unfounded and politically motivated. This concurrent resolution will echo one passed last year in the U.S. Senate and one introduced by Representative Neil Abercrombie in the U.S. House. HCR 108 would put our Hawaii Legislature on record in support of her immediate release.

"And why should we vote for this? If our duty as citizens of the world to work on behalf of those with no voice. With the Committee's support on HCR 108, we'll be one step closer to securing the release of a woman who championed rights and credence of her countrymen that she herself has lost. I urge you to support her and this resolution. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 108, entitled: "HOUSE CONCURRENT RESOLUTION CALLING ON THE PEOPLE'S REPUBLIC OF CHINA IMMEDIATELY AND UNCONDITIONALLY TO RELEASE REBIYA KADEER AND URGING PRESIDENT BUSH TO TAKE URGENT STEPS TO SECURE THE RELEASE OF REBIYA KADEER AS SOON AS POSSIBLE," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Hale, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 1370-04) recommending that H.C.R. No. 145, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, and the report of the Committee was adopted and H.C.R. No. 145, entitled: "HOUSE CONCURRENT RESOLUTION CONCERNING THE RIGHTS OF UNITED STATES CITIZENS IN FOREIGN COUNTRIES," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Hale, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 1371-04) recommending that H.C.R. No. 153, as amended in HD 1, be adopted.

Representative Saiki moved that the reports of the Committee be adopted and that H.C.R. No. 153, HD 1, be adopted, seconded by Representative Lee.

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



Representative Arakaki submitted the testimony of Ms. Stephanie McCandless Reford, as follows:

"TESTIMONY  
TO THE HAWAII STATE SENATE  
COMMITTEE ON HUMAN SERVICES

in support of HCR 153 HD 1, unamended

Stephanie McCandless Reford,  
Executive Director, Pacific & Asian Affairs Council, (PAAC)  
Hawaii, 1963-70  
Administrative & Training Officer, United Nations Institute for  
Training & Research, (UNITAR), New York, 1970-72  
Co-Founder, INTRODUCING: THE WORLD,  
Ontario Institute for Studies in Education (OISE), and the  
Canadian Institute of International Affairs (CIIA), Toronto,  
197-85

This House Concurrent Resolution (No.153) promises to be the most important and historic outcome of the TWENTY-SECOND HAWAII LEGISLATURE, 2004. It combines the unique experience Hawaii offers as microcosm and model to a world that could well look to that model and learn from it, dedicating Hawaii experience to the young who must take responsibility, value and carry it forward. Here is the means.

This Resolution comes from Hawaii experience and builds on global/international incentives for young people working with today's leaders to make a real contribution with far-reaching results. It empowers the Hawaii example in action at a time that has never been more important, locally, nationally, globally.

I had the honor of being co-host at the hearing of the House Committee on International Affairs, held on March 29, 2004, where HCR 153 was introduced and supported by the strongest local testimony, both in person and in writing by outstanding members of the community, young and older, professionals, volunteers, and students. It was a stirring example of support for the vision embodied in this Resolution.

It was my work with the Pacific & Asian Affairs Council's (PAAC) High School World Affairs Program that led the United Nations to bring me to New York to share it with youth in developing countries. There was not then the aloha for youth that abounds there today, and when I married the Executive Director of the Canadian Institute of International Affairs (CIIA), the UN Under-Secretary General who hired me and assigned the task of taking Hawaii's example and international work with young people to Canada, which we did, founding the program INTRODUCING: THE WORLD in Toronto.

When we came to Hawaii in February of this year, we were working on progress of a proposal to return the work to the United Nations, and specifically to its Secretary-General who has given youth its first real presence there and prepared means for young people to make a significant difference. Our proposal, *The Secretary-General's Global Youth Challenge*, was already in the hands of the Senior Political Advisor to UNICEF and the Focal Point on Youth. We had been advised that what was needed was an organization that could successfully carry it forward. Couldn't we find one in Canada?

Here in HCR 153 you have the vision and experience of the best possible organization for our proposal and any other that reaches out to youth and its leadership for the 21st Century.

From that historic hearing here on March 29th, a committee of volunteers met to carry on the work begun there. A member of that Committee and I are invited to meet at the United Nations with the Focal Point on Youth on May 4, 2004 about our proposal. Your timing in passing this Resolution HCR 153,

would be historic and prepare for Hawaii the vision it embodies. The vision and the experience behind it are complete. It needs only the focus of new experience and that direction to give it life.

We look forward to hearing that your committee has passed HCR 153.

Respectfully submitted,  
Robert and Stephanie McCandless Reford"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.C.R. No. 153, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED NATIONS TO CONSIDER ESTABLISHING IN HAWAII A CENTER FOR THE ADVANCEMENT OF GLOBAL HEALTH, WELFARE, EDUCATION, AND PEACE BY AND FOR CHILDREN, YOUTH, AND FAMILIES," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Hale, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 1372-04) recommending that H.R. No. 49, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.R. No. 49, HD 1, entitled: "HOUSE RESOLUTION URGING THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO RELAX RESTRICTIONS ON THE GRANTING OF NONIMMIGRANT VISAS TO NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE PURPOSE OF BUSINESS, TOURISM, AND STUDY IN THE UNITED STATES," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representative Hale, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 1373-04) recommending that H.C.R. No. 72, as amended in HD 1, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.C.R. No. 72, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO RELAX RESTRICTIONS ON THE GRANTING OF NONIMMIGRANT VISAS TO NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE PURPOSE OF BUSINESS, TOURISM, AND STUDY IN THE UNITED STATES," was adopted, with Representatives Lee, Nakasone and Souki being excused.

Representatives Abinsay and M. Oshiro, for the Committee on Agriculture and the Committee on Labor and Public Employment presented two reports:

(Stand. Com. Rep. No. 1374-04) recommending that H.R. No. 50, be adopted; and

(Stand. Com. Rep. No. 1375-04) recommending that H.C.R. No. 73, be adopted.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 50 and H.C.R. No. 73; be adopted, seconded by Representative Lee.

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

"Thank you, Madame Speaker. House Resolution Number 50 and House Concurrent Resolution Number 73, in strong support regarding the Poamoho Camp.

"First of all, I'd like to thank the Chair of Agriculture, and especially the Labor Chair for hearing this reso. It's really dear to my heart because I grew up in a plantation, and to see the demise of plantation, and for these people to see where they're going on such short notice. But I really thank them."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 50, entitled: "HOUSE RESOLUTION REQUESTING DEL MONTE AND THE GALBRAITH ESTATE TO ALLOW RESIDENTS TO CONTINUE TO RESIDE AT POAMOH CAMP UNTIL AT LEAST DECEMBER 2005, TO ALLOW THE RESIDENTS TIME TO FIND HOUSING SOLUTIONS OR AFFORDABLE ALTERNATIVE HOUSING," was adopted with Representatives Lee, Nakasone and Souki being excused;

and

H.C.R. No. 73, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING DEL MONTE AND THE GALBRAITH ESTATE TO ALLOW RESIDENTS TO CONTINUE TO RESIDE AT POAMOH CAMP UNTIL AT LEAST DECEMBER 2005, TO ALLOW THE RESIDENTS TIME TO FIND HOUSING SOLUTIONS OR AFFORDABLE ALTERNATIVE HOUSING," was adopted with Representatives Lee, Nakasone and Souki being excused.

Representative Kahikina, for the Committee on Human Services and Housing presented two reports:

(Stand. Com. Rep. No. 1376-04) recommending that H.R. No. 54, as amended in HD 1, be adopted; and

(Stand. Com. Rep. No. 1377-04) recommending that H.C.R. No. 81, as amended in HD 1, be adopted.

Representative Saiki moved that the reports of the Committee be adopted and that H.R. No. 54, HD 1; and H.C.R. No. 81, HD 1; be adopted, seconded by Representative Lee.

Representative Finnegan rose to speak in opposition to both measures, stating:

"Thank you, Madame Speaker. I rise in opposition to Stand. Com. Report Number 1376-04, House Resolution 54, House Draft 1.

"And I'm just rising in opposition in regards to this resolution which is basically saying that we're better off without the Medicare Modernization Act. And it's asking for its repeal.

"And in the last almost 40 years, and I don't know the history, but it seems like we've been trying to get prescription drug coverage in Medicare for a while now and we haven't been able to get it. And now that we have at least something, it may not be agreeable to a lot of people, but yet we do have something that we can work with and that we can actually benefit from. And I think that's not a good message to be sending.

"We have financial constraints. Federally we have financial constraints, and we have to do the best that we can. And I just find it a little odd because we have our own prescription drug program that we're passing out and sometimes we get, I get feedback from the community that says, 'Is that it? Is that the discount? 10% of whatever?' And I say, 'Just hold on. We're trying our best, and not only that, it may get better.' And I feel

that it will get better, and you will find deeper discounts. And I don't know, this measure kind of seems almost like an unappreciation for the hard work in trying to establish a prescription drug program for our seniors. So I'm going to stand in opposition to this."

Representative Moses rose to speak in opposition to both measures, stating:

"Thank you, Madame Speaker. In opposition. And I'd like the words of the previous speaker as if they were my own," and the Chair "so ordered."

Representative Moses continued, stating:

"And it just appears that we're very, very greedy. We either want all or nothing. Here at least we have something and I don't know if we'll ever get all but we're getting more and more and more between the federal and the State. And I think maybe sometimes we ought to just be thankful for what we do have."

Representative Pendleton rose in opposition to both measures and asked that the remarks of Representatives Finnegan and Moses be entered in the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Ching rose in opposition to both measures and asked that the remarks of Representatives Finnegan and Moses be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Arakaki rose to speak in support of both measures, stating:

"Thank you, Madame Speaker. I'd like to speak in support.

"And just to clarify, it's not just to repeal. I think one of the amendments that we made was to actually have Congress reform and address some of the problems that we have with the program. Basically we're talking about what they call the 'doughnut hole', where a large number of people are not eligible for the prescription drug program under the provisions of the Medicare Reform Act. So I think, that's what we'd like to have Congress address. Thank you."

Representative Fox rose to speak in opposition to both measures, stating:

"Madame Speaker, in opposition.

"I think that providing prescription drugs for Medicare users is definitely a step forward. And we couldn't get it all at once, that's why the hole is there. There's been strong complaints from people from the Democratic Party about the high cost of the program that is in place. The reason for the 'doughnut hole' is because we can't spend more money on it. So it does represent a strong step forward. If we were passing the right kind of resolution, we'd compliment the national government for doing the same sort of thing we're trying to do here, which is make steps forward in the coverage of prescription drugs for not only elderly people, but others in need. Thank you, Madame Speaker."

Representative Moses rose, stating:

"Thank you, Madame Speaker. I just want to make sure my comments are for both resolutions."

The Chair responded, stating:

"Yes. What I was going to say is that whatever comments are made for Stand. Com. 1376 will also be incorporated for the next page, Stand. Com. 1377."

Representative Stonebraker rose and asked that the Clerk record a no vote for him on both measures, and the Chair "so ordered."

Representative Meyer rose and asked that the Clerk record a no vote for her on both measures, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the reports of the Committee were adopted and H.R. No. 54, HD 1, entitled: "HOUSE RESOLUTION OPPOSING THE MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003," was adopted, with Representatives Ching, Finnegan, Fox, Meyer, Moses, Pendleton and Stonebraker voting no and with Representatives Lee, Nakasone and Souki being excused;

and

H.C.R. No. 81, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION OPPOSING THE MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003," was adopted, with Representatives Ching, Finnegan, Fox, Meyer, Moses, Pendleton and Stonebraker, voting no, and with Representatives Lee, Nakasone and Souki being excused.

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

The House of Representatives reconvened at 10:36 o'clock p.m.

#### **Stand. Com. Rep. No. 1378-04 and H.R. No. 157, HD 1:**

By unanimous consent, action was deferred one legislative day.

#### **Stand. Com. Rep. No. 1379-04 and S.C.R. No. 9, SD 1, HD 1:**

By unanimous consent, action was deferred one legislative day.

Representative Chang, for the Committee on Tourism and Culture presented a report (Stand. Com. Rep. No. 1380-04) recommending that S.C.R. No. 28, be adopted.

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and S.C.R. No. 28, entitled: "SENATE CONCURRENT RESOLUTION DESIGNATING MISS HAWAII, OF THE MISS AMERICA SCHOLARSHIP PROGRAM, THE OFFICIAL HONORARY HOSTESS OF THE STATE OF HAWAII DURING HER TERM AS MISS HAWAII," was adopted, with Representatives Lee, Nakasone and Souki being excused.

#### **SUPPLEMENTAL CALENDAR #2 CONFERENCE COMMITTEE REPORTS**

The Chair then stated:

"Members, at this point, we're done with Supplemental Calendar Number 1, move on to Supplemental Calendar Number 2. I'll give all Members time to look for their Supplemental Calendar Number 2. Actually, there's no action.

"Supplemental Calendar No. 2. The Chair will just let the Members note the 48-hour notice for Conference Committee Report No. 1-04 to Conference Committee Report No. 8-04. These Conference Committee Reports were placed on your desk prior to the 9:00 a.m. convening time for today's Floor session. Therefore, action on these measures will take place Thursday, beginning at 9 a.m. That's Supplemental Calendar No. 2."

Representative Takamine, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1800, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 1-04) recommending that H.B. No. 1800, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 1-04 and H.B. No. 1800, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," was deferred for a period of 48 hours.

Representatives Takamine and Hamakawa, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2300, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 2-04) recommending that H.B. No. 2300, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 2-04 and H.B. No. 2300, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," was deferred for a period of 48 hours.

Representative Takamine, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2280, SD 1, presented a report (Conf. Com. Rep. No. 3-04) recommending that H.B. No. 2280, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 3-04 and H.B. No. 2280, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," was deferred for a period of 48 hours.

Representatives M. Oshiro and Takamine, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1043, SD 1, presented a report (Conf. Com. Rep. No. 4-04) recommending that H.B. No. 1043, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 4-04 and H.B. No. 1043, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR SALARY INCREASES FOR PUBLIC EMPLOYEES," was deferred for a period of 48 hours.

Representative Takamine, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2004, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 5-04) recommending that H.B. No. 2004, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 5-04 and H.B. No. 2004, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF

CONTROLLED SUBSTANCES," was deferred for a period of 48 hours.

Representative Takamine, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2743, HD 2, SD 1, presented a report (Conf. Com. Rep. No. 6-04) recommending that H.B. No. 2743, HD 2, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 6-04 and H.B. No. 2743, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," was deferred for a period of 48 hours.

Representatives Kahikina, Arakaki and Takamine, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2796, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 7-04) recommending that H.B. No. 2796, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 7-04 and H.B. No. 2796, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," was deferred for a period of 48 hours.

Representative Takamine, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2525, HD 1, presented a report (Conf. Com. Rep. No. 8-04) recommending that S.B. No. 2525, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 8-04 and S.B. No. 2525, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," was deferred for a period of 48 hours.

### SUPPLEMENTAL CALENDAR #3 CONFERENCE COMMITTEE REPORTS

At this time, the Chair stated:

"Moving on to Supplemental Calendar No. 3. Everyone has your Supplemental Calendar Number 3?"

"Members, please note the 48-hour notice for Conference Committee Report No. 9-04. And Members, for your information, Conference Committee Report No. 9-04 was placed on your desk at 11:30 a.m. today, and therefore, action on this measure will take place after 11:30 a.m. on Thursday."

Representatives Takumi, M. Oshiro, Takai, Hamakawa and Takamine, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 3238, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 9-04) recommending that S.B. No. 3238, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 9-04 and S.B. No. 3238, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was deferred for a period of 48 hours.

### SUSPENSION OF RULES

Representative Saiki moved to suspend the rules of House for the purpose of reconsidering action previously taken in disagreeing to amendments proposed by the Senate to a certain House Bill.

### RECONSIDERATIONS OF ACTION TAKEN

Representative Saiki moved that the House reconsider its action previously taken in disagreeing to amendments proposed by the Senate and gave notice of intent to agree to such amendments for the following House bill, seconded by Representative Lee, and carried: (Representatives Nakasone and Souki were excused.)

H.B. 2003, HD 1.

The Chair then stated:

"Just for the edification of the Members, this is a notice to reconsider our action of disagreeing with this measure. We'll take up the Third Reading for this measure at another date."

### ANNOUNCEMENTS

Representative B. Oshiro: "Madame Speaker. I'd like to ask for a waiver of the 48-hour notice requirement for the purpose of hearing certain resolutions tomorrow in the Judiciary hearing at 2 o'clock, and the Chair "so ordered."

"First and foremost, we'll be hearing HCR No. 151. We'll also be hearing HCR No. 77; HR No. 108 and HCR No. 152, it's a companion measure; HR 88 and HR 129, it's a companion measure; HR 147 and HCR 210, we'll be having a proposed HD 1, which is available in room 332; and HR 192 and HCR 267 and a proposed HD 1, which is available in Room 332 and Room 302. Thank you."

Representative Fox: "Madame Speaker, point of order."

Vice Speaker Luke: "Please state your point."

Representative Fox: "I believe the rules require that we not only have the numbers but actually the titles of the bills."

Vice Speaker Luke: "Representative Blake Oshiro. Actually, for clarification, can you say that again?"

At 10:42 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess, subject to the call of the Chair.

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

Vice Speaker Luke: "The Chair will request that Representative Blake Oshiro, read the waiver slowly again."

Representative B. Oshiro: "Okay, first is HCR No. 151. Secondly, will be HCR No. 77. Third will be companion measure HR 108 and HCR 152. Fourth will be HR 88 and HCR 129. Fifth will be HR 147 and HCR 210 and both HD 1 will be available in room 332 and room 302. And HR 192 and companion measure HCR 267 and a proposed HD 1 is available in room 332 and 302."

Representative Fox: "Point of order, Madame Speaker. We have no idea what these measures are unless they're characterized."

Vice Speaker Luke: "Representative Fox, the notice has already gone out. It's just that they're requesting a waiver for the 48-hour notice. So you can actually look it up on the hearing notice that has been posted and has gone out to every office."

Representative Fox: "Madame Speaker, point of information. Is that just going to be a string of numbers as well?"

Vice Speaker Luke: "Excuse me."

Representative Fox: "Is that just going to be a string of numbers as well or will the hearing notice actually have a bill title?"

Vice Speaker Luke: "On the public hearing notice, it's required to have a title."

Representative Fox: "But it's not required on this Floor? Is that right?"

Vice Speaker Luke: "As far as I'm concerned ..."

Representative Saiki: "Madame Speaker, the Chair has already made a ruling. If there is a rule, then I would request that the Minority Leader point us to the rule. Thank you."

Vice Speaker Luke: "And let me just state for the record that it has been the practice in the past that the Chairs did not state the titles when asking for a waiver."

Representative Fox: "That is incorrect, Madame Speaker."

Representative Thielen: "Madame Speaker, it's always been the policy on the Floor."

Representative Saiki: "Madame Speaker, point of order. The Chair has made a ruling."

Vice Speaker Luke: "The Chair has made a ruling. At this point in time, the Chair will recognize Representative Takamine."

Representative Takamine: "Thank you, Madame Chair. Request waiver of the 48-hour notice requirement for the purposes of hearing the following House Concurrent Resolutions and House Resolutions:

HCR No. 175, HD 1, requesting Secretary of Defense Donald Rumsfeld to Withdraw the Department of Defense's Proposal Regarding a National Security Personnel System and to Submit a New Proposal;

HCR No. 194 and HR No. 136, Requesting the Department of Land and Natural Resources to Execute an Adverse Condemnation to Purchase Real Property Owned by the Galbraith Estate;

HCR 201 and HR 140, Requesting a Task Force be Organized to Address the Hazards of Rock and Landslides in our Urban Populations;

HCR 225 and HR 161, Requesting the Department of Transportation and the City and County of Honolulu to Conduct a Study on Lengthening Yellow Lights to Address the Problem of Running Red Lights; and.

HCR 260 and HR 187, Requesting an Agribusiness Incubator in Waialua," and the Chair "so ordered."

Representative Takamine: "Thank you very much. Madame Speaker, these House Concurrent Resolutions and House Resolutions will be added as an addendum to the public hearing scheduled by the Committee on Finance for tomorrow afternoon at 3:15 in room 308. Thank you."

Vice Speaker Luke: "Members, because it is late, you may leave your material here overnight and your staff can pick it up tomorrow."

## ADJOURNMENT

At 10:49 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 9:00 o'clock a.m., Thursday, April 15, 2004. (Representatives Chang, Halford, Herkes, Kahikina, Nakasone, and Souki were excused.)

## HOUSE COMMUNICATION

House Communication dated April 13, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered its action taken in disagreeing to the amendments made by the Senate, on April 2, 2004 to House Bill No. 2003, HD 1, SD 1.

House Communication dated April 13, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House, to The Honorable Linda Lingle, Governor of the State of Hawaii, that in accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following Senate Bills, and that said measures passed Third Reading in the House of Representatives on this date:

S.B. No. 3113, S.D. 1, H.D. 1, entitled: "RELATING TO VOTING."

## FORTY-EIGHTH DAY

Thursday, April 15, 2004

The House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, convened at 9:09 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Speaker Emeritus Joseph Souki, after which the Roll was called showing all members present with the exception of Representatives Hiraki and Luke, who were excused.

At 9:15 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:16 o'clock a.m.

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

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 450 through 566) were received and announced by the Clerk:

Sen. Com. No. 450, informing the House that the Senate has disagreed to the amendments proposed by the House to the following Senate Bills:

S.B. No. 469, H.D. 1  
"RELATING TO EMPLOYMENT PRACTICES."

S.B. No. 2264, S.D. 1, H.D. 1  
"MAKING AN APPROPRIATION TO THE UNIVERSITY OF HAWAII FOR A MASTER'S DEGREE IN SOCIAL WORK BY DISTANCE LEARNING PROGRAM."

S.B. No. 2281, S.D. 1, H.D. 1  
"RELATING TO THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION."

S.B. No. 2349, S.D. 2, H.D. 1  
"RELATING TO SOCIAL SERVICES."

S.B. No. 2377, S.D. 1, H.D. 1  
"RELATING TO PRIVACY."

S.B. No. 2440, S.D. 1, H.D. 1  
"RELATING TO PUBLIC LANDS."

S.B. No. 2478, S.D. 2, H.D. 1  
"RELATING TO IMPACT FEES."

S.B. No. 2895, S.D. 1, H.D. 1  
"RELATING TO PEST CONTROL."

S.B. No. 2968, S.D. 1, H.D. 1  
"RELATING TO NATURAL RESOURCE VIOLATIONS."

S.B. No. 2995, S.D. 2, H.D. 1  
"RELATING TO COMMERCIAL DRIVER LICENSING."

S.B. No. 3018, S.D. 2, H.D. 1  
"RELATING TO PENSION AND RETIREMENT SYSTEMS."

S.B. No. 3024, S.D. 2, H.D. 1  
"RELATING TO CAPITAL FORMATION."

S.B. No. 3092, S.D. 1, H.D. 1  
"RELATING TO SOLID WASTE MANAGEMENT."

S.B. No. 3193, S.D. 2, H.D. 2  
"RELATING TO CONSUMERS."

Sen. Com. No. 451, informing the House that the President has appointed as conferees on the part of the Senate, for consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 2269, SD 2, HD 1      Co-Chairs: Fukunaga, Ige, Taniguchi  
Members: Aduja, Inouye, Trimble

S.B. No. 2899, SD 2, HD 1      Chair: Baker  
Co-Chair: Menor  
Members: Chun Oakland, Kim

S.B. No. 2995, SD 2, HD 1      Chair: Kawamoto  
Co-Chair: Hanabusa  
Members: Kanno, Whalen

S.B. No. 3092, SD 1, HD 1      Chair: English  
Co-Chair: Kokubun,  
Members: Hooser, Taniguchi,  
Hemmings

Sen. Com. No. 452, transmitting S.C.R. No. 75, entitled: "SENATE CONCURRENT RESOLUTION URGING THE GOVERNOR, DEPARTMENT OF HEALTH, DEPARTMENT OF HUMAN SERVICES, AND UNIVERSITY OF HAWAII TO RECOGNIZE THE IMPORTANCE OF THE CONTRIBUTIONS OF FAMILY CAREGIVERS AND TO SUPPORT THEM IN SERVING THE STATE'S LONG-TERM CARE NEEDS," which was adopted by the Senate on April 13, 2004.

Sen. Com. No. 453, transmitting S.C.R. No. 90, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO DEVELOP A PROGRAM TO ENSURE THAT ALL SCHOOLS ARE STAFFED WITH SCHOOL HEALTH AIDE PERSONNEL," which was adopted by the Senate on April 13, 2004.

Sen. Com. No. 454, transmitting S.C.R. No. 166, entitled: "SENATE CONCURRENT RESOLUTION URGING THE STATE DEPARTMENTS AND AGENCIES TO IMPLEMENT THE PRECAUTIONARY PRINCIPLE POLICY FRAMEWORK ON ENVIRONMENTAL PROTECTION IN CONDUCTING THE STATE'S AFFAIRS," which was adopted by the Senate on April 13, 2004.

Sen. Com. No. 455, transmitting S.C.R. No. 169, entitled: "SENATE CONCURRENT RESOLUTION EXPRESSING THE SUPPORT OF THE LEGISLATURE OF THE STATE OF HAWAII FOR THE DEVELOPMENT OF THE SEAWATER AIR CONDITIONING/ THERMAL ENERGY STORAGE SYSTEM BY HONOLULU SEAWATER AIR CONDITIONING LLC FOR USE ON THE ISLAND OF OAHU," which was adopted by the Senate on April 13, 2004.



Sen. Com. No. 456, transmitting H.B. No. 1797, entitled: "A BILL FOR AN ACT RELATING TO OPTOMETRY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 457, transmitting H.B. No. 1819, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 458, transmitting H.B. No. 1898, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL LITERACY FOR YOUTH MONTH," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 459, transmitting H.B. No. 2341, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 460, transmitting H.B. No. 2414, entitled: "A BILL FOR AN ACT RELATING TO DENTAL INSURANCE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 461, transmitting H.B. No. 2426, entitled: "A BILL FOR AN ACT RELATING TO THE LICENSING REQUIREMENTS FOR ELEVATOR MECHANICS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 462, transmitting H.B. No. 2498, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERIM RULES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 463, transmitting H.B. No. 2539, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOSPITALS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 464, transmitting H.B. No. 2558, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PENSION PLANS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 465, transmitting H.B. No. 2630, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE RENTAL INDUSTRY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 466, transmitting H.B. No. 189, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY CONTRACEPTIVES FOR SEX ASSAULT SURVIVORS IN EMERGENCY ROOMS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 467, transmitting H.B. No. 267, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 468, transmitting H.B. No. 403, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 469, transmitting H.B. No. 537, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL RIGHTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 470, transmitting H.B. No. 680, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 471, transmitting H.B. No. 1004, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF CONVICTED DEFENDANTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 472, transmitting H.B. No. 1261, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 473, transmitting H.B. No. 1335, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TUITION WAIVERS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 474, transmitting H.B. No. 1374, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 475, transmitting H.B. No. 1560, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF VESSELS BY THE DEPARTMENT OF LAND AND NATURAL RESOURCES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 476, transmitting H.B. No. 1590, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO VETERANS' RIGHTS AND BENEFITS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 477, transmitting H.B. No. 1634, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 478, transmitting H.B. No. 1710, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 479, transmitting H.B. No. 1743, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LIGHT POLLUTION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 480, transmitting H.B. No. 1756, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HIGH TECHNOLOGY INDUSTRIAL ENTERPRISES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 481, transmitting H.B. No. 1770, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 482, transmitting H.B. No. 1774, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT BENEFITS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 483, transmitting H.B. No. 1778, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WAGES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 484, transmitting H.B. No. 1780, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 485, transmitting H.B. No. 1786, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EXEMPT EMPLOYEES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 486, transmitting H.B. No. 1792, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LABOR," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 487, transmitting H.B. No. 1793, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND EXCHANGE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 488, transmitting H.B. No. 1820, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 489, transmitting H.B. No. 1839, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PAIN PATIENT'S BILL OF RIGHTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 490, transmitting H.B. No. 1840, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION CONTROL," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 491, transmitting H.B. No. 1848, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXCEPTIONAL TREES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 492, transmitting H.B. No. 1856, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 493, transmitting H.B. No. 1860, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE AND NEGLECT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 494, transmitting H.B. No. 1885, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A YOUTH SUMMIT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 495, transmitting H.B. No. 1893, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 496, transmitting H.B. No. 1904, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 497, transmitting H.B. No. 1908, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 498, transmitting H.B. No. 1924, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TEACHER COMPENSATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 499, transmitting H.B. No. 1929, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL REPAIR AND MAINTENANCE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 500, transmitting H.B. No. 1944, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 501, transmitting H.B. No. 1980, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 502, transmitting H.B. No. 2005, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRESCRIPTION DRUGS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 503, transmitting H.B. No. 2009, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND MARKET DEVELOPMENT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 504, transmitting H.B. No. 2022, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL ASSISTANCE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 505, transmitting H.B. No. 2023, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE APPEALS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 506, transmitting H.B. No. 2025, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EQUAL PAY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 507, transmitting H.B. No. 2048, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NET ENERGY METERING," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 508, transmitting H.B. No. 2061, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 509, transmitting H.B. No. 2074, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PENALTIES OF HEALTH, ENVIRONMENTAL, AND CULTURAL PRESERVATION LAWS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 510, transmitting H.B. No. 2092, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICINE AND SURGERY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 511, transmitting H.B. No. 2093, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DENTAL PROFESSIONAL LICENSING," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 512, transmitting H.B. No. 2136, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 513, transmitting H.B. No. 2137, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A ONE CALL CENTER," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 514, transmitting H.B. No. 2143, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGULATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 515, transmitting H.B. No. 2170, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR REHABILITATION HOSPITAL OF THE PACIFIC," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 516, transmitting H.B. No. 2191, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ENTERPRISE ZONES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 517, transmitting H.B. No. 2215, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 518, transmitting H.B. No. 2250, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HABITUAL OPERATION OF A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 519, transmitting H.B. No. 2254, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 707, HAWAII REVISED STATUTES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 520, transmitting H.B. No. 2286, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMISSION FOR NATIONAL AND COMMUNITY SERVICE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 521, transmitting H.B. No. 2291, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 522, transmitting H.B. No. 2292, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR ELECTRONIC FILING, SIGNING, SERVING, CERTIFICATION, AND VERIFICATION OF COURT DOCUMENTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 523, transmitting H.B. No. 2297, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 524, transmitting H.B. No. 2301, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 525, transmitting H.B. No. 2320, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIM RESTITUTION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 526, transmitting H.B. No. 2322, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PROCESSING ENTERPRISES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 527, transmitting H.B. No. 2363, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC BENEFIT CORPORATIONS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 528, transmitting H.B. No. 2385, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ACCESS TO VITAL STATISTICS RECORDS BY CHILD SUPPORT ENFORCEMENT AGENCIES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 529, transmitting H.B. No. 2396, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL INVESTMENTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 530, transmitting H.B. No. 2458, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD WELFARE SERVICES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 531, transmitting H.B. No. 2459, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 532, transmitting H.B. No. 2523, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PASSENGER FACILITY CHARGES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 533, transmitting H.B. No. 2547, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 534, transmitting H.B. No. 2569, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NIIHAU SHELL PRODUCTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 535, transmitting H.B. No. 2578, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING LLC PROJECTS ON THE ISLAND OF OAHU," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 536, transmitting H.B. No. 2608, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 537, transmitting H.B. No. 2611, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ENTERTAINMENT INDUSTRY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 538, transmitting H.B. No. 2645, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO

EDUCATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 539, transmitting H.B. No. 2662, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 540, transmitting H.B. No. 2667, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE MEDIUM EDUCATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 541, transmitting H.B. No. 2674, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IDENTITY THEFT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 542, transmitting H.B. No. 2703, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO IMPACT FEES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 543, transmitting H.B. No. 2716, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SOUTH KONA WILDERNESS AREA," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 544, transmitting H.B. No. 2722, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ALA WAI WATERSHED IMPROVEMENTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 545, transmitting H.B. No. 2739, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS BY THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 546, transmitting H.B. No. 2740, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NOTIFICATION OF EMPLOYMENT CHANGES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 547, transmitting H.B. No. 2741, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXECUTIVE DEPARTMENTS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 548, transmitting H.B. No. 2748, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 549, transmitting H.B. No. 2749, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 550, transmitting H.B. No. 2759, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE PURCHASE OF LAND IN PUPUKEA-PAUMALU, OAHU," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 551, transmitting H.B. No. 2773, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 552, transmitting H.B. No. 2774, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUBDIVISIONS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 553, transmitting H.B. No. 2786, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ARBITRATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 554, transmitting H.B. No. 2792, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE ROADS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 555, transmitting H.B. No. 2798, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE PRACTICE OF PHARMACY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 556, transmitting H.B. No. 2814, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO KALAUPAPA SETTLEMENT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 557, transmitting H.B. No. 2815, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 558, transmitting H.B. No. 2844, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRYSTAL METHAMPHETAMINE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 559, transmitting H.B. No. 2859, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEVELOPMENT OF AN INTERNATIONAL EQUESTRIAN FACILITY," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 560, transmitting H.B. No. 2871, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 561, transmitting H.B. No. 2883, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WIRELESS ENHANCED 911 SERVICE," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 562, transmitting H.B. No. 2911, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 563, transmitting H.B. No. 2956, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MASS TRANSIT," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 564, transmitting H.B. No. 2961, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ETHANOL," which passed Third Reading in the Senate on April 13, 2004.

