

## FORTY-SIXTH DAY

**Tuesday, April 10, 2012**

The House of Representatives of the Twenty-Sixth Legislature of the State of Hawaii, Regular Session of 2012, convened at 9:26 o'clock a.m., with Vice Speaker Manahan presiding.

The invocation was delivered by Representative James Kunane Tokioka, after which the Roll was called showing all Members present.

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

## GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 236, 1111 and 1112) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 236, dated April 5, 2012, transmitting the 2011 Annual Report of the Hawaii Housing Finance and Development Corporation, pursuant to Section 201H-21, HRS.

Gov. Msg. No. 1111, informing the House that on April 09, 2012, the following bill was signed into law:

S.B. No. 3024, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CORPORATIONS." (ACT 011)

Gov. Msg. No. 1112, informing the House that on April 09, 2012, the following bill was signed into law:

H.B. No. 2639, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION." (ACT 012)

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 475 through 479) were received and announced by the Clerk:

Sen. Com. No. 475, transmitting S.C.R. No. 10, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE SUPPORT OF THE REPEAL OF COMBAT EXCLUSIONARY RULES," which was adopted by the Senate on April 5, 2012.

Sen. Com. No. 476, transmitting S.C.R. No. 64, SD 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE PUBLIC LAND DEVELOPMENT CORPORATION TO IDENTIFY PUBLIC TRUST LAND ON THE ISLANDS OF HAWAII AND MAUI WITH GEOTHERMAL RESOURCES THAT MAY BE DEVELOPED AND TO WORK WITH THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEVELOP AND IMPLEMENT GEOTHERMAL DEVELOPMENT PROJECTS ON PUBLIC TRUST LAND ON THE ISLANDS OF HAWAII AND MAUI," which was adopted by the Senate on April 5, 2012.

Sen. Com. No. 477, transmitting S.C.R. No. 116, entitled: "SENATE CONCURRENT RESOLUTION APPROVING THE SELECTION OF DANIEL KAHIKINA AKAKA TO BE INDUCTED INTO THE ALOHA ORDER OF MERIT," which was adopted by the Senate on April 5, 2012.

Sen. Com. No. 478, transmitting S.C.R. No. 141, entitled: "SENATE CONCURRENT RESOLUTION DECLARING THE FIRST WEEK OF OCTOBER AS HAWAII FISHING AND SEAFOOD WEEK," which was adopted by the Senate on April 5, 2012.

Sen. Com. No. 479, dated April 5, 2012, informing the House that the Senate has disagreed to the amendments proposed by the House to the following Senate Bills:

S.B. No. 1500, HD 1  
S.B. No. 2398, SD 2, HD 1

## ORDER OF THE DAY

## SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering certain Senate Bills for Third Reading by consent calendar.

## CONSENT CALENDAR

## UNFINISHED BUSINESS

At this time, the Chair announced:

"Members, there will be no discussion as these are items agreed to by this Body for placement on the Consent Calendar."

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1536-12) recommending that S.B. No. 2354, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2354, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I support SB 2354 SD1 HD2, as another way to address concerns by local farms with theft. This bill sets a simple standard for people attempting to sell substantial quantities of locally grown produce – show us written proof that you purchased the agricultural commodity from a local farmer.

"The House draft we vote on today requires that the certificate identify the particular sellers of the agricultural commodities and establishes lack of such ownership or movement certificates as prima facie evidence of second degree theft.

"Hawaii's future food security aspirations depend on having a strong and self-sufficient farming community. But our farmers – particularly our local truck and produce farmers – face an often thin margin between profitability and failure. High land prices. Scarcity of water. Higher labor costs than the mainland farmers filling container-loaded produce into the big box stores.

"Anecdotally, agricultural theft has become endemic in Hawaii. Such theft threatens the livelihood of farmers who are already engaged in an industry fraught with financial risks. Island farmers cannot afford for us to be lax on yet another threat to their ability to sustain viable local farms. In keeping with the effort to support local farmers and local agricultural production, I support this bill which will strengthen the tools to pursue agricultural thieves.

"This bill is a practical and efficient way to deter and prosecute agricultural theft. I urge my colleagues to vote in favor of local agriculture."

Representative Tsuji's written remarks in support of the measure are as follows:

"This bill seeks to deter theft of agricultural commodities and specifies ownership verification requirements for sales.

"The House Committee on Agriculture heard the majority of testimony in support of this Bill. Subsequent amendments included expanding the offense of theft in the second degree to include the theft of all agricultural commodities, rather than just those marketed for commercial purposes. This measure addresses the ongoing problem of agricultural theft and I urge my colleagues to support it."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2354, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL COMMODITIES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1539-12) recommending that S.B. No. 2712, HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2712, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Awana voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1540-12) recommending that S.B. No. 2713, SD 1, HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2713, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1543-12) recommending that S.B. No. 2808, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2808, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES FOR HEALTH CARE PAYMENTS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1544-12) recommending that S.B. No. 2797, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2797, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PSYCHOTROPIC MEDICATIONS IN MEDICAID," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1545-12) recommending that S.B. No. 2810, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2810, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT EXEMPTION FOR DOMESTIC SERVICES AUTHORIZED BY THE DEPARTMENT OF HUMAN SERVICES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1546-12) recommending that S.B. No. 2833, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2833, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT EXEMPTION FOR DOMESTIC SERVICES FOR PERSONS WITH DEVELOPMENTAL AND INTELLECTUAL DISABILITIES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1549-12) recommending that S.B. No. 2818, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2818, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF DEAD HUMAN BODIES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1553-12) recommending that S.B. No. 2772, SD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2772, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1555-12) recommending that S.B. No. 2773, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2773, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIBRARIES," passed Third Reading by a vote of 51 ayes.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1556-12) recommending that S.B. No. 2103, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2103, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative M. Lee's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2103 – Relating to Health. I rise in support of the measure. This will facilitate the transfer of important doctor's orders needed for patient care. The measure is especially needed in rural areas where the physician is not physically present. I urge the Members' support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2103, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1557-12) recommending that S.B. No. 2630, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2630, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NOISE," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1558-12) recommending that S.B. No. 2228, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2228, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I support this measure as I supported a similar measure last Session that unfortunately was vetoed for a technical title – subject problem.

"I stand in support of this measure which requires the monitoring of the sale of products containing pseudoephedrine. Pseudoephedrine is an effective cold and allergy medication for many people, however it can be used in the manufacture of methamphetamine, commonly referred to as "ICE," a highly dangerous drug. This measure will provide an up to date, real-time tracking system that will help ensure that pseudoephedrine products are available for legitimate use, but not available to those who would illegally divert it. This measure allows retailers to block illegal sales and enhances law enforcement's suppression and investigation efforts.

"This measure is far better than requiring a prescription for pseudoephedrine. It will help reduce the cost and waste of valuable professional time required to obtain a prescription. The system is maintained by industry, so it will cost the State little. If the State's concerns with having access to the data proves to be a problem or a barrier, then future Legislatures can take up that issue.

"I urge my colleagues to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2228, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1563-12) recommending that S.B. No. 2865, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2865, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF PUBLIC SAFETY FEDERAL REIMBURSEMENT MAXIMIZATION SPECIAL FUND," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1564-12) recommending that S.B. No. 2866, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2866, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMPREHENSIVE OFFENDER REENTRY SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1568-12) recommending that S.B. No. 2874, SD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2874, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AIRPORT REVENUE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1569-12) recommending that S.B. No. 2877, SD 1, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2877, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS FIREBOAT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1570-12) recommending that S.B. No. 2224, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2224, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TAX LIEN AND ENCUMBRANCE RECORD," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1572-12) recommending that S.B. No. 2872, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2872, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1576-12) recommending that S.B. No. 2318, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2318, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative M. Lee's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2318 – Relating to Adult Guardianship and Protective Proceedings Jurisdiction.

"I rise in support of the measure. This is a Uniform Act which will provide clarity when determining guardian jurisdiction in multi-state situations. As the nation ages, such questions will be ever more important and this will provide uniformity among the states. I urge the Members' support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2318, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1579-12) recommending that S.B. No. 2751, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2751, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1582-12) recommending that S.B. No. 2323, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2323, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR PUBLIC EMPLOYMENT COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1583-12) recommending that S.B. No. 2324, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2324, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR PUBLIC EMPLOYMENT COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1587-12) recommending that S.B. No. 2748, SD 1, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2748, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1589-12) recommending that S.B. No. 2859, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2859, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I strongly support this bill which addresses a practical and frustrating problem faced by the normal, everyday working person who wants to participate in our democracy. This bill allows members at a board meeting that must be cancelled for lack of a quorum to receive testimony and presentations from the people who have shown up to the cancelled meeting. Many people must arrange work and family obligations in order to testify at an announced meeting of a public board considering an issue of importance to them. Through no fault of their own, such a meeting can be cancelled at the time it is supposed to begin because a quorum is not present. The existing law presents a burden on public participation to require people to come back, possibly repeatedly before they can express their concerns to the board.

"This measure allows the members present to receive the testimony and make a record for the entire board so that members of the public are not unduly burdened.

"This measure also allows two or more, but less than a quorum of board members to attend information meetings or presentations on matters relating to official board business. This change balances allowing board members to participate in community events relevant to their work on the board with valid transparency concerns regarding deliberations by a board's majority outside of a properly noticed formal meeting. With this change, we recognize the occasional need for a neighborhood or organization to have the participation of their fellow residents who also serve as members of boards and elected bodies in the social and community life of our democracy.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2859, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OPEN GOVERNMENT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1595-12) recommending that S.B. No. 2850, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2850, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GROUNDED VESSELS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1597-12) recommending that S.B. No. 2536, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2536, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CLEAN AND SOBER HOMES AND HALFWAY HOUSES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1598-12) recommending that S.B. No. 2709, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2709, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FURNISHING THE DATE OF VITAL EVENTS TO GOVERNMENTAL AGENCIES WITHIN THE STATE OF HAWAII THAT REQUEST VERIFICATION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1600-12) recommending that S.B. No. 2813, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2813, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DISABILITY AND COMMUNICATION ACCESS BOARD SPECIAL FUND," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1601-12) recommending that S.B. No. 2820, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2820, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII ADVISORY COMMISSION ON DRUG ABUSE AND CONTROLLED SUBSTANCES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1602-12) recommending that S.B. No. 2821, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2821, HD 3, entitled: "A BILL FOR AN ACT RELATING TO MORTALITY REVIEW OF DEATHS OF PERSONS WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITIES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1603-12) recommending that S.B. No. 2827, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2827, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAUMA SYSTEM SPECIAL FUND," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1604-12) recommending that S.B. No. 2828, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2828, HD 3, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Honorable Speaker, I support SB2828 HD3 which changes the membership composition and functions of the Hawaii Early Intervention Coordinating Council to be consistent with the requirements of the Individuals With Disabilities Education Improvement Act of 2004 regarding the State Interagency Coordinating Council.

"SB2828 HD3 increases the Council's membership from fifteen to twenty-five members and pools membership from parents of special needs children, service providers with knowledge and experience with early intervention services, the Departments of Health, Education, Human

Services, Commerce and Consumer Affairs, Head Start, the Legislature, personnel, and other interested members selected by the Governor.

"SB2828 HD3 also adds to the function of the Council which is to advise and assist the Department of Education regarding the transition of toddlers with special needs to preschool and other appropriate services.

"The Department of Health annually receives more than \$2.1 million in federal funds which supports early intervention services to infants and toddlers who are at risk for developmental delays. Compliance with existing federal requirements requires the specification of additional members to the Hawaii Early Intervention Coordinating Council. The broader membership would ensure compliance with the Individuals With Disabilities Education Improvement Act of 2004 and also ensure that the needs of Hawaii's at risk children and their families are met.

"I urge my colleagues to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2828, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EARLY INTERVENTION COORDINATING COUNCIL," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1608-12) recommending that S.B. No. 2768, SD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2768, SD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1611-12) recommending that S.B. No. 2765, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2765, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1613-12) recommending that S.B. No. 2805, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2805, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC HOUSING," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1622-12) recommending that S.B. No. 2780, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2780, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1623-12) recommending that S.B. No. 2758, SD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2758, SD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1626-12) recommending that S.B. No. 2126, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2126, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1629-12) recommending that S.B. No. 2933, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2933, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I support S.B. 2933 SD2 HD2 which addresses the longstanding user conflicts and safety issues in the Kaanapali Ocean Recreation Management Area (ORMA) and other heavily used nearshore waters on the island of Maui.

"Today, as found throughout our island state, the nearshore waters on Maui are popular sites of recreational activity for both local residents and our visitors—it's a major reason Hawaii remains one of the best places to live and a major attraction for tourists and others who come to the islands for business. We as legislators have a duty to make the use of these nearshore waters as safe as possible for our residents and visitors. Tragically, these waters continue to be the sites of far too many accidents, including some tragic fatalities when swimmers and divers mix too easily with motorized recreational vessels.

"We can certainly take some practical steps to better prevent these tragedies and make our nearshore waters safe and enjoyable for everyone. Swim buoys to mark areas in our nearshore waters for swimmers and to separate those areas from speedboats, jet skis and other mechanized vessels, are an important tool to meeting these ends. As shown in many places both in Hawaii and in other resort destinations, swim buoys serve as incredibly efficient and effective solutions. Accidents involving collisions between speed boats and jet skis with swimmers are all too frequent occurrences because all parties are unaware of where appropriate swim zones are located. In addition, swimmers who swim beyond appropriate swim zones are in danger of being swept up in a rip tide, or drowning.

"This measure will give the Department of Land and Natural Resources (DLNR) a tool to implement these buoys in nearshore waters. DLNR will be mandated to adopt rules that promote greater safety of ocean users in the State's nearshore waters, appropriates funds for swim zone buoys at Kamaole beach, establishes the West Maui ORMA Advisory Committee to DLNR on State waters within the area, particularly with respect to Kaanapali, and requires reports to the Legislature.