Sen. Com. No. 565, informing the House that the President has appointed as conferees on the part of the Senate, for consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 2067,  
SD 1, HD 1      Chair: Sakamoto  
                         Co-Chair: Taniguchi  
                         Members: Hooser, Hogue

S.B. No. 2175,  
SD 1, HD 1      Chair: Sakamoto  
                         Co-Chairs: Taniguchi/Kawamoto  
                         Members: Hogue

S.B. No. 2349,  
SD 2, HD 1      Chair: Chun Oakland  
                         Co-Chair: Taniguchi  
                         Members: Fukunaga, Kanno, Trimble

S.B. No. 2377,  
SD 1, HD 1      Co-Chairs: Ige/Hanabusa  
                         Members: Fukunaga, Hemmings

S.B. No. 2440,  
SD 1, HD 1      Co-Chairs: Inouye/Hanabusa  
                         Members: Chun Oakland, English,  
                         Espero, Ihara, Whalen

S.B. No. 2608,  
SD 1, HD 1      Chair: Chun Oakland  
                         Co-Chairs: Baker/Taniguchi  
                         Members: Fukunaga, Hooser, Inouye,  
                         Trimble

S.B. No. 2968,  
SD 1, HD 1      Co-Chairs: Inouye/Hanabusa  
                         Members: Aduja, Fukunaga, Ihara,  
                         Whalen

S.B. No. 3002,  
HD 1              Co-Chairs: Ige/Fukunaga/Taniguchi  
                         Members: English, Hooser, Hemmings

S.B. No. 3025,  
HD 1              Co-Chairs: Inouye/Fukunaga/Kokubun  
                         Members: Espero, Kanno Whalen

S.B. No. 3068,  
SD 2, HD 2      Chair: Taniguchi  
                         Co-Chairs: Kokubun  
                         Members: Aduja, English, Espero,  
                         Hooser, Inouye, Kanno, Kawamoto,  
                         Kim, Sakamoto, Tsutsui, Hemmings

S.B. No. 3230,  
SD 2, HD 1      Chair: Chun Oakland  
                         Co-Chairs: Sakamoto/Taniguchi  
                         Members: Fukunaga, Trimble

Sen. Com. No. 566, informing the House that the President has appointed as conferees on the part of the Senate, for consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 2425,  
SD 1, HD 1      Chair: Sakamoto  
                         Co-Chairs: Taniguchi  
                         Members: Hogue

S.B. No. 2478,  
SD 2, HD 1      Co-Chairs:  
                         Sakamoto/Kawamoto/Inouye/Taniguchi  
                         Members: Whalen

Representative Saiki moved to disagree to the amendments proposed by the Senate to House bills returned, seconded by Representative Lee, and carried. (Representatives Luke and Ontai were excused.)

At this time, in accordance with the motion made, the House disagreed to the amendments made by the Senate to the following House bills:

H.B. No. 189, H.D. 2, S.D. 2  
H.B. No. 267, H.D. 2, S.D. 2  
H.B. No. 403, H.D. 1, S.D. 1  
H.B. No. 537, H.D. 1, S.D. 1

H.B. No. 680, H.D. 2, S.D. 1  
H.B. No. 1004, H.D. 1, S.D. 1  
H.B. No. 1261, H.D. 2, S.D. 1  
H.B. No. 1335, H.D. 3, S.D. 2  
H.B. No. 1374, H.D. 2, S.D. 2  
H.B. No. 1560, H.D. 1, S.D. 1  
H.B. No. 1590, H.D. 2, S.D. 2  
H.B. No. 1634, H.D. 1, S.D. 1  
H.B. No. 1710, H.D. 2, S.D. 2  
H.B. No. 1743, H.D. 2, S.D. 2  
H.B. No. 1756, H.D. 2, S.D. 1  
H.B. No. 1770, H.D. 1, S.D. 2  
H.B. No. 1774, H.D. 2, S.D. 2  
H.B. No. 1778, H.D. 2, S.D. 2  
H.B. No. 1780, H.D. 1, S.D. 1  
H.B. No. 1786, H.D. 1, S.D. 2  
H.B. No. 1792, H.D. 2, S.D. 1  
H.B. No. 1793, H.D. 2, S.D. 1  
H.B. No. 1820, H.D. 1, S.D. 1  
H.B. No. 1839, H.D. 2, S.D. 2  
H.B. No. 1840, H.D. 1, S.D. 1  
H.B. No. 1848, H.D. 1, S.D. 1  
H.B. No. 1856, H.D. 1, S.D. 1  
H.B. No. 1860, H.D. 1, S.D. 2  
H.B. No. 1885, S.D. 1,  
H.B. No. 1893, H.D. 2, S.D. 1  
H.B. No. 1904, H.D. 1, S.D. 2  
H.B. No. 1908, H.D. 2, S.D. 1  
H.B. No. 1924, H.D. 1, S.D. 2  
H.B. No. 1929, H.D. 1, S.D. 2  
H.B. No. 1944, H.D. 1, S.D. 1  
H.B. No. 1980, H.D. 1, S.D. 1  
H.B. No. 2005, H.D. 1, S.D. 1  
H.B. No. 2009, H.D. 1, S.D. 1  
H.B. No. 2022, H.D. 2, S.D. 1  
H.B. No. 2023, H.D. 2, S.D. 2  
H.B. No. 2025, H.D. 3, S.D. 2  
H.B. No. 2048, H.D. 1, S.D. 1  
H.B. No. 2061, H.D. 2, S.D. 1  
H.B. No. 2074, H.D. 1, S.D. 1  
H.B. No. 2092, H.D. 2, S.D. 2  
H.B. No. 2093, H.D. 1, S.D. 2  
H.B. No. 2136, H.D. 1, S.D. 1  
H.B. No. 2137, H.D. 1, S.D. 1  
H.B. No. 2143, H.D. 2, S.D. 1  
H.B. No. 2170, H.D. 1, S.D. 1  
H.B. No. 2191, H.D. 1, S.D. 2  
H.B. No. 2215, H.D. 2, S.D. 2  
H.B. No. 2250, H.D. 2, S.D. 2  
H.B. No. 2254, S.D. 1,  
H.B. No. 2286, H.D. 1, S.D. 1  
H.B. No. 2291, H.D. 2, S.D. 2  
H.B. No. 2292, H.D. 1, S.D. 1  
H.B. No. 2297, H.D. 1, S.D. 2  
H.B. No. 2301, H.D. 1, S.D. 1  
H.B. No. 2320, H.D. 1, S.D. 1  
H.B. No. 2322, H.D. 1, S.D. 2  
H.B. No. 2363, H.D. 1, S.D. 2  
H.B. No. 2385, H.D. 1, S.D. 1  
H.B. No. 2396, H.D. 2, S.D. 2  
H.B. No. 2458, H.D. 1, S.D. 2  
H.B. No. 2459, H.D. 1, S.D. 2  
H.B. No. 2523, H.D. 1, S.D. 1  
H.B. No. 2547, H.D. 2, S.D. 2  
H.B. No. 2569, H.D. 1, S.D. 1  
H.B. No. 2578, H.D. 1, S.D. 2  
H.B. No. 2608, H.D. 1, S.D. 1  
H.B. No. 2611, H.D. 2, S.D. 2  
H.B. No. 2645, H.D. 2, S.D. 2  
H.B. No. 2662, H.D. 1, S.D. 1  
H.B. No. 2667, H.D. 2, S.D. 1  
H.B. No. 2674, H.D. 1, S.D. 1

H.B. No. 2703, H.D. 1, S.D. 2	2297,	Committee on Judiciary, then to the Committee on
H.B. No. 2716, S.D. 1,	HD1,	Finance
H.B. No. 2722, H.D. 1, S.D. 1	SD2	
H.B. No. 2739, H.D. 1, S.D. 2		
H.B. No. 2740, H.D. 1, S.D. 1	2301,	Committee on Judiciary, then to the Committee on
H.B. No. 2741, H.D. 1, S.D. 1	HD1,	Finance
H.B. No. 2748, S.D. 1,	SD1	
H.B. No. 2749, S.D. 1,		
H.B. No. 2759, H.D. 1, S.D. 1	2645,	Committee on Education, then to the Committee on
H.B. No. 2773, H.D. 1, S.D. 1	HD2,	Labor and Public Employment, then to the
H.B. No. 2774, H.D. 1, S.D. 1	SD2	Committee on Finance
H.B. No. 2786, H.D. 1, S.D. 2		
H.B. No. 2792, H.D. 1, S.D. 2	2136,	Committee on Finance, then to the Committee on
H.B. No. 2798, H.D. 1, S.D. 2	HD1,	Judiciary
H.B. No. 2814, H.D. 2, S.D. 1	SD1	
H.B. No. 2815, S.D. 1,		
H.B. No. 2844, H.D. 1, S.D. 1	2291,	Committee on Transportation, then to the
H.B. No. 2859, H.D. 2, S.D. 2	HD2,	Committee on Judiciary, then to the Committee on
H.B. No. 2871, H.D. 2, S.D. 1	SD2	Finance
H.B. No. 2883, H.D. 2, S.D. 2		
H.B. No. 2911, H.D. 2, S.D. 1	2662,	Committee on Public Safety and Military Affairs,
H.B. No. 2956, H.D. 1, S.D. 2	HD1,	then to the Committee on Economic Development
H.B. No. 2961, H.D. 2, S.D. 2	SD1	and Business Concerns, then to the Committee on
		Finance

### INTRODUCTIONS

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

Representative Morita introduced her long-time friend, Ms. Gloria del Rosario, and Ms. del Rosario's Second and Third grade students from Hanahauoli School: Suzanna Bradley, Rachel Elias, Conner Sato, Catelyn Reynolds, Blake Anderson, Kelsey Cottrell, Nicole Ono, Pierce Wataumull, Hunter Young, Claire Furukawa, and Lauren Martin.

Representative Magaoay introduced former State Senator, Pastor Bob Nakata of the Kahaluu United Methodist Church.

Representative M. Oshiro introduced his constituent, Ms. Charlene Oshiro, and his cousin, Ms. Julie Oga, both with the Hawaii Lupus Foundation

The following resolution and concurrent resolution were re-referred to committee by the Speaker:

#### H.R. No.

#### Re-referred to:

168 Jointly to the Committee on International Affairs and the Committee on Education

#### H.C.R. No.

#### Re-referred to:

231 Jointly to the Committee on International Affairs and the Committee on Education

At 9:19 o'clock a.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 9:36 o'clock a.m.

### ORDER OF THE DAY

#### COMMITTEE REASSIGNMENTS

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

#### H.B. Nos.

#### Re-referred to:

680, Committee on Legislative Management, then to the  
HD2, Committee on Judiciary, then to the Committee on  
SD1 Finance

1261, Committee on Public Safety and Military Affairs,  
HD2, then to the Committee on Judiciary, then to the  
SD1 Committee on Finance

1839, Committee on Health, then jointly to the  
HD2, Committee on Consumer Protection and  
SD2 Commerce and the Committee on Judiciary, then to  
the Committee on Finance

2250, Committee on Transportation, then to the  
HD2, Committee on Judiciary, then to the Committee on  
SD2 Finance

#### SUSPENSION OF RULES

Representative Lee moved to suspend the rules of the House for the purpose of considering House and Senate bills on Final Reading and Third Reading on the basis of a modified consent calendar, seconded by Representative Meyer.

At this time, Representative Finnegan moved to defer decision making on Conf. Com. Rep. No. 1-04, seconded by Representative Bukoski.

The Chair then stated:

"The motion before us is to suspend the rules of the House. And the motion that you're proposing is out of order at this point, so would you retract what the motion is at this period in time."

Representative Finnegan withdrew her previous motion, and Representative Bukoski withdrew his second.

The Chair then stated:

"Does everyone understand what we're doing? The motion is to suspend the rules of the House to consider certain House



bills and Senate bills for Final Reading and Third Reading by consent calendar. There's no motion for adoption at this period in time. It's just the suspension of the rules. So please understand what you are proposing before you stand up."

Representative Stonebraker rose, stating:

"I'd like to debate against suspending the rules. To suspend the rules and to vote on these measures at this time would be premature. We have had not had the appropriate time necessary to look over the detailed and exhaustive budget report, that's the first measure that we have before us. If we suspend the rules of this House and vote on this measure now, most of the Members of the Body will be ill-prepared to discuss any level of detail about the State budget. It would be ill-advised and premature to vote on this at this point in time."

The motion was put to vote by the Chair and carried, and the rules were suspended for the purpose of considering House and Senate bills on Final Reading and Third Reading on the basis of a modified consent calendar, with Representative Stonebraker voting no, and with Representatives Halford, Luke and Souki being excused.

#### UNFINISHED BUSINESS

**Conf. Com. Rep. No. 1-04 and H.B. No. 1800, HD 1, SD 1, CD 1:**

Representative Takamine moved that the report of the Committee be adopted and that H.B. No. 1800, HD 1, SD 1, CD 1 pass Final Reading, seconded by Representative Kawakami.

At this time Representative Finnegan moved to defer decision making on this measure, seconded by Representative Bukoski.

The Chair stated:

"At this point, the Chair will rule both of you out of order because the main motion before this House now is for the adoption and passage on Final Reading for the House Bill 1800."

At 9:39 o'clock a.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 9:43 o'clock a.m.

The Chair then stated:

"At this time, the Chair stands corrected. The Chair will recognize Representative Finnegan's motion for deferral and Representative Bukoski's second. Representative Finnegan, you may speak on this particular motion for deferral."

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

"Thank you very much, Mr. Speaker. I first of all have to apologize. I really don't mean to seem like I'm causing any trouble or anything. And this action is basically just on my own, not reflective of the Minority Party at all.

"But the reason why I ask for this is basically I feel personally that I haven't had enough time to review this very large State budget that requires a lot of attention. A couple

things have been made aware to me. In regards to the whole financial picture, we still have moving parts that we can't put our foot on, appropriation bills and such. That we still need to see the larger picture of how this is going to work for our State. As well as my understanding in Finance that a letter is going out to the departments to ask about vacant positions and which ones can't be taken out of the departments. There are a lot of moving targets right now that I don't feel very comfortable about.

"As well as I believe for whatever reason, we, our Minority Research Office, the finance team, they've been working really hard and they've been trying to get the information to us. But some of the information including DCCA and what's happening within that department. Still, they haven't had the time to work on it because an e-mail answering questions on DCCA and confirming numbers was not responded to until 11:22 last night.

"I'm working very hard to understand this bill. I'm not trying to do anything but make sure that I'm making a good decision. Make sure that I can understand why the Finance Committee and our Members from the Majority and the Minority are making decisions like these. And if I'm allowed some time to review this information, then maybe I can support it, but right now I don't feel comfortable with the information that I have. And I just ask for myself that I have more information and more time to review the information."

Representative Fox rose, stating:

"Thank you, Mr. Speaker. This is the first time that I recall we've taken a draft on Final Reading, the Conference Committee Report on the budget so early in the Session. Usually we have our backs against the wall and we unfortunately don't have time to really review the budget and understand it. But this time we are afforded a little extra time to really kind of get on top of this and that's through the good works of the Conference Committee. They have delivered us a budget. Very short order. So because we do have the luxury of a little extra time, why don't we use it? And make sure that all the Members for once, really understand what they're voting on. Thank you, Mr. Speaker."

Representative Takamine rose to speak in opposition to the motion to defer, stating:

"Mr. Speaker, I rise against the motion.

"Thank you, Mr. Speaker. First of all, I'd like to say that I realize the budget document and the whole process involved is a great effort and it's not a simple matter. And therefore I hear what one of the speakers has indicated, that especially without experience of having an opportunity to go through that process and walk through it, and I think that's why the Committee structure is set up so that you have a proportionate number of Minority Members and Majority Members to make sure that there's a sense of parity in terms of access to information on all that.

"Mr. Speaker, I think your Conference Committee this year, to a great extent, tried to make sure that information was made available. And therefore all proper notices from the very beginning of the Conference period were made. Members were allowed to attend if they so chose. In addition of course, we have the Capitol system where you can be at your office but still have access to the discussions. Because it's so involved, we wanted to make sure that it's very transparent that any member from the public or any Member of the Body can sit in. And as we go through sequence by sequence by sequence, which I understand can be a very tedious process, Mr. Speaker, but in the interest of accessibility, accountability, and

transparency, that is the process that has been put into place since I assumed this position 5 years ago. And that is the process that we followed.

"I think the time periods are pretty tight. And it's something that at times doesn't allow all of us to feel comfortable with the votes we have when the votes come up. Yet, I understand that Leadership has taken or made every effort to ensure that the process is open so that we can deliberate, or we can have our discussions in a deliberative manner and move the work of the House. In light of all of these steps and in light of the practices that we followed, that's the basis upon which I oppose the motion."

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

"Mr. Speaker, I call for a roll call vote, please, at the appropriate time. And Mr. Speaker, I would like just briefly to add my concerns about acting on this bill today. I'm in support of the motion of course. I believe there are two bargaining units ..."

The Chair interjected, stating:

"Representative Thielen, you are out of order at this point. The motion before us is for deferral on the process."

Representative Thielen: "That's correct."

Speaker Say: "So if you want to address that particular issue, you can address it when House Bill 1800 is before this Body."

Representative Thielen: "Thank you. I will address the motion for deferral. Like my colleague, I feel that there are moving parts that are not before us that are going to impact the actual budget for this State. I'm finding it difficult until those moving parts are resolved and dollar figures are attached, it's very difficult to deal with the underlying budget bill today. Thank you."

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

"Thank you, Mr. Speaker. Just briefly. In support, I guess. But I just wanted to comment, rebut I guess the Finance Chair's opinion that the budget process is or ever has been open and transparent. I found it to be a closed process and not transparent. Thank you."

Speaker Say: "Your point is well taken."

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

"Thank you, Mr. Speaker. I'm rising in support of the motion."

"I don't want to be totally repetitive, but there still are a lot of things out and that is a concern to this Caucus and to myself. I know that I have not seen a financial plan in the Finance Committee that shows how we're going to be able to pay for the ..."

Speaker Say: "Representative Meyer, you are out of order at this point. The motion before us is the motion for deferral."

Representative Meyer: "I know that but I have to have some reason to say why I'm for it. It's because of some documents that we haven't seen."

Speaker Say: "Please proceed. On some documents."

Representative Meyer: "Documents that we haven't seen yet that play into this budget in a big way."

"Also the Representative from Foster Village mentioned that ... I'm sorry I kind of lost my train of thought. There just are so many different pieces that make this document incomplete that we are going to take a very important vote on. And as the Representative from Waikiki says, this is sort of unprecedented. That we are today passing the budget. Sine Die is not until May 6th. Today is the 15th of April. Tax day, by the way. So we all have dollars on our mind, and we know how legislation impacts people in a very personal way. And I think we have nothing to lose. And we would have a much more carefully thought out decision if we were given more time to assimilate all this information. Thank you."

Representative Saiki rose to speak in opposition to the motion to defer, stating:

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

"I would like to state that the arguments that this budget process was closed and rushed are baseless and I'd like to refute those points with the facts."

"First, this is not the first time that the House has voted on a version of the State budget. In fact this will be the fifth vote that this entire House will be voting on the budget."

"Second, as the Members of the Finance Committee know, the Conference Committee process began over a week ago. The Finance Committee held its first Conference Committee on the budget on April 5th. It followed with further Conferences on April 6th, April 7th, April 8th, April 9th, and finally on April 12th when it took the final vote on the version of this budget. All of these Conference Committees were properly noticed. They were held in public. And there was ample opportunity for all Members of the Finance Committee as well as for all Members of the House to attend these Conferences, to ask question, and to explore the issues related to the budget."

"Third, Mr. Speaker, the budget worksheets have been made publicly available. They are online. They have been made available to the Members of the Finance Committee since the Conference Committee began on April 5th. So again, there was ample opportunity for Members to follow up on the details and the worksheets, to ask questions of the Chair or other Members of the House. I do not believe that the requests for information were ever made to the Finance Committee."

"For these reasons, I oppose this motion. Thank you."

Roll call having been previously requested, and by unanimous consent, granted, the motion that decision making on Conf. Com. Rep. No. 1-04 and H.B. No. 1800, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," be deferred, was put to vote by the Chair and failed to carry on the following show of Noes and Ayes:

Noes, 35: Representatives Abinsay, Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Tamayo, Wakai, and Waters.

Ayes, 15: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Stonebraker, and Thielen.

Excused, 1: Representative Luke.

(Main Motion)

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

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

"As a part of a larger, balanced financial plan, House Bill 1800, Conference Draft 1, represents an answer to the call from our communities. The budget before you is responsive to the needs of our communities in a fiscally and socially prudent manner."

At 9:56 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 9:57 o'clock a.m.

Representative Takamine continued, stating:

"Thank you, Mr. Speaker. I guess as I was indicating that as a part of a larger balanced financial plan, House Bill 1800, CD 1, represents an answer to the call from our communities. The budget before us is responsive to the needs of our communities in a fiscally and socially prudent manner, with an eye towards long-term fiscal stability and responsibility, Mr. Speaker, this budget is balanced without any tax increase.

"Working with the Administration, we have provided for the critical needs of our communities. Throughout the past interim, we heard loud and clear that something had to be done about the ice epidemic. That the education system needed to be reformed. And that people needed relief from the skyrocketing prices of prescription drugs. It was clear that we needed to do many things better than they had been done in the past. It was made clear that the status quo was unacceptable. This budget ensures that progress will be made in those priority areas.

"At the same time, we have worked with Governor and provided for a majority of her priorities and initiatives. The Conference Committee has produced a budget very similar to the one submitted by the Governor. Although some very difficult decisions had to be made, this budget allows for the funding of the community priorities, education reform, increased funding to tackle the ice epidemic, and a comprehensive prescription drug program.

"A majority of the new spending initiatives requested by the Governor have been incorporated in this budget. Despite the fact that next year's budget will be over \$500 million larger than this year's budget, the Conference Committee had to make some very difficult decisions and cut levels of spending initially proposed by the Governor in order to get long term expenditures aligned with revenues.

"In addition to controlling the growth of new programs proposed by the Governor, the Conference Committee took a fiscally prudent approach to budget reductions. An elimination of vacant positions took into consideration program mandates and minimized the impact to Executive branch operations. By limiting reductions to only positions that have been vacant for over six months. Critical programs in prisons, the computer support division at the Department of Accounting and General Services, Child Protective Services, and vocational rehabilitation were either exempted from these vacancy cuts or only positions that had been vacant for over one or two years were eliminated.

"Mr. Speaker, we note that the Governor in her recent communication to the Legislature appears to have proposed identical or very similar reductions for the majority of program's vacant positions. Given the constitutional autonomy granted to the University of Hawaii and the call to grant the Department of Education greater autonomy and control over resources, they were also exempted. In light of the fact that the Governor and Lieutenant Governor have been in office for less than two years, they were exempted as well.

"In addition, the Conference Committee scrutinized prior year's spending patterns and reduced budgets accordingly. It's interesting to note that the Governor adopted all of the following reductions in a transmittal received late Monday. Funding was reduced in the Department of Budget and Finance for court appointed attorney's fees and witness fees saving \$1,036,000. New funding for new marketing initiatives at the Department of Business, Economic Development, and Tourism were reduced, saving \$500,000."

Representative Lee rose to yield her time, and the Chair, "so ordered."

Representative Takamine continued, stating:

"Thank you. Prior salary increases sought by the Attorney General has been denied saving \$458,000. Additional funding to provide for the expansion of efforts to control invasive species was converted to non-general fund sources saving \$2 million. New funding for new positions in the Office of the Lieutenant Governor has been reduced, saving \$189,000.

"These reductions to the budget represent a portion of the difficult choices that had to be made in order to properly align expenditures with revenues and balance the financial plan and budget submitted by the Governor. Once again, it's interesting to note that all of the cuts just mentioned were adopted by the Governor in a message sent this past Monday on April 12th.

"This budget, Mr. Speaker, represents an honest effort to work with the Administration in providing an overall spending plan that looks to the future while maintaining critical social services. This budget maintains fiscal integrity and ensures that the priorities of our communities are supported.

"This budget and financial plan supports efforts to eradicate the ice epidemic. This budget and financial plan provides for a prescription drug program. This budget and financial plan facilitates immediate reform of our educational system. Thank you very much, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition.

"I just want to talk about some of the concerns that I see in this document. For one thing, there are cuts of federally funded positions. And that means we will be returning to the government in Washington, money that is already in Hawaii to help us do what we need to do with our needs. For example, in Rental Housing Services, 12 federally funded positions have been eliminated. In the Housing Community Development Corporation of Hawaii, 5 federally funded positions have been eliminated. In the Vocational Rehabilitation Services Fund to serve the blind, we've eliminated 6 federally funded positions. In the General Support for Healthcare Payments, the people who help us deal with that difficult subject, we have eliminated 9 federally funded positions.

"Mr. Speaker, I suggest to you that this shows extremely sloppy budget work. I don't think it would ever be the intention of the State of Hawaii to eliminate federally funded positions and just simply hand back to Washington federally funded money. Particularly, in the area of human services where our needs are so great and where we know that positions remain vacant primarily because they're difficult to fill. People don't want to do the jobs at the salaries we pay. So they're hard to fill.

"In the Vocational Rehabilitation Services and Blind Division, the elimination of 6 positions requiring federal funding is going to have tremendous implications for the entire program. Without those people operating to help with the determining the eligibility for disabled persons, the people waiting to be moved from welfare to federally funded help, it's going to cost the State as much as \$79,000 a month in general funds. And if we look at the total population we're dealing with, we're talking about \$265 million worth of federal money that we get because we qualify people for the federally funded awards that come through the Social Security Administration. We absolutely need those people there, helping us get the federal money. And to not have them there, when they're paid by federal money, is extraordinary, Mr. Speaker. It's almost unbelievable of what we done in this budget. We've got serious problems with this budget. This alone is reason to vote against the budget. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support.

"Mr. Speaker, your Conference Committee ensured that essential services for the less fortunate were preserved, either through the budget, the 'rainy day fund', federal funding, or other means.

"In HB 1800, this is illustrated through the Department of Human Services' budget, the Hawaii Rx Plus funding, and the Administration's proposed cuts that were rejected.

"Starting with DHS, your Conference Committee diligently reviewed the requests, and provided equitable decisions based on departmental and public testimony. The Committee provided the following funding:

"\$25.8 million needed for QUEST higher enrollment and capitation rates. \$7.3 million for the Compact of Free Association. Individuals' healthcare needs. Please note that your Committee also anticipates substantial federal funding for this very vulnerable population. \$3.6 million for abused and neglected children. \$1 million for home and community-based care for disabled adults. \$868,000 for chore services. \$4.8 million for medical care for the uninsured adults and children.

"Secondly, House Bill 1800 also funds the Hawaii Rx Plus Program, which will provide desperately needed drug coverage for people with incomes up to 350 percent of the federal poverty level. This program provides reduced drug prices between 10 and 60 percent below the retail price at local participating pharmacies. And is desperately need by the many elderly and disabled in our community.

"In contrast, Mr. Speaker, let me point out the impact of the Administration's proposed \$1.6 million cut to the Office of Community Services, or OCS, which serves economically disadvantaged persons, immigrants and refugees. This cut slashes OCS' budget by a startling 42.3%, and will affect programs on all islands throughout the State.

"According to OCS' Executive Director, just one example of the impact is that on Maui and the Big Island, 4,295 persons, including low-income rural workers, elderly, disabled, school children and youth needing transportation will have to go without.

"Mr. Speaker, I am very pleased to report that the Legislature did not adopt the Governor's proposed cut to OCS.

"In summary, Mr. Speaker, the budget preserves essential services, and ensures that our State will continue to provide a critical safety net needed for those who are less fortunate. Thank you."

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

"Thank you, Mr. Speaker. With very strong reservations. But first I have to declare a possible conflict of interest. The budget contains funding for the Lupus Foundation and I have lupus," and the Chair ruled, "no conflict."

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

"Thank you. Mr. Speaker, I disagree that this budget is fiscally prudent and responsible. I think it is not. We have two different issues here. We have a financial plan and we have a budget. Before us today is a budget. It is not a financial plan for this State. It does not include at least 23 other spending bills that are still moving as far as I know. And it does not include many things that this State owes.

"We're paying for our State's finances on a credit card. There is no real financial plan that I've ever seen. We're spending ourselves into further debt because we already are in debt in this State, Mr. Speaker.

"We're adding over-generous collective bargaining which we're going to get to soon. And that's part of the financial plan but it's not part of the budget, Mr. Speaker. It's out of the budget.

"By the year 2006, we'll be in debt at least \$175 million. By the year 2007, we'll be in debt another \$295 million. By 2008, we'll be even further in debt, another \$293 million. By the year 2009, we'll be in debt on top of that \$191 million.

"Now that doesn't include the raids over the past few years of \$669 million from special funds which are one time raids. We take it, it's gone. We've already taken it.

"How about the raid from the Employees' Retirement System, Act 100 in 1999. That was \$347 million. Some day we have to make that up. How about to pay for the increased debt services because of our debt restructuring? That's another \$160 million. It's not in the budget. I hope it's in the financial plan but I've never seen one. Mr. Speaker, who'll pay for this. When will we pay for it? Again, who is going to pay for it?

"Mr. Speaker, this budget is being balanced on the backs of the disabled you heard earlier, the poor, the homeless, other victims.

"What is the budget cutting? We've heard about budget cuts. Well, I see positions being cut. And you heard about federally funded positions. I believe we get \$4 for every \$1 we spend on these federal positions but we're going to cut them. But are we? Because just yesterday, a memo was sent to DHRD to say, if you don't want to cut these federal positions, why don't you trade off with other positions. To me, that's blackmail. It's nothing less.

"Now this possibly went to the DHS. I'm not sure who the memo went to. But it's saying if you don't want to cut the federal positions, give up some of the positions. And maybe there aren't other positions to give.

"But I'm looking here the increased rate of hiring over the last six month at Department of Human Services. They're getting cut quite a bit because they had these 6-month vacancies. But what's happened in the last 6 months?

"I see HCDCH had a 220% increase in hiring. OIS, a 200% increase. VR, a 230% increase. MQD a 230% increase. DESSD, a 149% increase. PRS had 700% increase. MSO, 200% increase. OIT, 200% increase. So over the last 6 months, they have eliminated many of those vacancies because there's new people working on it. They're trying. But what we're looking at is well if you had a vacancy for more than 6 months, it's gone. And they just need more time to try to fill these things.

"So Mr. Speaker, I have tremendous reservations with the budget. I also take some exception to the fact that it's an open process. The Members of the Finance Committee sit there and as fast they can turn the page, they turn the page and they check off the Senate position or the House position. We don't have any say. We don't get to ask questions. If we're going to get to ask questions, I want to know that in the future that we can sit there and stop the process and say wait a minute, what does that mean. Because we really don't know what it means."

Representative Ching rose to yield her time, and the Chair, "so ordered."

Representative Moses continued, stating:

"Now I do agree. Now the room is open. People can come in there and sit in there. And I agree that now we're given the worksheets. But the worksheets are only as good as we can make them by turning the pages as fast as we can and trying to write in the numbers. Nobody updates us on it. When we try to get the updates, we don't get all the updates. We have just been able to start getting those updates. So until you get all the updates ....

"We heard all these talks about we have these different Conference Committee drafts we looked at and the different budget drafts we looked at. Those don't mean a thing. Only the final Conference draft matters if you have it in front you with all the numbers. So whatever we had two days ago or last week, that doesn't help at all. Why don't we just say we start with the Executive budget and from there we figure out how this is going to end up and we vote on this? You know they're not the same. They're not nearly the same.

"So Mr. Speaker, I have severe problems with it. You're going to pass it anyway. But I want everybody out there in the world to know, this is not a financial plan. This a balanced piece of paper possibly. But it doesn't mean that this State's finances are balanced or realistic because they are definitely not. The year 2005, we're going to have tremendous problems. And I don't see any way to balance the budget in that year, if we keep things on line. Again, we have 23 bills that are not on line. They're not in this budget. They're not here. The collective bargaining is what, over \$40 million. It's not in here. So if this is balanced, you pass that in few minutes, and you're out of balance already by \$40 million. I mean it's closer to \$41 million. So right there, to say that this is balanced doesn't mean a thing. That's to say I paid my bill this month and now I'm balanced even though I owe \$5,000 on my credit card which I haven't paid yet. That's what we're doing here. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. On this measure, I'm standing in strong support.

"I'd like to echo that as we look at this budget, I know some of the speakers have mentioned that it wasn't transparent but we are here to agree and disagree. Everybody has a time to take a look at what we do. Everything that we do is not perfect.

"But I'd like to expound that what's in the budget that we're reviewing right now, the capital improvement projects. There's an increase of \$418 million in general obligation bonds over Act 200 in fiscal year '05. The main areas that were increased were the Department of Education and the University of Hawaii. The reason why I'm talking about these and some other measures, colleagues is to let you know what's the positive impact that this budget would do because a lot of the items that we are discussing are long overdue.

"The increase in the DOE's CIP budget in fiscal year '05 is approximately \$180 million. The increases are due to an additional \$93 million in GO bonds that were appropriated for the repair and maintenance for public schools alone. The Administration proposal was requested at \$90 million.

"Also approximately \$80 million more in GO bonds were appropriated in fiscal year '05 for new school facilities and other projects to improve schools statewide. These projects, include a \$20 million request by the Administration, as well as various other projects that were identified as priorities by the schools. And these projects will benefit us statewide and will also benefit a lot of my colleagues within this Chamber.

"For the University of Hawaii, an additional \$81 million in GO bonds were appropriated for various projects in fiscal year '05, to improve various University campuses. This alone, an addition \$27.5 million for repairs and maintenance, fire safety, infrastructure improvements and life safety projects for University facilities. That's systemwide.

"\$50 million for the development of the Student Life and Events Complex at the University of Hawaii at Hilo. \$10 million for the development of Phase I of the One Stop Center for Kauai Community College. \$14.5 million for the development of the Komohana Agriculture Complex at UH Hilo. \$3.5 million for the renovation of the Student Service Building at Maui Community College. These amounts, Mr. Speaker and colleagues, represent over 60% of the increase for fiscal year '05. All the priorities that received large increases include an additional \$14 million to repair and improve State park facilities.

"Also, there's concern regarding a sewage waste treatment plant in Waimanalo."

At 10:20 o'clock a.m., Representative Hamakawa requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 10:21 o'clock a.m.

Representative Magaoay continued, stating:

"There's a long-awaited project in the Waimanalo area, the Waimanalo Wastewater Treatment Plant. This project is long overdue, especially when it is inundated by heavy rains. In this budget we have \$18 million for the upgrade. An additional \$34

million for various improvements for the Hawaii Hospital System Corporation, statewide. \$18.7 million to relocate the facilities of the Maui Community Correctional Facility. \$11 million to support the State libraries.

"What we have here, colleagues is, a list of projects to benefit people across the State. I know everything we talk about when we do a financial forecast is, when we have to project out, there are a lot of things we have to cut out. We have to make decisions that are hard. We have to take a look at long-range plan. Basically once we look at things, when you look at this immediate year or the biennium, we have to make sure that what we promise, what we say we're going to do for the people in the State of Hawaii in the areas we're looking at, education, ice, and Rx drugs, that we do step forward and come across and say we will deliver.

"And there was a point that was made regarding debt service. As far as the CIP budget, there is no increase for debt service for fiscal year '05. I just want to make it clear that what we have, it's a working budget, which we have in front of us. And I really urge my colleagues to vote yes because the budget that we have now has went through a long process. Many long hours. And some of my colleagues will disagree with me, but I think, as one who sits on our Finance Committee, we have spent many hours. And the speaker prior to me mentioned that he has been with the Finance as long as I've been. And we have sat through many hours looking at the budget and I think this year, with the thanks to the Chair of Finance ..."

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

Representative Magaoay continued, stating:

"Thank you, Representative Chang. Thanks to the Finance Chair and also Vice Chair for giving the opportunity to all the Members to ask questions. Whatever information we wanted. Anything we do is timing. Whatever the Administration wants to do, if they give us in a timely manner, we'll act upon it. But life moves on. Like today, somebody mentioned today is tax day. If you did not prepare your taxes, then you ask for an extension. If you want to get your refund, you send it early. All I'm saying in life is that we have to proceed on. Life is very short. If you don't look at the future, what will we do?"