"I urge my colleagues to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2933, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OCEAN SAFETY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1630-12) recommending that S.B. No. 2876, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2876, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Honorable Speaker, I support SB2876 SD2 HD3 which is intended to assist the Department of Transportation, Harbors Division in addressing the management and operations of its commercial harbor facilities. SB2876 SD2 HD3 adds two new sections to Part I of Chapter 266, Hawaii

Revised Statutes. The new civil procedure distinguishes civil matters from existing criminal statute, thus de-criminalizing certain violations.

"The new sections establish within the Department of Transportation, a State harbors civil violations system, whose purpose shall be to process administrative penalties for violations of departmental regulations.

"SB2876 SD2 HD3 establishes an administrative hearing process for non-criminal violations, modeled after and similar to the administrative process successfully being used by the Department of Land and Natural Resources. This law creates general administrative penalties and graduated fines, establishes minimum and maximum fines for each violation, authorizes the administrative hearings officer or the courts to deprive any violator of the privilege of entering State waters or obtaining operating or mooring permits for a period of not more than one year, and stipulates that the fines and penalties for non-criminal matters shall be deposited into the Harbor Special Fund.

"SB2876 SD2 HD3 allows the Department of Transportation to seek reimbursement from tenants or harbor users who violate federal maritime transportation security law which result in fines to the Department of Transportation.

"SB2876 SD2 HD3 further specifies that the State shall retain the right to pursue civil action for a violation of law even if criminal actions have been pursued for the violation, and to pursue criminal action even if civil actions have been pursued.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2876, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE COMMERCIAL HARBORS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1631-12) recommending that S.B. No. 2506, SD 2, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2506, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Honorable Speaker, I support SB2506 SD2 HD1 which consolidates within the Department of Transportation the State identification program with the driver license program. This measure moves Hawaii closer to assuring our residents will be able to travel freely and do business without interruption by ensuring that Hawaii Drivers Licenses and Hawaii State IDs comply with new federal requirements for official government identification. This bill would consolidate the two functions which are currently being issued by two different State agencies. The Department of the Attorney General would no longer be responsible for the issuance of non-driver license identification cards.

"The federal government enacted REAL ID Act 2005 which mandated the kinds of documentation required and procedures to be followed in issuing driver licenses and non-driver identification cards. The deadline for the implementation of the REAL ID Act is January 15, 2013. Failure to comply will result in official government identifications for Hawaii's people not being recognized by federal agencies and other states, thus preventing individuals to travel and to do business with the federal government and other states. SB2506 SD2 HD1 will ensure that all data collected and stored for both Driver License and for State Identification cards are managed by one state agency, the Department of Transportation. The counties which currently issue driver licenses would assume this function, easing access in obtaining a non-drivers license or civil identification card by having more locations available to them. Since the required documents and processing procedures for the issuance of both cards are similar, the transition should not be difficult to implement.

"Act 35, Session Laws of Hawaii 2011, mandated the Department of the Attorney General to work with the Director of Transportation and the appropriate county agencies, to allow county employees to issue certificates of identification at the same locations where driver licenses are issued. Coordination amongst the two programs is critical as the REAL ID Act must be implemented on a timely basis so that Hawaii's citizen can continue to travel and do business without interruption.

"I urge my colleagues to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2506, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL IDENTIFICATION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1633-12) recommending that S.B. No. 2386, SD 2, HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2386, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE NATIVE HAWAIIAN ROLL COMMISSION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1634-12) recommending that S.B. No. 2790, SD 1, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2790, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I stand in strong support of this measure which will permit the Department of Hawaiian Home Lands to keep building affordable homes for its beneficiaries and which will extend the repeal date of Act 187, SLH 2010, a pilot program not yet implemented, which would enable the Department to commence housing and other projects, without having the full project cost on hand at its initiation.

"By permitting the Department of Hawaiian Home Lands to begin projects without having the full capital costs on hand, this measure will help the Department better manage its cash flow and resources, so as to better serve its beneficiaries through homestead awards."

The motion was put to vote by the Chair and carried, and 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 DEPARTMENT OF HAWAIIAN HOME LANDS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1641-12) recommending that S.B. No. 580, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 580, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AQUATIC LIFE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1645-12) recommending that S.B. No. 745, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 745, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SEAWATER AIR CONDITIONING," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1652-12) recommending that S.B. No. 2822, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2822, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RECYCLING," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1653-12) recommending that S.B. No. 3006, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 3006, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE TIRES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1657-12) recommending that S.B. No. 2774, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2774, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT PUBLICATIONS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1662-12) recommending that S.B. No. 2769, SD 2, HD 2, as amended in HD 3, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2769, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1667-12) recommending that S.B. No. 650, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 650, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Mahalo, Mr. Speaker. I stand in strong support of this measure which will amend the Hawaii State Constitution to empower the Chief Justice to appoint retired judges, ages seventy and above, to serve as temporary judges, for terms not to exceed three months, in courts no higher than they had previously attained.

"This measure will permit the Judiciary to utilize the experience and skill of those judges who reached retirement age but who are still willing to continue to serve the people of the State of Hawaii. Apparently our existing constitutional provision has been interpreted to bar such service after the retirement age is reached. The ability to continue to employ their knowledge and expertise in our court system will prove to be an invaluable asset to the Judiciary. Where such service is common is our federal court system where judges are appointed for life and serve capably and effectively decades after Hawaii's constitutionally imposed retirement age. The phrase "per each appointment" in this bill was included to demonstrate that this measure anticipated that these judges may be appointed for multiple terms. Here, whether the judiciary decides to make additional reappointments in light of a judge's retirement benefits will be left to the good judgment of that branch of government and the individual judges. Also, the term "judges" was contemplated to include "justices" too."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 650, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VI,

SECTION 3, OF THE CONSTITUTION OF THE STATE OF HAWAII AUTHORIZING THE CHIEF JUSTICE OF THE STATE SUPREME COURT TO APPOINT RETIRED JUDGES TO SERVE AS EMERITUS JUDGES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1668-12) recommending that S.B. No. 2056, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2056, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1670-12) recommending that S.B. No. 2236, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2236, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1674-12) recommending that S.B. No. 2320, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2320, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Thank you, Mr. Speaker. I strongly support this bill which establishes in law the Kupuna Care program.

"SB2320 hopefully will fill a legal structural gap in our community continuum of care by recognizing the important role provided by family caregivers. Much of the care provided in Hawaii's close-knit communities are provided by family members. This bill will provide better support for them.

"There is no doubt that Hawaii's growing elderly population may need long-term care facilities. But we need to recognize the important role provided through traditional family support by funding and supporting affordable quality home and community-based services. The Kupuna Care Program has been addressing the growing needs of the elderly and increasing demand for such services. Formally establishing kupuna care into law will strengthen the possibility that these compassionate and practical services will continue to be available.

"As the baby boomers enter their elder years, the demand for such services will only increase and the state must be positioned and prepared to accommodate such demand. The need for long term care has become more widespread as a result, and the Kupuna Care Program serves as a mechanism for providing affordable long-term care by supporting home-based solutions as long as practical and effective. At a time when the economy is struggling, affordability remains a priority.

"We must protect our elderly citizens as they become more vulnerable to society. The Kupuna Care Program's services will also ensure that our elderly are cared for and protected, and that they will enjoy a quality of life that's caring and humane."

Representative M. Lee's written remarks in support of the measure are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2320 – Relating to Aging.

"I rise in support of the measure. This important measure is part of the Kupuna Caucus package, and is important not only because it may bring

down federal funds, but also because it will be a huge help to our aging population. Hopefully all the ADRC units across the State can be fully funded. This is an integral part of the aging infrastructure that cannot be done without. I urge the Members' support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2320, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGING," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1675-12) recommending that S.B. No. 2383, SD 1, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2383, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES TO THE GENERAL PUBLIC," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1677-12) recommending that S.B. No. 2632, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2632, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FEE TIME SHARE INTERESTS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1680-12) recommending that S.B. No. 2110, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2110, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRESERVATION OF HAWAII'S MOVING IMAGES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1681-12) recommending that S.B. No. 2695, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2695, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Tsuji's written remarks in support of the measure are as follows:

"This measure would require the Department of Agriculture to collaborate with other institutions to implement a livestock feed feasibility pilot.

"Feed costs continue to rise and thus continue to be a challenge to our local farmers. Any solutions to this predicament should be looked into and I believe this Bill is viable and relevant. I urge this Chamber to support it."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2695, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIVESTOCK FEED," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1682-12) recommending that S.B. No. 2378, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2378,

SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LEGACY LANDS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1687-12) recommending that S.B. No. 2798, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2798, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURER REQUIREMENTS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1688-12) recommending that S.B. No. 2800, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2800, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTIONS FROM CHILD CARE LICENSING," passed Third Reading by a vote of 51 ayes.

### THIRD READING

#### S.B. No. 3002, SD 2, HD 1:

Representative Chong moved that S.B. No. 3002, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks in support of the measure are as follows:

"Mahalo, Mr. Speaker. I stand in support of this measure which will afford liability protection to real estate brokers and salespersons for misrepresentation based upon good faith reliance upon certain persons and records and based upon their reliance upon certain disclosures.

"However, rather than have that good faith reliance decided by the subjective opinions of the applicable brokers and salespersons, it makes better sense to have that determined by a disinterested third-party. After careful and due consideration, I commend the Chair of Consumer Protection's recommendation that the State of Hawaii's Regulated Industries Complaints Office and the Real Estate Commission who shall resolve whether the brokers or salespersons relied in good faith upon certain persons, information, or disclosures."

The motion was put to vote by the Chair and carried, and S.B. No. 3002, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," passed Third Reading by a vote of 51 ayes.

#### S.B. No. 1312, HD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, S.B. No. 1312, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LEGACY LAND CONSERVATION COMMISSION," passed Third Reading by a vote of 51 ayes.

#### S.B. No. 2816, SD 1, HD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, S.B. No. 2816, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOSPITAL LICENSING," passed Third Reading by a vote of 51 ayes.

#### S.B. No. 2784, SD 2, HD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, S.B. No. 2784, SD 2, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO RECAPITALIZE STATE FISCAL RESERVES," passed Third Reading by a vote of 51 ayes.



At 9:31 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2354, SD 1, HD 2  
 S.B. No. 2712, HD 2  
 S.B. No. 2713, SD 1, HD 2  
 S.B. No. 2808  
 S.B. No. 2797, SD 1, HD 1  
 S.B. No. 2810, SD 1, HD 1  
 S.B. No. 2833, SD 1, HD 2  
 S.B. No. 2818, HD 1  
 S.B. No. 2772, SD 1  
 S.B. No. 2773, SD 1, HD 1  
 S.B. No. 2103, SD 2, HD 2  
 S.B. No. 2630, HD 2  
 S.B. No. 2228, SD 2, HD 2  
 S.B. No. 2865, HD 1  
 S.B. No. 2866, SD 1, HD 2  
 S.B. No. 2874, SD 1  
 S.B. No. 2877, SD 1, HD 1  
 S.B. No. 2224, SD 1, HD 1  
 S.B. No. 2872, HD 1  
 S.B. No. 2318, SD 1, HD 2  
 S.B. No. 2751, HD 1  
 S.B. No. 2323, SD 1, HD 1  
 S.B. No. 2324, SD 1, HD 1  
 S.B. No. 2748, SD 1, HD 1  
 S.B. No. 2859, SD 1, HD 2  
 S.B. No. 2850, SD 1, HD 2  
 S.B. No. 2536, HD 2  
 S.B. No. 2709, HD 2  
 S.B. No. 2813, SD 1, HD 1  
 S.B. No. 2820, HD 2  
 S.B. No. 2821, HD 3  
 S.B. No. 2827, SD 1, HD 1  
 S.B. No. 2828, HD 3  
 S.B. No. 2768, SD 1  
 S.B. No. 2765, SD 2, HD 2  
 S.B. No. 2805, HD 1  
 S.B. No. 2780, SD 1, HD 2  
 S.B. No. 2758, SD 1  
 S.B. No. 2126, SD 2, HD 2  
 S.B. No. 2933, SD 2, HD 2  
 S.B. No. 2876, SD 2, HD 3  
 S.B. No. 2506, SD 2, HD 1  
 S.B. No. 2386, SD 2, HD 2  
 S.B. No. 2790, SD 1, HD 1  
 S.B. No. 580, SD 2, HD 2  
 S.B. No. 745, SD 2, HD 2  
 S.B. No. 2822, SD 2, HD 2  
 S.B. No. 3006, SD 2, HD 2  
 S.B. No. 2774, SD 2, HD 1  
 S.B. No. 2769, SD 2, HD 3  
 S.B. No. 650, HD 1  
 S.B. No. 2056, HD 2  
 S.B. No. 2236, HD 2  
 S.B. No. 2320, SD 2, HD 2  
 S.B. No. 2383, SD 1, HD 1  
 S.B. No. 2632, SD 1, HD 1  
 S.B. No. 2110, SD 1, HD 1  
 S.B. No. 2695, SD 2, HD 2  
 S.B. No. 2378, SD 1, HD 1  
 S.B. No. 2798, SD 1, HD 1  
 S.B. No. 2800, SD 1, HD 1  
 S.B. No. 3002, SD 2, HD 1  
 S.B. No. 1312, HD 1  
 S.B. No. 2816, SD 1, HD 1  
 S.B. No. 2784, SD 2, HD 1

The Chair then announced:

"Members, please remember to submit to the Clerk the list of Senate Bills on the Consent Calendar for which you will be inserting written comments for, in support or in opposition. This must be done by the adjournment of today's session."

At 9:32 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:01 o'clock a.m., with Speaker Say presiding.

## ORDINARY CALENDAR

### UNFINISHED BUSINESS

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 1534-12) recommending that S.B. No. 2438, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2438, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'm rising to speak against the measure. Thank you. Mr. Speaker, S.B. 2438 is relating to the Public Utilities Commission. It requires the Hawaii Natural Energy Institute to provide a technology readiness assessment of renewable projects when requested by the Public Utilities Commission. Then here's the key language. It prohibits the approval by the Public Utilities Commission of any project or contract for a renewable energy project with a, at this point, unspecified technology readiness level. The level is left blank. And my opposition to the bill, Mr. Speaker, is that I know that ultimately there will be a number filled in that will then limit what Hawaii can do with renewable energy, and PUC approval.

"That number would adversely affect the expansion of our renewable energy industry and it's going to be inserted in Conference Committee, pretty much outside of the eye of the public, and where people are not able to weigh in with testimony in person to make that determination. Previous versions of S.B. 2438 specified a readiness level of 6, and that could exclude viable technologies such as wave energy and other ocean energies, as well as bio-fuel.

"Wave energy has been commercially viable in Europe for more than a decade. I've mentioned that before, Mr. Speaker. I've been over and talked with the proponents of those technologies and met with them in the different locations. Wave energy is viable as the United States Department of Energy said recently at a conference held at Marine Corps Base, Hawaii. The United States is 10 years behind Europe. Well, with this kind of legislation, we'll remain that far behind.

"Here in Hawaii, the Navy's been conducting tests on wave energy at the Marine Base for more than five years. They're now going to expand this testing by selecting three companies to plug in and test their wave energy converters at Marine Corps Base, Hawaii."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, could you confine your remarks to the present legislation that is before this Body. We are not addressing wave energy at this point. Confine your remarks to the proposed legislation that is before us in regards to delegating the authority of creating the HNEI being that particular agency to determine the readiness."

Representative Thielen responded, stating:

"What I'm doing is, showing you how a bill and a technology readiness level could harm what is going on at Marine Corps Base, Hawaii, with the wave energy, the new wave energy. It's called a Wave Energy Test Site, the WETS, which is going to be operable in 2014."

Speaker Say: "Representative, Thielen, at that point in time, the commercialization of the wave energy will be presented to HNEI, and then HNEI will say to the PUC, for this particular technology, you folks should consider it. So I can understand what you're saying, but could you confine your remarks to the content and substance of the bill that is before us."

Representative Thielen continued, stating:

"Certainly. The specification of a technology readiness level above 6, could inaccurately discard viable energy such as wave energy, while it's in an earlier stage of development than wind or solar. Considering that the United States Department of Energy has stated its federal objective of obtaining 15% of national energy needs from water power, the last thing Hawaii should be doing is passing legislation that could be seen as restricting local research and development of ocean energy technologies."

"Mr. Speaker, the message that this bill sends to wave energy companies that are interested in participating in Hawaii, is that it's going to put a limit on what you can do at the Marine Base. In conversations from my office with Hawaiian Electric, I'd like to indicate Hawaiian Electric's opposition to this measure as a damp rag, to what they are trying to accomplish."

"Ocean energy, including wave energy and bio fuel technology, is in development, and it's at an earlier stage than wind or solar, but Hawaii wants to be open to all forms of renewable energy. Such restrictions send a very negative message regarding Hawaii's willingness to consider and utilize various renewable energy technologies."

"Obviously, the utility is not in favor of the bill. It anticipates problems were this to become law. If our State is to adhere to S.B. 2438's stated intent to deploy a number of transformational technology with real benefits, then we have to be sure that the real benefits of wave energy ..."

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

Representative Thielen continued, stating:

"Thank you. Then we have to be sure that the real benefits of wave energy as determined by the US Department of Energy and exemplified by over a decade of successful implementation in Europe, is given a fair chance in Hawaii's waters."

"Mr. Speaker, I don't think that we want to be noted as calling a halt to progress, because when we are forced to buy retail down the road, because we passed legislation such as this and put in a level of technology readiness that's going to stop the innovative work in Hawaii, it's going to mean we buy retail. And the countries and the states that are moving ahead with the renewable energy, they're going to get the jobs. They're going to get the bright minds. That's where our kids will graduate, and go to work. Not here, because we'll say, 'No you've got to buy retail in Hawaii. We're not going to allow testing to take place.'"

"The PUC will be prohibited by this bill from approving those kinds of projects. I don't want our kids to be working in Oregon when they could be working here building our wave energy systems. But this bill is sending them to Oregon. Thank you."

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

"Yes, Mr. Speaker. I rise in support. Thank you. I just would like to share with the previous speaker some language from the purpose of this particular bill. 'Hawaii's electricity ratepayers and tax payers should not have to bear the burden of the integration of potentially costly renewable energy projects or energy efficiency devices that are not technologically feasible or are in their developmental infancy.'"

"So what we're trying to do is protect the ratepayers to provide things that are actually ready. But this bill does not exclude the development. In

subsection (d), this section shall not apply to proposal contracts or demonstration projects of less than three years with primary purpose for experimental or data collection purposes. So we're trying to protect the ratepayers, but we're also allowing demonstration projects, Mr. Speaker. Thank you."

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

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

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

"Thank you, Mr. Speaker. In opposition and a few comments. Basically a footnote to the notion that the wave energy is being thrown under the bus. Mr. Speaker, technology happens so quickly that we are now at 3% renewable energy for all of our grid. We're really just in the foothill. No, we're on the plains. We aren't even climbing, but yet we're the nation's leader in energy. We should allow the private sector, i.e., HECO, even though it's controlled by the PUC, to make those decisions."

"What's a good investment? What's not a good investment? For the Legislature to come in and say, 'We don't want you to do this. We don't want you to do that, because we want to protect consumers.' Consumers want protection by lower rates. If the bill says we're going to protect you against higher rates, it's a good one. But for now, we're limiting it, and we're cutting ourselves short in understanding what technology can do."

Representative Pine 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 the report of the Committee was adopted and S.B. No. 2438, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Chang, Marumoto, Thielen and Ward voting no.

Representatives Herkes and Keith-Agaran, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1535-12) recommending that S.B. No. 824, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 824, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIERS," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1537-12) recommending that S.B. No. 2873, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2873, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

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

"Opposition and brief comments please. Thank you. This bill would exclude secondary impacts from environmental review. And while that is a laudable idea, to try to move things along if the primary impact has been addressed, I would caution the Members that secondary impacts can cumulatively add up to potentially be worse than the primary impacts."

"So once again, we're seeking the blinders. We don't want to have to look at anything. We don't want to have to see anything. We don't want to consider anything, and that is bad policy. I'm going to continue to say that. Somebody has to take a look at the potential impacts. There are processes

for exemptions, and I'm sorry that this Legislature is repealing all these. Thank you, very much."

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

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

Representative Carroll 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."

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

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

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

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

Representative Awana 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 the report of the Committee was adopted and S.B. No. 2873, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Riviere and Thielen voting no.

At 10:15 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2438, SD 1, HD 2  
S.B. No. 824, SD 2, HD 2  
S.B. No. 2873, SD 1, HD 3

Representative Chang, for the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 1538-12) recommending that S.B. No. 2341, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2341, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

At this time, Representative Fontaine offered Floor Amendment No. 2, amending S.B. No. 2341, SD 2, HD 2, as follows:

"SECTION 1. Senate Bill No. 2341, S.D. 2, H.D. 2, section 1, is amended by amending line 13 on page 1 to read:

"people, but less than one hundred seventy thousand people;"

SECTION 2. Senate Bill No. 2341, S.D. 2, H.D. 2, section 3, is amended by amending line 19 on page 5 to read:

" thousand people, but less than one hundred seventy"

SECTION 3. Senate Bill No. 2341, S.D. 2, H.D. 2, section 4, is amended by amending line 17 on page 10 to read:

" thousand people, but less than one hundred seventy"

Representative Fontaine moved that Floor Amendment No. 2, be adopted, seconded by Representative Ward.

Representative Fontaine rose to speak in support of the proposed Floor Amendment, stating:

"Yes, Mr. Speaker. I strongly support S.B. 2341 SD2 HD2, Relating to Land Use. This bill repeals the prohibition on ordinances that allow overnight accommodations in agricultural districts. The bill authorizes agricultural tourism activities including overnight accommodations of 21 days or less within a county with a population greater than 100,000 people, but less than 150,000, provided that the county has adopted ordinances regulating agricultural tourism.

"Mr. Speaker, unfortunately, I'm concerned that this bill will not include Maui, which according to the 2010 census, Maui County has a population of 154,834. Right now, no counties fit into the range of 100,000 to 150,000 people given by the bill. Just for a note of information, Kauai County has 67,000 people approximately; and Hawaii County has 185,000 people. Honolulu County has 953,000 people.

"I propose an amendment to this bill to correct the population figure to counties with a population greater than 100,000 people, but fewer than 170,000 people. This will allow farmers to supplement their incomes in this smart and limited way, to ensure that the land remains farmland, but also allows farmers to maintain an income to continue farming, thereby supporting agriculture, and enhancing food security. Thank you, Mr. Speaker."

The motion that Floor Amendment No. 2, amending S.B. No. 2341, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry.

(Main Motion)

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

"Yes, Mr. Speaker. I'm rising to speak against S.B. 2341. Mr. Speaker, in addition to it being unclear, or maybe it's not unclear. Maybe it's obvious that this bill no longer applies to Maui. I would question the wisdom in passing a measure like this. Once you allow other uses, by law, in the agricultural land, all of a sudden, the value of that land becomes switched to be favoring whatever the non-ag purpose is.

"You take a look at the farmers that are presently in agricultural work, the ones yet to come, the families that might want to go on and start a farming operation. Which is going to be more profitable? Lettuce sold to Foodland? Or agricultural tourism? It's the tourism, and it's bit, by bit, by bit. It drops away on the actual valid use of agricultural land for agricultural purposes. And while we say that the population set forth in the bill, well right now it doesn't apply to any island, except for ... Well maybe not. But eventually it will point the smoking gun at Oahu. And that's where we have farmland. That's where we need to have the farmland if we're going to ever be able to become more self-sufficient. But when you couple the more lucrative use of that land, guess what's going to take precedent? So I think the bill is a bad idea, Mr. Speaker. And I'm sorry you all didn't accept our amendment, which would have cleaned up the population defect that's in the present bill. Thank you."

At 10:20 o'clock a.m., Representative Souki 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 Ching 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 Ching's written remarks are as follows:

"Thank you, Mr. Speaker. Although I support S.B. 2341 and its meritorious aim to spur an industry especially dear to me, I must also note

several reservations. S.B. 2341 repeals the prohibition on ordinances that allow overnight accommodations in agricultural districts. It authorizes agricultural tourism activities, including overnight accommodations of twenty-one days or less, within counties of populations between 100,000 people and 150,000 people; provided that the county has adopted ordinances regulating agricultural tourism.

"Hawaii stands to gain immeasurably, both in tangibles and intangibles, by better highlighting our agricultural prowess. When tourists from all parts of the globe acknowledge - and indeed wonder at - Hawaii's versatile capacities as a farming Mecca, many other industries will grow along with the immediate dimensions of agricultural tourism. For instance, when any potential buyer experiences the process of a product's creation, they will undoubtedly place much more value in the product itself. Thus, thriving agricultural tourism will also impel substantial hikes in the value of Hawaii's locally grown crops. Moreover, agricultural tourism has been shown to promote more healthy lifestyles, as individuals come to better value their own roles in the creation of natural, organic foods. The premium of the "Hawaii" label climbs when buyers perceive food as freshly provided by an intimate community willing to take accountability. When agricultural tourism spotlights the creation process of local products like Hawaii-grown cacao, customers will assume an even more personal association with the product than they already do. By allowing overnight accommodations for relevant activities, we will ensure participants in those activities gain a fuller - and thus more memorable - impression of Hawaii's agricultural climate. As a result, they will more likely bring home goods as souvenirs, whetting palates back home to Hawaii's tastes, and thus inspiring others to patronize our islands in the future.

"My one caveat, however, is that in rolling forward with agricultural tourism, the character of our farmlands does not distort fundamentally. We need not commercialize Waialua to become any remote version of Waikiki, fraught with plastic, neon signs, and other tacky dings of advertisement. We must value each farm and refuge for what it offers now, leading tourists to appreciate our natural bounties with respect, and not sacrifice timeless natural resources for the sake of fleeting gains. As we move ahead with this promising legislation, let us remember to reflect back when we must. Thank you."

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

"Thank you, Mr. Speaker. I stand in support. First of all, to the population issue, I do thank the Representative of South Maui for the Floor Amendment, and for flagging that for us. As I talked to him earlier before session, that is not the intent of the measure, and we're going to fix this in Conference. And if we can't, then I would support removing the bill, because again, this is only for Maui County to implement the B&B ordinances that they have worked on this with all the groups, over the last year and a half.

"And Mr. Speaker, I've got to tell you. I'm trying to get in this farming game myself, and it's tough. I'm starting to find out first hand, what it really takes. It's basically gambling, to be honest with you, because you can literally plant a whole section of tomatoes and nurture them every day. And then come out and be wiped out by a mealy bug. And the reason why, and I'm sorry for straying a little bit. I say this is because farmers are struggling to make income to make sure that when these things happen, that they can have income.

"Visitors coming to Hawaii want to explore sustainability. They want to be a part of this. They want to support our local farms and visit them. And yes, buy their products. I think we should be proud as the State of Hawaii to want our products to be bought by people traveling here from all over the world, to sample our products like cacao. And to basically take the message of sustainability home, all around the world. That's all this is trying to do, Mr. Speaker. To basically allow Maui County to move forward on its program. The intention is not for this measure to apply to Oahu or for everywhere else.

"I've talked to the Representative from the North Shore. I completely understand the concerns of the Oahu people. So, I just ask for people's

support, and let us get this to Conference and see if we can fix this, as well as some other amendments.

"There's also an amendment for a \$35,000 litmus test, which is a very bad thing that needs to come out of the bill, too. Since most farmers don't make 35-grand. And you know, 35-grand doesn't tell one if they're a real farmer or not. Maui County Council has gone a lot further to address that issue within their ordinances, and because of the way the bill is drafted now, it would supersede them.

"So, there's some work to be done in Conference, but again, this is to give our local small farmers, from Hana, Upcountry, the ability to farm. And stay in farming. Teach their kids to farm. And to give the visitors the farming experience, and teach them about sustainability, and what we're trying to do here in Hawaii. And to yes, to spread the word of the great superior products we have here, so that we have a following all around the world. Thank you."

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

"Reservations, Mr. Speaker. Pretty much for the same reasons. I'm so glad that the Representative from Maui did declare that, that is their effort and attempt to change this in Conference. We'll be very glad to support that wholeheartedly then."