"And also, Mr. Speaker, regarding the CIP budget, I'd like to thank the Representative of the 9th district for his very hard work for reviewing and negotiating on the counterpart on the Senate. And colleagues, again, I know I'm getting long winded right now, but I urge you to support this budget. Thank you."

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

"Thank you, Mr. Speaker. I rise with very, very strong reservations.

"I, unlike some of my colleagues that have spoken here on the Floor this morning, I see this as a spending bill. I don't see this as a financial plan. I'm looking into the future and I see debt service that needs to be paid within the next few years on such things as the raids that have been done on the State Employees' Retirement Fund. And where is that money going to come from in the future? I don't see that here anywhere. And rather than to belabor any of the points, I'd like the words of the Representative from Kapolei placed in the Journal as my own. Thank you, Mr. Speaker," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In opposition.

"Mr. Speaker, for the tenth time, I'm standing and voting in opposition to the budget promulgated by the Legislature. Mr. Speaker, the objections that I brought ten years ago and every year since, the foundation issues that I have brought still have not been addressed.

"Mr. Speaker, as an ultimate foundation that we need to create a responsible budget, we need to have a better understanding of how our government works. Mr. Speaker, our State Constitution requires that we, the Legislature, through our Legislative Auditor make regular and comprehensive management and performance audits of all State finances. Mr. Speaker, this mandate never has been fulfilled. And because we have not fulfilled it, we do not have the foundation that we need to create a responsible budget.

"Mr. Speaker, every year over the last ten years, there's been promulgated the logic that well if we're going to spend more in some area, then therefore we have to cut in another area or raise revenues, raise taxes or fees or some sort. The highest level of logic brought to the table is that simple premise, if we're going to add here, we have to minus here. But never have we asked the question, how can we do it smarter? How can we get more value for our money? How can we make sure that the dollars we spend are delivering the value needed? And Mr. Speaker, the reason that our Constitution requires this comprehensive, regular, meaningful management and performance audits is so that we can go right to the question, are we getting value for our dollar?"

"Mr. Speaker, if we're only getting 60 or 70 cents of value for every dollar we spend, we are squandering huge amounts of resources to deliver good services to our people or to be able to put money in meaningful ways in programs without having to play this simplistic game, of well, if we're going to add here, we just got to minus there. The issue, Mr. Speaker, that I'm driving at is that we need to look at getting value for our dollar in conjunction with the money that we spend.

"And Mr. Speaker, over the ten years that I've been making this point, still we do not have a comprehensive management and performance audit of all State government.

"Let me bring up one specific example. Mr. Speaker, the Department of Education. We did ask our Legislative Auditor to look at the Department of Education. And one of the things found there was that Storeroom, which had been operating for years and years, that Storeroom could not deliver supplies to our teachers in an efficient way. And so correctly, Mr. Speaker, we eliminated the program.

"Mr. Speaker, the Storeroom was a bad management plan. It simply was bad way to implement getting supplies to teachers. Now Mr. Speaker, in that audit, there was no criticism of the employees of how well they worked or how efficient they worked. But Mr. Speaker, they could not deliver, given the management system handed to them. And so we eliminated the programs."

Representative Leong rose to yield her time, and the Chair, "so ordered."

Representative Halford continued, stating:

"Thank you, Representative. The Storeroom is a small thing, Mr. Speaker, but it's an example of what I'm driving at. When we eliminated the Storeroom, we freed up resources to, we took a program that wasn't even getting 50 cents of value on the



dollar spent there and go to use that money in a more thoughtful way.

"And Mr. Speaker, because we have not done our job, in getting the essential data that we need to create a responsible budget, we're not able to create a responsible budget. And Mr. Speaker, I think we've left huge groups of people high and dry. By allowing our money to be squandered through our non-attention to how we conduct business. Certainly we've left huge groups in our communities with under-funded services. Certainly we've ditched on our employees. Our public employees have been hurt because as you know, Mr. Speaker, every time there's a negotiation, our workers come to us and say, we need more money. And in my opinion, they do. I came into office the same year that our Governor Cayetano became Governor. How many times have I heard, we just don't have the money? We don't want to give you the raise because we don't have the money.

"But Mr. Speaker, we haven't created the foundation for our workers to be able to see if there's money or not. Or to see if the way we spend our money has any sense or has as much sense to it as it should have.

"So what have we done to our employees? Well, the list is too long for me to iterate. Just two points. 1998, we borrowed money from our employees, \$50 million through a payroll lag. That's a liability that we carry on our books today. In addition, Mr. Speaker, we created a second class of employees, public employees that aren't lagged 5 days, they're lagged 20 days. And every new employee that we take aboard, State government, we lag their pay 28 days. So we have this increasing pool to employees from whom we are borrowing. We're balancing our budget in my view that mindless way.

"What we're doing to those new employees, Mr. Speaker is saying, we'd like to borrow your paycheck. We'd like to borrow one paycheck an extra pay period lag, 20-day lag, Mr. Speaker. And Mr. Speaker, we're saying to them, we want to borrow your paycheck to fund our spending today. And we'll pay you back the paycheck we're borrowing from you. We're going to pay it back when you leave government service. We won't pay you interest. But thank you very much for loaning us one paycheck during the duration of your public service.

"Part of our budget is balanced on that borrowing for my public employees. Mr. Speaker, 1999, we raided the Employees' Retirement System over \$300 million. Borrowed it. We still owe that money. It's still a liability in our books today.

"Maybe in a later bill, we'll hopefully, workers will feel better about the Legislature when we pass their raises. But nevertheless, the borrowing will still continue. And we will continue with every new employee that comes aboard. And we will be saying to them, we're going to borrow one paycheck from you. And when you leave government service, we'll pay it back. And part of how our financing our government is through that process.

"So Mr. Speaker, because we have not done our job, because we have not implemented comprehensive management and performance audits, we've deserted our taxpayers at large, our community at large, our employees. We have squandered literally hundreds of millions of dollars a year because we're not getting value for our dollar.

"This budget we're passing today, which isn't complete by the way, as was pointed out, there's other bills floating around. This isn't the whole picture that we're passing in this one bill. There is no foundation. We have no foundation to make a thoughtful, meaningful comment about how to spend our

money. And Mr. Speaker, the Legislative branch of government, a distinct, coequal, and hopefully competitive branch of government, just simply has not done its job. We have consistently provided wasteful and embarrassing budgets for as long as I've been in office. Thank you."

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

"Thank you, Mr. Speaker. In support.

"Mr. Speaker, I'm proud of the work the Finance and the Ways and Means Committees and the Conference Committee has done. We've passed a balanced budget without raising taxes. Without raising taxes. We went out into the community with lawmakers listening and the Ice Task Force and heeded the advice of our constituents. People told us they were concerned about the high cost of prescription drugs, education, and the ice epidemic.

"Concerning education, without raising taxes, this budget contains money for textbooks, money to reduce class sizes, money to modernize our classrooms, repair and maintain for classrooms, including over \$180 million in capital improvement projects for our DOE schools. I'd like to point out that over \$2.5 million is for Waimanalo and Kailua. Over \$80 for the University of Hawaii capital improvement projects. Money for higher pay for national certified teachers. Money for additional security guards. And money for additional books and materials for our public libraries.

"Concerning the ice epidemic. Recently, there's a horrible nightmare that happened in Kailua where a young man 'tweaking' on ice, stabbed his mother and aunt. And recently one of them passed away. There is money in the budget to prevent this type of thing from happening again. Money for substance abuse prevention programs. Money to address adult treatment services. Money for school-based treatment programs for our middle schools. New Drug Court programs in the Second Circuits and Third Circuits, an expansion of the Drug Court on Oahu. Money for community based programs. Money for canine drug interdiction programs. And grant-in-aid to each county to address grassroots campaigns. All without raising taxes. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I'm going to rise in support with reservations and concern, Mr. Speaker.

"Primarily my support is because as a Member of Finance and as a Member of the Conference Committee, I guess my responsibility and my time to question and to bring up my concerns was in the Committee and in Conference. And I did. And some of those concerns were addressed and some weren't. So rather than looking at this bill as half empty, I'm going to try to look at it as half full.

"I want to express by reference, my concerns as were expressed by my colleagues in the Minority, I share those same concerns. But in addition, I want to focus mainly upon the positive, which I believe I learned through this process this year. And I want to thank the Finance Committee, the Chair. But most of all, I'd like to thank my colleague from Kahului, who is in charge of the CIP money. And I want to thank the Finance Committee first of all for recognizing the error that we made as we passed this bill out of the House and fully funding HHSC.

"I also want to thank the Representative from Kahului for pointing out some very important ways of justifying CIPs and

exercising fiscal restraint. Makawao Library was an issue that I wanted to have in this budget and unfortunately it's not. The construction money was left out. But fortunately, the land acquisition and the design money was released and that portion is moving forward. In working with the Administration and speaking with DAGS and with the State Librarian, it made absolute sense that by the time the land is actually acquired and the designs are actually finished, we'll be able to come back in next Session and move forward with the construction appropriation. And that was pointed out by my colleague from Kahului. I happen to agree that's a good way to responsibly move forward with projects. So I'm thankful that project is moving forward nicely.

"However, Mr. Speaker, utilizing that same logic and looking at Kulamalu Long-Term Care Facility, I'm very grateful and I'm fully supportive of this project. I've supported it from its beginning. However, I can't say the same for this project and the moneys haven't been released yet. The designs haven't been done yet as far as I know. The land hasn't been acquired yet. So I'm not sure if I would necessarily support the release of the construction money that's been appropriated in this bill at this time, being fiscally prudent. So I'd have to take a real long hard look at that as far as recommending the release of the construction money. Maybe we need to come back in next Session when we actually have the land acquired and the designs finished. And then come back in for the construction money. As was pointed out by my colleague from Kahului, that money can be used somewhere else. Somebody else's district could use this CIP money. And I am not selfish. I think we should share it. And I'll be taking a look at that.

"The last item I wanted to touch on was the Upcountry Watershed, which is another issue that I've been following. It's a four-phased project of a dual waterline system in Upcountry Maui. And the first phase is complete and they're ready to move forward with the second phase. It was originally cut out of the House Budget because my colleague from Kahului stated that there was no federal matching dollars available. And I corrected him in his error by contacting the Administration and confirming that there was federal money available and it would have lapsed, we would have lost it had we not put the money back in to match. So I'm glad that the wisdom of the Conference Committee was to put the money back in. And I also want to ensure that in working with the Administration, that I've pretty much guaranteed that the priority, although this is listed as statewide allotment, the priority of the Department of Agriculture is to use this money for what it was purposed for and that's to complete the Upcountry Watershed project. So I just wanted to thank again the Finance Committee and especially my colleague from Kahului for making this possible. Thank you."

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

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

"The Representative from Makakilo earlier spoke ill of this budget but voiced no displeasure in Conference Committee. He didn't vote with reservations. He voted yes. I have no idea what has changed over the past three days, but the public expects all of us to work together. And this budget is a product of that collaboration.

"Let me give you an example of how we are working together on the State's financial plan. Just a few years ago, the Minority Members suggested ideas to get a handle on the cost ..."

Representative Halford rose to a point of order, stating:

"Mr. Speaker, point of order. The subject of this bill is the budget and not any particular observation about personal performance. Thank you."

The Chair responded, stating:

"No, I believe Representative Wakai, you may proceed on."

Representative Wakai continued:

"I'd just like to indicate how this is a truly collaborative effort and we are in fact working together.

"Some ideas suggested by the Minority Caucus to get a handle on the cost of State government. And these are some of the ideas: abolish the Office of Planning; eliminate the Public Relations Division; abolish the Civil Rights Commission; eliminate all vacant positions; eliminate DAGS. It goes on to say: eliminate DHRD; eliminate Land Court; eliminate Art in Public Places ..."

Representative Meyer rose, stating:

"Mr. Speaker, a point of clarification. I think the speaker is talking about some suggestion that were made 2 to 4 years ago. Not this year. Thank you. I would like the speaker to say where he got this information. This is like old information."

The Chair responded, stating:

"Representative Wakai, would you like to respond to her question."

Representative Wakai responded, stating:

"I would certainly like to respond to that.

"This information was offered in 1999 and again in 2002. So I don't think this is really old, dated information. Let me continue on with some of the other great ideas put forth: sell the Hemmeyer Building; sell Aloha Stadium ..."

Representative Thielen rose, stating:

"Mr. Speaker. I'm rising because I don't believe this information is really relevant to the bill before us. This occurred when the speaker was a news reporter and I think that we should be discussing the budget bill before us."

The Chair responded, stating:

"Representative Thielen, I believe the speaker from Moanalua, Salt Lake is making reference to those particular provisions tied to the budget where we have done major cuts. We've addressed vacancies, etc. That was proposed in 2002 and 1999."

Representative Fox rose to a point of order, stating:

"Point of order. The information that's provided was tied to reduction in the general excise tax, the elimination of the tax on food, medical services, and rent. If the speaker would like to advocate eliminating that tax, I would back him up right away. Thank you, Mr. Speaker."

At 10:45 o'clock a.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 10:48 o'clock a.m.

The Chair then stated:

"At this time the Chair will allow Representative Wakai to continue on with his presentation."

Representative Wakai continued, stating:

"Thank you, Mr. Speaker. Since I was interrupted, let me again continue to tell you about some of the ideas put forth since 1999 and also reiterated in the year 2000. And I believe this was ..."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. This matter is not germane. It is related to a discussion of a tax cut proposed 3 years, 4 years ago. We went 2 years ago to 5 years ago. 2 years ago, 5 years ago. We're discussing the budget. The budget does not contain a tax cut. So this is irrelevant."

The Chair responded, stating:

"Representative Fox, you are out of order. The Chair will allow Representative Wakai to continue because what he wants to reflect for all of you on the Floor of this House and in the gallery is this. What is being proposed as far as cuts, attrition, etc. is what the budget has today."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. I know what it is because I wrote it. And it was linked to a tax cut."

The Chair responded, stating:

"Representative Fox, I can agree with you, but let the speaker continue on with his debate and then you can stand up and rebut that in making that correction for the Members of this House and members in the gallery. So please proceed, Representative Wakai."

Representative Wakai continued, stating:

"Thank you, Mr. Speaker. I wasn't here back in 1999 nor in 2002, but from what I understand, these were some ideas put forth by the Representative from Makakilo. And so let me continue on with some of the ideas put forth by that individual, as well as the Minority Caucus."

"Again, they at one point wanted to abolish the Office of Planning ..."

Representative Moses rose to a point of order, stating:

"Mr. Speaker, point of order. I'm sorry, Mr. Speaker."

Speaker Say: "For what purpose do you rise?"

Representative Moses: "Well, personal privilege."

Speaker Say: "State your grievement."

Representative Moses: "That's the second time that I've been aggrieved personally. I didn't put that forth except for delivering it maybe for, because I'm a Member of Finance Committee, delivering it for the Minority Leader in reference to proposals for tax cut. Reduce the taxes on medical expenses, the GET tax, food, rent. And that's why we said if you could do that, we could probably propose this. We could work it out. But also I was aggrieved."

Speaker Say: "Representative Moses, your point is well taken. Representative Wakai."

Representative Moses: "Thank you, Mr. Speaker. But I'm also aggrieved."

Speaker Say: "Representative Moses, your point is well taken."

Representative Moses: "I have another one, Mr. Speaker, I'm sorry."

Speaker Say: "For what purpose do you rise again?"

Representative Moses: "It's a point of personal privilege still."

Speaker Say: "State your point."

Representative Moses: "I was aggrieved by him stating, the speaker, the current speaker stating that I voted for the budget and now I voted with reservations. Well reservations is still for. I've had more time to look at it since we finished the Finance Committee. And I've looked at all the other bills still moving ..."

Representative Takai rose, stating:

"Mr. Speaker. The Representative is out of order. This sounds like a debate. There's no point."

Representative Moses: "Thank you, Mr. Speaker. I got my message through."

Speaker Say: "You got your message through, but please proceed, Representative Wakai."

Representative Wakai continued, stating:

"Thank you. I assure you I will eventually get through with my message. And let me again start from the beginning about some of the ideas put forth by the Minority Members. Abolish the Office of Planning; eliminate Public Relations Division; abolish ..."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. Can I please have a ruling from you, Mr. Speaker, on whether his discussion of a tax proposal belongs in this debate on the current ..."

The Chair interjected, stating:

"Representative Fox, you are out of order at this point. The Chair has ruled that Representative Wakai can continue on to make that correlation between what he is stating on the Floor is tied to the budget, in cooperation with all of you working together."

Representative Thielen: "Mr. Speaker, there is no tax cut."

Speaker Say: "Representative Thielen, you are out of order, Representative Thielen. Please proceed, Representative Wakai."

Representative Wakai continued, stating:

"Okay, well, I hope we can work together on letting me finish my message here. Okay, I'm going to start from the beginning. Abolish the Office of Planning; eliminate Public Relations Division; abolish the Civil Rights Commission; eliminate ..."

Representative Fox: "Mr. Speaker, may we please have a ruling on whether he should be doing this?"

Speaker Say: "The Chair has ruled that the Chair has allowed has allowed Representative Wakai to use what he has as his speech in this particular debate on the Floor of the House on the budget. Let him continue on with his presentation and make the correlation of what is being said is related to the budget."

Representative Saiki rose, stating:

"Mr. Speaker. I rise with a parliamentary inquiry. Mr. Speaker, is it not correct that the rules of parliamentary procedure are designed to allow for ample opportunity for debate on the Floor and that interruptions of this nature are entirely inappropriate?"

The Chair responded, stating:

"You're correct, and the Chair has made that ruling."

Representative Bukoski rose, stating:

"Mr. Speaker. I believe a point of order is in order even if someone is speaking. So I think we are correct in our parliamentary procedure."

The Chair responded, stating:

"Representative Bukoski, the Chair will allow Representative Wakai to continue on. So please continue, Representative Wakai."

Representative Wakai continued, stating:

"Well I have four pages of ideas, but I'll whittle it down to just a few. And I will continue on instead of starting from the beginning. Eliminate all vacant positions. Eliminate DAGS. Eliminate DHRD. Eliminate Land Court. Eliminate Art in Public Places Fund. Sell the Hemmeter Building. Sell Aloha Stadium. Eliminate the Lieutenant Governor's Office. And these ideas put forth were seen as unworkable back in 1999, as well as in 2002. And I find it ironic that in this Session, the Minority is now trying to protect the ideas and the fact that they themselves had identified in government."

"We could have been petty, we the Majority Members, and gotten rid of the Lieutenant Governor's Office, gotten rid of DHRD, but we took the high road. We worked with Members and not against them. And likewise, this budget works for the people of this State."

Representative Fox: "Objection, Mr. Speaker."

Speaker Say: "State your point."

Representative Fox: "To motive. Speaking directly to motive."

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

"Thank you, Mr. Speaker. I'm rising in opposition to the budget."

"I am grateful for many of the things that are in there. And unlike my colleague from Kula, I don't see it as half full. I see it as very incomplete. And a very, very important document that we should have more time to consider. And I have not got

everything straight about it. But there are things in there that I find very objectionable."

"One of them is the fact that we removed all money for the Governor's dues to the National Governor's Association. I think this is just scandalous. Should Hawaii be lumped there with Alabama, the only Governor in the nation who will not be able to pay the dues? We have an extraordinary, well-spoken Governor who has represented us very well there at the national level. And it's embarrassing to think that perhaps now she can no longer go to those meetings."

"I want to go back to the open transparency of the Conference Committee. This year there are only 50% of the Republican Members were on the Conference. I have been on the Conference Committee on three other occasions. I would hardly call it open. The public is in the room. But the Members are flipping pages and talking about sequences on DLNR, sequence 20, sequence 60, agree, don't agree. It just zips along like that. We'd might as well be in there speaking Chinese because nobody really knows what's going on. And if a Member has the audacity to ask a question, they are looked at as, 'Don't you know how we play this game? You just sit there. You don't ask questions.' Most of the decisions are made between the Chairmen of the Committees, Ways and Means and Finance. All these agrees and disagrees have been decided before we walk into the room. It's like *kabuki* theater. And you're just there as a little bit of extra fluff. And you better have your fingers well-sticky so you can flip those pages fast enough. And I don't call that transparency."

"The other thing I see here, at least during this Session, it seems that the Legislature has sort of a schizophrenic type of personality. When it comes to justifying priorities for the budget, we seem to have a double standard. When we take a look at raising public salaries, in one situation where we can point at years of static wages, maybe fourteen years or more, for one group, it's all right. They don't deserve any raises. Those positions are fine. They're high enough. But for another group, such as the agencies connected to the Legislature, we deem to move those forward. The argument there is they haven't had raises for fourteen years. These are hard working people. We need to raise their wages. It's been a long time. But yet at the Executive branch, we say ..."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order. Executive salaries is not germane to this measure."

Representative Meyer: "I believe it is."

Speaker Say: "Representative Meyer. The Chair will allow Representative Meyer to continue on but let me state for the record, Representative Meyer, at this point in time, is there any resolution on this Floor in addressing the Executive Salary Commissions pay?"

Representative Meyer: "No, but the dollars come out of the general fund."

Speaker Say: "Yes."

Representative Meyer: "That's how it's connected."

Speaker Say: "And if there is no movement on the measure, it's approved. So you are telling the Members of this House that we are schizoid. We are not. There is no movement on the measure to reject at this point."

Representative Meyer: "That's already happened."

Speaker Say: "Not in this House. Not in this Chamber."

Representative Meyer: "In Conference."

At 10:59 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:01 o'clock a.m.

The Chair then stated:

"The Chair will allow Representative Meyer to continue on with her debate but before we continue on, I think Representative Ito would like to make a late introduction."

### LATE INTRODUCTION

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

Representative Ito introduced First Commander Kenneth L. Williams, Jr., of the USS Chung-Hoon, named after the late Rear Admiral Gordon P. Chung-Hoon. Also introduced was Ms. Michelle Puana Chung-Hoon, Admiral Chung-Hoon's niece; and Mr. John Monis of the Hawaii Operating Engineers Industry Stabilization Fund.

### UNFINISHED BUSINESS

(Conf. Com. Rep. No. 1 and H.B. No. 1800, HD 1, SD 1, CD 1)

Representative Meyer continued, stating:

"Thank you, Mr. Speaker. I would like to put into the record an editorial that appeared in the Wednesday, April 14, *Advertiser*, and I'll just read a small part of it, which I think sort of epitomizes what's been going on this year.

When it comes to paying state employees, it's pretty hard to escape two conclusions regarding Democratic lawmakers."

Representative Schatz rose, stating:

"Mr. Speaker, can we have a recess please."

Representative Meyer: "They're playing partisan games when it comes to funding management positions."

Speaker Say: "The Chair will allow Representative Meyer to continue, Representative Schatz. Please."

Representative Meyer continued, stating"

"As well as funding long delayed pay raises for the Governor herself and her department heads. Lingle was close to the mark when she called it politics at its worst. The proposed Executive salary increases, the first in fourteen years, do you know anyone else who hasn't had a raise in a decade and a half while recommended by a commission created by these lawmakers? What's the point of creating an advisory body if they are not going to heed the advice of that body?

"Senate Ways and Means, Senator Brian Taniguchi said he opposed the pay raises and cut funding for the senior policy advisor to the Governor because he said, "They had to economize in tight times." The Democrats seem to have concluded that those same tight times do not prohibit taking care of the public worker unions. This began to become

evident last year when they restored binding arbitration for public worker contracts over the Governor's veto. It became more evident this year when in response to Lingle's plea not to fund an over generous award for 23,000 HGEA members, lawmakers instead budgeted 75 million to cover not only the HGEA raises but raises for teachers and UPW employees that haven't even been negotiated yet."

"And I would ask that I could put the balance of this editorial into the Journal. And I think that this does show that when I use the word schizophrenic, I don't think it's so far off. We argue for being cutting funds. We can't afford it. These people can't have raises. Or we can't spend the money on this. But when it pleases the Majority Party, they have the money. I've been on Finance for a long time and I see how CIP projects are handed to freshman Legislators in various districts. I am sorry that I haven't gone and circled all the different CIPs, but you don't have to search very far to see who gets the CIPs and who does not. Thank you, Mr. Speaker."

Representative Meyer submitted the following editorial:

### "EDITORIAL

#### Democrats playing politics with money

When it comes to paying state employees, it's pretty hard to escape two conclusions regarding Democratic lawmakers:

- They're playing partisan games when it comes to funding management positions Gov. Linda Lingle thinks she needs, as well as funding long-delayed pay raises for the governor herself and her department heads.

Lingle was close to the mark when she called it "politics at its worst."

The proposed executive salary increases, the first in 14 years — do you know anyone else who hasn't had a raise in a decade and a half? — were recommended by a commission created by these same lawmakers.

What's the point of creating an advisory body if they're not going to heed its advice?

Senate Ways and Means Sen. Brian Taniguchi said he opposed the pay raises, and also cut funding, first for Lingle's Cabinet-level tourism liaison office, and then for her senior policy adviser, to economize in tight times.

If you believe Taniguchi is inspired solely by public-spirited parsimony, explain to us this next item.

- The Democrats seem to have concluded that those same tight times do not prohibit taking care of the public worker unions.

This began to become evident last year when they restored binding arbitration for public worker contracts, over Lingle's veto.

It became more evident this year when in response to Lingle's plea not to fund an over-generous award for 23,000 HGEA members, lawmakers instead budgeted \$75 million to cover not only the HGEA raises, but raises for teachers and UPW employees that haven't even been negotiated yet.

It may have been reasonable to set aside money for the other units, which will undoubtedly seek the same raise won by the HGEA.

But it is foolish to fund only the first year of the raises without explaining where the money will come from for subsequent years of the contract.

This was Lingle's essential message last week when she said the state cannot afford the arbitrator's award. The first year is easy, she said, but the out years become increasingly expensive and difficult to cover.

Playing politics with such issues casts great doubt on credibility the majority Democrats are developing in other areas, such as their education-reform package."

*The Honolulu Advertiser*

*Posted on: Wednesday, April 14, 2004*

Representative Schatz rose to a point of order, stating:

"Mr. Speaker, I rise on a point of order. I appreciate you not allowing me to interrupt the former speaker. But I do think this is an important point of order to make. In a previous legislative Session, the Representative from Maunawili rightly rose on a point of order when a negative editorial directed at the Republican Party was beginning to be read into the Journal. And I believe the Representative from Maunawili rightly interrupted on a point of order. And I believe a good precedent was set not allowing negative editorials directed at one party or the other to be read into the Journal. So I would like for us to consider reestablishing that precedent."

The Chair responded, stating:

"Thank you very much. Your point is well taken. And the Chair stands corrected. For all of you, the Chair allowed Representative Meyer to state it on the Floor at this point because it was going to be submitted in the Journal. Okay?"

Representative Takai rose, stating:

"Point of information, Mr. Speaker. Isn't it possible to disallow an insertion like that into the Journal? In fact striking the words of the speaker from Maunawili is appropriate, I believe."

The Chair responded, stating:

"The Chair will allow ... Representative Thielen, could you please sit? The Chair will allow Representative Meyer's editorial to be inserted in the Journal at this period in time. And I think all of you are allowed that. Some of you would like to read it on the Floor and others would just submit it, the contents of that editorial or column.

"If you read the editorial, you know what is in it. And that's why I'm saying, if it's derogatory and you submit it as a comment in the Journal. The Chair has allowed both sides to do it. So what Representative Schatz is saying is that, on this Floor, some of these negative editorials against both sides, he feels that we should not say it on the Floor, but you could insert it in the Journal."

Representative Pendleton rose, stating:

"Mr. Speaker, I just wanted to make sure that I think the Chair of Higher Ed misspoke. I haven't spoken on this bill yet today. And he referred to me, I think mistakenly, while striking my remarks."

Speaker Say: "Is this the Higher Ed Chair or Representative Schatz?"

Representative Pendleton: "No, Representative Schatz is correct. I made those remarks in the past. But the Higher Ed

Chair referred to me accidentally I believe, in striking my remarks but I haven't spoken yet today."

Speaker Say: "Yes, your point is well taken."

Representative Takai: "Mr. Speaker, just for clarification, I meant the Representative from Laie. Thank you."

Speaker Say: "Okay, thank you."

"Members, we have had a lot of discussion on House Bill 1800 and at this point, the Chair would like to call for the question. For those of you who would like to submit written comments, the Chair will allow you because it has been two hours and ten minutes at this point."

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in opposition to House Bill 1800, House Draft 1, Senate Draft 1, Conference Draft 1. This bill outlines the State of Hawaii's supplemental budget for fiscal year 2005-2006.

"This will be the first time in eight years as a member of the Hawaii House of Representatives that I have voted "no" on a State budget plan. Although I am glad that some of the Governor's original proposals are included in this spending plan, I am disappointed by and cannot support a majority of the appropriations set forth by this budget nor the lack of fiscal responsibility. I have with me a list of my Top 10 objections to the actions taken in this bill, which I would like to present to you.

"First, Mr. Speaker, this bill is incomplete. This spending plan was created without taking into account the collective bargaining that has yet to be settled between the Hawaii State Teacher's Association and the United Public Workers. There are also tax measures that have not been figured into this bill which are still pending. These measures include Act 221, hotel tax credits, and ethanol tax credits. These tax credits will, at least initially, serve as revenue reducers. And these numbers have not been figured into this plan. These figures could substantially alter the State's expenses and revenues. A change in these figures will have a major impact on Hawaii's financial plans.

"Second, Mr. Speaker, this so-called budget does nothing to address our current bond problem. Prior to 1998, general obligation bonds issued by the State were structured with a level principal debt service that spread principal payments equally throughout the life of the bonds. An unfortunate aspect of this feature is that it front-loads debt service payments and causes a peaking of costs. In 1998, the State restructured general obligation bond payments to address budgetary shortfalls. Through this restructuring, the State's debt was reduced to \$348.3 million in fiscal year 2005. However, because of the payment structure this debt increases to \$513.4 million in fiscal year 2006 and reaches \$568.2 million in 2007. This Session, Governor Lingle's Administration offered a constitutional amendment that would have allowed the State to restructure the bonds. This would have allowed refunding debt service payments to be reduced in the peak years and strategically placed in other years where the existing payments were relatively low. However, this proposal was not approved, so our budget must be reconfigured to accommodate these enormous bond payments. If nothing is done to fix our growing debt, our State's bond rating will drop further and



further, which will ultimately lead to even more money lost in the future.

"Third, our growing debt is not addressed in this bill. State employer contributions for retirement benefits have and will continue to increase. This is not accounted for in the plan before us today. The State paid only \$7.3 million for retirement benefits in fiscal year 2000. However, that amount drastically increased to \$181.6 million in fiscal year 2004 and to \$309 million in 2006. Currently, the State is struggling to keep up with these payments. In fiscal year 2000, the unfunded liability was already at \$494 million. On June 30, 2003 the ERS' unfunded liability reached a mark of over \$2.8 billion. While the ERS' funded portion was near 95% in fiscal year 2000, it has plummeted to only 75% in fiscal year 2003. Costs will only continue to increase as more of the 'baby boomers' retire. In addition to this, the pay raises awarded in the HGEA arbitration award have created a funding gap of \$100 million this fiscal year alone. The deficits will further grow to nearly \$300 million in fiscal year 2007 and that is without any new pay increases. As the figures show, we are not addressing our state debt in this bill.

"Fourth, the efficiency of the Governor's office would be severely affected by some of the cuts in this plan. This proposal cuts the entire salary for the Governor's Senior Policy Advisor. This position is an integral part of the governor's staff. The Senior Policy Advisor is responsible for updating the Governor with the most current in-depth analysis and information on the many different issues she deals with on a day-to-day basis. This cut does much more harm than good. The Governor's office is already understaffed. Eliminating this position would severely disrupt the flow of information through the Governor's office, making the Governor's already difficult job even more demanding. Furthermore, the Governor's office is further weakened by the removal of funds for the National Governor's Association membership fee and the attendance of the National Governor's Conference. Every Governor since statehood has been a member of the NGA and attended the NGC. The National Governor's Association aids governors from all fifty states in forming sound and innovative policies. In order to stay apprised of new policies at both the state and federal level it is important to maintain a link with governors from across America. This way, our Governor can continue to learn from the experiences of other states, which will lead to sound and effective policy and in turn benefit all the people of Hawaii.

"Fifth, this plan makes cuts over 560 State positions. Quite a few of the positions being cut are essential to the departments which they are a part of. Although proponents of these cuts say that these positions are being removed because they have been vacant for some time, many of these departments are still actively recruiting individuals for these presently vacant positions. Many of these positions have not yet been filled for a variety of reasons. The pay could be much lower than the pay offered in a similar private sector job, the job may be in a field of low popularity or the position could require a very rare type of specialization. Simply put, just because a position is currently empty, does not mean that it is unnecessary to the department. Cutting many of these positions will severely impede the ability of these State Executive branch departments to serve the public.

"Sixth, the Department of Health's Mental Health Outpatient program's funding is reduced by nearly \$4 million. There is a great need for mental health care in Hawaii. Mental illnesses are at the very top of Hawaii's leading health disorders. All of Hawaii's age groups are affected by mental illnesses. In fact, one in five of our citizens suffer from a diagnosable mental disorder. Nearly 19,000 of Hawaii's children and teens are suffering from severe behavioral and emotional problems and

more than 25% of Hawaii's senior population suffers from mental illnesses as well. This reduction in funding would also make it very difficult for the Department of Health to comply with the court ordered community plan. The Department of Health is already working very hard to address Hawaii's substantial number of mental health patients. Decreasing their funding would hurt a great deal of people in need of care for their illness. Because this budget is bad for mental health care in Hawaii, I vote no.

"Seventh, the proposal puts Hawaii's unique and special environment in danger. This plan seeks to cut nearly \$200,000 from the Plant, Pest and Disease control fund of the Department of Agriculture. This fund is primarily used to protect Hawaii from the threat of invasive and destructive new species or alien species of plants and animals. Our unique island faces threats from new damaging species on a constant basis. I am sure we can all remember what happened when Lake Wilson was attacked by the 'Green Monster' last year. The species literally infested the lake and nearly ruined it. This year, resorts in Maui have been plagued by the coqui frog, which has come to be a very big deterrent for tourists. Hawaii is an extraordinary place. It is important to maintain funding to protect our islands from invasive and destructive species. This proposal takes precarious steps that could very possibly harm Hawaii's special atmosphere which citizens and tourists alike have fallen in love with. Because this budget is bad for the environment, I vote no.

"Eighth, the funding cuts to the Department of Public Safety would result in even more prison overcrowding. This plan reduces the funds provided for sending inmates to out of state facilities by over a million dollars and decreases the monies provided for housing inmates in federal facilities by almost \$200,000. These are funds which we cannot afford to decrease. A few years ago, because of the appalling conditions inside Hawaii's prisons caused by overcrowding, the American Civil Liberties Union successfully sued the State. The State lost a great deal of money because of the lawsuit. We had courts overseeing our administration of our corrections facilities. Currently, our prisons are already operating at capacity. Reducing funds that alleviate prison crowding is the last thing we should be doing. Because of the negative impact this budget will have on public safety, I vote no.