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

"In strong support, Mr. Speaker. Mr. Speaker, I've tried for years to get our laws changed so that we can have wilderness lodges. This State is way behind the rest of the country, and the rest of the world, on wilderness lodges. And I'll give you an example.

"Keauhou Ranch above where I live at Volcano. It's a marvelous piece of property. They've taken all the cattle off of it. They've planted well over a million *koa* trees. We brought in an ecotourism planner, the world's best, by the name of David Anderson. The plan that he put in there called for tree houses, wilderness lodges, hiking trails, horseback trails. It would have been a marvelous, marvelous facility. We need to catch up to the rest of the world in wilderness lodges. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in opposition to this bill. Although I'm sensitive to the needs of the small farmers, I think in the long range, and in the overall, this is not good for our State economy. Measures like this will give further encroachment to our precious, limited agricultural lands. Agriculture offers diversity. We have seen what happened to our State once the tourism industry goes down. Also, agriculture promises us that we can be more independent by securing our own food, and not relying too much on agriculture coming from outside the State. So for those reasons, I'm in opposition to this bill. Thank you."

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

"In strong support, Mr. Speaker. Thank you, Mr. Speaker. Mr. Speaker, the purpose of this bill is to allow agritourism in counties of a certain size as a means of providing additional income to farmers, as well as education opportunities to people interested in learning about, and experiencing Hawaii's agriculture. Allowing agritourism in counties of a certain size will help fulfill Hawaii's State Constitution, Article XI, Section 3, the first paragraph of which states: The state shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

"Mr. Speaker, it is a well known, accepted fact that agritourism can help make farmers more sustainable and less susceptible to price fluctuations. According to a May 2011 article in the *New York Times*, and I quote:

For all the talk about sustainable agriculture, most small farms are not self-sustaining, in a very basic sense. They cannot make ends meet

financially without relying on income from jobs off the farm. It's virtually impossible to make a living just off traditional farming as a small farm. Agritourism really provides an opportunity to keep the land, keep a family farm existent, even amongst urbanization, and allow someone to depend less on an outside job for their income.

"By allowing agritourism to make our farms more diverse and financially sustainable, we are protecting our agricultural lands and ensuring that they can continue to be farmed now and into the future. Not only does S.B. 2341 SD2 HD2 not reclassify or rezone any agricultural lands, in fact, the bill mandates that *bona fide* farming operations must be taking place on any site where agritourism is also taking place, which helps to ensure that even as farmers diversify, ag lands stay as ag lands.

"The benefits of agritourism go far beyond allowing farmers to achieve financial sustainability, and even beyond maintaining and protecting Hawaiian agricultural lands. Pursuant to the American Farmland Trust, and I quote:

Agritourism is a form of ecotourism that connects vacationers to America's agricultural heritage, giving people the opportunity to visit, or vacation on working farms and ranches. Agritourism is popular in places where farming is still a vital part of the local culture, including winegrowing regions and farm destinations such as Lancaster, Pennsylvania, the Kona region of Hawaii, and dairy country in Vermont.

"Allowing agritourism in counties of certain sizes is an opportunity not only for us to protect the agricultural future of Hawaii, but also to share our rich agricultural heritage and history with others. Therefore, Members, we urge you to please support S.B. 2341 SD2 HD2, not just as a means of protecting Hawaii's agricultural future, but also to honor Hawaii's agricultural past. Thank you, Mr. Speaker."

Representative C. Lee rose to speak in support of the measure with reservations, stating:

"Thank you. I rise in support, with reservations though. I do want to commend the Maui delegation, because the last version of the bill did have provisions in it which would have allowed tourist activity without any actual agricultural activity taking place, and that, ultimately would be tantamount to rezoning, in effect. And so keeping the purpose of the bill focused and intact, I think, is a good thing. Thank you."

Representative M. Lee 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 M. Lee's written remarks are as follows:

"Mr. Speaker, I rise with reservations of Senate Bill 2341 – Relating to Land Use.

"I rise with reservations. This bill brings to mind the "agricultural" gentleman's farms on the North Shore. Farming is hard and unglamorous work which should be shared with others, but not as a kind of tourism. I hope this is not a way to encourage intrusion into our valuable agricultural lands."

Representative Thielen rose to respond, stating:

"Thank you Mr. Speaker. My second time, I know. Mr. Speaker, I'd like to just read a brief paragraph from the agricultural liaison for the City and County of Honolulu, Laura Thielen, who happens to be my daughter. And I quote:

Nearly 16,000 acres of farmland on Oahu's North Shore are being marketed for great views, or access to the ocean. These qualities aren't relevant to farming. They're relevant to tourism. The bill permitting vacation rentals as a primary use will destroy any ability to assure these lands remain available for agricultural production. The price of Oahu farmland is nearly out of reach for food farms today.

"And then it goes on. I believe Members have received the testimony, because it came to all of us, either personally or via email. The Department of Agriculture, Office of Planning, and City and County of Honolulu have all testified against these bills, for valid reasons. While the bill, because of the population number, doesn't apply actually to any island at this point, it ultimately will apply to Maui and then ultimately as the years go by, will apply to Oahu.

"Why are 16,000 acres of farmland being marketed with views, and access to the ocean? Tomatoes don't need that. Lettuce doesn't need that, but the landowner knows that the big value in that land is agritourism with a little plot of produce, and a lot of tourism. That doesn't help us become food self-sufficient. 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. 2341, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Cabanilla, Thielen and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1541-12) recommending that S.B. No. 2796, SD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2796, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DEATH BENEFITS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1542-12) recommending that S.B. No. 2803, SD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2803, SD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTRACT PROPOSALS FOR CHILD CARE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1547-12) recommending that S.B. No. 3008, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3008, HD 3, pass Third Reading, seconded by Representative Evans.

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

"I rise to speak in favor of this measure. This is H.B. 3008, and it would allow Family Court indigent plaintiffs and petitioners to serve notice on a defendant or respondent by posted pleadings at the courthouse. On Oahu, this is Kapolei.

"I would just ask that the Conferees also consider an option to post a notice online, as well as at the courthouse. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3008, HD 3, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1548-12) recommending that S.B. No. 2778, SD 1, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2778, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

At this time, Representative Ching offered Floor Amendment No. 3, amending S.B. No. 2778, SD 1, HD 1, as follows:

"SECTION 1. Senate Bill No. 2778, S.D. 1, H.D. 1, section 1, is amended by amending subsection (a) to read as follows:

"(a) There is established a childhood obesity and diabetes prevention task force to develop and recommend legislation related to the prevention of childhood obesity and diabetes."

SECTION 2. Senate Bill No. 2778, S.D. 1, H.D. 1, section 1, is amended by amending subsection (d) to read as follows:

"(d) The childhood obesity and diabetes prevention task force shall:

- (1) Assemble accurate research, fiscal and demographic information, and justification to support policy development, and track outcomes; and
- (2) Research other state, county, and organizational policy agendas and suggested best practices related to childhood obesity and diabetes prevention policies."

SECTION 3. Senate Bill No. 2778, S.D. 1, H.D. 1, is amended by amending section 2 to read as follows:

"SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2012-2013 to:

- (1) Collect and analyze Hawaii-specific early childhood obesity and diabetes data to identify children at risk;
- (2) Increase awareness of the health implications of early childhood obesity and diabetes; and
- (3) Promote best practices through community-based initiatives and public service announcements to improve healthy life choices, such as training and technical assistance to child care providers to promote exercise and nutrition best-practices and the advantages of breastfeeding.

The sum appropriated shall be expended by the department of health for the purposes of this Act."

Representative Ching moved that Floor Amendment No. 3, be adopted, seconded by Representative Johanson.

Representative Ching rose to speak in support of the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. I'm rising in strong support of this amendment. For as everyone knows, how passionate I am about Hawaii's epidemic of diabetes, and I appreciate those who continue to work with me on this important issue to our people. It's only because of the dire nature of this deadly, debilitating disease, that I feel the responsibility to continue beating this drum.

"In 2010, the Hawaii Diabetes Plan stated, and I'll remind you, that there are over 110,000 people that have diabetes with approximately 39,000 of said persons not aware that they have it. Hawaii currently has approximately 2,900 residents with regular dialysis treatment. And another 156,000 residents with chronic kidney disease, leading to the eventual need for dialysis or kidney transplant.

"I repeat for the third time, my hospital in my district, HMC, has had many challenges because of the cost associated with this. And we as a state are spending more than a billion dollars to take care of the cost of this disease. Escalating among the more, to the mortality, rising, rising, only second to another state in the nation. The highest in end-stage renal. And if the numbers ring true to the problems we face, we have to look to the HMC closure and now that another 18,000 spent on kidney and bladder operations for them, and also understanding that how we exceed the

national average is that, the most vulnerable sufferers are those of Native Hawaiian, Filipino and Japanese descent.

"So Mr. Speaker, we know the problem. We know the problem, and we know the lack of awareness is the problem. The lack of awareness is really what we need to raise. And studying the issue has been done. This is the diabetes report from 2004, under the last Administration, by Dr. Chiome Fukino, produced under the direction of the Hawaii State Diabetes Prevention and Control Program, compiling surveillance information, vital stats. You want it here? We got information. We got data. We have a lot of data.

"We know that our people are dying. And we know some of the reasons. But the first step is raising awareness on any issue. Then comes a time for action. Action. Like in the bible it says that there's a time for all things. There is a time, perhaps in this Chamber, to study. To try to ask questions. Then, there is a time to act. Because, nationwide, 1 in 2 children born in 2000 are going to be directly affected, and every generation needs every bit of help regarding prevention and awareness.

"It's time for people to understand three things. Three things our children understand, and hopefully like in the environment, in smoking, in all the other initiatives I've seen over my decades of being involved in trying to make Hawaii a little better. They hopefully will bring it home to their parents. And then the parents will understand, because they need to know. It's a silent disease.

"Number two, they need to know diabetes is a largely preventable disease. And they need to be able to repeat that they understand that the half of the plate needs to be vegetables and fruit. A little bit protein. A little bit carbohydrates. This is where we are."

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

Representative Ching continued, stating:

"Thank you, Mr. Speaker. Thank you. Obesity and diabetes. Not all people with diabetes are obese. And my concern and why I'm offering this amendment, is that when we broad, Mr. Speaker, you know, chronic disease, cardiovascular. When we talk broadly, we talk about obesity, these are broad terms. I want to start having the word diabetes, I would like if this Chamber, and this Legislature, with the Senate passes something with this word, that we laser beam, understand this enemy of our local people. And so Mr. Speaker, I ask for this amendment to help us have a call to action. To know it's an epidemic.

"We have the research. We have the numbers. We want to spend our effort and time perhaps on things like this. This is the Blue Zone Project, from Minnesota. It was on Oprah Winfrey and Doctor Oz, with excellent, excellent results. So not just a recommendation. It's time for action. It's imperative we teach our *keiki*. I support that. Health habits. They must learn this word, diabetes. They must learn the aspects of diabetes, and early education programs can go a long way to stem the tide of all of diabetes, for all our ages. Our populations can be reached by TV and radio. And to this day, Mr. Speaker, I do not believe I have seen one PSA, locally to teach our people about this disease, and to speak it, to understand. That's the first step.

"So for these reasons, I do show my strong support, for a childhood obesity and diabetes task force as proposed in this Floor Amendment. The time has come to act. So if our Legislature has something with the word, we know and we understand that this is serious, Mr. Speaker. Thank you."

Representative Riviere rose to speak in support of the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. In support with brief comments. Obesity often leads to diabetes. We do have a problem with obesity in our State, and in the nation. So I'm glad we're looking at this. I do think this is a good idea, to include diabetes, in the subject. And either way, I like this bill and hope it moves forward. Thank you."

Representative Yamane rose to speak in opposition to the proposed Floor Amendment, stating:

"Mr. Speaker, I'm standing in opposition to the amendment. Mr. Speaker, I applaud the Representative from Liliha. She and I have had many discussions on the Health Committee regarding the issue of diabetes. We have honored the Diabetes Association on the Floor of this Chamber this year. The current bill before us establishes a Childhood Obesity Prevention Task Force. Mr. Speaker, obesity is estimated to have grown 17.6% in Hawaii citizens over the last ten years. It has increased in childhood about 38% from 1999 to 2009.

"The number of overweight children in the United States has doubled in the last 30 years. Mr. Speaker, this issue of obesity is an epidemic. Regarding the question and the addition of diabetes. The reason for this Administration measure to move forward was for the task force to look at all issues related to obesity, both the potential causes, as well as potential effects. And one of the concerns has been in the past about putting in specific ailments associated with diabetes, is that the task force would be overly focused on those issues rather than all the impacts related to obesity.

"So Mr. Speaker, at this time I applaud the effort to try to make sure diabetes is an issue. It is an issue within the State of Hawaii, Mr. Speaker. However, this bill at this time, to address obesity in all risks, both diabetes and other issues, needs to be addressed. Mr. Speaker, this task force has less than a year to report back to this Legislature. They have to give a report to us, within about 9 months. So Mr. Speaker, we ask that this measure move forward in its original form. Thank you."

Representative Ching rose to respond, stating:

"Yes thank you, Mr. Speaker. And I don't mean to beat this drum so hard, and I appreciate, very much, the Chair of Health. In fact I appreciate him moving a measure out of Committee that originally called for the accountability of one person to really focus on this. But that's the whole point, I guess, of my amendment. It is that, that's been done before. If you look into the Department of Health's background, they have consistently approached chronic disease, and like I said. So that's the whole point. I guess what I'm trying to say is the day that comes that children, and their parents and grandparents understand there's three concepts in a PSA, TV, and they'll start making movement. Thank you."

The motion that Floor Amendment No. 3, amending S.B. No. 2778, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EARLY CHILDHOOD HEALTH," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry.

(Main Motion)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2778, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EARLY CHILDHOOD HEALTH," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1550-12) recommending that S.B. No. 2084, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2084, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1551-12) recommending that S.B. No. 2101, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2101, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Yes, I just wanted to declare a potential conflict. I am a recipient of the TRICARE Program. Thank you," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker, same request," and the Chair ruled, "no conflict."

Representative Takai continued to speak in support of the measure, stating:

"I'd like to rise in support of this. Thank you, just briefly. People that have the privilege of partaking in TRICARE that are City and State workers, are helping the EUTF. In fact, I wrote a letter two years ago, requesting that the EUTF Board consider encouraging more people to go onto TRICARE and other employer health insurance coverage for the main reason that one less person on EUTF is not only a savings to EUTF and the State, but also the savings to the participant.

"So my calculations back two years ago, and I believe it's since gotten even better, was for every 250 people who partake in TRICARE program, that saves the EUTF program a million dollars. So anything we can do to encourage people to participate in non-EUTF health benefits, the better for all of 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. 2101, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE TRICARE PROGRAM," passed Third Reading by a vote of 51 ayes.

At 10:48 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2341, SD 2, HD 2  
S.B. No. 2796, SD 1  
S.B. No. 2803, SD 2  
S.B. No. 3008, HD 3  
S.B. No. 2778, SD 1, HD 1  
S.B. No. 2084, SD 1, HD 1  
S.B. No. 2101, SD 1, HD 2

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1552-12) recommending that S.B. No. 2344, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2344, SD 2, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII HEALTH AUTHORITY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1554-12) recommending that S.B. No. 2540, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2540, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative Keith-Agaran, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1559-12) recommending that S.B. No. 3001, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3001, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I'm voting no on this measure just to point out that the definition of feral deer might need correction. Perhaps you could transport a once-feral deer. Also, this bill pertains only to one animal, the deer. Earlier it had referred to several animals. Many conservation groups were in opposition to dropping other animals from this bill. So, just to explain my no vote. Thank you."

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

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

"Thank you, Mr. Speaker. I just want to voice my reservations on this measure. I think the reason why we're writing bills like this, is because there's concern of the overabundance of this animal. There are some people that would like to transport them to the other islands. Let me just point out that deer is used for subsistence to a lot of our people. It's being eaten for their meat. I think that rather than discouraging the growth of this animal, we should expand our hunting seasons and make hunting less restrictive so they could be used for God's intended means, which is to feed our people. Thank you, Mr. Speaker."

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

"Mr. Speaker, I rise in opposition. Well you know, as a person who actually took environmental science in college, I'm very understanding of the nature of the damage that feral pigs, feral goats, feral deer do. And that feral deer are responsible for a lot of the destruction of our topographic, the surface our islands.

"So I'm absolutely for hunting the deer. I'm absolutely for it. But as the Representative of Kaimuki said, there's a real fiddle sentence there, in the bill. It is not worded correctly. It's very, very misleading. And then number 2, the people who actually supported the bill originally were so disappointed. It's my understanding that goats and other animals were then changed, so it's just narrowly deer, and I don't know what the reason is for that. You know, I have a couple of ideas. Maybe it has something to do with carrying pork. I don't know. But pigs are a major problem to our fragile environment. We have got to cut down those pigs."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3001, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WILDLIFE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Fontaine and Marumoto voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1560-12) recommending that S.B. No. 2489, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2489, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with strong reservations. Mr. Speaker, this bill expands the powers of the Governor, therefore a good intention, and that is for public disaster, flood, fire, storm, earthquake. But there's something in here called, civil disturbance, which is not defined. Which may be an overreach. And Mr. Speaker, the Governor of the State of Hawaii has more powers than any Governor in the whole United States, so the potential for abuse of this, and I'm not saying and naming any possible event, but right now, the Governor's had enough emergency powers to do just about anything that's wanted.

"Recall this Floor debating intensely, passionately, about Governor Lingle calling the homeless crisis an emergency crisis. And people were jumping up and down. We've got to define what it is. Well civil disturbance is as important that we define it, and we don't slip down to where the Governor, as powerful as he already is, is going to be more powerful. Thank you, Mr. Speaker. With those reservations."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you. And I just wanted to allay the concerns of the previous speaker, and then just make note that the reason why this bill is in front of us, and it is because of two things. Number one, is model legislation from the national level which has gone to every state making recommendations on state laws as it pertains to the National Guard.

"And number two, as a result of the recently completed APEC event just last November, many recognized some of the shortcomings of our State law, and as a result of those two items, we have this bill in front of us.

"It is critical that we pass this. In fact, it's one of, I believe, three top initiatives coming from our Adjutant General. Basically what this bill does is, it provides the Adjutant General with some of the powers necessary to take on some of the challenges that we have faced in the past, and we will face in the future.

"The last thing I'd like to ask is that we recognize and commend the Chair and the Vice Chair of the Public Safety and Military Affairs Committee for moving this bill forward. This is effective July 1, 2012 and as such, I don't believe this will be coming back into Conference."

Representative Ward rose to respond, stating:

"Mr. Speaker, I can entirely agree that the bill should be passed, must be passed. However, civil disturbance still disturbs me, probably because I've lived in the Third World where too many times, and seen too many misuses of the word, civil. I've seen countries that have internal security acts that make their countries secure. But what they do is, knock on the door in the middle of the night, take you away and say, 'Well this is for the peace and tranquility of the society.'

"That is not in the root of who we are as Americans, who love freedom and democracy. If we must do civil disturbances, I think it needs to be defined, because people protest in a very civil manner. But when you call something civil, then a disturbance, it's up to the personality and the power of those in the leadership. I think there are a number of examples that we have here, just disturbing from possible people in the gallery, of which we have not defined. I won't go across into that particular issue, but unless we lock this down, there's potential for abuse. Not now, but in the future. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker, I wish to speak with some reservations. I certainly understand the work that went into this bill, and the pride they take in developing the bill. However, I have a question on an item which I think can be of major consequence. There is some language in there that they may be called for a non-emergency basis. I have no idea what non-emergency is. I know there are emergencies when they're called for to go into combat. There's emergencies for natural disasters. But this here, the language alone, just by itself, that says that you may be called for non-emergencies.

"So on this basis, I would vote with reservations. Hopefully I can be enlightened along the way as to what this language really means. But I don't want to leave broad language like that, that can be used for any particular purpose that the Governor and the General may want to develop. Thank you."

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



Representative Thielen 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2489, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE MILITIA," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1561-12) recommending that S.B. No. 2261, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2261, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. May I request a ruling on a potential conflict? I work for a nonprofit in Waipahu that serves as a fiscal agent for that site. Thank you," 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. 2261, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEED AND SEED PROGRAM," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1562-12) recommending that S.B. No. 2776, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2776, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, thank you. I'm in opposition to S.B. 2776 SD2 HD2, relating to public safety. Thank you. This is an early release bill. And while I favor releasing some prisoners as a humanitarian measure, and as a cost cutting measure, and believe me, this is a cost cutting measure. It will save the Department of Public Safety millions of dollars. I believe we should place public safety as a paramount criteria in the decision to release prisoners. While I am impressed that a noted NCSL consultant favors this measure, I still question the wisdom on how these prisoners are released. And while it is wise to provide parolees with programs to help them get reestablished in society, is it wise to determine their low risk potential on an actuarial basis?

"Is it wise to release 1100 prisoners in the first three years of the program? Can we provide them sufficient services? Do we have enough jobs to support them? Will the community be safe? This bill provides for many more parole officers. Can they guarantee against re-offense?

"I reiterate the point that I raised when I spoke on the companion bill. Honolulu's Prosecuting Attorney is not supportive of this measure, and he was also the former Director of Public Safety. I respect his judgment on this particular measure. I have many more remarks Mr. Speaker, but ask that they be inserted in the Journal, and I thank you for your attention."

Representative Marumoto's written remarks are as follows:

"While I favor releasing select prisoners as a cost-cutting measure, I believe we should place public safety as the paramount criteria in the decision to release prisoners on a wholesale basis (1100 in the first 3 years of the program).

"Violation of parole is another issue. Under Section 7 of the bill: If a parolee violates parole, the *longest* period of incarceration he or she can receive for the violation is a mere six months.

"There are exceptions for those who have:

- (1) been charged with a felony or certain misdemeanors,
- (2) left the State without permission,
- (3) violated conditions applicable to sex offenders, or
- (4) been previously re-imprisoned for violating the conditions of parole on the current offense.

"I question whether all sex offenders should be released even if they have undergone treatment. The recidivism rates are so high for this offense.

"Section 8 mandates release on the expiration of a minimum sentence if the inmate is deemed "low risk". Like Section 7 there are exceptions, but they limit HPA to a narrow field of choices.

"Likewise, Section 13 requires that HPA must release a class A, class B, or class C felon on parole, with multiple sentences, based on the longest term of imprisonment, provided that HPA has approved a parole plan, irrespective of a court-ordered minimum sentence.

"Given the way the bill is drafted: The HPA may set an earlier release date if it wants to, but if it doesn't, then with an approved parole plan, it must adhere to a specific minimum release schedule. This takes away discretion.

"The release schedule varies from *no later* than 6 to 18 months prior to the expiration of the maximum sentence, depending on the level of felony.

"I am troubled by the fact that HPA will lack discretion to require a class A felon to be released no later than 18 months prior to the end of his or her maximum sentence.

"I reiterate the point that I raised when I spoke about the companion bill. Honolulu's City and County Prosecuting Attorney who has been a former DPS Director is opposed to this measure, and I respect his judgment on this measure."

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

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

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

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

"Thank you. In support with reservations, and brief comments. Thank you, Mr. Speaker. I echo some of the concerns that the good Representative from Kaimuki noted earlier. But what I do think, and what has compelled me to vote still in support of this measure, is although I think we can debate about whether or not to honor the minimum or maximum sentences for offenders, I do think, the way this bill is written, it does try to recompense victims in terms of restitution, ensuring that they're at least serving their minimum sentence.

"In addition, what really persuades me is the efficacy of what this measure is crafted on. Given the reduction in the recidivism rates in states who have implemented a similar measure, I'm willing to give this particular solution a chance."

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

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

"Mr. Speaker, I rise in support. Mr. Speaker, when we look at this measure, people will say that we are trying to focus on what we are trying to do in public safety, and that is, ensure that we are making our public safe. But when we take a look at this and we look at the fiscal matters, and we are taking a chance here, we are ensuring from the Public Safety Committee that we are taking all the steps possible.

"You know, we could say let's throw in millions of dollars, billions of dollars into building new prisons. And we can keep individuals locked up. But that's not what we're trying to do here. The individuals from CSG who brought down the GRI initiative, they are putting this measure there. You know, we take the chance and when we do this, we are ensuring public safety is there. And we would take every step that matters. And like anything, we are trying something here, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. I'd like to also adopt the words of the Vice Chair of Public Safety and Military Affairs as if they were my own. S.B. 2776 HD2 is an Administration measure, and is a companion to a bill that we heard earlier in the House. This bill is the result of a rare occasion we see in government. This bill is a result of a collaboration between three branches of government, and I might add, it was a bipartisan effort, to come together to better our criminal justice system through an initiative called Justice Reinvestment.

"As mentioned earlier in this Session, Justice Reinvestment is a data-driven approach to reducing corrections and related criminal-justice spending, and reinvest those savings in evidence-based strategies designed to increase public safety.

"Mr. Speaker, this bill seeks to address certain areas of the justice system. In particular, the Department of Public Safety's role in the pre-trial process. Increasing needed positions on the Parole Authority Board. Utilizing quick and effective responses for technical parole violations, which would be the parole version of the HOPE Probation Program which is a nationally recognized program headed by Judge Steven Alm, which has shown to decrease recidivism and violations dramatically. Increasing their restitution rate for victims 150%. Providing evidence-based tools and assessments to determine re-offense and suitability for parole. And lastly, a renewed focus on supervision and pre-trial and reentry programs.

"Mr. Speaker, there may be some concern that through this measure we have stripped the Paroling Authority of their authority and discretion that they currently have. That is inaccurate, Mr. Speaker. The Hawaii Paroling Authority maintains its discretion by its continued approval of parole plans, approval or denial of offenders' parole plans, which is needed before any offender is released. That will not change.

"Mr. Speaker, other states in our country have adopted similar policies to increase public safety, reduce correctional spending and reinvestment in needed areas. States such as Texas and North Carolina have gone through the same process we have in the last 9 to 10 months. Texas is currently experiencing significant drops in parole and probation violations, while North Carolina, adopted certain laws that reduced prison populations by creating a new misdemeanor class, and provided incentives to address recidivism.

"Mr. Speaker, this bill has gained support as it went through the process. The measure is currently being supported by the Administration, and the Judiciary, various victim advocacy and compensation groups, and the senior pastor of the largest evangelical church in our State, as well as other well-known individuals. So in turn, Mr. Speaker, I urge my colleagues to support this measure, as it proceeds to Conference for further discussion and work. Thank you, very much."

Representative Keith-Agaran rose to speak in support of the measure, stating:

"Mr. Speaker, in support. Just very briefly. I think the Administration points out, that this is really just a first step at setting a framework. And

let's be clear that this bill doesn't really change the way we treat defendants at the beginning. It only requires that the courts have the information concerning the level of risk defendants pose to public safety.

"This is a framework. Whether it's successful or not will depend on making sure that the agencies that are required to perform the assessments and the agencies that receive those assessments, properly use them. So again, this is a first step, and I commend the Chair of the Public Safety Committee for the work that he's put into this. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. Just very briefly. First of all, Mr. Speaker, I want to thank the Chair and Vice Chair of Public Safety, as well as the Chair of the Judiciary Committee, and the Finance Committee, as well as the Administration for this bill. There are many parts of this bill that I agree with, and I think that this is the way in which we need to start dealing with our incarcerated population. My concern though, deals with page 14, and I think I've been very consistent with this point regarding victim restitution.

"The previous law allowed 10% of an incarcerated inmate's amount earned in prison to go towards the victims. I want to thank the Chairs for allowing this amount to go up to 25%, but the fact of the matter is that, 25% of whatever moneys they're earning is not enough to make victims whole. And for that reason, I stand with reservations. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. Thank you, very much. I wish to speak in favor, very much in favor of this measure. And I wish to thank the Chair and the Members of the Judiciary Committee who invested in this great landmark legislation. 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. 2776, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Marumoto and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1565-12) recommending that S.B. No. 2337, SD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2337, SD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. This concessionaires' bill is a very important bill because with the airport modernization that we have, or will be having, it will be affecting the concessionaires. The concessionaires may have some expenses in adapting to the modernization. So this language provides some flexibility, where they can request the DOT, and of course the Budget and Finance Office, and the Governor, for extensions of their contract as they will be incurring additional costs because of the modernization."