"Ninth, this spending plan makes up for all its financial shortcomings by raiding several special funds for over \$43 million. Note that what this so-called budget does is make one time raids in order to temporarily cover what are sure to be on-going and recurring expenses. We cannot afford to keep raiding these funds on a yearly basis. These special funds have been put in place for a variety of special purposes. Making a raid on a fund such as the Rainy Day Fund is a very big gamble. Continual raids of the fund will ultimately deplete the fund and render it incapable of addressing any rainy day. Other raids on special funds have hurt the departments they belong to. The legislature has raided the State Highway Fund several times for millions of dollars. Because of the many raids on the State Highway Fund, the Department of Transportation has lacked the funds to maintain and upgrade Hawaii's roads and highways. Another raid takes over \$30 million from the Compliance Resolution Fund of the Department of Commerce and Consumer Affairs. This fund has been responsible for the self-sustenance and the recent success of the DCCA. Over eighty businesses came out and testified in opposition to this raid. Taking this money will hurt both the DCCA and Hawaii's businesses. The more we take from these funds such as these, the more Hawaii's people and businesses lose. Because of these irresponsible raids, I vote no.

"Tenth, and finally, and perhaps most importantly, Mr. Speaker, this bill does nothing to address the long term

financial health of our State. As addressed earlier, our State debt will only continue to grow. This bill continues the tradition of shortsighted one-time fixes through special fund raids or paying for on-going expenses using bond funds. Our current expenses must be brought back into line with our current revenues. Spending freely without regard for the future might be undertaken for a short time, but not as a State budget. Such actions cannot continue without negative consequences. We need a balanced budget, and this is not a budget. Why? Because a budget ensures that expenses are equal to income. This is not a budget but a spending bill. Passing this bill will severely jeopardize the State of Hawaii's long-term financial health.

"Mr. Speaker, it would be a mockery to call this bill a budget. In a budget, expenses equal revenues. I've said this before but it bears repeating. This bill really is nothing more than a spending bill.

"Thomas Sowell has said that, 'Things that cost employers money and cost workers jobs do not, however, cost anything to those who pass laws that enable the legislators to feel good about themselves and look good to the voters. These costs do not get counted ... Costs, consequences, logic and evidence are concepts that are too old-fashioned for those who are in tune with our times. The ability to ignore costs is at the heart of the attraction of government for some and of the expansion of government over time. Anything that might conceivably be of some benefit to someone, sometime, is worth doing, if someone else is paying. In our own lives, we pass up all sorts of benefits when we decide that they are just not worth their cost. Maybe we would like to have a new car or add another room onto the house or take a vacation in the Caribbean but it may not be worth what it would cost. So we keep driving the old jalopy, get used to not having a den and take in a few ball games during the summer instead of going on a cruise. Life is full of trade-offs when it is your own money. Not so when it is the taxpayers' money or better yet money that business is forced to spend, which does not even show up on the government budget.'

"Mr. Speaker, in order to prepare for the future, it is important that we begin to address Hawaii's financial shortcomings and growing debt now. Our citizens deserve a state which has its fiscal house in order. The Governor's original budget bill was in order. This measure is not. I vote no.

"For these reasons, Mr. Speaker, I stand in opposition to House Bill 1800, House Draft 1, Senate Draft 1, Conference Draft 1. Thank you for the opportunity to speak."

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

Representative Stonebraker's written remarks are as follows:

"This budget continues the practice of robbing the future to pay off the past. It has been said that he who robs Peter to pay Paul can always count on the support of Paul.

"In the past decade, this Legislature has pushed off debt and shuffled its shells to enable a snapshot view of a balanced budget. It has diverted nearly \$350 million from the Employee Retirement Fund, created a payroll lag to save \$52 million, and raided Special Funds (1997-2004) for \$669 million.

"If this sort of book-cooking took place in a corporation its CEO would be on trial. When we are aiming for transparency and trust in government, we offer this patchwork piece of legislation.

"This budget bill does not take into account 23 other spending bills. At the same time it takes aim at the Governor by cutting her security force. What right thinking person could not see through this game? There are some people who want to put the Governor's life in jeopardy. This Body can no longer take potshots at people, raid funds, juggle money, and push off debt at the expense of the next generation."

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

Representative Ontai's written remarks are as follows:

"In opposition to the supplemental budget bill. This bill must be opposed for several reasons.

"First, the timing. There are too many loose ends in the final financial plan for the state. This bill being voted on now is terrible planning with 12 days left in this legislative session.

"Second, there are serious flaws in the bill, probably due to the apparent rush to pass it. For example, it actually deletes federally funded positions! How can this be smart?

"Finally, the CIP, or capital improvement portion of the bill is bad. It continues the Legislature's practice of micromanaging the DOE. If I've counted correctly, only 10 of the 40 CIP projects funded for the DOE are actually on the DOE's priority list. This means that 30 projects are not on the DOE's priority list for this Session and apparently represent "pork" on behalf of legislators, rather than meeting the priorities of the Department of Education. This kind of specific meddling represents micromanaging that can only impair the DOE's mission to meet the needs of our students. It also shows that decisions continue to be made in downtown Honolulu for the entire school system. It cannot possibly be responsible or prove efficient.

"Thank you."

Representative Finnegan rose, stating:

"Mr. Speaker, I really wanted to speak on this. I suppose that I'll do written comments. But I really truly wanted to speak on this to give my comments on why I needed an extension further."

The Chair then stated:

"Okay, the Chair will allow you, then Representative Hale, will be the last two.

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

Representative Hale's written remarks are as follows:

"Mr. Speaker, I stand in strong support of H.B. No. 1800, H.D. 1, S.D. 1, C.D. 1. I am not a member of the Finance Committee so I speak as an observer. When I first became a member of this chamber I thought I wanted to be a member, but after watching the process and the work of this Committee I am happy that I was not appointed.

"However I have been curious to see the process that was followed. Having watched it in the past many times as a local official I have been very impressed with the progress that has been made in making this process open and responsive to the people. I remember in the past when Conference Committee

meetings were closed. Now they are very open and because of this I was one of the few non-finance members who sat through many hours of decision making. I applaud the members who spent so many hours working late hours. I also want to applaud the staff and leadership of this Committee for their openness and willingness to share with even non-members information that was asked of them.

"These are very difficult times for our Nation and our State. There are many needs for our people and it obviously is not possible to meet them all. I am convinced that this budget represents the best interests of the public and I urge my colleagues to support it."

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

"I'm speaking in opposition. I really don't want to be in opposition. I really want to understand this but I will vote in opposition.

"And I agree, I feel that the Chair of Finance and the Finance Committee Members and all the support staff worked hard and probably worked very hard on this bill throughout this Session and I don't disagree with that at all.

"But there are some questions that I just can't get over. Like the question of what are we accomplishing by cutting these federally funded vacant positions? That does not make sense to me. And I have no explanation for that. The only thing through research as to what has happened throughout the Finance Committee is one Committee Report that was submitted by the Senate that says that we don't want to contribute to the federal deficit. I think our constituents and the people of Hawaii pay federal taxes. And they should be allowed to pull down federal funds. And so I really don't understand what we are accomplishing by cutting the federal funded vacant positions. It's not money out of the State general fund.

"In this time when we're having such a hard time, finding money for positions, for raises, for whatever, we are cutting positions that are given to us by the federal government because they see fit to fund those positions so that we can run our government. These positions are like disability determination, vocational rehabilitation.

"I know that in the general funds, we are looking at all of these other different projects and good things we're doing in the general funds. But yet we have these vacant positions that, let me just report from DHS. DHS since 3/31/03 till now, they've actually been making strides in regards to increasing their new hires. They're doing this because we have good morale. Things are moving. I believe it has to do with the new Administration. We should allow those vacant positions to be open so that we can continue to fill them. I think it's kind of odd that we're taking these vacant positions away when we can see that some of these hard to hire positions are now, we're starting to accomplish that hiring of these positions. I don't agree with that. And I don't understand why we're doing it. It's of no benefit to us.

"The second question that I have is, a former speaker was talking about timing. We have some time. What's the rush? I don't understand why we can't have a day or two more days for people like me who have these questions which I think are very important to answer before we go ahead. And I don't want to vote no on all the good things in this bill. But some of these things are huge. I don't understand why we can't. If somebody were to answer some of these questions, maybe I could answer and I know where we're heading, then maybe I could go ahead and vote yes on this bill. But I don't.

"In regards to the inexperience of me being a freshman and not being able to understand what the process is like, I admit that. But I don't look to my own experience. I've been looking to other people, Budget and Finance, to give me people from the Finance Committee that have been in on the Minority side for a while. I look to their experience. And I look to them to give me some information and to give me some idea on what's going on here. I'm not doing this solely on my own experience. I know when I need help and I've requested help and people from Budget and Finance that have together have 50-60 years of experience in State budgeting, they see gaping holes. And they want to know how we're going to do this. I'm not pulling upon my inexperience as being a freshman.

"I find it a little ironic that we are going to fund raises, 8% raises for HGEA members with vacant position money. Because when I look at that, what we're doing is we're saying we're going to give you 8% raises but we're going to give you more work because we're not going to be able to fill those other positions. So therefore, you work 2-3 times harder because of the staffing levels. But we'll give you 8%.

"These are questions and there are many more questions. I applaud the work that has been done. I would have appreciated the time to have some answers to these questions. Thank you."

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

"Mr. Speaker, I rise with strong reservations and I was wondering if I could just make a brief comment."

The Chair responded, stating:

"At this point, the Chair allowed Representative Finnegan and Hale. And for those who would like to submit their written comments, you have that privilege at this point in time with reservations."

Representative Ching responded, stating:

"Okay then, I'm with strong reservations and permission to incorporate the words of the Representative from Kihei as my own," and the Chair "so ordered." (By reference only.)

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

Representative Marumoto's written remarks are as follows:

"A severe budget crunch is coming in FY 2006. This is the basis on my serious reservations on this measure.

"Debt service costs will be \$513.4 million in FY 2006. That's half a billion dollars. Collective bargaining costs for other units, based on the HGEA arbitrated award could total \$200 million in '06. We will continue to see huge increases in the out years.

"We have scooped out millions of dollars from several special funds to afford our lifestyle. We cannot continue to do this in future years. With large financial obligations facing the State, it is clear that we should have reduced many services and programs rather than continue to do "business as usual" with one-time fixes."

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

Representative Jernigan's written remarks are as follows:

"Mr. Speaker, I am voting in support but with reservations on this budget. I believe it has been rushed, and when things are rushed they tend to have mistakes. I believe this bill contains several good things, but it also has some problems. For instance, I don't believe the charter school funding is sufficient for them to operate. And several bills requiring funding are still blank, such as pay raises. I consider this a work in progress, and that is why I am voting with reservations."

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

"Thank you, Mr. Speaker. I'd like to note my reservations because of charter schools. Thank you."

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

Representative Ito's written remarks are as follows:

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

"As Chairman of the Public Safety and Military Affairs Committee, I commend Chair Takamine and Vice Chair Kawakami and the members of the Finance Committee for their diligence and support in working towards funding that will assist in ensuring public safety, especially in these times of terrorism threats and possible political conditions around the world that may impact our economy.

"Overcrowding conditions within our correctional facilities is a paramount concern and the budget has provided approximately \$14 million to address various conditions at correctional facilities on the islands of Oahu, Maui, Hawaii, and Kauai. Additionally, \$4.5 million dollars is included to transfer additional inmates to out-of-state facilities and the Federal Detention Center here on Oahu. This is a collaborative effort to work with the department in its over-all master plan to eventually return all inmates back home.

"In addition, approximately \$2 million dollars has been provided for the rehabilitation of inmates for treatment services and transitional housing statewide in all correctional facilities, and approximately \$900,000 for supervision of inmates. These funds ensure that proper supervision of inmates and timely release is ensured while preparing inmates for the transition into the community they will return to, thus helping to decrease recidivism.

"I am also pleased that there is significant recognition and support for local components of the Department of Defense in its mission to provide for the safety, welfare and defense of all of our people statewide.

"The Committee has provided funding for key personnel and relevant operational support for the Hawaii Air National Guard to protect us in maintaining a high level of "readiness" and support for its Hawaii Army National Guard at Bellows Air Force Station in Waimanalo.

"Mr. Speaker, in conclusion, I believe that the Finance Committee has done an outstanding job under significant dire conditions given the diverse needs of the community and I urge all members to fully support this measure."

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

Representative Kawakami's written remarks are as follows:

"Mr. Speaker, I rise in solid support of the State Budget, HB 1800 CD1, and in particular a few of the highlights of the education budget.

"But firstly I'd like to say that this measure responsibly allocates our limited resources, and I stress limited resources. It provides for a canopy of essential services for all: the young, the needy, the poor, and the elderly.

"Mr. Speaker, this bill above all shows our strong commitment to our children and all the people of Hawaii. Your Conference Committee utilized a comprehensive funding approach with this measure as well as with S.B. 3238 CD 1. We believe that we can and will make a difference in reinventing our public education system and above all in maximizing student achievement.

"I wish to thank the Chair of Finance, the Finance Committee members and the entire Finance Staff for their tedious and diligent hard work over the past several months.

"I urge all of my colleagues to support this measure. Thank you, Mr. Speaker."

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I rise in support.

"This supplemental budget provides our State with many of the priorities of the people of Hawaii, while remaining on course towards fiscal discipline.

"Our State, as well as the rest of our country, has undergone a protracted period of crisis, starting with 9/11 and continuing on with action in Afghanistan and Iraq. However, things are looking up in both the tourism sector and in the affairs of some of our major tourism clients, Japan in particular.

"Compared to the fiscal situation in many states, we are doing well and have set our sights on three priorities this session:

1. Improving our public schools;
2. Dealing with the problem of methamphetamine addiction and use; and
3. Providing reasonably priced and accessible prescription drugs to our people.

"The budget before us provides for much that is needed to move forward our priorities.

"I am especially happy to see that generous monies have been provided for our fight against "ice". In addition, the CIP monies provide for \$5,700,00 in construction funds for a badly needed 10-classroom building at Mililani High School.

"This is a good budget, which is the result of a lot of hard work on the part of our Finance Chair, members and staff.

"I urge the Members' support."

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

"Mr. Speaker, with strong reservations because of the charter schools and because it appears that the budget is Swiss cheese with a lot of holes to be filled in. Thank you."

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

Representative Leong's written remarks are as follows:

"Mr. Speaker, I rise to cast my with reservations vote on this measure. I am concerned that there isn't a financial plan accompanying this bill; therefore, I must vote with reservations on its passing."

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

Representative Karamatsu's written remarks are as follows:

"Mr. Speaker, I rise in support.

"As a member on the House Finance Committee, I am proud to have taken part in the final passage of the State budget bill. This budget provides for the priorities of the people of Hawaii while maintaining fiscal discipline. The Legislature has allocated the limited available resources of the State to meet its most critical needs, namely the reinvention of our education system, ice use abatement, and affordable prescription drugs. The appropriation contained in the State budget is a thoughtful spending plan that reflects a balanced approach to addressing the important priorities of our communities without any tax increases.

"Thank you."

Representative Finnegan rose and asked that her additional written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Finnegan's written remarks are as follows:

"Mr. Speaker, I rise in opposition to C.C.R. 1-04, H.B. 1800, C.D. 1. In addition to my earlier remarks, I would like to raise the issue of funding for charter schools. I have been informed by representatives of various charter schools that the amount appropriated in this bill for charter school operations is not enough for them to remain in operation. They say that they need an additional \$2.4 million if they are to keep their doors open. The present measure underfunds them, and because we are passing it in such a rush, we are unable to address this problem in this measure. I hope we will be able to identify another vehicle to get them the money they need.

"Thank you, Mr. Speaker."

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

Representative Takai's written remarks are as follows:

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

"As your Chairman of the Committee on Higher Education, I am pleased to report that we have continued to support the University through increased general funds support and with a generous construction budget.

"One area that needs further discussion is the UH Medical School. As you recall, Mr. Speaker, when we passed the \$150

million construction budget for the Medical School after 9-11 in Nov. 2001, we made it very clear that there will be no additional general funds going to the Medical School. We made this decision after consulting with President Evan Dobelle and Medical School Dean Ed Cadman. Both gentlemen assured us that if we fund the \$150 million, then they will not only raise matching construction funds, but will ensure that they would raise the funds necessary to operate the new buildings.

"Unfortunately, the University, with the Governor's support came in with two general fund requests – one for the custodial support of the new building and the other to fund the operations of a new medical school library. The total general fund increase for this request is \$3.8 million.

"We couldn't in all good conscience support this request. Instead, we looked within the University for funding opportunities to assist in meeting the \$3.8 million need. Fortunately, we found that the University's Research and Training Revolving Fund had, according to the University's own budget documents, excess funds of \$20-plus million.

"The Governor and the University are claiming that the University's Research and Training Fund "may not be able to absorb these expenses."

"This revolving fund which was established specifically to facilitate research and attract more federal grants is showing that it will end the current fiscal year with an unencumbered balance of over \$21 million and that this unencumbered ending balance will grow by \$2 million over the next two fiscal years. It appears that if the Medical Facilities operations are a priority for the University there are adequate funds available to pay for the operations.

"The Legislature appropriated \$1 million in taxpayer dollars to fund all the new medical campus positions, despite the fact that prior to the construction of the new facilities the University represented to the Legislature that the operations would be self funded.

"The University had already assumed that the program will move to self-sufficiency over the next two years so the change in the method of funding will not have a long-term impact on the University's financial plans.

"The Legislature expects that the new Medical Facilities will very quickly start to bring in more funding into the Research and Training Fund then it will take out and will replenish the funds required to start up the operations.

"The Legislature has supported the development of the new facilities in Kakaako and your Conference Committee continues to fully support the State's effort to further the development of biomedical research and appreciates the role the new facilities will play in this effort. Your Conference Committee carefully considered the concerns stated by the Governor and the University that the "Research and Training Fund may not be able to absorb these expenses." We have found that these concerns are unsubstantiated because there are more than adequate resources available to the University to support the \$2,531,561 in revolving funds appropriated for the non-personnel operating expenses for fiscal year 2005.

"As a safety, fallback option, we have provided the University with the authority to use any other revolving fund to support the operations of the facility if the University determines it is appropriate to do so.

"Mr. Speaker, I have enjoyed my two-years as your Higher Education Chairman. When you appointed me to this position,

you asked that I work hard, study the issues, determine strategies, and recommend action to be taken by our colleagues. I believe that I have done this. Thank you for the opportunity to serve the people of this great State as your Higher Education Chairman."

Representative Takamine rose, stating:

"Mr. Speaker, still in support, and request permission to enter comments into the Journal. And if I may also have permission to submit along with those comments, two documents. One is the March 1999 document, entitled, Right-sizing Government to Create Jobs. The second is a memorandum from the Representative from Kapolei dated March 14, 2002, relating to suggestions on how to balance the budget. Thank you."

Representative Takamine submitted the following written remarks and documents:

"Mr. Speaker, I would be remiss if I didn't take some time to acknowledge the effort and support provided by various members of the Finance Committee in constructing this balanced budget and financial plan – without raising any taxes. Many difficult funding decisions had to be made; but we were able to provide for the priority needs of our communities.

"In addition to providing support to major education reform; tackling the ice epidemic; and creating an affordable prescription drug program for all our residents, individual communities informed us of priority needs to make the quality of life better for themselves and their families. The work and effort put forth by key members on the Finance Committee was instrumental in providing for community priorities aimed at improving that quality of life. Although new to the Legislature, the individual efforts put forth by these dedicated individuals is laudable and need to be recognized.

"Rep. Tommy Waters was able to secure critical funding for the Waimanalo Wastewater Treatment Plant, a Kailua High School access road, and renovations to the Waimanalo Health Center. In addition, the hard work by Rep. Waters will ensure that critical improvements will be made to Kalanianaʻole Highway – this includes the median near the Olomana Golf Course and the retaining wall at Makapu'u.

"Rep. Scott Nishimoto was instrumental in securing much needed funding for various renovations and improvements at Ala Wai Elementary School and Kaimuki High School. Additionally, Rep. Nishimoto ensured funding for the Science Center at Kaimuki High School.

"Rep. Romy Mindo, with support from Rep. Tulsi Gabbard Tamayo, was instrumental in securing critical funding for the North/South Road that will connect the Kapolei Parkway with H-1. Rep. Mindo also made sure that construction of a new Ocean Point Elementary School will proceed on time; and that much needed renovations and improvements will be made at Campbell High School and Ilima Intermediate School. Working with his Filipino colleagues in the Legislature, Rep. Mindo also supported funding for the Filipino Centennial Celebration Commission.

"Rep. Maile Shimabukuro was able to secure critical funding for various renovations and improvements at Nanakuli High and Intermediate Schools and Waianae Elementary, Intermediate, and High Schools. The effective teamwork by Rep. Mike Kahikina and Rep. Shimabukuro also guaranteed that funding was approved for expansion of the Waianae Coast Comprehensive Health Center; and expansion of the drug abuse program – Weed and Seed – to include the Waianae Coast.

"Rep. Glenn Wakai's hard work on behalf of his community ensured that funding was approved for numerous renovations and improvements to Salt Lake Elementary School and Moanalua High School. Additionally, Rep. Wakai was instrumental in working with his colleagues to secure approval for funding for the dredging of Moanalua Stream.

"Rep. Jon Riki Karamatsu ensured that much needed funding was approved for various improvements and renovations at Honowai Elementary School, Kaleiopuu Elementary School, and Waikele Elementary School. Rep. Karamatsu also supported critical improvements to Kunia Road. Additionally, by working with colleagues in the House and Senate, he was able to support funding for the Friends of Waipahu Cultural Garden Park and their efforts in the community.

"I would like to extend a special mahalo to these extremely effective, talented, and dedicated "Freshman Legislators" on the Finance Committee. The various communities that chose these individuals to represent them couldn't have found better Representatives to get the job done.

"In fact – that's exactly what they did. In just the short time they've been here – they got the job done. I think we can expect to see even greater achievements in the future."

#### "The House Republican Budget: Rightsizing Government to Create Jobs

Prepared by the House Republicans, March 1999

Rep. Barbara Marumoto, House Republican Leader  
Rep. David Pendleton, House Republican Floor Leader

Rep. Emily Auwae  
Rep. Galen Fox  
Rep. Rep. [sic] Chris Halford  
Rep. Bertha Leong  
Rep. Bob McDermott  
Rep. Colleen Meyer  
Rep. Mark Moses  
Rep. Jim Rath  
Rep. Cynthia Thielen  
Rep. Paul Whalen

....

#### 3 Reduce government though attrition:

The best way to reduce the budget by \$170 million is to reduce the size of government. Republicans recommend doing so by preserving the compassionate policy of not firing anyone. We oppose putting government workers on the street, forcing them to spend less.

✓ Reduce government by 1,700 employees through attrition.  
Net gain to the general fund: \$94 million.

The federal government and other states use attrition to reduce costs. The federal government is as small today as it was during President Kennedy's time. Remaining employees are well paid. In Hawaii, salaries for federal employees have risen faster than those in most other occupations. We should have fewer state workers, but pay them fair wages.

Republicans know the state must replace some employees, including all departing teachers. The state must hire new



teachers for new schools. But the state's own statistics show that out of 18,518 DOE employees, only 9,124 are teachers.

....

#### 4. Cut government waste & duplication

Attrition-related cuts make the rest of our job easier. Surely we can find another \$76 million in the budget to take out. Here is a range of suggestions from various sources. Some are less desirable than others, but the resources are available to fund the kind of tax cut that will turn Hawaii around.

	FY2000	FY2001	
Eliminate SHDPA [sic]	500,000	500,000	
Abolish the Office of Planning	1,750,000	1,750,000	
Cut back on state vehicles	3,000,000	3,000,000	
Charge more for state parking	3,000,000	3,000,000	
10% cut in state office supply budget	2,000,000	2,000,000	
Eliminate PR divisions	1,500,000	1,500,000	
Put purchase of services on performance-based contracts	5,200,000	5,200,000	
Privatize Hawaii Health Systems Corporation	8,000,000	8,000,000	[This portion left blank.]
Privatize prison construction and new prison operation	38,800,000	38,800,000	
Cease paying car insurance for welfare recipients	14,200,000	14,200,000	
Consider outsourcing bill collections of AG, DOTAX	3,000,000	3,000,000	
Cut costs by privatizing the Child Support Enforcement Agency	1,750,000	1,750,000	
Abolish the Civil Rights Commission	950,000	950,000	
Abolish Hawaii Occupational Safety & Health division	900,000	900,000	
Put DBEDT fully on fee for service financing	9,000,000	18,000,000	
Eliminate proposed increase in Judiciary budget	2,700,000	2,700,000	
Use rental car tax to cover convention debt service	15,000,000	15,000,000	
Close Waimano Home, move patients to private care	1,000,000	1,000,000	
Move DHS welfare expenditure surplus to the General fund	7,200,000	18,200,000	
Move the Dept. of Defense to special funding	6,400,000	6,400,000	
Consolidation of Annual Department Reports	1,500,000	1,500,000	[This portion left blank.]
Reduce out of state travel 50%, in state travel 25%	5,500,000	5,500,000	
Stop leasing space in the Hemmeter Building	750,000	750,000	
Redistribute DAGS functions to other agencies	15,000,000	15,000,000	
	<u>148,600,000</u>	<u>168,600,000"</u>	

## Memorandum

To: Chair Takamine, House Finance Cte.  
 From: Rep. Mark Moses  
 Date: 03/14/02  
 Re: Minority Caucus Suggestions on How to Balance the Budget

A look at "Proposed General Fund Financial Plan; DB&F 12/26/01" (attached) illustrates how we could balance the state budget as follows:

1. Accept all revenue and expense entries for FY02.
2. Carry-over to FY03 is \$195.9m.
3. Revenues are \$3,581.6m, omitting CIP dynamic impact, HHRF raid, liquor tax increase, and capital gains tax reduction.
4. Expenses are \$3,856.8m, omitting FY03 emergency appropriation and Judiciary supplemental.
5. Shortfall is -\$275.2m.
6. Reduce shortfall to -\$229.3m by taking the "carry-over begin balance" down to \$150m from \$195.9m.
7. Extend General Fund cut of 1%FY02 and 2%FY03 to special funds half of budget, cutting special funded departments' budgets by 3%FY03 (1%+2%-3%)—total savings \$50m.
8. Shortfall is now -\$179.3m.
9. Capture vacant position revenue as follows: keep vacant 1,478 of 2,951 General Fund vacancies as of 12/31/01, total savings (salaries + fringes) \$57.1m, save \$25.9m more by taking savings from 348 vacant special fund positions and transferring money to the General Fund, then filling only one of two General Fund vacancies that emerge after 12/31/01 until an additional 322 positions are vacant, creating a total of 2,148 positions kept vacant. Savings of \$83m offsets exactly the need to raid the HHRF to fund programs cut in HB2564.
10. Shortfall is now -\$96.3m.

11. Reduce shortfall by "dynamic impact" of \$350m CIP, less FY03 debt service for \$350m, net figure is \$16.4m.
12. Shortfall is now -\$79.9m.
13. Four ways to close the final \$80 m gap (use any in combination):
  - ✓ Impose an additional 1% operating budget across-the-board cut (\$7.5b for FY03).
  - ✓ Close the special funds listed in HB1917.
  - ✓ Go after the remaining 2,800 vacant positions, General and special funds.
  - ✓ Consider elimination or cuts to the programs listed below.

## Additional Considerations:

Program	Value
SHPDA	\$457,030
Office on Planning	\$1.75 million
HIOSH	
State-county duplication of services	\$14.0 million
DAGS (Eliminate)	
DHRD (Eliminate)	\$21,071,635
Land Use Commission	\$416,893
Water Commission	\$1,623,547
Land Court	
Hawaii Civil Rights Commission	\$1,002,794
Eliminate Art in Public Places Fund	\$2,281,143
Sell Hemmester Building	\$2.0 million
Eliminate all department "spokesperson" or "pr" positions	\$1.63 million
Sell Aloha Stadium to UH	\$1,316,635 (savings)
AG bill collection services	\$222,975
LG's Office	\$816,041
Cut back on	Cost
State Vehicles (purchase)	\$7.8 million
Motor pool	\$1.9 million
Office supply budget	\$11.4 million
Travel (total, intrastate, per diem, other)	\$3.1, \$2.2, \$22.6 million
Out of state (air, per diem, auto rental)	\$1.2, \$3.9, \$3.8 million

## PROPOSED GENERAL FUND FINANCIAL PLAN

Chart 25

(DB&amp;F 12/26/01)

	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07
COR 11/14 Projected Revenues	3,460.0	3,580.1	3,729.3	3,899.5	4,084.3	4,289.8
Dynamic Impact - \$900+M CIP		47.8	41.8	23.9		
Increases to Revenues						
DCCA central svc payments	1.5	1.5	1.5	1.5	1.5	1.5
Special funds lapses to general fund			20.9			
Cap HTA TAT Funding			10.0	10.0	10.0	10.0
Transfer HHRF balance to GF		213.0				
Increase liquor tax rates		40.0	40.0	40.0	40.0	40.0
Decreases to Revenues						
Reduce capital gains tax rate		(3.5)	(8.5)	(12.5)	(16.5)	(16.5)
TOTAL REVENUES	3,461.5	3,878.9	3,835.0	3,962.4	4,119.3	4,324.8
Existing Appropriations	3,493.6	3,690.2	3,764.2	3,810.3	3,845.9	3,893.4
Approved Collective Bargaining Raises	109.7	208.1	229.6	231.1	231.1	231.1
Increases to Expenditures						
Emergency Apprn/Supplemental Budget	28.7	5.0	69.9	57.3	72.1	63.1
Judiciary Supplemental Budget		2.6	2.6	2.6	2.6	2.6
Debt Svc on Additional \$900+M CIP		5.5	28.0	46.0	54.9	69.3
Decreases to Expenditures						
Debt restructuring (tentative)	(0.8)	(1.3)	(88.3)	(86.2)	7.1	35.4
HMS - FMAP increase 1% (rough estimate)		(7.0)	(7.0)	(7.0)	(7.0)	(7.0)
Restrictions/cuts - 1.00% / 2.00%	(16.5)	(33.2)	(33.2)	(33.2)	(33.2)	(33.2)
ERS - extend unfunded liability amortization			(19.2)	(19.2)	(19.2)	(19.2)
TOTAL EXPENDITURES	3,614.7	3,869.9	3,846.8	4,001.7	4,154.3	4,235.5
REV OVER EXPEND	(153.2)	9.0	(111.6)	(39.3)	(35.0)	89.3
CARRY-OVER BEGIN BALANCE	349.1	195.9	204.9	93.3	54.0	19.0
ENDING BALANCE	195.9	204.9	93.3	54.0	19.0	108.3

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

"Thank you, Mr. Speaker. In strong support and permission to enter a correspondence dated April 15 from a Thomas Kwock to all of us into the Journal. Thank you," and the Chair "so ordered."

Representative Kahikina's submitted the following:

"April 15, 2004

Dear Governor Lingle,

My name is Thomas Kwock and I've been an Administrative Officer at UH since 1998. I'm also a member of the HGEA union, Unit 8 (otherwise known as APT for Administrative, Professional, Technical workers) and this email was sent via my personal email account from home, not work.

I supported you during the last two gubernatorial elections because I agreed major reforms have long been needed for this state. But your uneven stance on the HGEA pay raises, the UH faculty pay raises and the Executive/Judiciary raises has caused me to seriously question my decision and future support. As a state worker for the past 14 years and someone who also works part-time for a small business, I believe I have a good perspective at the grassroots level regarding what's good and bad in this state.

Understandably, you have a different perspective because you are not in my shoes. Let me share with you what it feels like to be me.

I've worked conscientiously at UH for the past 14 years administering research grants both from the fiscal office and project office level. My contributions are equally important as the faculty I work with. I recognize the value of what they do and why they're paid tens of thousands of dollars MORE than me. But I also know that without me doing my part...without me doing the dirty work...the work won't be done. A successful team is not comprised only of stars. You need the role players and the supporting players too. You cannot build anything unless you have a solid support foundation. And that's what HGEA members do. And in many, many cases, we do quite more than that.

For instance, from 1992 to 2001, I was the sole administrative officer for an AIDS research grant at Leahi Hospital. This federal grant brought in \$1.5 million a year into the state and UH coffers. It also helped the state economy because I always tried to buy from local vendors first...even it costs a bit more. My boss, a UH faculty member, had lofty dreams of building a major medical research program there. She succeeded because she and her ever-expanding team has been successful in snagging more research grants. She even made the cover of Midweek a few years ago. But none of this would have been possible if not for the hard work, dedication and sacrifice of the people behind her. The team of nurses and support staff like myself. She dreamt of building an empire. I was the one who had to do the dirty work to help make it come true. I was the one creating her annual budgets and make sure we had enough funds for operational needs. We received little direct financial support from the Med. School save for utilities and the use of decrepit space in Leahi.

I was the one who supervised the renovation of old offices into modern medical clinic rooms. I was the one washing windows, hauling away the trash, disposing of old radioactive equipment, painting the rooms, mopping the floors, moving the furniture. I was the one climbing out on the 5th floor ledge to clean pigeon poop and solicit the requisite 3 bids to combat the constant

pigeon horde there. Not my boss, the UH faculty member. And in the 9 years I worked there doing all of this, my annual salary only went from \$27,960 to \$33,564. This is because dedicated HGEA employees like myself are not valued by the powers-that-be. There is no merit pay system then and what have now is simply a farce. But I digress. My boss earned nearly three times my salary and I don't begrudge that because I didn't go through med. school. I only went through the school of hard knocks like most other HGEA members.

Back to the issue of fairness and pay raises. You support a 31% pay raise for the 3,148 member faculty union, but you oppose the supposedly "final, binding arbitration" settlement of 5%-8% raises for the 23,000 members of the HGEA union. Granted, we're comparing apples to oranges due to the disparity between size, cost and length of contract.

But the inherent issues of fairness and affordability should be the same for both. It strikes me as very hypocritical on your part to say there's lots of money to pay one group and very little for another other group. Is it fair for HGEA members to be penalized and receive less just because there's more of us?

Should the smaller group...the ones whose average annual salaries already far exceed ours and who receives benefits greater than other unions like being paid the Federal Per Diem Rate for travel (i.e. Instead of the standard \$130 per diem everyone else gets, the last UHPA contract allows a faculty member to claim the federal rate for each particular city be it \$201 for D.C. and \$348 for Switzerland....ALL Tax Free)...be awarded more because there's less of them?

Or is it simply because you deem their contributions to be far worthier than ours?

I didn't support Gov. Cayetano...a fellow Kalihi boy and Farrington alumni...but I always respected the man because he tried to be fair (or unfair) to all. When he said there wasn't money for pay raises, he meant for everyone. And he stuck to his guns all eight years of his term. Even when we got raises, it was within the same ballpark for all.