Representative Hanohano 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 the report of the Committee was adopted and S.B. No. 2337, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 51 ayes.

At 11:11 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2344, SD 2, HD 1  
S.B. No. 2540, SD 2, HD 2

S.B. No. 3001, SD 2, HD 2  
 S.B. No. 2489, SD 2, HD 2  
 S.B. No. 2261, HD 1  
 S.B. No. 2776, SD 2, HD 2  
 S.B. No. 2337, SD 1

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1566-12) recommending that S.B. No. 2402, SD 1, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2402, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations, thank you. I know last year I spoke on this also, and I'm happy to see that there were some changes made. But I still have reservations because, if the objective is to be fully shielded to preserve the quality of the night sky, my concerns are for outdoor athletic facilities. Unless a replacement, a conforming light fixture replacement is designed to be compatible with the existing electrical wiring, replacements will not be possible. The whole system may need to be changed. Affected agencies need to begin planning for complete light renovations, and funding must be committed to the projects. So that's my only concern. Thank you."

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

"Thank you. In support with some reservations too. I wanted to adopt the words of the Representative from the Island of Kauai. And I wanted to bring out an interesting irony, Mr. Speaker, which is that the University has been, I think for a number of years, been testifying, hoping for, pushing for, some protection for their night sky for Mauna Kea, you know, to control light pollution.

"It's my understanding that there's a project going on, at the University of Hawaii that is just going to light up the sky, and Lord knows as the Representative said, from Kauai, these things you can see it for miles around. And I've been on record about light pollution and all of its different consequences. I think that we need to keep that in mind. Thank you."

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

"Mr. Speaker, in support. Darkness is a natural resource. I've said that a number of times, and people would laugh and say, 'What do you mean by that?' Well, when you're number one in the world in astronomy, the darker you have your skies, the more you can see.

"Case in point. The University of Hawaii has reported that in Downtown Honolulu, you can see 200 stars. How many are there? There's 2,000. So the amount of light pollution that is on this Island, fortunately we don't have the 3 meter telescope here, is blotting out what otherwise at the Big Island where it is, where we are the world leader, when you do this. Obviously we've got to work out the mechanics. We've got to shut it down. We don't have to bankrupt Kauai or any other place, but we've got to be mindful. That's a natural resource, and we need to stay out front in world astronomy."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2402, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIGHT POLLUTION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1567-12) recommending that S.B. No. 2747, SD 1, HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2747, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. First of all, ruling on a potential conflict, I own an electric vehicle," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. This measure weakens the current incentives for electric vehicles, first by requiring just one vehicle parking spot charging station for a highly used area like the Honolulu International Airport. It sends a public message that the State of Hawaii's not addressing the range anxiety issues now currently felt by many electric vehicle owners. And basically Mr. Speaker, that is a situation when it only says that you have 20 miles left to go, and you have about 20 miles to drive home. It's critical that we provide these charging stations throughout the State, and especially in the town and rural areas.

"We already have a few charging stations in place. In fact, we have one located in the Capitol, but as many of you may have noticed, it's over subscribed. Something's always in that parking space. And this is occurring with only 1000 EVs on the road currently.

"Secondly, the current law is not being enforced, and relatively few charging stations have been implemented statewide. An enforcement or a stronger incentive mechanism is required to ensure that the State of Hawaii can meet with its aggressive electric vehicle goals.

"Now before anyone says that I'm standing because of my personal self interest, let me just reassure you that I think my vote in opposition is broader than that, because of this. The Hawaii Clean Energy initiative calls for 4000 electric vehicles to be sold per year, and 10,000 on the road by 2015. And yet, only a few dozen charging stations have been deployed, and almost none are on the Neighbor Islands or in rural areas.

"To the extent the current laws are not enforced, it is incomprehensible why the current incentives should be reduced. The only practical result of this measure is that it sends to the public a message that the State is backing away from its electric vehicle adoption in Hawaii. It sends to the public that the State is backing away from the goals of the Hawaii Clean Energy Initiative, and I recommend that my colleagues take a look at this, and support my no vote on this. Thank you."

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

"Yes, Mr. Speaker. I speak in favor of this measure, and we're speaking on S.B. 2747. All this bill does is provide for flexibility for buildings and institutions that already have plugs, and that they don't have to relocate the plugs at any expense. But they will make the plugs available. They will also have to make mention where the plugs are. So I don't see anything detrimental towards the public as far as those who wish to purchase electric cars. I think the State is committed to electric cars and alternate energy, and this is one of the major items. But this bill merely provides flexibility. Thank you, very much."

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

"Thank you, Mr. Speaker. In support with reservations. First of all, I want to thank the Chair of Transportation, as well as the Chair of the Committee on Energy and Environmental Protection, as well as the Administration. This is an Admin bill, to make what the current law is, better. But the issues that were expressed in the Finance Committee were this. There was testimony from the Department of Business, Economic

Development, and Tourism, who noted that, currently, statewide, there are 700 electric vehicles in our State. So, while this measure attempts to fix the previous law that required 10% of all parking stalls to be dedicated to electric vehicles, now we're going to reduce that, to parking stalls, one parking stall with now a charging station.

"The fact of the matter is this. This cost will be borne by whom? The business owners. So every business owner who owns, or is part of a shopping center, is now required to put in one parking stall that is dedicated with a charging station. I think that's premature given the fact that we only have 700 electric vehicles in this State. And again, when asked the question to DBEDT about who the cost would be borne by, they did in fact admit that it would be the business owners. At this point, I think that is somewhat premature. For those reasons, I'm with reservations. Thank you, Mr. Speaker."

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

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

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

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

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

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

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

Representative Chang rose and asked that the Clerk record an aye vote with reservations for him, 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."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2747, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLE PARKING," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Takai voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1571-12) recommending that S.B. No. 2746, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2746, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

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

"Thank you, Mr. Speaker. A ruling on a potential conflict. I'm an owner of an electric vehicle," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. Thank you, and just briefly, because I stated it in the previous measure. This measure also weakens the current incentives for electric vehicles. The Hawaii Clean Energy Initiative calls for 4000 electric vehicles to be sold per year, and 10,000 on the road by 2015. This bill hampers that effort. In fact, it sends a message that we in the Legislature, and the State, are backing away from the goals of the Hawaii Clean Energy Initiative. I'd also like to request additional written comments. Thank you."

Representative Takai's written remarks are as follows:

"Thank you, Mr. Speaker, for allowing me to submit written comments in opposition to Senate Bill 2746. This measure weakens current incentives for electric vehicles.

"The Hawaii Clean Energy Initiative calls for 4,000 electric vehicles to be sold per year and 10,000 on the road by 2015. This measure sends the message that the State is backing away from electric vehicle adoption in Hawaii. It sends the public the message that the State is also backing away from the goals of the Hawaii Clean Energy Initiative.

"If our intent is truly to move Hawaii towards energy self-sufficiency, it is short-sighted to do away with preferential and free parking, and other incentives that encourage more drivers to switch from gas to electric vehicles.

"I oppose this legislation, and any legislation that takes away incentives for motorists to choose electric vehicles as their form of transportation. The negative effects of carbon emissions require Hawaii to reduce, if not eliminate, oil-based transportation emissions.

"As Hawaii moves towards energy independence, and towards a cleaner environment, the purchase of electric vehicles should be encouraged. The Legislature can play a major role in moving Hawaii's people towards these goals.

"A major incentive for the purchase of our electric vehicle was the free parking, free meters, and ease of charging in public places. If these incentives go away, especially at this stage where electric vehicle purchases are still not being purchased by the mass market, the purchase and use of these vehicles will be curtailed.

"For these reasons, I oppose Senate Bill 2746."

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

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

Representative Giugni 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 the report of the Committee was adopted and S.B. No. 2746, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Takai voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1573-12) recommending that S.B. No. 2946, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2946, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

Representative Fontaine's written remarks are as follows:

"Thank you Mr. Speaker. Mr. Speaker, I rise in opposition to Senate Bill 2946 Senate Draft 2, House Draft 2 Relating to Transportation.

"To properly analyze this bill, one should consider Act 104, which passed just last year.

"Let us look at the rental motor vehicle surcharge tax. Prior to Act 104, this tax was meant to go entirely to the State highway fund. The tax was \$3 per rental vehicle per day.

"Under Act 104, two things happened to that tax: (1) the amount of the tax temporarily increased by \$4.50 to \$7.50, with a sunset date of June 30, 2012. (2) The additional \$4.50 was designated to go into the general fund. There was somewhat of a trade off to consumers' pocketbooks in that the \$4.50 the rental motor vehicle customer facility charge (CFC) was suspended through June 30, 2012. However, monies from this charge were meant for the rental motor vehicle customer facility charge (CFC) special fund. And monies in that special fund are meant to be used for enhancement, renovation, operation, and maintenance of existing rental motor vehicle customer facilities and the development of new rental motor vehicle customer facilities. So with Act 104, that fund, in essence, lost out to the general fund.

"But the loss to that special fund was meant to be temporary, and last for only about a year.

"Now let's fast forward to today. Today, we consider a bill that will maintain the rental motor vehicle surcharge tax at the \$7.50 amount—as well as continue the suspension of the customer facility charge—through 6/30/16; that's four more years. The supposed good news, we are told, is that the law will be amended so that at least some of the surcharge tax will go to the customer facility charge special fund, to build and improve rental car facilities.

"However, instead of a clear breakdown of where the \$7.50 amount collected per vehicle per day collected will go, the bill as drafted instead states that the Director of Finance will deposit \$3 of each of the \$7.50 into the State highway special fund, with unspecified aggregate amounts into the motor vehicle customer facility charge special fund and the general fund, with the remainder then going to the CFC special fund.

"The Tax Foundation of Hawaii has observed: "While the rental motor vehicle customer facility charge was enacted to provide funds to develop and construct a consolidated car rental facility and other related improvements for the department of transportation's airport modernization program, it now has morphed into another way to raise funds for the general fund. Hopefully, the car rental industry has learned a very important lesson about trusting lawmakers."

"In light of that analysis, I am concerned about the fact that any of the rental motor vehicle surcharge tax will continue to go into the general fund.

"Some reading my remarks may believe I am making too much of this. They may say, "What's \$4.50 per day?" or "Why should it matter where the funds go, as long as the State needs the money?"

"My response, I note: Today, at least twelve of the bills considered, including this one, have some sort of a fee increase or tax increase. This legislature will also vote on the creation of five new special funds. These fee increases and new funds purport to do good, to somehow help the State and its citizens in the long run. The special funds seem noble, seem productive, and seem geared to specific purposes. As the members of this body consider those bills, however, we should ask ourselves: Are those fees and taxes going to end up like the rental motor vehicle surcharge? Will taxpayers and businesses doubt whether they can trust us?

"We may also wish to be cautious about the fact the bill authorizes the Department of Transportation to issue \$500 million in rental motor vehicle customer facility revenue bonds. As the Tax Foundation of Hawaii has noted, "While the issuance of bonds could be used to borrow the money to build [a consolidated rental motor vehicle facility], such a strategy will only increase the cost of construction as funds must be repaid with interest."

"For the reasons I have noted, I will be voting no on Senate Bill 2946 Senate Draft 2, House Draft 2. Thank you, Mr. Speaker."

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

"Thank you. In opposition Mr. Speaker, and just a few notes on this. My opposition stems from, originally I thought, 'Fine. If the rental facilities want to charge themselves for the rental facility, great.' But it's not really panned out that way. And on the side, I mean, personally we went to rent a car the other day, and it was amazing the response by everybody, how expensive it is with this surcharge. So I have to go no. Thank you."

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

"Yes, Mr. Speaker. I wish to speak for this measure with some reservations, on Stand. Com. Rep. No. 1573. Thank you, very much. And, the reservation that I have is that, even though there's no exact dollars, how much is going to be taken, the format is planned so that they'll continue to take money away from the Highway Fund, which we need desperately because of the condition of the highways, and all the potholes we have.

"So I would encourage, especially the Finance Committee, and hopefully I will be the Chairman of this Committee, but relying on the Finance Committee that we look very tenderly at the dollars that you take away from the Highway Fund, as that will affect the amount of repairs and maintenance that we need for the State highways. We drive on it every day and we know what is needed out there. There's a lot of *puka*. Thank you, very much."

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

"Thank you, Mr. Speaker. In support with reservations. Thank you. Just to be brief. First I would like the comments of the previous speaker entered into the records as if they were my own. I hope that as this moves forward to Conference that the Committee members will look at a breakout for the Special Highway Fund. The timing is everything, and SAFETEA-LU has, as you are well aware, Mr. Speaker, has not been reauthorized yet. It is in the process of being reauthorized.

"And the big states are really clamoring hard about small states like Hawaii getting what they call a disproportionate highway share. And one of the things the federal DOT is looking at is, what we're doing to ensure our Special Highway Fund remains soluble and valid, and basically is strong. And my concern is, we don't have some kind of an allocation for that. The feds may look at this and say, 'Okay well, Hawaii is one of these states who is not really doing much to protect their Special Highway Fund or invigorate it,' and therefore that could be reflected in perhaps loss of federal dollars. Thank you."

Representative Awana rose in support of the measure with reservations and the remarks of Representatives McKelvey and Souki be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Pine rose in support of the measure with reservations and asked that her written remarks, and the remarks of Representatives McKelvey and Souki be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Pine's written remarks are as follows:

"I stand with reservations on SB 2946, which extends the current \$7.50 rental vehicle surcharge tax through June 30, 2016 in order to continue to ensure there is enough money in the Highway Special Fund, the general

fund and the Rental Motor Vehicle Customer Facility Charge Fund by extending the rental motor vehicle facility's fee suspension. My greatest concern about this bill is that we are extending the tax."