Sadly, I can't say the same for you.

I realize the tone of my letter comes off as an "Us vs. Them" approach. It was not what I wanted. But you have to know there is already great disparity in work, pay and benefits between unions because we all do different things. Your uneven position accentuates these differences and forces us to make comparisons...to pit one group against another. You sent an "Open letter to all State Employees." Well everyone from HGEA to UHPA UPW HSTA to you folks are ALL State Employees too. Should the same treatment be applied to all?

I could go on, but I have to head off to work. Look, I realize you have to look at the big picture and set your priorities carving up the pie. There's many mouths to feed. But you should not forget to look at the "small" picture too...those of us in the HGEA union who carryout your dreams and objectives...and who provide a valuable service for everyone in the state.

I hope you reconsider your position. If not, you'll erode your support and perhaps fail to achieve your objectives.

Thomas Kwock

....

Honolulu, HI 96817

PS: I wrote this letter as a concerned citizen and supporter to voice my opinion and objections. Not because I'm trying to get more money because I know the Legislature already approved

the HGEA raises...and will mostly likely override any veto too if that happens.

You've been quoted in the Advertiser that "it's not a fairness issue.....it's an affordability issue for taxpayers and the state.""

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

Representative Fox's written remarks are as follows:

"There are other missing items from HB 1800 that suggest more malice than error. The budget eliminates dues for the National Governors' Association, making Hawaii the only state besides Alabama forced to live outside this prestigious organization that has boasted the membership of Carter, Reagan, Clinton, and Bush--four of the last five Presidents. It also drew the active participation of Ariyoshi, Waihee, and Cayetano, but none as effective as the present governor. Why would the legislature cut our NGA dues, when we are all subsidized to join the National Conference of State Legislators, the Council of State Governments, and the American Legislative Exchange Council? Dues for us, no dues for the Governor? It is embarrassing.

"Another punishing omission is excluding dues for the Pacific Basin Development Council, the organization of U.S.-flag Pacific Island states, including Guam, American Samoa, the Marshalls, the Marianas, and Micronesia. We are the big brother of this group of friends, the state the rest look up to. It was wrong for Cayetano to take us out of this organization, right for the current governor to return us to membership, and it is wrong for the current legislature to knock us out again.

"Mr. Speaker, these are further reasons for opposing HB 1800."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1800, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Final Reading by a vote of 43 ayes to 7 noes, with Representatives Finnegan, Fox, Halford, Meyer, Ontai, Pendleton and Stonebraker voting no and with Representative Luke being excused.

At 11:18 o'clock a.m., the Chair noted that H.B. No. 1800, HD 1, SD 1, CD 1, passed Final Reading.

At 11:18 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:31 o'clock p.m., with the Vice Speaker presiding.

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

The House of Representatives reconvened at 12:33 o'clock p.m.

#### ANNOUNCEMENT

Representative Chang: "Madame Speaker, may I have a waiver of the 24-hour notice for Conference Committee on House Bill 2061, House Draft 2, Senate Draft 1 for tomorrow morning at 8:30 in room 423?" and the Chair "so ordered."

Representative Chang: "Conferees are Chairs of the Tourism and Finance Committees, as well as Representatives Karamatsu and Ontai."

At this time, the Chair recognized the Clerk who announced:

"I have been informed by a representative of the President of the Senate that the Conference Committee Report for House Bill No. 1800, HD 1, SD 1, CD 1, was adopted, and that said House Bill No. 1800, HD 1, SD 1, CD 1, Relating to the State Budget passed Final Reading in the Senate at 11:31 a.m. on this day.

"In addition, I have been informed by the Assistant Clerk of the House that at 11:34 a.m. on this day, House Bill No. 1800, HD 1, SD 1, CD 1, has been duly transmitted by the Legislature to the Governor pursuant to Article VII, Section 9 of the Hawaii State Constitution."

#### UNFINISHED BUSINESS

**Conf. Com. Rep. No. 2-04 and H.B. No. 2300, HD 1, SD 1, CD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2300, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Final Reading by a vote of 36 ayes and with Representatives Arakaki, Bukoski, Ching, Fox, Hiraki, Kaho'ohalahala, Leong, Marumoto, M. Oshiro, Souki, Stonebraker, Takai, Takamine, Takumi and Wakai being excused.

At 12:35 o'clock p.m., the Chair noted that H.B. No. 2300, HD 1, SD 1, CD 1, passed Final Reading.

**Conf. Com. Rep. No. 3-04 and H.B. No. 2280, SD 1, CD 1:**

On motion by Representative Saiki, seconded by Representative Lee and carried, the report of the Committee was adopted and H.B. No. 2280, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Final Reading by a vote of 39 ayes and, with Representatives Arakaki, Bukoski, Ching, Hiraki, Kaho'ohalahala, Leong, Marumoto, M. Oshiro, Stonebraker, Takai, Takamine and Wakai being excused.

At 12:35 o'clock p.m., the Chair noted that H.B. No. 2280, SD 1, CD 1, passed Final Reading.

**Conf. Com. Rep. No. 4-04 and H.B. No. 1043, SD 1, CD 1:**

By unanimous consent, Conf. Com. Rep. No. 4-04 and H.B. No. 1043, SD 1, CD 1, was deferred one legislative day.

**Conf. Com. Rep. No. 5-04 and H.B. No. 2004, HD 1, SD 1, CD 1:**

Representative Saiki moved that the report of the Committee be adopted and that H.B. No. 2004, HD 1, SD 1, CD 1 pass Final Reading, seconded by Representative Lee.

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

"Madame Speaker, I rise in support of this measure.

"Madame Speaker, our journey began ten months ago when Speaker Say appointed a Joint House and Senate Task Force on Ice and Drug Abatement. During those ten months, Madame Speaker, we listened, we heard, and today we act.

"We have before us comprehensive legislation that takes a huge step toward solving the ice epidemic that has crippled our State resources, flooded our prisons, killed so many people, and cause anguish to many families. We can't wait another year to put into place laws and funding to fight this bad drug.

"Our communities have spoken loudly about what they want and what they believe will turn back the ice epidemic.

"We must start with prevention programs for our youth.

"We must build community awareness and educate families.

"We must send our children to treatment rather than suspending them from school.

"We must stop the demand for ice by treating our addicted adult population through health insurance or publicly funded programs.

"We must aggressively catch and lock up drug dealers who profit from the sickness of drug addiction.

"We must discourage ice dealers from using our children in their distribution network and from selling in schools or parks.

"We must treat our offender population in order to reduce recidivism.

"And we must get families back together.

"The ice omnibus bill, and this bill before us today, the ice appropriations bill, covers all of these must do's I just talked about.

"These bills will tackle the worst effects of the ice epidemic.

"These bills send a powerful and clear message to the people of Hawaii that we will win against ice.

"We must act today. We must act now."

"We cannot wait for more data. We cannot let more time pass. Innocent people are dying because of the ice epidemic.

"Four weeks ago, a 76 year of old woman was killed by a car on Diamond Head road driven by a man who admitted to ice usage and drug trafficking.

"Three weeks ago, four people were killed on the Big Island and many were injured when a car hit a tour van on Volcano Highway. Police found ice in the car and one of the persons killed was due to give birth.

"A month ago, a passenger died in an auto accident when the ice addicted driver of a stolen car crashed into a home in Pearl City.

"Madame Speaker, we must act now.

"Ice addicts are draining our resources and putting our communities at risk.

"A few months ago, an ice addict was gunned down by a police after stealing a car and a high speed car chase.

"In Maui, police shot and killed a woman with a history of ice addiction who was driving a stolen car and aimed the vehicle at a police officer on a crowded street.

"Last month, a home in Nuuanu burst into flames because they were making ice.

"Nearly every week, the media reports on drug busts, drug houses, and families torn apart by ice addiction.

"Madame Speaker, we are at our darkest hour in the struggle with ice. Our legislative journey to come up with a plan for this Session to solve the ice epidemic ends today with the adoption of this measure and the measure to follow. The action we take today, by appropriating nearly \$15 million for prevention and treatment and by enacting 16 new laws in the next bill, will be a beacon of light that will lead us through this epidemic.

"We act now to save our future generations, Madame Speaker. And I urge my colleagues to support this measure."

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

"Thank you, Madame Speaker. I rise in support.

"Madame Speaker, and esteemed colleagues in this Chamber, the purpose of this bill is to allocate money to the Department of Health for crystal meth treatment, prevention, rehabilitation, education, environmental damage assessment, and program monitoring. Additionally, House Bill 2004, House Draft 1, Senate Draft 1, Conference Draft 1 will provide money to the Judiciary so that they will be able to expand current services which focus efforts on our Drug Courts, as well as for the treatment of first-time, nonviolent drug offenders.

"Madame Speaker, we are all aware of the terrible consequences of ice usage, and we read in the newspapers daily about the devastation caused by ice on the family members of users. This bill seeks to take immediate corrective action to stop first-time nonviolent ice users from becoming habitual drug addicts.

"Additionally, this measure will provide money to the Department of Public Safety to expand canine drug interdiction efforts, as well as provide our county governments with much needed funds to conduct grassroots community anti-drug campaigns and substance abuse prevention programs, along with other community anti-drug efforts aimed at preventing ice use on the Island of Hawaii.

"Madame Speaker and colleagues, this bill will also provides money to the Weed and Seed Program so that more communities can benefit from this tremendously successful program that gets rid of drugs/substance abuse influences and plants positive opportunities for our children and youth to become involved with instead of turning to drugs and other substance abuse toxicants.

"Also Madame Speaker and esteemed colleagues of this esteemed Body, this measure provides for the creation of a multi-agency task force which will be charged with the responsibility of responding to the effects of ice on children, and will provide money so that the KASHBOX program can do even more positive actions for our local communities.

"I urge everyone in this esteemed Body to pass this measure. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. On the same measure, strong support. I'd like to have the comments expressed by the Chair of Judiciary as my own. Also I'd like to thank Speaker Say giving me the honor to be part of this Task Force. I think what has been echoed, we must continue and do the work of the will of the people. Thank you."

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

"Thank you, Madame Speaker. I rise in very strong support."

"Madame Speaker, we've come a long ways in the last fifteen months. Fifteen months ago, we had the first ice bills introduced. And at the Judiciary hearing fifteen months ago, there was very little interest. And at that hearing, we had a young man from Pahala, by the name of Pono Javar who described to the Committee how ice has impacted his family, his school, his community. And he challenged us to come over to Pahala and he'd show us the ice house. And he challenged us to do something."

"His mother, Debbie Javar was a nurse at Kau Hospital. Her tears told us how her son, an honor roll graduate from Kau High School, the 21 years-old had the mental capacity of a 5 year-old. And she pleaded for help. And so for Pono and for Debbie Javar, as far as I'm concerned, this bill's for you. Thank you."

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

"Thank you, Madame Speaker. I'm rising in support of this measure."

"I too had the pleasure of serving on the Ice Task Force. And it was a very special experience. We visited many different facilities where people turned to for treatment. And we're made aware of many prevention, very good prevention programs that have been in place. Some of them for quite a while. And that was news to many of us."

"There's no question, we have a very large problem with drug addiction and especially with ice as the drug of choice for so many not only young people but working people. And we all have heard the stories of how damaging it is to families and to businesses and to the children in school, who come to school often times without eating, without proper hygiene because their parents are addicted."

"But this bill has a lot of good things in it. I'm particularly pleased to see the \$3 million for school-based treatment. One thing we did get clear about on the Task Force is that the earlier you can catch somebody, even if they're just experimenting with it or they're in the early stages of addiction, your chances of turning them around are very much better. So this is a good use of tax dollars."

"I'm also pleased to see \$2.6 million for the very successful Drug Court program. And I think that will be money well spent."

"In addition, we have over a million dollars for community support. This is where we saw in the last year, where various communities and I believe it started in the community that I represent in Kahaluu, where people just could no longer turn a blind eye or ignore what was going on. And they got together and had the first town hall meeting. And it was really standing room only. And from there, it's just been nothing but one community after another because this was not just unique to Kahaluu. It's all over in every one of the islands in our State."

"So this money will really support the people that are out there in the trenches doing everything they can think of. So I'm proud to have been a member on that Committee and I'm very pleased that we've come up with a bill, slightly over \$13 million. And I think that this is all well monitored. We'll see some real positive results. Thank you."

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

"Thank you, Madame Speaker. I rise in support."

"Thank you, Madame Speaker. I just wanted to echo the response of some of our former speakers here and Legislators that we're putting this as a priority because this is a problem that has spanned over 20 years. We know that this has been a problem for a long time, but as we can see, it's escalating. And it's a pervasive scourge on our State to the point where one reads the newspapers everyday, we know we see such a strange, strange heinous crime on the front page. We all know probably crystal meth. 99% of the time, crystal meth."

"But what bothers me about so much about this epidemic is that it affects our future, our present. It affects every aspect of our society. We are dealing with a budget. Countless amounts of money are going to have to be spent on the children who are the victims from their parents using crystal meth. It's the law enforcement. It's sexual offenses. You can't name a single part that is bad in our society that probably is not related to crystal meth and increasing. But worse is this future. All of the potential of young people to contribute to our society is being lost. And in some cases forever because we know that crystal meth is a drug that is very, very hard to rehabilitate."

"So with that, I'm glad that we have start. And I support our frontlinemen. Our frontline's men I talk about those that have to deal with it from treatment but also law enforcement. Law enforcement is so important in this because we do have to cut off the faucet, not just treat the polluted water. We have to cut off the faucet of polluted water. And I'm just glad to see that we have prevention in there. I think the earlier the better. I echo the words of the speaker from Laie. Drug Courts are important."

"I think our Lieutenant Governor on his holistic approach is wise. But also I think we need to thank one last person. Edgy Lee brought a lot of awareness to the community at large through her film. And I look forward to the second one. I think Edgy Lee needs to be acknowledged in this as well. Thank you."

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

"Thank you, Madame Speaker. I rise in strong support of this bill."

"I just wanted to address one particular section and particularly that's Section 8, which talks about \$75,000 being appropriated for the canine drug interdiction program. I echo what other people have said about this bill, but I don't believe people are really appreciating this particular program. Because I think what it really tries to do is it finds another way for us to address this elusive issue that people have been calling for in the Walk and Talk. And particularly what I mean is in the Quino case, the Supreme Court never said that law enforcement in Hawaii cannot conduct a Walk and Talk. What they said was, if you want to do it, all you need to do is have clear and articulable factual basis for singling out individuals. Unfortunately in that case, they did not have it. And unfortunately when HPD came before our Committee on the



Walk and Talk bill, they said, sometimes it's just a gut feeling on these individuals they single out.

"However, when I asked the Attorney General, what if we had something like a canine interdiction program. Where you have a dog at the gate and if they with their ultra-sensitive sense of smell can detect something then that clearly may be an articulable factual basis by which you can single out individuals and conduct your Walk and Talk. So I really think that people have been calling for Walk and Talk. They want the same thing as the feds, but we don't need to do that. And I think that this is an innovative way of us trying to approach the drug problem. And really, I commend the Committee for coming up with something like this. Thank you."

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

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

"In support, Madame Speaker.

"Thank you. We had an informational session I think it was last week, and in that informational session, it was talking about treatment and this bill here. The interesting thing though that had come up, I had asked whether or not in regards to crystal meth, if dogs could detect crystal meth. And the experts that were there were telling me that even with their keen sense of smell, that crystal meth cannot be detected by dogs. So I'm glad it's in here because it still can catch other kinds of drugs, but crystal meth it cannot."

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

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

Representative Pendleton's written remarks are as follows:

"Madame Speaker, I rise in support of House Bill 2004, House Draft 1, Senate Draft 1, Conference Draft 1. The purpose of HB 2004 is to provide the necessary monies to address the devastating problem of crystal methamphetamine (commonly known as "ice") in Hawaii. It is a significant step toward addressing the complex problems created by the ice epidemic in Hawaii.

"Madame Speaker, we are all aware of the Joint House-Senate Task Force on Ice and Drug Abatement's findings which reported that 'ice use and addiction has reached epidemic proportions, destroying families, resulting in increased criminal activities, and creating a burden on public resources in the form of child welfare, health, and social services'.

"Madame Speaker, in addition to being aware of the problem, we realize that action must be taken. The answer to this issue cannot be found in only one area or approach. It will require a multilateral effort from many different people working in many different sectors.

"Madame Speaker, turning this multilateral plan into a reality requires adequate funding. I believe HB 2004 provides for a

fair and comprehensive distribution of funds. There are several specific areas I believe are particularly beneficial.

"First, HB 2004 provides appropriations to the Judiciary to expand services provided by the drug courts. Since its inception in 1996, the Hawaii Drug Court has been highly praised for its effectiveness and innovation. Because of its success, there is clear evidence that we need to support the creation of additional positions in the Circuit Courts as well as the Drug Courts to deal primarily with illicit drugs. These positions would serve a necessary function in our ice and drug abatement efforts.

"Madame Speaker, another valuable program that will receive funding under HB 2004 is the Weed and Seed program, which was established in 1997 'to weed out drug dealers and violent criminals from communities nationwide while fostering a sense of communal responsibility'. Weed and Seed's objectives are strategic and effective in dealing with the drug problem, particularly in the more vulnerable areas of the state.

"Grassroots efforts are perhaps the most important part of addressing the ice epidemic. The images of determined people, young and old, lining the roads of their community declaring that they will not tolerate ice in their neighborhoods lends a clear picture to the importance of community involvement. Their sense of pride and unity cannot be beat and the results are always impressive. We as the House of Representatives should always be looking for ways to encourage and support grassroots efforts. The Conference draft of HB 2004 does exactly that. It would make appropriations to county governments for grassroots community anti-drug campaigns and substance abuse prevention programs.

"Madame Speaker, HB 2004, HD1, SD1, CD1, as a whole, addresses a wide range of concerns. There is still much to be done in the fight against ice and illicit drugs. But this bill is a simple step in the right direction. By providing necessary funds to start addressing this problem, we are sending a clear message that we are willing to do what it takes to help citizens fight ice and illicit drugs in Hawaii.

"Thank you, Madame Speaker, for the opportunity to speak in support of House Bill 2004, HD1, SD1, CD1."

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

"I rise in support of this measure. I'd like to incorporate written comments, and by reference, the words of the Judiciary Chair as my own," and the Chair "so ordered." (By reference only.)

Representative Saiki continued, stating:

"Also, like to note that this Task Force is very significant because this is probably one of the only task forces in recent history that actually accomplished its goal. Just in a matter of months, it came back to the Legislature and recommended a very comprehensive package of legislation to us. It does not request that further study be done, but instead it gave us an action plan for us to work off of. Thank you very much."

Representative Saiki asked that his remarks on H.B. No. 2003 on Third Reading (March 1, 2004), and on Final Reading (April 15, 2004) be incorporated on this bill by reference.

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

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

Representative Lee's written remarks are as follows:

"Madame Speaker, I rise in support.

"This bill will provide the means for our State to begin in earnest the fight against "ice" use and its destructive aftermath.

"Members of the House and Senate Task Force on Ice spent many hours over the interim meeting with communities and listening to people involved in treatment, prevention and law enforcement. They also listened to the stories of families severely impacted by the presence of an "ice" user.

"On a personal note, I became a member of the Mililani Town Anti-Drug Committee, through which I gained a greater understanding of the scope of the problem. In addition, I chaired our town's Legislative Action Committee on "ice", and had an opportunity to hear many of my community's concerns.

"This bill is a wonderful start. We have much work to do; however, we are surely on our way to a solution."

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

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

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

"Thank you, Madame Speaker. I'd like to request the words of the Chair of Judiciary to be incorporated into the Journal as my own.

"In addition, I'd like to retract what I said last year, last Session when I said that we should put our money where our mouth is. I was really negative on the legislation that we passed last Session because we didn't have enough money in order to make a big difference. Little did I know that, I guess the leadership of the House had something planned and didn't tell me. So I apologize."

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

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

"Madame Speaker, in strong support. I'd just like to congratulate the Chairs and the work of the Ice Task Force. And as much as this measure complements and supports and builds up our previous enactment of the nuisance abatement law, I think they did a terrific job, and I congratulate them. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2004, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED

SUBSTANCES," passed Final Reading by a vote of 49 ayes and with Representatives Arakaki and Leong being excused.

At 12:56 o'clock p.m., the Chair noted that H.B. No. 2004, HD 1, SD 1, CD 1, passed Final Reading.

### FINAL READING

The following bill was taken from the Clerk's desk and the following action taken:

Representative Saiki moved to agree to the to the amendments proposed by the Senate to the following House bill, seconded by Representative Lee:

H.B. No. 2003, HD 1 (SD 1)

The Chair then stated:

"This is just to agree. We have two motions. We move to agree, and then later on after that motion, we move for Final Reading. Is there any discussion on the move to agree?"

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 2003, HD 1 (SD 1), with Representatives Arakaki and Leong being excused.

The Chair addressed the Clerk who announced that the record of vote form for the aforementioned bill had been received.

### H.B. No. 2003, H.D. 1, S.D. 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2003, H.D. 1, on the following showing of Ayes and Noes:

Ayes, 5 (Hamakawa, Takamine, B. Oshiro, Kawakami and Pendleton). Noes, none. Excused, none.

Representative Saiki moved that H.B. No. 2003, HD 1, SD 1, pass Final Reading, seconded by Representative Lee.

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

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

"Madame Speaker, by reference, I'd like to incorporate the speech given on the previous bill in support of this measure. And also by reference, I'd like to incorporate the words from my earlier speeches on Second and Third Reading on this measure. Thank you very much," and the Chair "so ordered." (By reference only.)

At 1:00 o'clock p.m., Representative Pendleton requested a recess, and the Chair declared a recess subject to the call of the Chair.

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

The Chair then stated:

"Representative Pendleton, did I already recognize you and you gave your speech? I had your name down, I wasn't sure."

At 1:08 o'clock p.m., Representative Pendleton requested a recess, and the Chair declared a recess subject to the call of the Chair.

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

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

"Madame Speaker, I would like to speak in opposition to this proposed bill.

"Madame Speaker, there are several sections of this bill that taken together, constitute a weakening of the effort that we have mounted in the past against those who possess crystal methamphetamine. And that is in spite of the fact that we're going to hear speeches about how this is actually making things tougher.

"An example is in Section 2, where language would seem to suggest that we're making it harder for people to escape when they possess or when they are dealing in crystal meth. But where we were prior to the passage of Act 161, in 2002, was that if you possessed any amount of crystal methamphetamine, you could face jail time. Now, we say you will face jail time for having various amounts of crystal meth if you are in the process of distributing it.

"We asked the City Prosecutor how that would affect the Prosecutor's taking people to prison when they have to actually prove that the defendant is distributing drugs rather than just having possession. In rough terms, they estimated that two-thirds of the people that they would want to convict for having crystal meth will not be charged if they have to actually prove distribution in order to carry the case forward. In other words, they'll find somebody with a substantial amount of crystal meth faced with the need to go ahead on the case only if they can prove distribution, in two-thirds of the instances, they estimate they will simply drop the case rather than moving forward.

"Now let me just talk about some of the other problems with this bill. Section 11 is the most onerous part of this bill. That's what we call the 'get out of jail free' section of the bill. You may be headed for prison for committing a nonviolent crime, perhaps on a repeat offense, perhaps you're caught stealing something for the fifth time in a row, and the mandatory prison sentence is going to kick in. But you're a smart thief, so you carry a small packet of crystal meth on your person, when you're arrested, because you're also somebody who's being charged with the possession of drugs and along with your crime of theft, you have to go through the probation treatment process dictated by this Act, by Section 11 of this bill. And you will not go to jail. However, if you're without the packet of ice, you will go to jail. Now that's the strange convoluted reasoning that's in this bill, Madame Speaker.

"Sections 10 and 12 interfere with the ability of judges dealing with somebody who's on probation. Or the Paroling Authority dealing with somebody on parole, to send them to prison if they violate the terms of their parole. It has a strange *Catch-22* that the only way you can be sent to prison is if you cannot benefit from a substance abuse program. The Chair of the Paroling Authority has to determine that you cannot benefit in order for you to go to prison. That's a very difficult hurdle to clear if not impossible.

"Amazingly, this bill takes Act 161, which is already a completely weak effort to deal with the problem of ice and makes it weaker. In Act 161, the first time you're arrested for a crime dealing with crystal methamphetamine, you have to be put on probation. Under Sections 5, 6, and 7 of this bill, even repeat offenders don't go to prison. This is an extreme view of the theory that being somebody dependent on crystal meth is the same thing as being somebody who has diabetes. So we're treating these people as if they're sick, not as if they're criminals.

"The business community in a later section of the bill is going to be required to in a mandatory fashion to extend health coverage to people who are dependent on drugs. They're going to have to pay the additional cost to cover that.

"Madame Speaker, this bill says nothing about Walk and Talk, or Knock and Talk, the provisions for dealing with ice that the federal government, the Honolulu Police Department, the various county prosecutors and police departments all think are very necessary to enable the State to carry on charges that the federal government can't handle for the same crime until we fix the State laws so that we have that parity between federal and State government. We will not be able to charge people in State courts for the same crime that they would be charged for in federal court because we can't admit the federal evidence in the State court. It's a big failure on our part. It's the kind of thing that we should be doing instead of creating a law that looks like we're doing something good, when in fact we're making it easier for people who deal in ice to walk scot-free. Thank you, Madame Speaker."

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

"I rise in strong support of this measure.

"I really am, I guess puzzled by much of the criticisms of the bill. But I guess as I stated when this bill came before previously, it is an ideological difference. Some people believe that mandatory minimums are the only way to go. Some people believe that putting people in jail, locking them up, is the way to go.

"However, as we've seen the experience across this nation, what we've come to realize is, the war on drugs, exclusively being tough on crime is not providing the solutions that we need. For thirty years we've seen the federal government conduct its war on drugs and unfortunately, what we've seen is heroin, cocaine, methamphetamine, and other illicit drugs are cheaper, purer, and easier to get than ever before. And that's why what we see in other states are movements away from mandatory minimums.

"In 1996, 19 out of 24 drug policy reform initiatives, initiatives by people themselves, have passed around the country reducing mandatory minimums. We also see that when you look in total across the nation, 25 states have moved away from mandatory minimums because what we've really come to realize is if we are going to be trying to solve this problem, what we need to do is take a comprehensive look at it. What we need to do is as I've stated before; we all need to work together, because this is a very complex problem. And unfortunately, one approach is not going to be sufficient to solve it. Just getting tough on crime, just locking these people away is not going to solve the problem because what you need to do is address it at its most basic core, which is breaking the cycle of addiction. And the only way that is proven to break that cycle of addiction is to focus on treatment and prevention.

"The RAND study by the Drug Policy Research Center found that for every additional dollar invested in substance

abuse treatment, you save the taxpayers more than \$7 in societal cost. \$7, that includes treatment, prison, and other adverse effects on our society.

"In the State of Arizona what we saw is their experience that they saved \$50.25 compared with the \$16.06 when it came to treatment. So there's a huge disparity when you put people in prison versus you're trying to get them treated. That's just the cost alone.

"But what we also know is if we are going to break the cycle of addiction, we do need to have these treatment services. And that's why the people we have empowered primarily in this bill is the people that know best. The people that see these defendants come before them and can make a determination. And that is the courts, the judges, or in some cases the Paroling Authority. What we've done is we've given them the ultimate discretion to look at the person, look at them, look at their history, see what they are doing, and if they meet medical criteria as found in the Diagnostic Statistical Manual of Mental Disorders, that they have a drug abuse problem, as diagnosed, then they may be able to get treatment instead.

"And that really comes to another ideological difference. One of the previous speakers said what we're doing here is treating them like they're sick, not like they're criminals. That's exactly what we're doing. Medical science is strongly in support of the idea that drug addiction is a sickness. It's a disease. And unfortunately, some people get caught up in the disease. Some people get caught up in this web and the only way we can break it is through treatment. And that is what this bill does. And that is why I'm in strong support of it. Because as I've stated before, what we all need to do is work together if we're going to try and solve this problem. The courts need to get involved. The communities need to get involved. And that is why, what we have in House Bill 2004, was giving the communities some of that empowerment and that's still contained in this bill here.

"One final point, I'd like to address is some concerns that were brought up. Basically when it came to the idea of tort liability ..."

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

Representative B. Oshiro continued, stating:

"Thank you very much. There were concerns that the drug dealer liability section in this bill. What it does is it possibly infringes on the ideas of right to choice. And we want to make clear that this is not the intent. The intent of this bill is to expand tort liability for drug dealers when their illicit activities cause undue impacts on our society. And that is why on page 40, line 6, subsection 2, what we've done is allowed a person, once born if they unfortunately suffer adverse consequences from being *in utero* and getting exposed to drugs; if they, once born come out with birth defects; if they, once born come out and have adverse effects, that they are able to bring a lawsuit, probably through a guardian. They would have to get that done in court. But they would have the legal standing in order to sue the drug dealer who profited off of their injuries. And that is the primary idea behind tort law. It's all about compensation and trying to bring the person whole.

"If the fetus were to pass away unfortunately due to the drug abuse, there is a wrongful death action that can be taken at that time. So this is not really trying to address that. And we did want to clarify that was the intent of this. Because really the people we want to hold accountable are the traffickers and manufacturers of drugs. Because they are the ones that are taking advantage of our society merely in the name of profit.

So with that, I just wanted to clarify the intent of this bill and I stand in strong support. Thank you very much."

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

"Thank you, Madame Speaker. I'm rising in opposition to the bill. I would ask that the words of the Minority Leader be inserted in the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

Representative Meyer continued, stating:

"I just wanted to say that in all the many hours and different facilities and different speakers that we heard from in the Ice Task Force, as a member of that this past summer and into the fall, repeatedly we heard that this was an epidemic that we had to fight on three levels and that was treatment, prevention, and interdiction. And it was acknowledged many times over that some our laws really just held the hands of our police and law enforcement people. And it was repeated over and over. So I had high hopes that something would come out of this session that would help in that direction.

"You may say it's like the 'chicken and the egg'. If you're not addicted, you don't want the substance, so what you is get rid of the substance. Get rid of the addiction and you don't want it, but you have to fight it on all three levels. First the prevention that hopefully will educate our young people that this is not a road you want to go down. Then we don't even have the problem. But once they're addicted, this is a substance that we're looking for. And then you try to get the people that are profiting, selling the substances and make it harder for people to get the substances. And lock up the bad guys that are offering free samples and what not to our young people and getting them started.

But this bill doesn't do that. And it treats dealers as if they're sick people. That they're addicted. If you have slightly under an ounce, you're not a dealer. Except the average user is not walking around with an ounce. And that's a lot of ice and it cost a lot of money. And so we are really sheltering these dealers that are profiting big time on the backs of addicts and creating so much havoc with their families.

"So there are some good things in this bill but it's nowhere near what I had hoped for and what I thought was a clear message to all the members on the Ice Task Force. But obviously some of my colleagues there heard a very different story. They didn't get the message that I got. Thank you."

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

"Thank you, Madame Speaker. In strong support.

"Madame Speaker, the issue of Walk and Talk, and Knock and Talk has been brought to the Floor today. At the hearing, I asked the Attorney General if he was familiar with Walk and Talk, if he had ever seen it work, if he'd ever talk to anybody that had been through Walk and Talk, and he said, 'no.' And so what is your concept of Walk and Talk? Well according to the police, they suspect somebody, have a hunch, and so they walk along with that individual and say, 'Can we talk to you about drugs?' And if the individual says, 'no', that's the end of it. This is what the police tell you.

"Well, my son is an independent businessman, an individual contractor. He had just finished working a program. Long hours and he was on his way home, probably in shorts and slippers, long hair. And a police officer came up to him. They stopped him, got in front of him, showed him a badge. 'Can I

look in your carry on?" He said, 'Sure, go ahead.' She wasn't interested in that. Pretty soon another police officer came up. He was stuck in between these two police officers. Could not move. Could not get out. All of this going on while his wife, in the open, people that he knew were saying, 'What kind of a guy is this?' His wife and daughter are watching from the car. And I will tell you that had a lasting impact on my granddaughter.

"I don't want anyone else in this State to go through that. And the police guess maybe one out of ten. The other nine don't complain because they just happy to have it behind them. But that's the reason we put the dogs in. And I will tell you that very demonstration before the Ice Committee, when the Department of Public Safety brought a drug dog in, that dog hit on ice. So they do hit on ice.

"And as far as Knock and Talk, we've heard problems throughout this State of police officers who might have gone astray because of the \$3 to \$4 to \$5 million dollars a day that is being exchanged on ice. And I cannot vote to give every single police officer in this State the ability to go knock on your door without any cause at all and ask you about drugs.

"When the police talk about when we needed to have all of this evidence in order to close down an ice house. You know what we said to them? Go take your police car, park it right in front of that house, turn on your flashing blue light, get out your camera and you're going stop the demand side. You're going to stop the demand side. They're so hung up on making sure that they've got to arrest somebody. One of the things we've done in these bills is we've addressed the demand side. And you clean up a lot of communities by addressing the demand side."

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

Representative Herkes continued, stating:

"For example, in Pahala, the drug dealers were using a vacant house. Well what the community did, they went took the roof off the house and all the doors. They stopped the demand side. And those people left town. Those are just experiences that I have had in my community with my family in my lifetime. And I support the bill."

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

"Thank you, Madame Speaker. I rise in opposition.

"Thank you. Madame Speaker, I draw the line. I draw the line very, very, very deeply in the sand when I think of someone who has made a conscious decision with all their information about avoiding drug use to go ahead and try drugs to get addicted to ice and then to go into somebody's home, commit a crime, and to put them on the same footing as a diabetic or someone who's sick. I don't believe that when somebody violates the rights of someone else, they violate, they come into their home, or did any sort of other crime, that that is the same thing as being a diabetic. I think there's a great difference.

"And what brings this to mind is a situation where a gentleman coming home, he was a friend of my father, came home one day in Punchbowl, got shot in the chest by a drug user. And that could happen to any of us. And then secondly, when we have people on crystal meth on the streets, I don't want to have any of my loved ones, anyone for that matter being in a car, innocent bystander, and have some person on crystal meth, who we'll know has been a user before and caught

for other things to zap that person out of existence because of their driving.

"And we just heard about all the situations that are escalating. This is not the Hawaii I was raised in. This is not the Hawaii I know. This is crazy. You read the papers these days, it's crazy. It's nuts. And so when I think that we may try to allow people because its true. I'm all for treatment where treatment is prudent. But if you talk to people who are, again frontlinemen in the medical field, there are different levels of being able to be a real success in treatment. And so I don't think that a broad brush is an important idea.

"My second concern is what about making a victim's whole? We have an epidemic if I do need to remind everyone. We have an epidemic here and there are victims every day. And think that the balance between law enforcement and nurturing, it's like a mother and a father, we're nurturing when you raise you child but strict discipline. I think in my thoughts it's a good way to raise a child. Structuring discipline also nurturing and reward when there is good behavior.

"So I think that this bill is eroding some of that. And on a last account, regarding the debate on federal level. I call Ed Kubo the 'Eliot Ness of Hawaii'. I do. I call Ed Kubo the 'Eliot Ness of Hawaii' because every time I see the TV, when the feds can go in and crack down on all those houses and stores and fronts, I rejoice. So if we can have some parity between the federal and the State, I think that's what the all of the people I've talked to in my district want. But I don't want to be walking on the street or anyone I love, knocked out by someone who made a wrong decision. It's too late. It's too late when they're gone. Thank you."

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

"Thank you, Madame Speaker. I rise in opposition.

"First of all I'd like to incorporate the words that I spoke on this measure prior to this Final Reading, as well as the words, from the speakers from Waikiki, as well as Laie," and the Chair "so ordered." (By reference only.)

Representative Stonebraker continued, stating:

"These bills are sort of easy to argue on, as the Vice Chair of Judiciary mentioned it, but it is philosophy. And I like to debate things that are philosophical in nature because we know where everything stands. And the Vice Chair of Judiciary is right, it is philosophical difference. And with that in mind, I can approach this and say yes, there are two philosophical differences here and there is where I stand. There's no offense for voting yes or for voting no. Basically we've laid out where we stand on issues. And so there's nothing personal about it. Which I like.

"See philosophically, I like the idea of treatment and for all practical purposes, I don't think jail time is always the answer. I think a person that commits a crime against a neighbor or community should actually pay restitution. But we've come to such a state in our communities where criminals don't pay restitution. They don't restore vehicles that they have stolen. Or white-collar crime, they don't repay the entity that they've stolen from or the identity theft or the money they've taken from a credit card. We don't get the money back from criminals.

"Actually, we have to pay lots of money to put them in jail, to give them '3 hots and a cot', nice weights, television sets and so forth and so on. I don't like that philosophy. I don't like the idea of putting people in jail. However, it is absolutely

necessary for the protection of the people in a community to remove individuals from a society that are damaging to their friends and their neighbors. And this is the point to where we come in Hawaii, where the people of our communities are being victimized by the dealers and by the users who are committing crimes based on their need to acquire more crystal methamphetamine.

"And so we have two philosophies, and how do we tackle it? Do we tackle this with the government providing motivation in the positive? To get these users to get off of drugs. Is that the philosophy of government? Can government actually motivate people on a positive level? I don't think so. I think the thing that motivates people toward a positive end is the things that are in our community like family.

"Madame Speaker, whether there was a law or not against crystal methamphetamine, I wouldn't need it because I'm not going to do the drug. I'm not going to use drugs. I don't need a law. Because I have a moral government within myself that will do the right thing and I believe most of the people in this great State of Hawaii have that. We don't necessarily need more laws to motivate people toward the good. My philosophy is that the government sets laws into place to motivate people against doing the wrong thing. That's why we have laws that are tough on crime. What motivates people toward the good is family. This is why we're constantly trying to push back and make the size of government smaller so that families can have the resources they need.

"Madame Speaker, today is tax day. And I know personally that my resources, half of them go to the government, whether it's State, federal, or City. Half of my resources go toward the government. I will have to work half the year before I start earning money for my family. And when we force people to go to work two or three jobs, to force both parents to work one or two jobs, how can we expect that the families will be able to motivate their children and their neighbors and their communities in a positive way? If we 'seeded' the ground that the family should be the thing that motivates people to not do drugs like I hope to do for my family and you for yours and the Members of this Body for theirs. If we take their resources and try to use the government to motivate them for good, of course it's not going to work. That's my philosophy.

"And so this bill is based on a philosophy that I disagree with, overly generous to both users and to dealers in the hope that it will motivate them toward the good. It will not. It will actually do more damage because what we need to do is give the tax relief, give the ability to families to do their jobs. To raise their children in an environment where they have the time of their parents investing in the next generation.

"And so for those reasons and the reasons that I've mentioned on other readings, and the speaker from Waikiki and Laie as I mentioned that I've asked their that their words would be incorporated as my own, I say let's do the opposite. Let's send the money back to the parents. Let's let one parent work to be able to support the family so that the other can educate or be involved in the sports or the upbringing of their children to a great degree so that we can avoid this drug problem going from one generation to the next. Let's break it where it really matters by giving the families the power that they need to instill the moral fiber in their children and the next generation. Thank you, Madame Speaker."

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

"Thank you, Madame Speaker. In opposition. I'm going to save this Body a lot of time. I'm going to incorporate the words

of the speaker from Waikiki, Laie, and Hawaii Kai," and the Chair "so ordered." (By reference only.)

Representative Moses continued, stating:

"I just want to add that if this is a disease, then it's a disease of addiction. And people who are addicted, don't give up that addiction until they hit rock bottom. And they have to be made aware of that. And they have to want to change. Nobody that's addicted to anything ever changes until they want to. Thank you, Madame Speaker."

Representative Fox rose to respond, stating:

"Thank you, Madame Speaker. Still in opposition.

"The Model Penal Codes that Hawaii discarded in connection with dealing with crystal methamphetamine basically say that if you have a certain amount of the drugs, you go to prison because it's assumed that you would only have that amount of drugs if you were a dealer. And that's unfortunate what we're getting away from. Under this current law, you can have a trunk full of crystal meth and not go to prison because the only way you go to prison is you have to be shown to be distributing that drug. Possession alone doesn't do it. And that's the big mistake of getting away from the Model Penal Code. We're taking people that are dealers and letting them stay on the streets. And that's a big mistake.

"The Vice Chair of the Judiciary Committee said that in this law, we are putting authority into the hands of the judicial system and in the paroling authorities. Madame Speaker, it's the opposite. We're taking power out of their hands. Because the only way that a judge or Paroling Authority can send somebody to prison for repeatedly getting involved with crystal methamphetamine is if they determine that no treatment program will work. The option of sending the person to prison and having them go through treatment in prison is denied to the community under this bill. Can you believe it? It's denied to the community under this bill.

"Madame Speaker, the Representative from Kau described an incident where the police may have misbehaved and said therefore we shouldn't have the law. Are we to follow this logic through? Are we to stop searching with warrants in homes because sometimes the police over-zealously search homes with warrants? It is true, it is a fact Madame Speaker, warrants are abused. It's unfortunate sometimes they are abused. Are we to give up the whole process of searching with warrants because sometimes there's abuse? I suggest we should discipline people who abuse their authority, but give the police the authority to do the job they have to do. This community desperately needs enforcement. It is one of the three legs. And we're not providing it with this bill. Thank you, Madame Speaker."

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

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

"Thank you, Madame Speaker. I rise in opposition to this bill. And to save time I'd like to incorporate the words of the Representative from Hawaii Kai in the Journal as my own. Thank you," and the Chair "so ordered." (By reference only.)

Representative Herkes rose to respond, stating:

"Still in support.



"Under Walk and Talk, and Knock and Talk, you don't need a warrant. And as far as treatment, we're advised by treatment facilities around the State that the success rate for voluntary and involuntary confinement is about the same.

"As I have said on this Floor a number of times, I understand a little about addiction, I'm an alcoholic. Fortunately, I've been alcohol-free for thirty years. But I know a little bit about it and what they go through. And one of the really important things in this bill is the ability for a family to forcibly commit an adult family member addicted to ice into involuntary treatment. And I'm a strong supporter of that because I have been told in my district about that need.

"And I talked earlier about Debbie Javar. It will give her the opportunity to commit her 21 year-old son into treatment and hopefully some cure. Thank you."

Representative B. Oshiro rose to respond, stating:

"Madame Speaker, I rise to still support the bill and just clarify some previous remarks.

"Thank you very much. On page 20 of the bill, subsection 712-1241, we're not touching that Section so any assertion that a trunk full of drugs would still not be considered possession or drug trafficking is false because we're not touching that existing Section. I just wanted to clarify that.

"Also people have talked about the Walk and Talk and that what we need to do is change our laws. That's inaccurate because what we need to do is change our Constitution. Our Constitution in Article I, Section 6, and Article I, Section 7, talks about a Right to Privacy. And it's this difference in our State Constitution from the federal Constitution that is the basis for the Supreme Court's interpretation. That when it comes to something like a Walk and Talk program, what you need to do is have clear, articulable facts if you are going to have this program. They've never said you can't have the program. All they said was, you can't stand at the airport, take a look at people exiting the gateway and based on a hunch, choose who you want in order to walk with them, talk with them and in essence make them feel like they're stopped and seized and held because that is against our Constitution.

"And there's a very good reason why our Constitution is different than the federal Constitution. It is because we wanted to provide more rights for our citizens. Because we've seen what happens in times when the federal government or any government, when not bound by a Constitution, feels that they can infringe on individual rights. And that's why I don't believe we should be heading down that road.

"And I've stated before why I don't believe there's ever been a statement that we can't have Walk and Talk. All we have to do is have the police and law enforcement or the Attorney General have articulable facts when they stop somebody. And then they can fully Walk and Talk with somebody. But they refuse. Instead, what they want is they want us to amend our Constitution to make their jobs easier. When I asked the Attorney General, is there nothing you can do with your program to make Walk and Talk constitutional? He said no. And then right after that, I asked him what if we brought in a canine dog, and made that your articulable facts, would that be okay? He said yes. That was in one minute. I got him to admit that there is something they could possibly do to make it constitutional. Maybe if you thought about it more than one minute, we could come up with other solutions. But to date, I have seen none of that effort. Instead what they want to do is criticize the Supreme Court and make false assertions that we don't allow Walk and Talk. They can. They just need to do it properly. Thank you."

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

"Thank you, Madame Speaker. I rise in support. I would like permission to insert written comments also," and the Chair "so ordered."

Representative Jernigan continued, stating:

"And briefly, one thing I've learned here since I was elected last year, is a lot of bills are works in progress such as the gas cap bills two years ago, we're still working on it. I think this bill can be worked on some more next Session. And I'll try to do that. Thank you."

Representative Jernigan's written remarks are as follows:

"Mr. Speaker, I consider this bill a work in progress. I don't believe it provides harsh enough penalties for drug possession and intent to sell. It provides too much aloha for drug criminals instead of jail time. Treatment is a noble cause, but will only be effective if the person wants to be cured. I believe the threat of long jail sentences along with treatment would be more effective."

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

"Madame Speaker. I rise in support of this measure. I'd like to incorporate my comments made on Third Reading.

"But I'd like to note that the legislation before us is revolutionary because this is one of the first instances in recent history where the Legislature has made a concerted effort to amend our Penal Code to address this issue in a comprehensive manner. The legislation before us creates eleven new criminal offenses which cover or prohibit trafficking, manufacturing, and possession of crystal methamphetamine. Taken together, these offenses account for 103 years of prison time and fines of between \$16 million and \$45 million. The legislation before us is very significant. It does use a penal approach to curbing this crisis. And for these reasons, I am in support of this measure. Thank you."

Representative Meyer rose to respond, stating:

"Thank you, Madame Speaker. I just wanted to rebut and obviously I'm not going to change anybody's mind here. But I also listened to the speaker in the auditorium that the Representative from Foster Village talked about, who said that ice has no odor. And he gave an example of a very large drug dealer who had been moving a lot of ice between here and mainland and somebody wanted some high quality marijuana. And so with the ice, he put in the marijuana and when the dogs went in there, they smelled the marijuana but went right by all the ice. There was way more ice than there was marijuana. So it was just his own greed got in the way for him and he was found out that way.

"Ice doesn't have an odor even when people are smoking it. So it's not so that the dogs are going to smell this. So it keeps coming back that dogs are the answer. I don't believe that. The federal agents do Walk and Talk at the airport. The federal agents can go up to somebody's house and knock on the door and ask to come in.

"This is an epidemic. This is really a tragedy to the families of Hawaii. And I think a little disruption, maybe an uncomfortableness, if somebody is asked by a policeman who came to your door. It would not be the end of the world. They do it in other States. Why is it Hawaii is always different? We

have one of the biggest problems in the entire United States and still people hang on to this thing, this Right to Privacy. What about the right to be safe in your home? What about the right to raise children in a drug-free environment. Those things are not afforded to us because of this crazy idea of the right to privacy no matter what in the heck you're doing. Or what in heck your neighbor is doing. And everybody he's dealing with. So it gets me really irritated that we just continue to hang on to this. Thank you, Madame Speaker."

The motion was put to vote by the Chair and carried, and the House agreed to the amendments proposed by the Senate to H.B. No. 2003, H.D. 1 and H.B. No. 2003, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ILLEGAL USE OF CONTROLLED SUBSTANCES," passed Final Reading by a vote of 38 ayes to 11 noes, with Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Leong, Meyer, Moses, Ontai and Stonebraker voting no, and with Representatives Nakasone and Souki being excused.

At 2:01 o'clock p.m., the Chair noted that H.B. No. 2003, HD 1, SD 1, passed Final Reading.

#### UNFINISHED BUSINESS

**Conf. Com. Rep. No. 6-04 and H.B. No. 2743, HD 2, SD 1, CD 1:**

By unanimous consent, Conf. Com. Rep. No. 6-04 and H.B. No. 2743, HD 2, SD 1, CD 1, was deferred one legislative day.

**Conf. Com. Rep. No. 7-04 and H.B. No. 2796, HD 1, SD 2, CD 1:**

By unanimous consent, Conf. Com. Rep. No. 7-04 and H.B. No. 2796, HD 1, SD 2, CD 1, was deferred one legislative day.

**Conf. Com. Rep. No. 8-04 and S.B. No. 2525, HD 1, CD 1:**

By unanimous consent, Conf. Com. Rep. No. 8-04 and S.B. No. 2525, HD 1, CD 1, was deferred one legislative day.

**Conf. Com. Rep. No. 9-04 and S.B. No. 3238, SD 2, HD 2, CD 1:**

Representative Saiki moved that the report of the Committee be adopted and that S.B. No. 3238, SD 2, HD 2, CD 1 pass Final Reading, seconded by Representative Lee.

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

"Thank you, Madame Speaker. In opposition.

"Madame Speaker, in short, this bill leaves the Department of Education basically unchanged. It leaves the Board of Education unchanged. It leaves the educational system of Hawaii primarily unchanged. And unfortunately, Madame Speaker, it actually dis-empowers principals at a time when we realized that empowering principals is the way to go. It is a deep disappointment. We thought we started this Session with a message that made sense: let the people decide. We have come up with a bill that does very little.

"I just would like to talk about one specific section, there is a discussion in this bill of lowering class size for people from Kindergarten through Grade 2. We heard from a retired

principal who said this proposed legislation among other things, asked for funds to reduce the K through 2 class size. The class size was reduced 20 to 1, ten to fifteen years ago, and so what? To my knowledge, no follow up was ever done on the reduction of class size. Has learning, teaching improved? I don't believe so. Now what assurance does the community have that we're doing this again, doing what we tried ten to fifteen years ago is going to make any real difference? And that's from somebody, a retired principal from the Department of Education system. Thank you, Madame Speaker."

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

"Thank you very much, Madame Speaker. I rise in support of the measure.

"I'm not going through this measure section by section or line by line. I'm sure everyone has read it. I'm sure everyone understands it. Allow me to use my limited time to show a broader perspective about education in general and this measure in particular.

"Madame Speaker, it goes without saying that bills that come before us are not simply words and numbers on paper. For example, the budget bill isn't just about 'counting beans' and wondering if we have enough of them to balance that budget. It's a moral document. It reflects our values and symbolizes who we are as a community. The measure before us is no different. Hence, it is important to know the underlying rationale, the basic premise, and the fundamental principle that it is trying to achieve.

"Madame Speaker, I believe that the purpose of education, and the purpose of life are one and the same. It's to find happiness, which means to find things that interest you and give you a sense of satisfaction. Schools, like families, communities, and nation states should be places where people are given the means to become humane, involved beings. It should be a place that children are allowed to think and feel for themselves. Where they are nurtured and encouraged to have faith in themselves so that they may become concerned, active, and sensitive members of our society. All else is secondary, Madame Speaker.

"In other words, as long as we're caught up in tests, reviews, grades, and all the rest of it, schools will always fall short of developing people with the means to meet the future. A.S. Neal stated it succinctly when he said that learning itself is not as important as personality and character. Let's we forget, we should be reminded, that the scandals we've had in the past such as Watergate, and more recently with Enron, were committed by men of impeccable academic achievement but fell short on character.

"Education and life are almost redundant words. Pestalozzi, my favorite Swiss educator by the way, Madame Speaker, pointed out over a 175 years ago that it is life that educates. All the child does, his emotional, intellectual, and vocational education must be closely connected with real life. John Dewey called this what should be the social spirit of schools. Like Tolstoy before him, Dewey stressed the need to experiment. That the school itself be a community and that you cannot separate learning in a sterile vacuum from what goes on outside of school.

"I firmly believe that the measure before us reflects this ideal. And we'll enable each school to be a place that no longer exists in a vacuum, separate and apart from the greater community. It will empower each school and all of its stakeholders to experiment, to innovate, and to respond in ways that truly reflects the desires and dreams of their children. It will extend

to each school the flexibility, the autonomy, and the authority to truly bring about local control and decentralization. In short, the measure before us turns the system on its head and makes it driven by the needs of the individual school, first and foremost. Make no mistake Madame Speaker, this measure reinvents the way our schools are operated and funded.

"However, make no mistake about this, bringing about systemic change is challenging. It is easy to propose something that is ill-thought out, but it's top-down. 'Do it my way or take the highway' sort of approach. And while this might be expedient politics, it results in egregious policies.

"The changes embodied in this measure are not going to result in drastic improvements overnight. Let's be clear about that. However, it is not based upon the idea that you need to destroy the system in order to save it. I believe an institutional change must be reasoned and reasonable. It must be prudent and possible. And above all, it must be inclusive and involved.

"Throughout, this whole debate on school reform, we constantly heard that it's not the people in the system, it's the system that's the problem. And yet when we worked with the stakeholders in that very same system to craft this measure, the criticism was that involving the stakeholders ..."

Representative Lee rose to yield her time, and the Chair, "so ordered."

Representative Takumi continued, stating:

"The criticism was that involving the stakeholders will only result in fake reform. I respectfully disagree, Madame Speaker. Like it or not, whatever we propose will be implemented by those who are currently in the system after all. I didn't hear anyone proposing that we get rid of everyone in the Department of Education, and start from scratch tomorrow.

"Furthermore, the measure represents working in collaboration with many others who are not employees in the system, but care passionately about education. Partners such as the Business Roundtable, the Chamber of Commerce, the University of Hawaii College of Education, the Hawaii Educational Policy Center. Most importantly, organizations that represent students such as the Hawaii State Student Council, the Hawaii State Student Conference Planners, and the University of Hawaii's Student Caucus. Their fingerprints, Madame Speaker, their input is in this measure. And I can assure you that they don't think this measure is fake reform.

"On a previous debate on this Floor, it was said that the reason that San Francisco is making great strides in their system is because of their leadership as exemplified by their superintendent. I suppose this is a backhanded way of expressing concerns about the current leadership in the Department. This has been my greatest disappointment."

Representative Stonebraker rose to a point of order, stating:

"Madame Speaker, point of order. That comment was directed at a colleague of mine and I know that it has nothing to do with anything truthful. And I believe it's uncalled for at this time."

The Chair responded, stating:

"Representative Takumi, I'll allow you to proceed."

Representative Takumi continued, stating:

"Thank you very much, Madame Speaker. Every single proposal offered by the Administration has come about without

sitting down with the Superintendent and her staff to see if there can be a meeting of minds. For example, the proposal to send 90% of your operating budget immediately to each school was formulated without speaking to the Superintendent or anyone in the budget office to learn what the impact would be. I've offered this suggestion in the past Madame Speaker, and I offer it again today. Sit down with the Superintendent. Talk story with her. She won't bite. I've seen her growl from time to time to tell you the truth, but she won't bite, trust me. I have spent hundreds of hours with her and her staff over the past year that I have served as Chair of the Education Committee and this is what I've learned. She's not glib, and facile, full of sound bites. She's not driven to do what she does by opinion polls or by politics. She certainly doesn't believe that press releases are a substitute for thoughtful public policy.

"Let me tell you what she is. She is a teacher. She's passionate about education. She's committed to improving student achievement. And she believes, and the Board of Education agrees, that she can do the job.

"But Madame Speaker, there's always a catch. There's always a condition. There's always a caveat. And the Superintendent said as much on January 28 when she addressed all of us here in this Chamber. She said, give her the tools and the space to do the job. She said, stop telling her what her job is or how to do her job. She said, not to tie her hands. This measure provides her with some of the tools and the space she talked about. It cuts the 'Gordian Knot' and to free her in each school in the system. Let's complete our job so that she can do her job. Let's pass this measure out today. And then most importantly, Madame Speaker, let's get out of the way. Thank you very much."

At 2:11 o'clock p.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:12 o'clock p.m. with Speaker Say presiding.

## LATE INTRODUCTION

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

Representative Saiki introduced Superintendent of Education, Ms. Pat Hamamoto.

## UNFINISHED BUSINESS

(Conf. Com. Rep. No. 9-04 and S.B. No. 3238, SD 2, HD 2, CD 1)

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

"Thank you, Mr. Speaker. I'm very glad that the Superintendent of Education is here because I respect her and I would like her to hear the words from those of us who do not support the bill. I'm one of those, Mr. Speaker.

"Mr. Speaker, I guess concisely said, you could say that there's a worm in the education apple. The problem with this bill is it leaves the bureaucratic, massive Department of Education unchanged. The problem with this bill is it leaves the Board of Education unchanged. One central Board. One central Board that meets primarily in Oahu. It leaves our public education system unchanged. And even more importantly, it leaves the voters out of the whole education reform because this bill will not let the voters decide and vote on education

reform. It's an absolute slam in their face. It's embarrassing. And it's wrong.

"Another thing this bill does not do, it does not recognize the strength of our charter schools and raise the number of charter schools that could be empowered and restarted in this State. It leaves them in a struggling position.

"Mr. Speaker, it's not education reform. I know that there's been ... The Chair of Education has used the words, 'fake reform' numerous times. I have to echo that statement. It is fake reform. It's a feel good bill that is not going to result in student achievement, Mr. Speaker."

Representative Takai rose, stating:

"Point of information, Mr. Speaker. I believe the current speaker is attributing terminology called 'fake reform' to the Chairman of Education. In fact, that term was used by the members on the other side to describe the bill."

The Chair responded, stating:

"Representative Takai, your point is well taken."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. I was the only one that spoke before the prior speaker. I did not use that term. I deliberately chose not to use it. The first person today to use that term was the Chair of Education."

Representative Takai: "Mr. Speaker, in previous discussions on this measure ..."

Speaker Say: "Representative Takai. The Chair recognizes that on the Third Reading, there was the discussion in regarding to the comment being made in regards to 'fake reform'. So yes, you can proceed on, Representative Thielen."

Representative Thielen continued, stating:

"Thank you, Mr. Speaker. Mr. Speaker, there is nothing substantive in this bill that will bring about student achievement. What we have now is a whole new governance system. Where we're going to now have is four entities that can all point fingers at each other to say, 'It's that group's fault. It's that group's fault. It's that group's fault. No, it's that group's fault.' That's why our students aren't achieving. We now have a huge Department of Education, centrally located in Downtown Honolulu. We have a Board of Education that maybe once every ten years will go out to ..."

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

"Point of order, Mr. Speaker. I believe the current speaker on this measure may have a conflict of interest."

The Chair responded, stating:

"The Chair has ruled, Representative Marcus Oshiro, that she has no conflict from prior decisions on this particular measure. So please proceed, Representative Thielen."

Representative Thielen continued, stating:

"Thank you. And Mr. Speaker, I will state it again as I have before, this bill actually does not address the Board of Education straight on. I am the very proud mother of Laura Thielen, who is a Board of Education Member and who does believe that we should decentralize the Board thereby putting her out of a job."

The Chair interjected, stating:

"Representative Thielen, I stated to the Members of this Body that there is no conflict. So please proceed. Two more minutes to go."

Representative Thielen continued, stating:

"Thank you, Mr. Speaker. Let me go on with my train of thought. Sometimes, some of the attorneys in this Chamber use the technique of interrupting as people are speaking to try to divert them. I'm not going to be diverted.

"Mr. Speaker, there are now four entities. Four. There'll be the central bureaucratic Department of Education. There'll be the Board of Education that stays centrally located and once every ten years maybe goes to the district of the Representative from, I believe it is Puna, if I'm correct."

Representative Lee rose to a point of order, stating:

"Point of order, Mr. Speaker. Could the Representative please address the Speaker and not the audience?"

Representative Thielen continued, stating:

"There'll be also this new community of school-based community council. And then our fourth one, if I can recall, is the principal, who is not really empowered under this bill. So students don't achieve. Who's responsible? No one. We've diffused the responsibility even further. I frankly didn't think, Mr. Speaker, that this could happen. I didn't think that this Body could come up with a way to diffuse responsibility even further. So basically no one is accountable for student achievement. No one that you can point to. The school community councils will answer to a very, very narrow constituency. One member of the council will answer to the parents. One member will answer to the school personnel. There'll be someone from the community. But there's no real accountability. Where is the principal empowered, really empowered, with the budget, with the money that should go to that principal? And then where is the principal going to be able to be held accountable for student achievement?"

"Somewhere in this whole document, we've lost the students. We have lost them. We are not going to be helping them with their student achievement. The whole concept of letting the people vote on school governance was to let the people come into the education reform and to say this is what we want."

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

Representative Thielen continued, stating:

"Thank you very much. And that's from a Member from a Neighbor Island who's being left out of the whole governance process. Thank you, sir.

"Mr. Speaker, somewhere we have lost our students through this bill. When the people would be able to decide on school governance, when they would be able to weigh in on that and vote, and I would think that that vote would be yes, we want it brought down closer to our communities. If it turned out to be four counties and four school boards, so be it, but they would be involved in that whole process. That would be their Board of Education. On Maui for example, they would know their board members. Those board members would be on Maui. Those board members would be responsible to that Maui electorate."

The Chair interjected, stating:

"Representative Thielen, at this time, the Chair has been very generous. And presently, there is no reference of any boards on this particular legislation. So could you confine your remarks to the State Central Board of Education?"

Representative Thielen: "To the huge bureaucracy."

Speaker Say: "Yes."

Representative Thielen: "All right, Mr. Speaker, I will. To the huge bureaucracy. But the bureaucracy in the bill is set up with four sort of so-called responsible entities."

Speaker Say: "Yes."

Representative Thielen continued, stating:

"One is the Department, which maintains its control. One is the Board, which maintains its control Downtown. One is the School Community Council. And then one is the principal. And where are the student? They are going to get shafted with this. It's going to continue that we have a two-system education system in this State. Those that work the two and three jobs and can afford it have already voted by sending their kids to parochial or private schools. And a lot of you are right in this room that are doing that. And you voted. And your kids are in private school or parochial school. Then there's the rest of the people. They either can't afford it or they're struggling to work with their public school.

"Mr. Speaker, we have a two class system of education. And this bill does nothing to change that. This bill does not help the teachers. This bill does not help the students. I think it's charitable to call it 'fake reform'. I'd like to call it worse, Mr. Speaker, but I know you'd call me out of order. Thank you."

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

"Mr. Speaker, I rise in support.

"I just want to make a couple of brief points in response to the previous speaker, as well as the Minority Leader.

"We do have a couple of significant philosophical differences with respect to how we're approaching this issue. And I want to address the remarks of the Minority Leader, who seemed to say that it's not clear that smaller class sizes will improve student achievement. And I think that, that's an astonishing statement. Simply reading a comment from a former principal doesn't constitute data. And simply claiming that we should let the people decide or offering some other such sound bite does not constitute data. Our plan is supported by data. And if we have, if there's any philosophical difference that is more distinct, I am not aware of it.

"We certainly believe that smaller class sizes will improve student achievement."

Representative Fox: "Mr. Speaker. Will the gentleman, yield to a question?"

Speaker Say: "Representative Fox. Representative Fox, he's in his ..."

Representative Fox: "Will he yield to a question?"

Representative Schatz: "I would like to ..."

Speaker Say: "Don't interrupt him until he's finished. You can ask for that question, okay? Let him continue on."

Representative Bukoski: "Mr. Speaker. Point of order."

Representative Fox: "It's perfectly proper to somebody to yield to a question."

Representative Bukoski: "Point of order, Mr. Speaker."

Speaker Say: "Representative Fox, please be seated. Representative Bukoski, for what purpose?"

Representative Bukoski: "I believe the Minority Leader is perfectly within his bounds to ask the current speaker if you checked the parliamentary rules, Mr. Speaker, it allows for a point of information."

Representative Schatz: "Mr. Speaker, point of order. I have answered that question. My answer was no."

Speaker Say: "Representative Bukoski, would you please be seated because ..."

Representative Bukoski: "I'd like to ask for a ruling, Mr. Speaker, because the Minority Leader is in ..."

Speaker Say: "Representative Schatz, who has the Floor, has stated that he will not respond to the question."

Representative Bukoski: "Could I have a ruling that the Minority speaker was in order or out of order?"

Speaker Say: "I believe he was out of order at this point because I would like to have him complete it, and then he could rise for the point of a question."

Representative Bukoski: "Mr. Speaker, you're incorrect."

Representative Saiki: "Mr. Speaker, point of order."

Speaker Say: "Representative Saiki, state your point."

Representative Saiki: "I would refer Members to rule 92 of Mason's regarding interruptions. Thank you."

Speaker Say: "Representative Schatz, please proceed."

Representative Bukoski: "Mr. Speaker."

Speaker Say: "Representative Bukoski."

Representative Bukoski: "Would the Majority Leader like to educate us and please read that rule?"

Speaker Say: "Representative Bukoski, would you please be seated. Representative Schatz, please proceed."

Representative Schatz continued, stating:

"Thank you, Mr. Speaker. I didn't expect to generate this level of passion simply by saying we believe smaller class sizes will improve student achievement. And it appears as though, and I may be wrong, but it appears as though from the previous speech that the Minority Leader and I don't want to characterize the position of the Minority Caucus, but certainly the Minority Leader seemed as though he said that it's not clear that smaller class size will improve student achievement. I think it will. I think your Democratic Caucus thinks it will. That's one point.

"The second point is to what the Representative from Kailua/Kaneohe said. And she characterized the School

Community Based Management Councils, these newly empowered councils as a narrow constituency. For the public and for everyone who's watching it, I think we should know who sits on these councils. At least these are the ones I'm aware of. Teachers, principals, students, and parents. Teachers, principals, students, and parents are being characterized as a narrow constituency. I could not disagree more. These are exactly the people who should be governing our schools. These are exactly the people who should be working with the principals and managing the funds and executing school reform. And that's the difference between our approach and the approach of the other side across the aisle. They are characterizing teacher, parents, and principals as a narrow constituency and I think that's wrong."

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

"Thank you, Mr. Speaker. I'm in opposition. And I'd simply like to have the words from the speaker from Kaneohe entered in the Journal as my own," and the Chair "so ordered." (By reference only.)

Representative Stonebraker continued, stating:

"And a couple of comments. I didn't plan on speaking on this but speaking of the School Based Community Councils, the bill reads that no matter what happens, the amount of school staff on that committee shall be equal to or more than the number of parents on that school based committee.

"It also goes on to say the Superintendent can overrule the decisions of that committee at anytime if does not line up with the plan of the overall single department plan. And so what you have here is some bait thrown out to the parents that say you can be involved, but the caveat is that any of your decisions that you make on this council may or may not stand based on the overruling decision of the principal or the Superintendent. And so this is basically what we had with the SCBMs in years passed. Is that parents came, they wanted to be involved and then they realized after a little while that their decisions weren't really heeded. They didn't have the real power that they were told they would have. And so that's one of the reasons I'm opposed to this.

"Not only that, but when you read through the bill, we were told that any vote for the people to decide on local school boards would create a "extra layer of bureaucracy." As I read through this bill in its final form, I could not imagine something that would add more bureaucracy to a presently bloated system. Bloated with bureaucracy. We're told that numerous moneys would be allocated for this committee and that committee, these working groups. For example, the weighted student formula would be comprised of a committee of no new people, but just people that are there already. And then this task force or this group, this committee would then be able to form extra subcommittees under it to discuss the ongoing weighted student formula on a year-to-year basis. So what you have is numerous new committees and talking groups and task forces being formed within the system already.

"Now we know from our experience with constituents and the principals who do an incredibly difficult job, as well as the teachers that one of the main problems that we found in the education system is that the people that are at the ground level, there in the classrooms, are overloaded with more work they can handle. They're running off to meetings late in the evening. They are at this council, and that task force, and this committee and then this meeting. And what this bill is doing is actually adding to that. And this is the fear that we have. Is that rather than reforming, it will bloat and make things even worse. It's not easy to vote against the bill that would help. The problem

is as we see it, as I see it, Mr. Speaker, this will actually add to the problem. It will make it more difficult. And because of the reasons that we previously mentioned, this does not let the people decide. And so for those reasons, no."

Representative Lee rose to a point of order, stating:

"Mr. Speaker, point of order. I believe the previous speaker referred to the remarks of the Representative from Kaneohe to be inserted into the record. Would he like to make a correction? I believe he referred to the speaker from Kailua."

Representative Thielen rose, stating:

"Mr. Speaker, it's both, Kailua and Kaneohe."

At 2:29 o'clock p.m., Representative Fox requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 2:30 o'clock p.m.

Representative Stonebraker rose, stating:

"Mr. Speaker, I did refer to the speaker from Kaneohe but I believe she represents Kaneohe and Kailua. So, the *wahine* in blue."

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

"Thank you, Mr. Speaker. In opposition.

"Mr. Speaker, some comments were made about I think my remarks about the model which we're using. The model we're using appears to be many of the features are based on the San Francisco school model. I just wanted to point out that there's much more. That my comment was based on much more. The fact that this district is one of a thousand in California. One of the local school districts, one of one thousand local school districts in California.

"The other one part was besides the extraordinary apparent leadership of the superintendent there, was the fact that this district was also about the size of Kahoolawe. And so I think those facts need to be inserted in addition to my comments because I did not suggest that our Superintendent could not handle it. What I have stated is that if our Superintendent had a smaller system, a smaller district, she certainly could move a lot faster or be much more creative, and much more, I think, effective if it was a smaller district than trying to move the entire school system.

"What I want to say is that I know some comments were made about not tying the Superintendent's hand, or cutting the 'Gordian Knot' and many other references of that sort, I think this bill doesn't do that. In particular, Mr. Speaker, the line items, this bill actually attempts and intends to do wonderful things. Decreasing the size of classroom sizes, training money, there's lots of things in there and it intends to do wonderful things. My problem, Mr. Speaker, is that I don't believe that's the role of the Legislature to determine what these things are and to fund it at this level. Specifically line iteming each item and saying how much specifically is going to each item. That's not our role I feel, Mr. Speaker. That's the role of the Board of Education. And what they should do with it is as I think that we try to fund as much as they can. And they make those decisions through their decision apparatus. Because they are the ones ultimately responsible for education. So for those reasons, Mr. Speaker, that's the reason why I cannot support this bill.