Representative Hanohano 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 the report of the Committee was adopted and S.B. No. 2946, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Ching, Fontaine, Marumoto, Thielen and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1574-12) recommending that S.B. No. 2588, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2588, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

At this time, Representative Riviere offered Floor Amendment No. 4, amending S.B. No. 2588, SD 1, HD 3, as follows:

"SECTION 1. Senate Bill No. 2588, S.D. 1, H.D. 3, is amended by amending section 1 to read as follows:

"SECTION 1. Chapter 657, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**§657- Civil action arising from sexual offenses; application; certificate of merit.** (a) Notwithstanding any law to the contrary, no action for recovery of damages based on physical, psychological, or other injury or condition suffered by a minor arising from the sexual abuse of the minor by any person shall be commenced against the person who committed the act of sexual abuse more than:

- (1) Eight years after the eighteenth birthday of the minor or the person who committed the act of sexual abuse attains the age of majority, whichever occurs later; or
- (2) Three years after the date the minor discovers or reasonably should have discovered that psychological injury or illness occurring after the age of minor's eighteenth birthday was caused by the sexual abuse,

whichever comes later.

A civil cause of action for the sexual abuse of a minor shall be based upon sexual acts that constituted or would have constituted a criminal offense under part V or VI of chapter 707.

(b) For a period of two years after the effective date of Act , Session Laws of Hawaii 2012, a victim of child sexual abuse that occurred in this State who had been barred from filing a claim against the victim's abuser due to the expiration of the applicable civil statute of limitations that was in effect prior to the effective date of Act , Session Laws of Hawaii 2012, may file a claim in a circuit court of this State against the person who committed the act of sexual abuse.

A claim may also be brought under this subsection against a legal entity, including the State or its political subdivisions, if:

- (1) The person who committed the act of sexual abuse against the victim was employed by an institution, agency, firm, business, corporation, or other public or private legal entity that owed a duty of care to the victim; or
- (2) The person who committed the act of sexual abuse and the victim were engaged in an activity over which the legal entity, including the State or its political subdivisions, had a degree of responsibility or control.

Damages against the legal entity shall be awarded under this subsection only if there is a finding of gross negligence on the part of the legal entity, including the State or its political subdivisions.

(c) A defendant against whom a civil action is commenced may recover attorney's fees if the court determines that a false accusation was made with no basis in fact and with malicious intent. A verdict in favor of the defendant shall not be the sole basis for a determination that an accusation had no basis in fact and was made with malicious intent. The court shall make an independent finding of an improper motive prior to awarding attorney's fees under this section.

(d) In any civil action filed pursuant to subsection (a) or (b), a certificate of merit shall be filed by the attorney for the plaintiff, and shall be sealed and remain confidential. The certificate of merit shall include a notarized statement by a:

- (1) Psychologist licensed pursuant to chapter 465;
- (2) Marriage and family therapist licensed pursuant to chapter 451J;
- (3) Mental health counselor licensed pursuant to chapter 453D; or
- (4) Clinical social worker licensed pursuant to chapter 467E;

who is knowledgeable in the relevant facts and issues involved in the action, who is not a party to the action.

The notarized statement included in the certificate of merit shall set forth in reasonable detail the facts and opinions relied upon to conclude that there is a reasonable basis to believe that the plaintiff was subject to one or more acts that would result in an injury or condition specified in (a)."

Representative Riviere moved that Floor Amendment No. 4, be adopted, seconded by Representative Ward.

Representative Riviere rose to speak in support of the proposed Floor Amendment, stating:

"Thank you. This bill involves sexual abuse of children. Child predation is an abomination. On that we can all agree. It's a horrible situation and it must be dealt with firmly. The problem with this bill, and what this bill does, is it extends the statute of limitations for certain parameters. But the problem with this bill is that it excludes the State. So my question to the Members, and this really cuts to the chase of equity and fairness. The question is, why is the State excluded from this two-year provision to go back and follow up on sexual predation and sexual abuse.

"I ask, is there a difference if a child is molested in a public school? Is that different than a child being molested in a private school? You all know the answer. There is no difference to the trauma brought to the child. There can be no justification for excluding the State. The State can't afford it. The State's got big pockets. The people would be suing us. I'm afraid that's not a good enough answer, folks. If there's a crime committed against children, let's deal with it. Let's not exclude ourselves and say the rules apply to others. I hope that you folks will all agree that this is an amendment that should be passed. Mahalo."

Representative Ward rose to speak in support of the proposed Floor Amendment, stating:

"Mr. Speaker, I rise in support of the amendment. Mr. Speaker, this is one in a series of the State exempting itself. You know from my colleague, the exemption on the environmental laws, just on the last bill. We exempted putting money into the road repair fund. This exempts the State from being liable for what otherwise, as a deep pocket employer, should be there. So what is fair? State's rights were very important. Why are we not taking the liability side of the freedom that we exercise? We are not above the law. We are the lawmakers. We should not be exempt from this. Thank you."

The motion that Floor Amendment No. 4, amending S.B. No. 2588, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representative Wooley being excused.

(Main Motion)

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

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

"Mr. Speaker, reservations for the same reason. Thank you."

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

"Reservations, with a couple of comments. You know, there was this leader that I had first met many, many years ago, and he was the head of a labor union. He was very close friends to my family, and my family loved this leader. We loved this leader. And when I was young, I could never figure out why did everyone love him so much. And it was because he never imposed anything on his people without putting even stricter rules on himself. And that is true leadership.

"I think I'm very proud of the Representative from Waialua, feeling so strongly that for us to lead successfully here in the State of Hawaii, instead of looking out to others, and how to change them, fix them. He really felt, and he's a freshman, and this is what I love freshman for. He came here to do justice for his people, and he saw this bill as unjust. So that is why I have very strong reservations, Mr. Speaker.

"Before we even start legislating this to the private system, or private sector, we should have first legislated this for the State. First prove our leadership, Mr. Speaker, that we could accomplish this. And that we truly believe in protecting victims, and that's why we're passing this law."

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

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

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

"Reservations, for the reasons stated earlier."

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

"Thank you very much, Mr. Speaker. With reservations. I think the good Representative from the North Shore, sums up my position."

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

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

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

"Reservations, because it does not apply to the State."

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

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

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

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

Representative M. Lee 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 M. Lee's written remarks are as follows:

"Mr. Speaker, I rise with reservations of Senate Bill 2588 – Relating to Limitation of Actions.

"I rise with reservations. Child sexual abuse may stay with a victim for a lifetime. Therefore, this bill is very important for recovery and interventions which may heal the damage done years later. I protest excluding the State and its political subdivisions from this law. It is hypocritical to do so even if it may have cost implications."

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

"Thank you, Mr. Speaker. With reservations. And may I please reference the testimony of the Attorney General and incorporate it as my own. Thank you."

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

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

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

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

Representative Takai 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. 2588, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1575-12) recommending that S.B. No. 2123, SD 2, HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2123, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations. I would just point to the comments by the Department of Labor and Industrial Relations where they comment on some of the feasibility, and the effectiveness of the measures in this bill. Thank you."

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

"Thank you, Mr. Speaker. I rise in support. With your kind indulgence, I'd like to provide a brief history on the foundation for this measure. Will do, Mr. Speaker. I will keep it under five minutes.

"In 2011, before the end of the Legislative Session, Hawaii was ranked near the bottom of states in dealing with human trafficking. However, before the end of the 2011 Session, this Body passed two bills, H.B. 240 and H.B. 141, to provide stronger policy to address human and sex trafficking. In fact, on June 21st, 2011 when Governor Abercrombie signed into law H.B. 141, Hawaii became the 47th state in the nation to have a standalone labor trafficking bill.

"Mr. Speaker, these measures catapulted Hawaii from a lower tier state dealing with human trafficking, into a middle tier state. It's not me saying that. This is the Polaris Project. That's their assessment. The Polaris Project is the leading authority in the United States dealing with human trafficking, and they operate the National Human Trafficking Resource Center Hotline.

"Mr. Speaker, if this legislation were to pass, along with some of the other measures we have before us, it would place Hawaii in the top ten as far as states addressing human and sex trafficking. Quite a transformation. From bottom ten, to top ten. This measure is not perfect. I'll be the first to state that. It needs a little bit of work. But I ask Members to support this measure so we can deal with it in Conference.

"Finally, by moving this measure, we will send an unmistakable warning to individuals and entities engaged in human and sex trafficking. And we will provide a clearer and more structured means for our community and businesses to protect our victims of human trafficking. For those reasons, I support this measure. Thank you, Mr. Speaker."

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

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

"I'm standing with reservations. I would just like to express my reservations in regards to the placement of the poster. In the measure it says that an establishment shall post in a conspicuous place, near the entrance or another area where posters are, and notices are customarily posted on the premises of the establishment. My concern is that there will be unintended consequences while having these types of posters posted, that could have a negative, instead of a productive perception."

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

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

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

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

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

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

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

"Mr. Speaker, I'm in support of the bill. We can hang up all the signs in the world, but unless we have the proper services for the victims of trafficking, trafficking is still going to go on. 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. 2123, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HUMAN TRAFFICKING," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1577-12) recommending that S.B. No. 2576, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2576, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. Unfortunately, I rise in opposition. Thank you, Mr. Speaker. Although I think this bill is based on some good

intentions and definitely a worthy purpose of protecting those victims of human trafficking and sex trafficking victims, as written, the bill, I believe, fails to distinguish between real victims from those who may just exploit the system claiming to be victims in order to avoid the full consequence of their actions.

"It allows a person convicted of prostitution or certain related offenses, to file a motion asking the court to vacate the judgment, setting aside the conviction. This gives the true victims a fresh start. That's wonderful. And letting them make positive changes, such as pursuing career level jobs, without the stigma of a prostitution conviction. That's great. But the problem is, the requirements for the motion don't set the bar high enough. The motion has to be in writing, but the convicted person only has the burden of proving their case by what is called a preponderance of the evidence, a very low burden to meet.

"The convicted person generally has six years after the fact to bring the motion, and it gives them an even longer time frame if they say the safety factor prevented them from coming forth sooner, such as the risk that coming forward sooner would have jeopardized their safety. The bill doesn't require the convicted person to present any real proof that they committed the criminal act because they were a victim of human trafficking or sex trafficking.

"Official documentation of the person's victim status needs only to be a police report, court record, affidavit generated by the law enforcement agency. But the bill does not fully flesh out how strong the documentation needs to be. Someone who wants to cheat the system can make an unsubstantiated claim that they were victimized, and take this to court, wave it around as an official documentation.

"For example, in 2007 a person was arrested and convicted for prostitution. At that time, they were being investigated as a defendant. She said nothing about having been forced or coerced to commit prostitution as a victim of sex trafficking. In 2012, she went to a local police station to make a report that she was a victim of sex trafficking five years ago, but the police have to make the report to document her claim even though it's unlikely they're able to even investigate the claim, or verify the identity of the alleged trafficker, given that so much time has passed.

"Yet under this bill, the 2012 police report would qualify as official documentation of the person's status as a victim of trafficking. It invites more abuse because the fact that the so-called official documentation would create a presumption in court that the person's participation in the offense was a result of having been a victim. But the bill doesn't even require the court to have this documentation in order to grant the motion. They can just come to court and completely make an unsubstantiated claim that they were a victim.

"So while I believe, Mr. Speaker, it's very important and I support helping true victims of human trafficking. In fact, I applaud the efforts of the Representative of Mililani. I think it's so important, what the Representative of Kalihi said, and that sex trafficking has to be addressed. The problem is, the bill as drafted is unbalanced, is unfair to law enforcement and to the prosecutors who have no way to rebut the convicted person's claim, having been a victim. The court will be setting aside serious criminal convictions based on so-called evidence. It is almost impossible to investigate because the alleged trafficker and potential witnesses will be so difficult to locate, years after the fact.

"So if anything, this bill is advocating a process jeopardizing the public's confidence in the integrity of our criminal justice system. And Mr. Speaker, I would say that, that is really my objection. That is my objection, Mr. Speaker. That's why I rise on the Floor in opposition.

"It's not a perfect bill, but we've passed imperfect bills before. But I think there's a prevailing feeling out there, that crime pays in Hawaii. And I've talked to people about this. They don't feel good about it. There are other ways to help real victims. If the person is arrested for prostitution and committed the offense under duress and not of free will based on threats or harm to her family, she has a constitutional right to assert this defense at trial."



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

Representative Ching continued, stating:

"Thank you. Thank you, Mr. Speaker. And if the jury fails to acquit her, as the Attorney General's Office and the Honolulu Prosecutors Office testified, that appealing to a higher court or filing a motion under Rule 40 of the penal procedure to vacate the conviction, would be the better way to achieve the bill's goal of helping our victims. I don't want to be a state that consistently, some of even the officers of our HPD are told that we have some of the loosest state's rules, the laws in the nation. We don't want to be a place where crime pays. Thank you."

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

"Mr. Speaker, in support. Oddly enough, I agree to a certain extent, with what the good Representative from Liliha had stated. Please note that this bill again, is not perfect. However, the fix to it, in Conference, would be to have the county prosecutor be the final arbiter in determining whether the motion to vacate would be accepted or not."

"A blanket vacate, is over-inclusive. I address that. I agree with that. However, allowing a county prosecutor to make that determination, provide guidance, I think that would be the fairness test we're looking for. So, this measure by no way is close to being perfect. And if we don't have buy-in from the Prosecutors and the Attorney General's Office, this will not pass your Conference Committee. Thank you, Mr. Speaker."

Representative Riviere 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 Riviere's written remarks are as follows:

"I understand the intent of this bill is to allow a second chance in life for people convicted of prostitution when they were victims of sex trafficking. Having a clean record may help in future job opportunities. However, not everyone who works in prostitution does so against their will and not everyone is a victim. The intent is good for those who were truly enslaved, but this legislation appears to allow just about anyone to erase their criminal record of prostitution if they make a claim of victimization."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2576, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Ching voting no.

At 11:46 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2402, SD 1, HD 1  
S.B. No. 2747, SD 1, HD 2  
S.B. No. 2746, SD 1, HD 3  
S.B. No. 2946, SD 2, HD 2  
S.B. No. 2588, SD 1, HD 3  
S.B. No. 2123, SD 2, HD 2  
S.B. No. 2576, SD 1, HD 3

At 11:46 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:52 o'clock a.m.