"I used the word micromanaging. I think that's what it does. I think we send this money, we send say, \$400,000 to the Board saying that we have to spend it for so much. Now how does that, now we leave them a much tougher decision than adding \$400,000. Now the decision is, okay, I got this mandate from the Legislature, to spend this money for this specific item, now how do I best do it? I think we make it much tougher for the Board of Education to decide how to spend this money. Because we've put strings attached to the 'Gordian Knot' if you will. And so Mr. Speaker, the thing is that's one of the basic problems.

"We've talked about philosophical differences. Now and we all hope to achieve these things. And it appears I think there's an irony that it appears that by line iteming these things, we're doing that. However, it may or may not be the exact or the proper solution for all districts. Mililani I know, is very different from some of my colleague's districts. And we might not be interested in some of the line item money but we'd like more money for other things. And so for those reasons, Mr. Speaker, philosophically, line iteming these things from here, from Downtown Honolulu, I think is inappropriate. And we need to ensure that the reason why we differ in the other respect where we think that the principals ought to make those decisions. It's because they are the frontlines.

"And finally, Mr. Speaker, I just want to make a broad comment about the bill. I agree with many of my colleagues in opposition that if you look at this bill, besides at those wonderful attempts to do good, I feel that it really has left the structure of the BOE and DOE intact. But it actually adds another complication. It empowers or modifies the power of the SCBM. It changes the name and gives it maybe a little more authority. And with the intent, another good intent to try to involve parents in the community. But we think that, as your Minority Caucus, Mr. Speaker, believes that, at least of us in the Minority, feel that this is too close and perhaps too involved. Stepping back, the too hot and too cold argument I made before on this Floor. And so for those reasons, Mr. Speaker, I stand in opposition and ask my colleagues to vote against it."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you. First, I'd like the words of the Chairman from the Education Committee entered into the Journal as if they were my own," and the Chair "so ordered." (By reference only.)

Representative Takai continued, stating:

"Mr. Speaker, we've discussed this issue probably, at least a half dozen times over the course of this Session. Probably voted on education issues as it pertains to reform probably about twenty times. And today, I stand here supporting this measure and little disappointed to hear some of the concerns on the other side because let me be very clear. A vote for this measure is a vote for true reform. A vote against this measure, I believe, is a vote against education reform. There's nothing else. This, the eighty some odd pages in this bill, is our education reform package. This is what we have to present to the people. And the people ..."

Representative Bukoski rose to a point of order, stating:

"Point of order, Mr. Speaker. Can the present speaker, please address the speaker?"

Speaker Say: "He is."

Representative Bukoski: "Mr. Speaker, he looked over this way several times. And I held it till now."

Speaker Say: "Representative Takai, please look at the Speaker, at this point."

Representative Takai continued, stating:

"Thank you, Mr. Speaker. My point here is that I believe that this bill, despite what the Governor has said as early as yesterday and what other Members of our Body have said for many times, that this bill is 'fake reform', is absolutely untrue. This bill will revolutionize the way we do business in education throughout our State.

"In fact, Mr. Speaker, many people have talked about the school community councils and what they do and what they don't do. Well if you take a look at the discussion at the very beginning of Session when we talked about empowering communities, providing the opportunities for families, for parents, for business leaders, for community members to participate actively in school decisions. We look at this bill and in fact the school community councils do just that.

"Local school boards at any level are by far, farther removed from what these school community councils are attempting to do. When we talk about the challenges that our schools face, many times we talk about the lack of parental involvement. The difficulties for the communities and business leaders and business organizations and community organizations to participate in the governance and decision making at the school level, this bill will allow for schools to do much more than what we've been doing in SCBMs. This bill will give these councils an opportunity to help choose and evaluate their school personnel, including their principals. Will help to evaluate and decide on financial and academic plans for their school communities. And will help to build the community, the school environment and the community to which we believe will improve, directly improve academic performance in our schools.

"I wanted to talk a little, Mr. Speaker, about what other people are saying about this measure and point out just one example of this being true reform. The *Star-Bulletin* in yesterday's editorial, April 14, said in an editorial, the education reform plan is a good jumping off point. And I'd like to read just a couple of paragraphs because I think this summarizes everything. The editorial reads:

The public education reform package produced by the Democratic lawmakers does not include the local school boards Governor Linda Lingle wanted but should be approved by the full Legislature as a good start.

The bill is the first step in what should be a continuing strategy to keep abreast of the problems and issues in public education so that stagnation does not overtake the school system again.

The Department of Education, school's Superintendent and Board of Education have an obligation not only to put the reforms into action, but to refine and adjust them as times goes by.

"Mr. Speaker, this is true education reform. Research-based education reform. And I suggest the people that have their doubts take a look at this. Because if you take a look at every page of this bill, everything that we've done, points to and is based on sound research and backing of experts.

"Mr. Speaker, I would like to thank the Chairman of the Education Committee for doing such a great job. But I'd like to

thank everyone in fact, the people that have helped us over the course of the few months as we developed this measure. One person that has not received accolades to date is in the gallery and I'd like to mention her. Former Representative Kate Stanley has worked tirelessly on this measure. She works for Representative Dwight Takamine on the House Finance staff. And she really helped us tremendously over the nights and the long hours that we put into this bill. And I think that as a Body, we need to thank the people behind the scenes because a lot of times, we as Legislators like to take the credit, and we do. But without our staffs and the people behind us working tirelessly, we would not be here today. So thank you Kate for all the work that you've done.

"Finally, Mr. Speaker, I think this bill puts everybody on notice. Like I said yesterday and a few times before, this bill will revolutionize the system. Will basically overhaul and changes the way that we treat and relate to the educate system.

"This bill puts all of us on notice. We must do better. This bill is not an excuse and a suggestion to support the status quo. This bill attempts to give the Department of Education and the schools the resources needed to succeed. And gives us as lawmakers and community members an opportunity to help them. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in opposition.

"The previous speaker mentioned an item in the Honolulu paper this morning or at some point that favored, that thought that this was a good idea and so forth. I'd like to just mention an article that came out in the editorial that came out this morning in the *Maui News*, a Neighbor Island newspaper. And I'm not going to read it all but I'd like to be able to put it into the Journal," and the Chair "so ordered."

Thank you. It starts off:

It's official, the Majority, 33 Representatives and 20 Senators of the 2004 Legislature believe Hawaii's voters can't be trusted with deciding the basic structure of the State's government school system. There were 23 lawmakers, 20 Republicans and 3 Democrats, who thought otherwise and voted in favor of letting the voting public have a chance to say whether the State Board of Education and the Department of Education should continue as it is.

After rejecting the idea, the voters should be allowed to decide whether to approve a state constitutional amendment that would make locally elected school boards possible. This Legislature has passed what the leaders called education reform measures.

"I won't go on with that part of it. The one positive thing that I've seen come out of this whole discussion this year has been a lot of emphasis put on education. And I think that's really good. I appreciated being of the Education Committee. And there was a lot of hard work done by all Members of the Education Committee and the Committee Chair.

"However, what we ended up with, I have strong doubts that it really is true reform. And I just want to go over a couple of points, and they have been made before but I think they need to be emphasized. The Department of Education central office remains unchanged. The Board of Education remains unchanged.

"I don't see any accountability factors in this bill. There's too many different parts of it that can be people can pass the buck.

The councils at the school level are not the same as what a local school board would be. And they, I don't see anything in this bill that really does hold them accountable. This principals are dictated by the councils under this bill. And so they're not held accountable. At least I don't see that they're held accountable.

"70% of the money in this bill going to the schools. Reality is, it's not a lump amount going to the schools. The money is categorized for textbooks, books, etc. and line itemed by the Department of Education. I think if we look at the Edmonton model, and I know that's taken a lot of years to get where it's gotten to at this point. I think that we should have taken that model and adjusted it for Hawaii. And taken their twenty years of experience and worked it into our society here and our educational society here. So for those reasons, I have to object to this bill. And I really wanted to pass it, I really wanted to vote for it, I was going to vote for it with reservations. But there's just too much in it that I cannot agree with. And I'd like to finish off by asking if I could have the words of the Representative from Kaneohe and the words from the Representative from Hawaii Kai included in the Journal as my own. Thank you, Mr. Speaker," and the Chair "so ordered." (By reference only.)

Representative Blundell submitted the following editorial:

"Legislature flunks test

It's official. The majority – 33 representatives and 20 senators – of the 2004 Legislature believe Hawaii's voters can't be trusted with deciding the basic structure of the state's government school system.

There were 23 lawmakers – 20 Republican and three Democrats – who thought otherwise and voted in favor of letting the voting public have a chance to say whether the state Board of Education and the Department of Education should continue as is.

After rejecting the idea the voters should be allowed to decide whether to approve a state constitutional amendment that would make locally elected school boards possible, this Legislature passed what leaders called educational reform measures.

Ignoring the fact that bureaucracies cannot be reformed without major structural changes, the 2004 Legislature vote in favor of distributing 70 percent of all educational funds directly to schools. That is a step in the right direction, but it still leaves 30 percent of the state's educational funds to be soaked up by a top-heavy bureaucracy.

As envisioned by lawmakers, who are risking alienating some voters while pleasing others, namely those entrenched in the current school system, the money going directly to schools would be allocated on a "weighted formula" designed to recognize that educational challenges at some schools – due to the population being served – are greater than at other school.

The lawmakers give lip service to the idea of local school control by putting principals in charge of overseeing funds and by establishing "site councils" that would share, in some fashion, in the decision-making process.

It all adds up to giving lawmakers seeking re-election this fall a chance to say "I voted for reform" when facing disenfranchised parents of students, and to say "I voted to protect your job" when faced by the thousands of bureaucrats who would either find themselves out of a job or with less power under true educational reform.

At this point, making Hawaii's school system more efficient and more responsive, particularly on the Neighbor Islands, apparently will have to wait at least until the election in 2006."

*The Maui News*  
April 15, 2004

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

"Thank you, Mr. Speaker. I would like to speak in support of this measure.

"Mr. Speaker, I am very disappointed in this bill. It is by no means significant reform. It falls short of hopes that I've had over the last ten years about constructive change in the way Hawaii delivers education.

"I would like to reference the remarks made by the Representatives from Waikiki, Kailua, Hawaii Kai, Lahaina, and the ranking Minority Member on the Education Committee. I want to reference them because they are bringing real important, thoughtful considerations regarding what's coming out of this bill.

"Mr. Speaker, the only reason that I could vote in favor of this bill is because I'm hopeful that maybe, maybe, some of the changes made might make an improvement. Mr. Speaker, I'm appreciative that this Session was spent discussing education. Although, we've spent many Sessions, in fact even before I was a Representative, a lot of time has been spent on discussing education. The real difficulty has been getting meaningful and significant reforms.

"At the beginning of the Session ... Well let me start from before then. There's been a lot of concern in the community about the quality of education that the State is delivering. And then at the beginning of Session, there's pretty much comprehensive acknowledgement that our current system is failing. Even from within the system, generally there has been a failure to give what our students need and delivering for our communities as whole. So I appreciate that frankness and I appreciate the fact that we started off this Session with pretty much everyone all in agreement that we got problems and we need to solve it.

"Well, Mr. Speaker, I don't believe that very much was done with this bill. I think that this bill is a facelift, maybe a makeover. But the essence of the education system is reaffirmed and intact, centralized control. It does allow opportunities for local communities to comment but we've had SACs and they've been discarded long ago or just a few years ago. We've had SCBM, we're going to discard them in favor of this new system. But certainly this new interaction possible from the communities can easily be overridden from higher up from Honolulu.

"I'm speaking as a Maui Representative, Mr. Speaker. So we're used to having Honolulu override what we know is good for ourselves. And this doesn't change that. So if I could reiterate that any claims that this is substantial reform, I do not subscribe to that at all.

"Mr. Speaker, I would be more enthusiastic about this bill, this new makeover, this new facelift if you will. I would be more enthusiastic about it if this were putting the DOE, putting their best face forward if you will. And at the same time, offering the people of Hawaii a choice to choose another system on the ballot. That if this bill were the model in which to compare or reflect off of on the local school board proposal for the voters to decide. We could spend this summer and next fall in serious debate. The communities have engaged the debate. The people that count the most had engaged in the

debate about which they would prefer. But Mr. Speaker, it looks like we're not going to get that. I mean theoretically, we could if we had the political will, we could do it this Session or have a Special Session and create constitutional amendment that it could be done. I don't believe that this Body's going to do that.

"What I would be more enthusiastic about this bill is give the DOE the best face possible, which I guess the crafters, the Conference Committee tried to do. And let that stand up in comparison."

Representative Leong rose to yield her time, and the Chair, "so ordered."

Representative Halford continued, stating:

"Thank you very much. So Mr. Speaker, I am disappointed. Disappointed that this bill isn't achieving very much at all. And disappointed that we're not getting a ballot question.

"And I want reiterate that my colleagues who had spoken on the Floor and pointed out real flaws are hitting home on many, on most if not all of the points. And certainly all of what is being brought needs further examination. I will close with that. Thank you, Mr. Speaker."

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

"Mr. Speaker, I stand in support of Senate Bill 3238, SD 2, HD 2, CD 1.

"The reason that I support this bill is because I believe that we need to do something to improve our system. As an educator myself, I believe that the only real way we're going to improve our students' achievement is the interaction between the teacher and the student. No amount of tinkering with the system is going to solve this problem.

"On the other hand, I am disappointed that we have not given the people a chance to decide whether they want more local control over the whole system and the expenditure of their tax dollars. I am for decentralizing education control. And I do believe that our State Board of Education is too far away from my community to make decisions that affect us. I have as a local official, always opposed top-down decision making. However, since the Majority has decided not to do that, and we all believe in Majority rule, I support this approach as a way of implementing some changes immediately.

"This bill gives the Superintendent what she asks for. I support her. And I believe that she has made it clear that if she is given the authority, she will hold herself responsible. She has an almost impossible job. And I am for giving her the chance to prove that her way is effective. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I stand in support with some serious reservations.

"Thank you, Mr. Speaker. First of all I wanted to talk about the values. I think that I agree with the Chair from Education Committee. Yes, education is about values, but one thing I wanted to make clear, it does not have to be an either/or that we graduate children of great character but low academic performance. Or that high academic performance by certain individuals means that necessarily they have low character. I believe what we want is both, right? We want both, high

academic achievement and character. And I think that's also understood by our teachers because we have that in our curriculum.

"But to me what this ongoing Session debate actually comes clear to me now, is really a debate about two items, we called it education. But it was really a debate of, in my humble opinion, of management and education. Education separate from management. Management of a system of education. My own personal opinion is that spirit of education is about new ideas and we want to solicit as much input as possible. So where I disagree on having input only from the school members, school parents, school faculty, school staff, then maybe some of the chosen community people, I think that's important.

"I think that great schools reach out globally. And for a global education, a global economy, you reach out. So that's why there are some schools that happen to have International Centers or what not. And these are wonderful things because when you have that input from the new experience or someone who may not come from your school, boy they might have an experience that you never had. But if you keep sort of an, enter same experience, you enter same results.

"But secondly on the management, what I wanted to say was quite simply, well, we should judge by results. What else can we judge by? We can only judge by results. A model was offered. A model was offered by some of the greatest managers in our State who took of their free time. I think if you billed them, you'd never be able to afford them. And I know for myself, I would be presumptuous to believe that I know something about financial planning. That's why I hire a financial planner.

"There's an ongoing joke. Doctors hire financial planners. They know how to do medicine but maybe they need financial planners. And I don't think it would be presumptuous too to think that financial planners know how to educate. They don't. They shouldn't be thinking that they know how to teach and all the methodologies. But also perhaps, just perhaps, is it presumptuous to believe that we know everything about management? So when these individuals came out and they gave up their free time and they are some of the greatest managers in our State I reiterate, there is a chance, there's a model offered and it was rejected.

"Okay, well, the ball's in your court. We judge by results. We judge by results. We know whether it's going to work in a few years. So let's give it a chance, open-minded because these are the frontlinesmen. They say this is what is needed. So we shall soon see."

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

"Thank you, Mr. Speaker. I rise in support.

"Two points, but before that I'd like to incorporate the comments of the Education Chair as if they were my own," and the Chair "so ordered." (By reference only.)

Representative Caldwell continued, stating:

"Thank you very much. The two points. The first one has to do with what we've heard a little bit mentioned today which is about letting the people decide. And I just wanted to reemphasize that in the past two Sessions, the first two that I've served in, there were 114 constitutional amendments introduced, 49 pertaining to education alone. There are several that were introduced by Democrats that were killed either in Committee or recommitted from this Floor. There's also the one the Governor proposed. In the end, it's our constitutional

duty to look at each one of these and determine the merits. Those that have merit move. Those that don't are held in this Body. That's what happened here today, Mr. Speaker. What we are moving, and gets to my second point is legislation that does deal with reform.

"And I want to point out, Mr. Speaker, what we won't have if we don't pass this bill, and they are significant measures. The first one establishes our student weighted formula at 70%. Now some may say it should be 90%. Others may say it should be lower. Some could say it's in between. But the point is, without this bill, we will have no weighted student formula. And I think it's fantastic that we have that opportunity now to present that to our community.

"Secondly, it provides additional information technology to our schools.

"Third, it empowers principals through our Hawaii Principals Academy.

"Fourth, it strengthens community involvement through community councils.

"Fifth, it provides more mathematics textbooks, Mr. Speaker. Who would be against providing more mathematics textbooks to our students? I don't think anyone in this Body would be against that.

"Sixth, it lowers class size in Kindergarten through Grade one and Grade two. And we've heard some lively debate on that today, Mr. Speaker. And I would say that most people do believe that smaller class size does make a difference in education.

"Seventh, it provides full-time, year-around student activity coordinators in each high school. This is something that we've heard from our public high school students that they needed and wanted. And it's now been provided to them.

"Eighth, it provides support for students who need additional help to succeed in school. Who would be against that?

"Ninth, it establishes a National Board Certification Incentive program for teachers, something that has been asked for by teachers. And in fact, our Governor has put in her budget funds to help that happen. Who would be against that, Mr. Speaker?

"Tenth, it enhances teacher education.

"Eleventh, it reduces the bureaucracy that hampers the effectiveness of the Department of Education.

"Twelfth, it improves the educational accountability system.

"And thirteen, it requires the Board of Education Members to hold community meeting in their districts. And we've heard today, people talk about how the Board of Education doesn't make it out to the Neighbor Islands. This bill does require that. So it addresses that concern. So I don't understand why someone would be against trying to get our Board of Education to visit our Neighbor Islands. Thank you very much, Mr. Speaker."

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

"Thank you, Mr. Speaker. I would like to have the words from the speaker of Kailua. In opposition. The words of the speaker from Kailua incorporated into the Journal as my own," and the Chair "so ordered." (By reference only.)

Representative Jernigan continued, stating:

"And a few brief comments. Mr. Speaker, I think this measure is nothing more than a complex attempt to fool the public into thinking public education is being reformed, which it is not. True reform would be giving the voters a chance to decide on local school boards and whether or not we're going to create a constitutional amendment that would allow that. And I would like permission to insert additional comments into the Journal. Thank you," and the Chair "so ordered."

Representative Jernigan's written remarks are as follows:

"Mr. Speaker, this bill is nothing to be proud of. It is just a complex attempt to fool the public into thinking public education has been reformed. It leaves the centralized DOE intact. The system is too large and cannot respond to the needs of local schools. Local communities still have no control over their schools and the principals really are not in control of the school funding as this bill indicates. For instance, we, the Legislature, are providing math books. The school might not need math books. It is purely micromanagement. I believe to achieve true school reform we must allow the voters to decide on a constitutional amendment to have local school boards, so they can control their schools from a local position.

"Waimea Elementary School has been trying to get a nurse since the beginning of the 2003 school year. They have submitted a bill in the House, Senate, approached BOE, DOE, and the Governor's Office in efforts to obtain a much-needed nurse. They still do not have a nurse. However, in this bill we are providing math books. They might not need math books, but they do need a nurse. If we had local school boards, they would have a nurse that they need, not math books which they might not need. It only makes sense to have local decision making and principals in real control over the school budget and decisions affecting their school.

"With this bill we still have no accountability for student achievement and the central bureaucracy grows even bigger."

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

"Thank you, Mr. Speaker. And I'd like to speak in strong support of the measure. I would also like to add my accolades to the Chair of the Education Committees both in the Senate and the House for their work done on this measure. And Mr. Speaker, I speak as someone who graduated, who went through public school. My three children are products of public school. I've sat on the Education Committee for 16 years. I've seen reform measures come and go. And like many have said on this Floor, it seems like education has always been a priority. For all the governors that I've served with. For all the Speakers, I've served with. And yet, I can truly say that this really is landmark legislation. And I'm speaking maybe perhaps just for my constituency because in my area, I've put a high priority on the young people in my district, because I want to do all that I can for their future.

"Mr. Speaker, if the human cry over reform is over school performance, and if school performance is based on test scores, then indeed reform has to be looking at schools like in my area or maybe in areas like my two colleagues on my right. Because our test scores are significantly lower overall in our districts than the rest of the State. So I think it would do well to ask the teachers and the principals and even the students and the families, what would make a difference? And I think it'd do well to look at the kind of populations we're dealing with. We have higher concentrations of poverty. We have more immigrants. We have families and communities that are disconnected. These are challenges that I don't think you and I

grew up with. These are challenges that our teachers and our principals have to face and we need to give them the tools.

"I don't think if you came to my schools and asked them, what local school boards would do for them, they'd be all excited about it. I mean, I don't remember who our Board members were when I was in high school. But I think if everybody here, regardless of their Party or their philosophy were to think about who were the significant people who made a difference in their lives, who encouraged them to succeed. And I consider everyone here a success. Just being here. We'd have to point to family. And I think many of us would point to our teachers and even principals. I want to know if anybody would point to their school board member. I don't think so. So our focus has to be on our schools, our teachers, and our principals. And I think, for schools like those in Kalihi, the weighted student formula is going to make a lot of difference. It should make a difference. Reducing class size, because of the challenges that our teachers face, will make a difference.

"The only thing I would push for, although it would take a lot more resources, is more pre-K programs. Early childhood education will also make a difference. And studies have shown that. I'm hoping with the extra resources provided, through student weighted formulas that principals will look at early childhood as a way of improving test scores and performance. But all in all, we need to improve the environment of learning not just in our schools but in our communities and in our families to really make a difference.

"And to those who want to see the bar raised in terms of the resources going to the schools, this bill enables, it just sets a floor, 70%. And I challenge anyone here, if they can find a principal who wants to go to 90% or more, then let them be the pilot. Let them be the demonstration. But for now, from what we are hearing, none of the principals want that. Even at 70% it's going to be a big challenge. But it's a good start. I think we're on the road. It's not perfect but I think we can see the light at the end of the tunnel. Thank you, Mr. Speaker."

At 3:09 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:10 o'clock p.m.

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

"Thank you, Speaker. I rise in opposition.

"Thank you, Mr. Speaker. Although I rise in opposition, I actually wish that we could vote on a part A and a part B. Unfortunately, we can't. I would go in opposition of one part. I would go in support of a part A, which would be the appropriations expended for the 2004-2005 year. I like all of these things in here, about mathematics textbooks, but I have a response for one of the earlier comments from one of our colleagues. Who would be against mathematics textbooks? Well it's kind of interesting because we had some students come over from Moanalua Middle School on a day at the Capitol and we asked them if they needed textbooks just in general. Actually that child said no, we have textbooks. So I thought that was kind of interesting. We do have some people that may not need mathematics textbooks. They may need social studies textbooks. I'm not saying that we shouldn't fund mathematics textbooks. I'm just saying that the need might be other things in other schools.

"But I would like to take the opportunity to talk about charter schools. I read a part of this. May I ask for a rule on a

conflict? My daughter goes to Voyager Charter School," and the Chair ruled "no conflict."

Representative Finnegan continued, stating:

"Thank you very much. And I am extremely proud of that school as well as very happy with the progress that my daughter is making at that school as well.

"Okay. And I think if you look at this, it says charter schools, their collective decision was that their funding allocation should not be made under the weighted student formula. I was really curious because the other day we offered an amendment and it said for charter schools to have the choice to possibly choose weighted student formula. The interesting thing is I started calling charter schools. They basically said that because of the unknown, they don't know what that means, what that allocation would be, they don't want to initially be in this. But they do want the choice. So actually, that's what we had in our amendment. And although we may not have checked with the charter schools prior to putting that in our amendment, I'm really glad that they would have supported the choice to be a part of the weighted student formula.

"In regards to some of these other things, I like these ideas. I like the idea of the principal academy. In my district, we have principals that meet once a month on Fridays, in the afternoon. They decided to meet because they're military principals. And last year, I commended them here on the House Floor for this group that they had put together. And it was so interesting because they took a problem with military turnover in their schools and they came together as principals and they share all of these ideas. And it works out really fabulous for these schools. They look upon each other for help and they share their successes. And I think that's such a good meeting that they have. And it's interesting because I'm not sure if they would actually benefit from a principal academy. Though it might be a very good idea to have. So I'm wondering, I want to see is it the weighted student formula that I was envisioning give maximum flexibility and freedom for the schools to be able to be creative and be able to fund the things that they wanted to fund, and the priorities that they had for their school. But the things that I'm reading in here actually, kind of restricts the ability to do what they may or may not think is good for their schools.

"That goes along the lines to training. I mean what if there's a school board, SCBM that is going to be changing into a school community council that may not need the training. But yet we have this in here. This training option in here. I understand that it's an option, but if you look at the way the weighted student formula is and if you take any money out of that lump sum, then that means everybody is paying for it.

"There's, like I said, I can read through this and I can say that there are a lot of things in this bill. But this is not the reform measure that I envisioned that allowed our DOE, our Superintendent, our principals, our teachers, and I forgot the principals, the elbow room and the flexibility. And I was hoping it's kind of interesting because although we have all of these requirements and mandates, it's kind of like giving a mixed signal, that does the weighted student formula to give you the flexibility and then in the other part we're still stating that you must, you must, you must.

"It was asked at one point ..."

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

Representative Finnegan continued, stating:

"I don't have that much more to say. But as also asked which principals, where are the principals that would go up to the 90%? Well I can tell you that the schools that went up to a 100% with the limited amount of funds that they get, and that's the charter schools. Thank you."

At 3:16 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 3:18 o'clock p.m.

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

Representative Moses rose, stating:

"Should I indicate now who I would like the comments from? Representative Fox twice, because he's going to speak again. The Representative from Kailua/Kona, the Representative from Kailua/Kaneohe, and the Representative from Hawaii Kai," and the Chair "so ordered." (By reference only.)

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

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I stand in strong support of this measure. The word reform is not one of my favorites as it implies that what has happened in the past in our schools is all negative.

"To the contrary, I feel our schools are doing a good job in general, however, need improvement and modernization in others. I heartily applaud many of the ideas in this bill and am especially supportive of those sections that give the principals more flexibility, choice and accountability. The establishment of a "principal's academy" is key to making this happen.

"The establishment of a weighted student formula is a landmark change for our schools which finally gives recognition to the fact that students with different abilities and disabilities may have different needs for funding. The huge amount of research put into the bill by our education chair makes me hopeful that we will be able to meet the challenges of implementation.

"This bill is a major step in the right direction and I urge the members support."

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

"Thank you very much, Mr. Speaker. I'll make mine very short. I wish to speak in favor.

"First of all I want to congratulate the Chairman of Education and House leadership for coming up with an excellent, excellent bill, education bill.



"And quickly, I just want to add that I think we should look at this as just the beginning. We have a long way to go. They're basically still under-funded yet. We still need to reduce the class size. We still need to look at the systematic problem of the Legislature, the Executive, and the Board of Education all having a role in education, and at times, superimposing upon each other. I think these are the kinds of items that we need to look for the future. Mr. Speaker and Members, I believe this is an excellent start. Thank you very much."

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

"Thank you, Mr. Speaker. I'm rising in opposition to Senate Bill 3238, Conference Draft 1.

"The Legislature is still using a piecemeal approach to fixing public education. Not even understanding that a weighted student formula would replace an enrollment ratio formula. We go ahead and throw funding for lower grade teachers at schools statewide, whether the schools need or want them. This bill gives the Superintendent even more roles to handle that have nothing to do with overseeing student achievement while top-down authority remains. Schools are not given the funding needed to create unique programs. And parents are not given a choice over which schools their children may attend. Under this bill, the DOE bloats further and will require greater funding next year to feed its new programs. After all the experts who have testified and all the discussion on education that our State has been through, certainly this law is not the best we can do.

"A lot of time and energy has gone into protecting the status quo, that's the way I look at this omnibus education reform bill. It started off in the House as a reform bill, and now we've thrown all kind of things into it. We've got funding for the PCNCs, for the coaches. The Principal Academy was in there before but I see in the Conference draft, we've always been micromanaging education, but this is kind of unbelievable to me. We took what was a \$3 million appropriation for textbooks and we've made it specific to mathematic textbooks. Now, these are the kinds of things the schools should be able to decide on their own. But here we are all-knowing. \$2.5 million for mathematics textbooks and other mathematics learning materials in schools. That, I don't feel is the appropriate thing to do. And if the principals truly had the right to make the decision over 70% of the money, and I would hope that's 70% of the general fund money. I don't know that it is. It's 70% of something that DOE will give them. I don't know what the dollar amount will be. They should be able to make the decision. Do we want to buy books? Do we want to buy more? Maybe have high tech people come in to teach the kids? I mean, you can learn math on the computer. But we are sort of dictating what they're going to do.

"Then we make a \$2 million appropriation to facilitate field support security and privacy for telecommunications networks. It seems like as its gone through the process, any bright idea that somebody had, they said come on this would be good, let's put this in. So now we've got an appropriation for \$100,000 for programs that support parents in working with students who need additional help to succeed in school.

"Then they've added the \$400,000 for the piloting of the school community council. Let's see if this thing works.

"I see in the funding, the money that was given for the school community councils is \$250,000. When we originally passed the law for grants for SCBMs, they were given \$11,000 for each school. Now it's about a thousand dollars for a school. Not sure just what that's going to pay for, maybe coffee and

doughnuts. The Committee on Weights, in contrast, is being funding \$100,000.

"Another thing that was added in the Conference Committee, there's been much talk about the weighted student formula and how this will be advantageous because children that need more help will bring more money to the school. But in this last draft, there's a provision that requires the Department of Education to provide supplementary allocations to those schools whose budgets are adversely affected by the weighted student formula. I don't know. It's not clear what we want them to do. And my fear is that we have a lot of provisions and money in here for things that people want. I think the unions will be happy. The status quo is happy. But as far as accountability, I don't see much in here about achievement and we expect we're going to have. It's like an omnibus education reform bill which mostly just acts like reform, talks like reform, but there's no guarantee of any kind of reform. And there's no guarantee of any kind of achievement or higher academic performance.

"And it's been said by the Representative from Kailua, with all these various layers, these new community councils in the school, the DOE still sitting there and then the Board of Education. The fragmentation of how principals will be ..."

Representative Marumoto rose to yield her time, and the Chair, "so ordered."

Representative Meyer continued, stating:

"Thank you, Representative. It's become even more fragmented. So the bureaucracy is growing. It's still very, very centralized. Nothing has changed there. And there is no accountability. This bill shows that the Legislature is still meddling. Trying to tell them what to do. The councils essentially have no power. The principal has veto power. So I mean these well meaning people will spend hours of time giving their input but the principal will have the veto power. And then the district superintendent also plays into this. And she's going to either accept or reject whatever they came up with, whatever their work product is. So it's just become more and more convoluted. A lot of money is being spent. And there's no guarantee that we're going to improve student performance. Thank you, Mr. Speaker."

Representative Leong rose in opposition to the measure and asked that the remarks of Representatives Thielen, Meyer and Halford be entered in the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Fox rose to respond, stating:

"Thank you, Mr. Speaker. Still in opposition and for the second time.

"Briefly, I just want to express my disappointment that a process that began with Bill Ouchi, a local boy who studied 500 schools and came out here and found a simple formula for making our education system work, and that was to empower the principals and give them the money to run the programs at their schools and then hold them accountable. He found a place where it worked, Edmonton, Canada. He introduced us to Mike Strembitsky. We all got to know him. He was responsible for a group of people leaving from here and actually going to Edmonton and studying what worked there. It made a lot of sense because the Edmonton model has been replicated in other places throughout the United States. It was exciting. We had the real prospect of real reform built around empowering the principals.

"And he came up with this, Mike Strembitsky, came up with a simple formula in Edmonton that he brought here. Give 90%

of the control of the budget to the principals. And put the principals in charge. Then your decisions are made at school and they're made on behalf of the students and teachers who work at that school. It was a great system. I had every hope that we were going to buy into it. But if we stay at 70% as this bill calls for rather than going to 90%, we're just dealing with the fixed cost and the discretionary money the principal needs to really reshape the school is gone. So that is my deep disappointment, Mr. Speaker.

"I just want to briefly say that on the subject of lower class size, the intuitive answer, the one that we all think is that if you reduce class size in the early grades, you're going to improve education. But studies do not bear that out. And that's why I tried to really raise to issue, a question, to the Representative from Makiki. If he could simply provide the studies that bear out the point that reducing class size improves student performance.

"I asked my sister-in-law who is a master teacher, why it is that the studies won't tell you that lowering class size improves student performance. And she said it is true, the studies don't bear that out. And the reason is that the real difference in whether or not you get better performance lies with the quality of the teacher. That's the overwhelmingly important factor and it outweighs anything like the size of the class. Thank you, Mr. Speaker."

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3238, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 39 ayes to 12 noes, with Representatives Blundell, Bukoski, Finnegan, Fox, Jernigan, Leong, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen voting no.

At 3:33 o'clock p.m., the Chair noted that S.B. No. 3238, SD 2, HD 2, CD 1, passed Final Reading.

#### CONFERENCE COMMITTEE REPORTS

Representatives Morita and Nakasone, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1294, SD 1, presented a report (Conf. Com. Rep. No. 10-04) recommending

that H.B. No. 1294, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 10-04 and H.B. No. 1294, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," was deferred for a period of 48 hours.

#### THIRD READING

##### S.B. No. 2846, SD 1, HD 2:

Representative Saiki moved that S.B. No. 2846, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Lee's written remarks are as follows:

"Mr. Speaker, I would like to speak in support of the measure.

"Rape Shield" laws prevent defendants from introducing irrelevant, prejudicial information about the victim's sexual history in a rape trial.

"The Rape Shield Law" is an extraordinarily effective tool to ensure that a rape victim can receive a fair trial. It keeps the focus of the trial, on the defendant and on relevant issues. It ensures that a victim's sexual history will not be exposed. The "Rape Shield" Law helps to keep the "victim blaming" that continues in our society out of the courtroom. This is essential if victims are to feel comfortable utilizing the criminal justice system after sexual assault.

"Rape victims are often in need of counseling both immediately after the rape is reported and for long term treatment. This amendment is in line with the move in many states to create tougher sexual assault laws. It would amend the Constitution to permit the Legislature to pass laws that provide for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged victim's physician, psychologist, counselor, or licensed mental health professional.

"This would be an excellent addition to our rape shield law and hopefully after the constitutional amendment is passed, the Legislature will take action to protect rape victims in this manner."

The motion was put to vote by the Chair and carried, and S.B. No. 2846, SD 1, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE I, SECTION 14, OF THE HAWAII CONSTITUTION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Sonson voting no.

At 3:36 o'clock p.m., the Chair noted that S.B. No. 2846, SD 1, HD 2, passed Third Reading.

S.B. No. 2846, SD 1, HD 2 passed Third Reading in the following form:

##### S.B. No. 2846, SD 1, HD 2

A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE I, SECTION 14, OF THE HAWAII CONSTITUTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The purpose of this Act is to propose an amendment to article I, section 14, of the Constitution of the State of Hawaii to permit the legislature to pass legislation providing for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor, or licensed mental health professional.

SECTION 2. Article I, section 14, of the Constitution of the State of Hawaii is amended to read as follows:

**"RIGHTS OF ACCUSED**

**Section 14.** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against the accused[;], provided that the legislature may provide by law for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor or licensed mental health professional; to have compulsory process for obtaining witnesses in the accused's favor; and to have the assistance of counsel for the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the Constitution of the State of Hawaii be amended to permit the legislature to provide by law for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor or licensed mental health professional?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

**S.B. No. 2842, SD 1, HD 4:**

On motion by Representative Saiki, seconded by Representative Lee and carried, S.B. No. 2842, SD 1, HD 4, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 846E, HAWAII REVISED STATUTES," passed Third Reading by a vote of 51 ayes.

At 3:33 o'clock p.m., the Chair noted that S.B. No. 2842, SD 1, HD 4, passed Third Reading.

**S.B. No. 2843, SD 1, HD 2:**

Representative Saiki moved that S.B. No. 2843, SD 1, HD 2, pass Third Reading, seconded by Representative Lee.

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

Representative Lee's written remarks are as follows:

"Mr. Speaker: I rise in support of SB 2843 SD1 HD2 a bill to implement Megan's Law here in Hawaii.

"Mr. Speaker, I fully support the compromise that has been worked out between the Attorney General and the Democratic leadership here in the Legislature and embodied in the HD2. Hawaii citizens have the right to know where dangerous sex criminals live. Nothing could be a higher priority than protecting our keiki from the physical and emotional trauma that sex offenders can cause.

"Under this agreement, the proposed amendment on the ballot will state that the public has the constitutional right to access information about sex offenders. The amendment will give the Legislature (subject to the Governor's usual veto powers) authority to determine: 1) which offenses will be subject to this provision; 2) what information is covered; 3) how the information will be provided to the public; and 4) after what period of time and in what circumstances a sex offender will be allowed to petition to have his/her information taken out of the public domain.

"Because SB 2843 only starts the process of amending our State's Constitution it will be some time before the amendment, assuming the voters approve it, comes into effect. The Attorney General has promised to begin holding the hearings currently required by the Hawaii Supreme Court to put registered sex offenders names on the public website. I certainly hope the Attorney General will begin this process as soon as possible. There are currently about 1900 convicted sex offenders in Hawaii and the public deserves to know who they are and where they live."

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

Representative Meyer's written remarks are as follows:

"Mr. Speaker, I am rising in strong support of this bill. Hawaii has had a Sex Offender Registration and Notification law since 1997. It was clear then, and is even clearer seven years later, that the public needs to know when violent sexual offenders and pedophiles who prey on children are living in their neighborhoods. Yet as of this date we have no working sex-offender registry in this State.

"There was an opinion by the Hawaii Supreme Court disallowing the posting of names and addresses of sexual offenders on the Internet because they deemed it an infringement of the offenders' right to privacy embodied in the Hawaii State Constitution.

"Current law puts responsibility for publishing the names of sex offenders in a registry in the hands of the Attorney General. In 2002, a law was enacted that allowed offenders to be heard before their names were included on the list. The following year, at the AG's request, a hearing process for sex-offenders was instituted, giving them the opportunity to convince a judge that they are not dangerous. These were the legislative actions taken to ensure the rights of offenders were protected. But no hearings were completed in 2002 or 2003. And so there is still

no list. There is still no protection for the public, or for our children.

"Seven years have passed since we first enacted our 'Megan's Law'. It is way past time to end this inaction. This bill addresses that problem by putting a question on the November '04 ballot asking the voters if they want the public to have access to a registry identifying sex offenders, and allow the legislature to determine which offenses and exactly what information is included, how the public will access the information, and after what time period a convicted person may petition for termination of public access.

"Hopefully the voters will support this amendment making this vital information available to one and all. Thank you, Mr. Speaker."

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

Representative Pendleton's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2843, Senate Draft 1, House Draft 2, which ensures that the public has access to information regarding convicted sex offenders who may live in their neighborhoods and pose a danger to their families, especially their children. I am strongly in favor of this bill particularly because it removes the provision that convicted sex offenders have the right to a hearing to determine whether or not they should be placed in the registry. I am pleased with the provision in House Draft 2 before us which calls on the legislature to determine the types and gravity of offenses that would meet the criteria for placement in the State's registry.

"Mr. Speaker, I am in strong support of the intent of this bill which proposes a constitutional amendment to allow public access to sex offender registration information. What SB 2843, SD1, HD2 calls for is public access to the publication of factual information – information that is already in the public domain through court records or by visiting a police or sheriff's office. By allowing more efficient public access to this information, we are increasing our efforts to provide protection to the public. It is our duty as legislators to ensure we continue to protect our citizens from those who victimize the most vulnerable citizens.

"I am elated that HD2 would eliminate the House Draft 1 which preserves the requirement that convicted sex offenders automatically be given a hearing to object to being listed on a public registry. I voted "no" to HD1 because it erodes the victim's rights and the public's safety. I do not believe that a convicted pedophile or a rapist has a privacy right. He should have thought about this before assaulting a child or raping a woman.

"I am strongly opposed, as are the office of the State's Attorney General and the office of the Honolulu Prosecuting Attorney, to rewarding convicted sex offenders a process which they were already given. There is no need for another hearing to determine whether a convicted sex offender should be placed in the public registry. As the term 'convicted' implies, the convicted sex offenders have already gone through a process wherein they did have full due process rights and hearings. Providing additional hearings would be burdensome and would defeat the purpose of the bill which is to protect our citizens from convicted sex offenders by allowing citizens timely access to information. According to the Attorney General's office, since lawmakers established a hearing process two years ago, there are 1,900 cases that need to be reviewed and put through the process, and it could take up to six years to hear these cases. This process requires much time and manpower, all at the expense of the taxpayers.

"Mr. Speaker, Hawaii had posted convicted sex offender's names, photos and other information on a web site but was forced to shut the site down in 2001 when the Hawaii Supreme Court ruled it violated State constitutional guarantees of due process by not providing convicts with a hearing before publicizing their names. However, in the federal Supreme Court's first review of what are known as *Megan's Law* in March 2003, it ruled that photos of convicted sex offenders may be posted on the Internet.

"Justice Anthony Kennedy agreed that the Alaskan law requiring registration of sex offenders and allowing for public access of that information is not punitive. 'Our system does not treat dissemination of truthful information in furtherance of a legitimate governmental objection as punishment,' he wrote for the majority. 'The purpose and the principal effect of notification are to inform the public for its own safety, not to humiliate the offender.'

"Additionally, they ruled 9-0 that Connecticut did not have to hold a separate hearing to determine the risk posed by the convicted sex offenders. The cases are *Connecticut Department of Public Safety v. John Doe*, and *Otte v. Doe*. The court in its decision recognized that these convicted criminals still pose a significant danger to society and that states can take reasonable steps to protect and inform the public.

"Mr. Speaker, part of our job in the Legislature is to ensure the public's safety, and one way of doing that is to continue to strengthen our laws regarding sex offenders. By allowing public access to the sex offender registration information in a timely manner, we are protecting our citizens, especially our children.

"For these reasons, I rise in strong support of Senate Bill 2843, Senate Draft 1, House Draft 2 which protects our citizens from those who victimize the most vulnerable citizens.

"Thank you, Mr. Speaker, for the opportunity to speak in strong support of SB 2843, SD1, HD2."

The motion was put to vote by the Chair and carried, and S.B. No. 2843, SD 1, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Sonson voting no.

At 3:38 o'clock p.m., the Chair noted that S.B. No. 2843, SD 1, HD 2, passed Third Reading.

S.B. No. 2843, SD 1, HD 2 passed Third Reading in the following form:

#### **S.B. No. 2843, SD 1, HD 2**

A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII.

#### **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii to provide that:

- (1) The public has a right of access to registration information regarding persons who have been convicted in the past or who will be convicted in the future of

certain crimes against children and certain sexual offenses;

- (2) The legislature shall determine which offenses are subject to this public right of access;
- (3) The legislature shall determine what information constitutes registration information to which the public has a right of access;
- (4) The legislature shall determine the manner of public access to the registration information; and
- (5) The legislature shall determine a period of time and conditions pursuant to which a convicted person may petition for termination of public access.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

**"PUBLIC ACCESS TO INFORMATION CONCERNING  
PERSONS CONVICTED OF CERTAIN OFFENSES  
AGAINST CHILDREN AND CERTAIN SEXUAL  
OFFENSES**

**Section .** The public has a right of access to registration information regarding persons convicted of certain offenses against children and persons convicted of certain sexual offenses. The legislature shall determine which offenses are subject to this provision, what information constitutes registration information to which the public has a right of access, the manner of public access to the registration information and a period of time after which and conditions pursuant to which a convicted person may petition for termination of public access."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the Constitution of the State of Hawaii be amended to provide that the public has a right of access to registration information regarding persons convicted of certain offenses against children and persons convicted of certain sexual offenses, and that the legislature shall determine which offenses are subject to this provision, what information constitutes registration information to which the public has a right of access, the manner of public access to the registration information, and a period of time after which and conditions pursuant to which a convicted person may petition for termination of public access?"

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

At 3:38 o'clock p.m., Representative Saiki requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:39 o'clock p.m.

#### ANNOUNCEMENTS

Representative Leong: "Thank you, Mr. Speaker. Last week completed our basket drive for the Institute of Human Services. Each of you, each office donated baskets, we were given a red ticket. That ticket was for the three surprises that we had for

you. We wanted to present the three rewards on the 13th but we were too late that night and everyone was too tired. So today, I'd like to present the three awards.

"The first prize goes to Representative Takamine's office. The second prize goes to Representative Kawakami's office. And the third prize goes to Representative Ontai's office. So I have them here. Before you go, I'll present them to you. Thank you all for participating. Mahalo."

Representative Chang: "Mr. Speaker, I'd like to ask for a waiver of the 24-hour notice for Conference Committee on House Bill 2608, House Draft 1, Senate Draft 1. It will be held tomorrow morning at 8:30 in room 423. The conferees are the Chairs are Tourism and Finance, as well as the Vice Chair of Judiciary, and Representative Karamatsu."

Representative Fox: "Mr. Speaker, what is the title of that bill?"

Representative Chang: "The title is, Relating to the Hawaii Tourism Authority."

Representative Kaho'ohalahala: "Thank you, Mr. Speaker. If I may remind the Members of Water, Land Use, and Hawaiian Affairs that our 3 o'clock agenda will commence immediately following this session in room 423."

#### SUSPENSION OF RULES

On motion by Representative Saiki, seconded by Representative Lee and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments proposed by the Senate to certain House bills.

#### RECONSIDERATION OF ACTION TAKEN

Representative Saiki moved that the House reconsider its action previously taken in disagreeing to the amendments proposed by the Senate, and gave notice of intent to agree to such amendments for the following House bill, seconded by Representative Lee.

H.B. No. 267, HD 2, (SD 2)

At 3:42 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 3:43 o'clock p.m.

The Chair then stated:

"Representative Marumoto, has your question been answered on page 3, House Bill 267?"

Representative Marumoto responded, stating:

"Thank you, Mr. Speaker. But however, I did have another question regarding the conferee on a bill mentioned by the Tourism Chairman. I was wondering if there was a Republican Member of that conference committee."

Speaker Say: "Representative Marumoto, you are out of order at this point, because the discussion right now on the Floor is for the reconsideration and the notice of the intention to agree. Is there any further discussion?"

The motion was put to vote by the Chair and carried, and the House reconsidered its action previously taken in disagreeing to the amendments proposed by the Senate, and gave notice of intent to agree to such amendments for the aforementioned House bill.

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

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

### ADJOURNMENT

At 3:46 o'clock p.m. on motion by Representative Lee, seconded by Representative Meyer and carried, the House of Representatives adjourned until 9:00 o'clock a.m., tomorrow, Friday, April 16, 2004.

### SENATE COMMUNICATIONS

The following communications (Sen. Com. No. 567 through 569) were received prior to the adjournment of this day's session:

Sen. Com. No. 567, informing the House that H.B. No. 1800, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Final Reading in the Senate on April 15, 2004.

Sen. Com. No. 568, transmitting H.B. No. 2840, H.D. 1, S.D. 3, entitled: "A BILL FOR AN ACT RELATING TO ENHANCING ECONOMIC DIVERSITY," which passed Third Reading in the Senate on April 15, 2004.

Sen. Com. No. 569, transmitting H.B. No. 2049, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," which passed Third Reading in the Senate on April 15, 2004.

In accordance with the motion made, the House disagreed to the amendments made by the Senate to the following House bills:

H.B. No. 2840, HD 1, SD 3  
H.B. No. 2049, HD 1, SD 2

### HOUSE COMMUNICATIONS

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 189 H.D. 2 S.D. 2  
H.B. No. 267 H.D. 2 S.D. 2  
H.B. No. 403 H.D. 1 S.D. 1  
H.B. No. 537 H.D. 1 S.D. 1  
H.B. No. 680 H.D. 2 S.D. 1  
H.B. No. 1004 H.D. 1 S.D. 1  
H.B. No. 1261 H.D. 2 S.D. 1  
H.B. No. 1335 H.D. 3 S.D. 2  
H.B. No. 1374 H.D. 2 S.D. 2  
H.B. No. 1560 H.D. 1 S.D. 1  
H.B. No. 1590 H.D. 2 S.D. 2  
H.B. No. 1634 H.D. 1 S.D. 1

H.B. No. 1710 H.D. 2 S.D. 2  
H.B. No. 1743 H.D. 2 S.D. 2  
H.B. No. 1756 H.D. 2 S.D. 1  
H.B. No. 1770 H.D. 1 S.D. 2  
H.B. No. 1774 H.D. 2 S.D. 2  
H.B. No. 1778 H.D. 2 S.D. 2  
H.B. No. 1780 H.D. 1 S.D. 1  
H.B. No. 1786 H.D. 1 S.D. 2  
H.B. No. 1792 H.D. 2 S.D. 1  
H.B. No. 1793 H.D. 2 S.D. 1  
H.B. No. 1820 H.D. 1 S.D. 1  
H.B. No. 1839 H.D. 2 S.D. 2  
H.B. No. 1840 H.D. 1 S.D. 1  
H.B. No. 1848 H.D. 1 S.D. 1  
H.B. No. 1856 H.D. 1 S.D. 1  
H.B. No. 1860 H.D. 1 S.D. 2  
H.B. No. 1885 S.D. 1  
H.B. No. 1893 H.D. 2 S.D. 1  
H.B. No. 1904 H.D. 1 S.D. 2  
H.B. No. 1908 H.D. 2 S.D. 1  
H.B. No. 1924 H.D. 1 S.D. 2  
H.B. No. 1929 H.D. 1 S.D. 2  
H.B. No. 1944 H.D. 1 S.D. 1  
H.B. No. 1980 H.D. 1 S.D. 1  
H.B. No. 2005 H.D. 1 S.D. 1  
H.B. No. 2009 H.D. 1 S.D. 1  
H.B. No. 2022 H.D. 2 S.D. 1  
H.B. No. 2023 H.D. 2 S.D. 2  
H.B. No. 2025 H.D. 3 S.D. 2  
H.B. No. 2048 H.D. 1 S.D. 1  
H.B. No. 2061 H.D. 2 S.D. 1  
H.B. No. 2074 H.D. 1 S.D. 1  
H.B. No. 2092 H.D. 2 S.D. 2  
H.B. No. 2093 H.D. 1 S.D. 2  
H.B. No. 2136 H.D. 1 S.D. 1  
H.B. No. 2137 H.D. 1 S.D. 1  
H.B. No. 2143 H.D. 2 S.D. 1  
H.B. No. 2170 H.D. 1 S.D. 1  
H.B. No. 2191 H.D. 1 S.D. 2  
H.B. No. 2215 H.D. 2 S.D. 2  
H.B. No. 2250 H.D. 2 S.D. 2  
H.B. No. 2254 S.D. 1  
H.B. No. 2286 H.D. 1 S.D. 1  
H.B. No. 2291 H.D. 2 S.D. 2  
H.B. No. 2292 H.D. 1 S.D. 1  
H.B. No. 2297 H.D. 1 S.D. 2  
H.B. No. 2301 H.D. 1 S.D. 1  
H.B. No. 2320 H.D. 1 S.D. 1  
H.B. No. 2322 H.D. 1 S.D. 2  
H.B. No. 2363 H.D. 1 S.D. 2  
H.B. No. 2385 H.D. 1 S.D. 1  
H.B. No. 2396 H.D. 2 S.D. 2  
H.B. No. 2458 H.D. 1 S.D. 2  
H.B. No. 2459 H.D. 1 S.D. 2  
H.B. No. 2523 H.D. 1 S.D. 1  
H.B. No. 2547 H.D. 2 S.D. 2  
H.B. No. 2569 H.D. 1 S.D. 1  
H.B. No. 2578 H.D. 1 S.D. 2  
H.B. No. 2608 H.D. 1 S.D. 1  
H.B. No. 2611 H.D. 2 S.D. 2  
H.B. No. 2645 H.D. 2 S.D. 2  
H.B. No. 2662 H.D. 1 S.D. 1  
H.B. No. 2667 H.D. 2 S.D. 1  
H.B. No. 2674 H.D. 1 S.D. 1  
H.B. No. 2703 H.D. 1 S.D. 2  
H.B. No. 2716 S.D. 1  
H.B. No. 2722 H.D. 1 S.D. 1  
H.B. No. 2739 H.D. 1 S.D. 2  
H.B. No. 2740 H.D. 1 S.D. 1  
H.B. No. 2741 H.D. 1 S.D. 1  
H.B. No. 2748 S.D. 1  
H.B. No. 2749 S.D. 1



H.B. No. 2759 H.D. 1 S.D. 1  
 H.B. No. 2773 H.D. 1 S.D. 1  
 H.B. No. 2774 H.D. 1 S.D. 1  
 H.B. No. 2786 H.D. 1 S.D. 2  
 H.B. No. 2792 H.D. 1 S.D. 2  
 H.B. No. 2798 H.D. 1 S.D. 2  
 H.B. No. 2814 H.D. 2 S.D. 1  
 H.B. No. 2815 S.D. 1  
 H.B. No. 2844 H.D. 1 S.D. 1  
 H.B. No. 2859 H.D. 2 S.D. 2  
 H.B. No. 2871 H.D. 2 S.D. 1  
 H.B. No. 2883 H.D. 2 S.D. 2  
 H.B. No. 2911 H.D. 2 S.D. 1  
 H.B. No. 2956 H.D. 1 S.D. 2  
 H.B. No. 2961 H.D. 2 S.D. 2

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has disagreed to the amendments proposed by the Senate to the following House bills:

H.B. No. 2049 H.D. 1 S.D. 2  
 H.B. No. 2840 H.D. 1 S.D. 3

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the following bill has this day passed Final Reading in the House of Representatives:

H.B. No. 1800, HD 1, SD 1, CD 1

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the following bills have this day passed Final Reading in the House of Representatives:

H.B. No. 2004, HD 1, SD 1, CD 1  
 H.B. No. 2280, SD 1, CD 1  
 H.B. No. 2300, HD 1, SD 1, CD 1  
 S.B. No. 3238, SD 2, HD 2, CD 1

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has agreed to the amendments made by the Senate on April 2, 2004, and that the following bill has this day passed Final Reading in the House of Representatives:

H.B. No. 2003, HD 1, SD 1

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered its action taken in disagreeing to the amendments made by the Senate on April 15, 2004:

H.B. No. 267, HD 2, SD 2

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the Speaker has this day appointed as Conferees

on the part of the House for consideration of amendments proposed by the Senate to the following House bills:

H.B. 189, Arakaki/Hamakawa/Takamine, Co-Chrs.;  
 HD 2, SD 2 Ching

H.B. 403, Magaoay/M. Oshiro/Nakasone, Co-Chrs.;  
 HD 1, SD 1 Halford

H.B. 537, Hamakawa, Chr.;  
 HD 1, SD 1 B. Oshiro, Caldwell, Halford

H.B. 680, Magaoay/B. Oshiro/Karamatsu, Co-Chrs.;  
 HD 2, SD 1 Halford

H.B. 1004, Hamakawa, Chr.;  
 HD 1, SD 1 B. Oshiro, Ito

H.B. 1259, Hiraki, Chr.;  
 HD 1, SD 1 Herkes, Sonson, Souki

H.B. 1261, Ito/B. Oshiro/Mindo, Co-Chrs.  
 HD 2, SD 1

H.B. 1335, Takai/Kanoho/Kaho`ohalahala, Co-Chrs.  
 HD 3, SD 2

H.B. 1374, M. Oshiro/Takamine, Co-Chrs.;  
 HD 2, SD 2 Nakasone

H.B. 1560, Kanoho/Kaho`ohalahala, Co-Chrs.;  
 HD 1, SD 1 Waters

H.B. 1590, Ito/Nakasone, Co-Chrs.;  
 HD 2, SD 2 Mindo

H.B. 1634, Morita/Takamine, Co-Chrs.;  
 HD 1, SD 1 Waters

H.B. 1710, Takai/Wakai, Co-Chrs.;  
 HD 2, SD 2 Tamayo, Leong

H.B. 1743, Morita/Kanoho/B. Oshiro, Co-Chrs.;  
 HD 2, SD 2 Bukoski

H.B. 1756, Schatz/Wakai, Co-Chrs.;  
 HD 2, SD 1 Leong

H.B. 1765, B. Oshiro, Chr.;  
 HD 1, SD 1 Caldwell, Souki, Thiel

H.B. 1770, Souki/Hamakawa, Co-Chrs.;  
 HD 1, SD 2 Nishimoto, Wakai, Blundell

H.B. 1774, M. Oshiro/Takamine, Co-Chrs.;  
 HD 2, SD 2 Nakasone

H.B. 1778, M. Oshiro/Takamine, Co-Chrs.;  
 HD 2, SD 2 Mindo, Blundell

H.B. 1780, M. Oshiro/Takamine, Co-Chrs.;  
 HD 1, SD 1 Mindo, Blundell

H.B. 1786, M. Oshiro/Takamine, Co-Chrs.;  
 HD 1, SD 2 Nakasone, Jernigan

H.B. 1792, M. Oshiro/Takamine, Co-Chrs.;  
 HD 2, SD 1 Nakasone, Moses

H.B. 1793, Kanoho/Magaoay, Co-Chrs.;  
 HD 2, SD 1 Kaho`ohalahala, Moses

H.B. 1820, HD 1, SD 1	Hiraki, Chr.; Herkes, Ito, Stonebraker	H.B. 2048, HD 1, SD 1	Morita/Hiraki, Co-Chrs.; Herkes, Bukoski
H.B. 1839, HD 2, SD 2	Arakaki/Hiraki/Hamakawa/Takamine, Co-Chrs.; Stonebraker	H.B. 2061, HD 2, SD 1	Chang/Takamine, Co-Chrs.; Karamatsu, Ontai
H.B. 1840, HD 1, SD 1	Morita, Chr.; Waters, Evans, Bukoski	H.B. 2074, HD 1, SD 1	Schatz/Morita/Chang/B. Oshiro, Co-Chrs.; Leong
H.B. 1848, HD 1, SD 1	Morita/Takamine, Co-Chrs.; Waters, Meyer	H.B. 2092, HD 2, SD 2	Arakaki/Hiraki, Co-Chrs.; Caldwell, Marumoto
H.B. 1856, HD 1, SD 1	Takai, Chr.; Tamayo, Magaoay, Ontai	H.B. 2093, HD 1, SD 2	Arakaki/Hiraki, Co-Chrs.; Herkes, Caldwell, Finnegan
H.B. 1859, HD 2, SD 1	Kahikina/Hamakawa, Co-Chrs.; B. Oshiro, Shimabukuro, Stonebraker	H.B. 2098, HD 1, SD 2	Arakaki/Hiraki/B. Oshiro, Co-Chrs.; Caldwell, Ching
H.B. 1860, HD 1, SD 2	Kahikina/Shimabukuro, Co-Chrs.; Hale, Ching	H.B. 2136, HD 1, SD 1	Nakasone/Hamakawa, Co-Chrs.; Herkes, Moses
H.B. 1885, SD 1	Kahikina/Takamine, Co-Chrs.; Shimabukuro, Ching	H.B. 2137, HD 1, SD 1	Hiraki/Magaoay, Co-Chrs.; Karamatsu, Marumoto
H.B. 1893, HD 2, SD 1	Takai/Takumi/Takamine, Co-Chrs.; Ontai	H.B. 2143, HD 2, SD 1	Hiraki, Chr.; Herkes, Caldwell, Thielen
H.B. 1904, HD 1, SD 2	Ito/Nakasone, Co-Chrs.; Mindó, Blundell	H.B. 2170, HD 1, SD 1	Kawakami, Chr.; Shimabukuro, Nishimoto, Moses
H.B. 1908, HD 2, SD 1	Takumi/Takamine, Co-Chrs.; Kawakami, Leong	H.B. 2191, HD 1, SD 2	Schatz/Wakai, Co-Chrs.; Karamatsu, Ontai
H.B. 1924, HD 1, SD 2	M. Oshiro/Takumi/Takamine, Co-Chrs.; Nakasone, Ontai	H.B. 2215, HD 2, SD 2	M. Oshiro/Nakasone, Co-Chrs.; Mindó, Pendleton
H.B. 1929, HD 1, SD 2	Takumi/Kawakami, Co-Chrs.; Evans, Ontai	H.B. 2223, SD 1	Hiraki, Chr.; Herkes, Ito, Stonebraker
H.B. 1944, HD 1, SD 1	Takamine/Karamatsu, Co-Chrs.; Wakai, Jernigan	H.B. 2250, HD 2, SD 2	Souki/Hamakawa/Takamine, Co-Chrs.; Blundell
H.B. 1980, HD 1, SD 1	Hamakawa, Chr.; B. Oshiro, Caldwell, Marumoto	H.B. 2254, SD 1	B. Oshiro, Chr.; M. Oshiro, Caldwell, Sonson, Pendleton
H.B. 1987, HD 1, SD 1	Souki/Hiraki/B. Oshiro, Co-Chrs.; Caldwell, Pendleton	H.B. 2286, HD 1, SD 1	Takai/Takamine, Co-Chrs.; Leong
H.B. 1991, HD 1, SD 1	Arakaki/B. Oshiro, Co-Chrs.; Ito, Nishimoto, Finnegan	H.B. 2290, HD 1, SD 2	Souki/Hamakawa, Co-Chrs.; Caldwell, Blundell
H.B. 2005, HD 1, SD 1	Arakaki/Hiraki/Takamine, Co-Chrs.; Ching	H.B. 2291, HD 2, SD 2	Souki/Hamakawa/Takamine, Co-Chrs.; Blundell
H.B. 2009, HD 1, SD 1	Abinsay/Takamine, Co-Chrs.; Sonson, Jernigan	H.B. 2292, HD 1, SD 1	B. Oshiro/Kawakami, Co-Chrs.; Nakasone, Bukoski
H.B. 2013, SD 2	Morita/Hiraki, Co-Chrs.; Herkes, Waters, Bukoski	H.B. 2297, HD 1, SD 2	B. Oshiro/Magaoay, Co-Chrs.; Caldwell, Sonson, Thielen
H.B. 2020, HD 1, SD 2	B. Oshiro, Chr.; Caldwell, Sonson, Marumoto	H.B. 2301, HD 1, SD 1	B. Oshiro/Magaoay, Co-Chrs.; Caldwell, Sonson, Pendleton
H.B. 2022, HD 2, SD 1	Kahikina/Arakaki/Kawakami, Co-Chrs.; Nishimoto, Stonebraker	H.B. 2320, HD 1, SD 1	Hamakawa, Chr.; Sonson, Ito, Chang, Marumoto
H.B. 2023, HD 2, SD 2	Arakaki/Hamakawa, Co-Chrs.; Shimabukuro, Ching	H.B. 2322, HD 1, SD 2	Karamatsu, Chr.; Mindó, Wakai, Meyer
H.B. 2025, HD 3, SD 2	M. Oshiro/B. Oshiro/Nakasone, Co-Chrs.; Blundell	H.B. 2363, HD 1, SD 2	Hiraki/B. Oshiro, Co-Chrs.; Sonson, Stonebraker

H.B. 2385, HD 1, SD 1	Kahikina/Arakaki/Hamakawa, Co-Chrs.; Shimabukuro, Ching	H.B. 2749, SD 1	Takamine, Chr.; Kawakami, Magaoay, Bukoski
H.B. 2396, HD 2, SD 2	Schatz/Takamine, Co-Chrs.; Wakai, Karamatsu, Ontai	H.B. 2759, HD 1, SD 1	Takamine, Chr.; Kaho`ohalahala, Waters, Moses
H.B. 2408, HD 2, SD 1	M. Oshiro/Arakaki/Hiraki/Takamine, Co-Chrs.; Jernigan	H.B. 2773, HD 1, SD 1	Hiraki, Chr.; Herkes, Sonson, Caldwell, Marumoto
H.B. 2458, HD 1, SD 2	Kahikina/Hamakawa, Co-Chrs.; Shimabukuro, Sonson, Finnegan	H.B. 2774, HD 1, SD 1	Hiraki, Chr.; Sonson, Caldwell, Thielen
H.B. 2459, HD 1, SD 2	Kahikina/Arakaki/Takamine, Co-Chrs.; Nishimoto, Shimabukuro, Stonebraker, Moses	H.B. 2786, HD 1, SD 2	B. Oshiro, Chr.; Sonson, Ito, Caldwell, Pendleton
H.B. 2472, HD 2, SD 1	Arakaki/Hamakawa, Co-Chrs.; Caldwell, Nishimoto, Finnegan	H.B. 2792, HD 1, SD 2	Kanoho/Souki/Hamakawa, Co-Chrs.; Finnegan
H.B. 2523, HD 1, SD 1	Souki/Takamine, Co-Chrs.; Mindo, Blundell	H.B. 2798, HD 1, SD 2	Arakaki/Hiraki, Co-Chrs.; Nishimoto, Herkes, Stonebraker
H.B. 2547, HD 2, SD 2	Takai/Takamine, Co-Chrs.; Nakasone, Tamayo, Leong	H.B. 2814, HD 2, SD 1	Arakaki/Nishimoto, Co-Chrs.; Shimabukuro, Ching
H.B. 2569, HD 1, SD 1	Hiraki, Chr.; Herkes, Kanoho, Marumoto	H.B. 2815, SD 1	Takumi/Takamine, Co-Chrs.; Evans, Ontai
H.B. 2578, HD 1, SD 2	Waters, Chr.; Shimabukuro, Kaho`ohalahala, Karamatsu, Jernigan	H.B. 2859, HD 2, SD 2	Hale/Takamine, Co-Chrs.; Nishimoto, Ching
H.B. 2608, HD 1, SD 1	Chang/B. Oshiro/Takamine, Co-Chrs.; Karamatsu	H.B. 2871, HD 2, SD 1	Arakaki/M. Oshiro/Takumi, Co-Chrs.; Leong
H.B. 2611, HD 2, SD 2	Schatz/Chang/Takamine, Co-Chrs.; Wakai, Ontai	H.B. 2883, HD 2, SD 2	Souki/Hiraki/Takamine, Co-Chrs.; Blundell
H.B. 2645, HD 2, SD 2	Takumi/M. Oshiro/Kawakami, Co-Chrs.; Nakasone, Ontai	H.B. 2911, HD 2, SD 1	Takumi/Takamine, Co-Chrs.; Magaoay
H.B. 2662, HD 1, SD 1	Ito/Schatz/Takamine, Co-Chrs.; Mindo, Blundell	H.B. 2956, HD 1, SD 2	Souki/Takamine, Co-Chrs.; Caldwell, Mindo, Moses
H.B. 2667, HD 2, SD 1	Kanoho/Takumi/Takamine, Co-Chrs.; Kaho`ohalahala, Ching	H.B. 2961, HD 2, SD 2	Morita/Takamine, Co-Chrs.; Waters, Bukoski
H.B. 2674, HD 1, SD 1	Hamakawa/Hiraki, Co-Chrs.; Herkes, Caldwell, Thielen	<p>House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the Senate to the following House bills:</p>	
H.B. 2703, HD 1, SD 2	Nakasone, Chr.; Mindo, Karamatsu, Shimabukuro, Jernigan		
H.B. 2716, SD 1	Kanoho/Kaho`ohalahala, Co-Chrs.; Waters, Jernigan		
H.B. 2722, HD 1, SD 1	Nishimoto, Chr.; Kaho`ohalahala, Waters, Meyer		
H.B. 2739, HD 1, SD 2	Nakasone, Chr.; Wakai, Karamatsu, Waters, Moses	H.B. 2049, HD 1, SD 2	Morita/Hiraki, Co-Chrs.; Herkes, Thielen
H.B. 2740, HD 1, SD 1	M. Oshiro, Chr.; Nakasone, Ito, Mindo, Pendleton	H.B. 2840, HD 1, SD 3	Kanoho/Schatz/Kaho`ohalahala, Co-Chrs.; Finnegan
H.B. 2741, HD 1, SD 1	M. Oshiro/Takamine, Co-Chrs.; Nakasone, Mindo	<p>House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the House to the following Senate bill:</p>	
H.B. 2748, SD 1	Takamine, Chr.; Kawakami, Nakasone, Meyer		
		S.B. 3025, HD 1	Kanoho/Takamine, Co-Chrs.; Kaho`ohalahala, Kawakami

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House had made the following changes to conferees on the following measure:

H.B. No. 2023,	Added Representative Kahikina as first
HD 2, SD 2	Co-Chair.
	Discharged Representative Arakaki as
	first Co-Chair.

House Communication dated April 15, 2004, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Linda Lingle, Governor of the State of Hawaii, that in accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form of the following Senate Bills, and that said measures passed Third Reading in the Hawaii House of Representatives on this date.

S.B. No. 2843, SD 1, HD 2, entitled:  
"PROPOSING AN AMENDMENT TO ARTICLE I OF  
THE CONSTITUTION OF THE STATE OF HAWAII."

S.B. No. 2846, SD 1, HD 2, entitled:  
"PROPOSING AMENDMENTS TO ARTICLE I, SECTION  
14, OF THE HAWAII CONSTITUTION."