At this time, the Chair announced:

"Members, may we proceed on to page 16 at this point in time. But before we continue, I want to thank all of you for a job well done this morning, since it's going to be at 12:00 very shortly, and it's going to be the afternoon. The discussion on the Floor has been really lively and excellent as far as educating the Members on the Floor of this House."

"The other message that I'd like to give to you, is that our counterparts are now watching us. So, if all of you can wave to them. That's the Senate. They got through at 11:24 this morning. So let's proceed on to page 16."

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1578-12) recommending that S.B. No. 2579, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2579, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise again, this time in reservations. Thank you, Mr. Speaker. This is Stand. Com. Rep. 1578. The goal of this bill is to provide more front-end services for the sexually exploited minor who ends up in prostitution. It definitely has praiseworthy components, such as the Safe Harbor Program, that'll provide coordinated services to victims from various government agencies, educating the public about sex trafficking of children, and reaching out to at-risk youth."

"Providing front-end services is extremely positive. It might even prevent our at-risk minors from falling into this terrible trade, prostitution. But there's also some serious problems with the bill Mr. Speaker, because it imposes a blanket prohibition on prosecution on all minors who are arrested for prostitution or related offense. Minors cannot be prosecuted, period. No matter what the reason for their involvement. Regardless of whether they were coerced or engaged in it on their own free will."

"The lack of prosecution would mean lack of accountability. Minors, even those who committed those criminal acts after being persuaded by their smooth talking, smooth talking ill person, need to know that there are consequences for their actions. Lack of prosecution denies Family Court oversight over the minors and consequently deprives the judges of knowledge of the larger social problem. Family Courts are valuable resources. Family Court judges approach the minor's case holistically, looking at the minor's home, their school, the community environment. The judge is there to help the minor to do what's in his best interest. The minors can get treatment and the support services that their parents and families often are unable or not interested in giving."

"The significant distinction between court-ordered services or what's commonly called back-end services, and the front-end service is that the court is in a position to monitor and enforce. There will be consequences for failing to follow through with court-ordered treatment. Other programs like the victims services program established by this bill can be helpful, but have no teeth. There is no enforcement, unless there is an incentive to comply."

"The bill as written ignores other specialized features of Family Court prosecution of juveniles, such as, the existence of Girls Court. Girls Court is a specialized courtroom which deals with the unique needs of adolescent girls. The Family Court has the flexibility to deal with a case informally, without criminal sanction, and an official adjudication that ends up on minor's juvenile record. This is known as informal adjustment, and it can be very effective in some cases."

"The Family Court adjudication for a prostitution offense does not have the same consequence or stigma as conviction on an adult criminal record. By law, juvenile criminal adjudications are not treated as convictions, and must be kept confidential, so they don't appear on a person's adult record. Furthermore, Family Court judges have the option of dismissing a case in the interest of justice. If the minor makes progress on court supervision, the minor can ask to have the case dismissed after the fact."

"The Department of the Attorney General, the Prosecutors Office, the Honolulu Police Department, all have serious concerns about exempting minors from prosecution. Most alarming is that giving minors, quote unquote, 'immunity' from prosecution for prostitution offenses, actually gives pimps and sex traffickers a perverse incentive to recruit more minors"

into prostitution. They'll say, 'Don't worry. You can't get in trouble with the law, because of your age.'

"Mr. Speaker, this bill has all the right intentions, but in the long term, will do only more harm if passed the way it's written. For these reasons, Mr. Speaker, I have serious reservations. Thank you."

Representative Riviere 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 Riviere's written remarks are as follows:

"Forced prostitution of children is a particularly heinous act and we must do everything we can to help these young people find a better life. My reservation with this bill is that it eliminates the crime of prostitution for persons younger than 18 years. Not every person who prostitutes herself or himself is a victim and many 17 year olds are well aware of their actions. Additionally, there are many pimps and unscrupulous individuals who might see a new, safer market to exploit because 17 year olds cannot be convicted of prostitution. In other words, this attempt to help children forced or tricked into sex trafficking could have the exact opposite effect."

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

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

"Mr. Speaker, with reservations, with a very serious footnote to underscore what the Representative just said. It's about keeping the records clear for the young ladies, the prostitutes. But the real message that it sends, and this is the dangerous one, that pimps aren't stupid. Pimps will get the message to go and pimp on the young kids. Get them in, because they're going to be immune to this. And that's why I fear that the guys are so street smart. They're going to take advantage of this if we do it. Therefore, there's got to be some balance to make sure that doesn't get out of hand. Thank you."

Representative Cullen 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 Cullen's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations on S.B. 2579. I support the intent of this measure because it wants to establish a new chapter in the Hawaii Revised Statutes for a safe harbor for sexually exploited children. This measure establishes that a person under the age of eighteen and suspected of, or charged with certain offenses relating to prostitution shall not be prosecuted. Mr. Speaker, my reservations with this measure center around the generality of the options under which the Police and Prosecutors are allowed to charge a minor for a prostitution crime.

"I understand that we want to help the minor, but my experience as a social worker and the work I have done within our Family Court system have given me the insight to know that sometimes, these minors are knowingly and willfully engaging in the crime. Also, Mr. Speaker the Prosecutor's Office currently has the official capacity to drop the charges on the minor after these minors have received the proper help.

"Therefore, I believe that this measure is too vague for it to work within our system and it may not help the population it is intended to help, having a more negative impact rather than the intended positive impact. Mr. Speaker, please also note that the Department of Human Services, and the Honolulu Police Department 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. 2579, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO MINORS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1580-12) recommending that S.B. No. 2214, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2214, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1581-12) recommending that S.B. No. 2220, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2220, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE BOILER AND ELEVATOR SAFETY LAW," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1584-12) recommending that S.B. No. 2528, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2528, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

Representative Fontaine 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. 2528, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1585-12) recommending that S.B. No. 2239, SD 1, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2239, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in enthusiastic support for this job creator. Did you want me to jump up and down? I'll be very brief, because this is going to establish the venture accelerator funding mechanism for the Hawaii Strategic Development Corporation. Mr. Speaker, these are the kind of high-tech jobs that the State needs. This is what Act 221 was going to do to really get people in the fast lane. We couldn't do a Menlo Park, Palo Alto, but we got close to doing some of it, and this bill gets us closer to doing that by providing advisors, mentors, and other entrepreneurs with tech-based opportunities to expand or, in fact, even start their business.

"We are a very capital-short state. In fact, most venture capitalists are either extreme East Coast or extreme West Coast. We basically have to import all of the capital that we have. This will be a good seeding mechanism, and it does what America used to do in the old days. It grows the pie. It's getting there and creating jobs and growing the pie. And in this case, it's the kind of jobs that is what we need. The kind of jobs that will hire all those young STEM students who are out now doing their robotics and other ventures in Hawaii.

"Mr. Speaker, the bottom line and the fix is, if there's any doubt about the use of these funds for a State Bank, I would say, if there's any excess funds that can ever be used for a Green Bank, the funds would be better spent if they put in this Strategic Development Corporation for the future of the kids of Hawaii. Thank you, Mr. Speaker."

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

"Mr. Speaker, in strong support. It would be such enthusiastic support, I had hoped it would stay on Consent Calendar. That being said, Mr. Speaker, this is a very powerful tool. It's not just about tech. It actually floats all of our economic sectors in what we call the matrix this year. This will benefit our writers and people who want to get in film. This will benefit aerospace for companies who wish to commercialize the IP, which is being developed by our University System.

"And real quickly, Mr. Speaker, the most important thing is that we have millions, and millions, and millions of dollars that have been put into this State into research for IP. The big thing is there's a gap, a great desert between this and the commercialization, which basically allows us to take this IP, intellectual property, and turn it into green, sustainable, well-paying jobs for our people, especially our children.

"I'd like to call this great desert, I nickname it the Iraqi Desert, and this is a Stillsuit bill, Mr. Speaker, because this will get us from one end of the divide, from all of the money that's tied up in IP in our University System, to the other side of the divide, which is commercializing this IP, and creating local jobs, well-paying, sustainable jobs that will help to leverage all of our other sectors. This rising tide will float all boats. Thank you, Mr. Speaker."

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

"I rise in support. I just wanted to reassure my colleague across the aisle that none of the moneys that are now being banked at the Bank of America, Merrill Lynch of \$651 million, or Morgan Stanley Smith Barney of \$500 million, will be returning to Hawaii to capitalize this important venture capitalist program. 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. 2239, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1586-12) recommending that S.B. No. 3050, SD 2, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3050, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

Representative Hanohano 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 the report of the Committee was adopted and S.B. No. 3050, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FILM, TELEVISION, DIGITAL, AND NEW MEDIA DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

At 12:05 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2579, SD 2, HD 3  
 S.B. No. 2214, SD 2, HD 2  
 S.B. No. 2220, SD 1, HD 2  
 S.B. No. 2528, SD 2, HD 3  
 S.B. No. 2239, SD 1, HD 1  
 S.B. No. 3050, SD 2, HD 1

## LATE INTRODUCTIONS

The following late introduction was made to the Members of the House:

Representative Nakashima introduced Minnesota State Representative Michael Nelson and his wife, Mrs. Cathy Nelson who were visiting Hawaii and our Capitol this day.

## ORDINARY CALENDAR

### UNFINISHED BUSINESS

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1588-12) recommending that S.B. No. 2842, SD 1, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2842, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL ACTIONS FOR DISCRIMINATORY PRACTICES IN REAL PROPERTY TRANSACTIONS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1590-12) recommending that S.B. No. 2158, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2158, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ching 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 Ching's written remarks are as follows:

"Mr. Speaker, I rise with reservations. This is a good bill that has been watered down and is no longer very meaningful. The bill would uphold constitutional rights by allowing an arrested person to post bail 24 hours a day, 7 days a week. It would allow law enforcement agencies to accept cash bail, certified copies of pre-filed bail bonds, and original bail bonds when the court is closed, including nights, weekends, and holidays, to facilitate the arrested person's prompt release after bail is accepted. The original bill would have mandated the availability of 24/7 bail.

"Unfortunately, the current HD1 draft no longer mandates this long-overdue change in our system. It only gives the Department of Public Safety and law enforcement agencies the option to make bail available on a 24/7 basis. The amendment to the bill was in response to the department's testimony that they lack the necessary staff and manpower. Left to their own devices, who knows how many years it will be before the departments make this important change?

"This bill also hurts our State's finances by needlessly keeping our incarceration costs high. The majority of arrests are for misdemeanors or petty misdemeanors where bail is low, a few hundred dollars or less. The arrested person either has the money on them and can post bail for themselves right away, or can call a friend or family member to come post it for them. But if the person was arrested in the evening or over the weekend, they are penalized and forced to stay in custody, simply because the system isn't set up to accept their money. It costs the State MORE money to house someone in jail, even just for a day or over the weekend. There was testimony from Duane and Beth Chapman of Da Kine Bail Bonds that the per-day cost is estimated at \$140 to \$200 per day. If the person has to be housed over a long weekend, the State is looking at \$800. The money that the State stands to recoup upon a conviction and judgment is much less: only \$100 to \$200 in the average misdemeanor case. In its present form, the bill creates a lose-lose situation: the arrested person's constitutional rights are violated, and the taxpayers shell out money that doesn't need to be spent.

"It may be true that the Department of Public Safety or law enforcement agencies need to hire more staff in order to provide access to 24/7 bail. But this is a relatively small investment that would result in a much larger cost savings. There was testimony that on some of the Neighbor Islands (Maui, Big Island), arrested persons CAN post bail during evenings and weekends. If the Neighbor Islands can structure their services to that bail is accepted 24/7, why can't Oahu?"

"Let's take this opportunity to make this a win-win situation by going back to the original form of the bill. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2158, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1591-12) recommending that S.B. No. 2858, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2858, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with reservations on this bill. Mr. Speaker, this, like the other exemptions of the environment, or tax, or other uses of power of government, this one is exempting us from really being open. It's a transparency exemption. It's about the Office of Information Practices and the ability of people to get information from their government. Basically it's saying that if an agency doesn't give it, we're going to have to pay for it to get it, because we're going to have to go to court, to pay lawyers, to get the money, to get the information. Mr. Speaker, it's a step backwards of transparency.

"It's not open government. It's a bad policy precedent. And I think of all the exemptions that we're trying to do this Session, this would be one that the people are going to see through, and they're going to say, 'Why are you guys exempting that?' People, *Civil Beat*, *Star Advertiser*, those people need information. It's going to tie up a lot of this stuff into court, and it's going to be a cloud over this Legislature. Thank you, Mr. Speaker."

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

"Mr. Speaker, I join the Minority Leader in opposition. This bill has the wrong title. It should be called, 'Relating to Closed Government.' Passage of S.B. 2858 will roll back more than 20 years of openness and sunshine in the manner in which the State of Hawaii handles access to records and ensures its meetings are open and transparent to the public. S.B. 2858 would allow State agencies to delay the release of publicly-requested records under the Uniform Information Practices Act, and makes it more difficult for the public to ensure agencies meet the Sunshine Law requirements. This is because the law would now allows agencies to challenge an OIP decision in the courts.

"A recent analysis done by a noted professor at the University of Hawaii Law School, makes it clear that the original legislative intent in passing Chapter 92 was not to permit OIP decisions to be adjudicated, but instead to clearly promote promptness and uniformity in the manner in which UIPA requests were handled. S.B. 2858 would turn the legislative intent 180 degrees around and destroy the hard-earned reputation our State has earned for openness, fairness, and transparency in its dealings with the public.

"I read the legalized arguments of the current head of OIP, and I do not believe they hold legal water. Further it is disturbing that this bill is part of the Governor's legislative package, the same Governor who summarily dismissed the former head of OIP when she did not rule the way he wanted her to. Mr. Speaker, this is part of a larger issue that we as legislators have

a responsibility to address. We will permit actions on the part of the Executive Branch to hide what they are doing from both us and the public.

"Actions such as the issuance of Executive Orders, or the dismissal of staff, or the whereabouts of our Governor on a daily basis. Will we stand up for regular citizens and the media that have a duty to inform the public and allow them to be thwarted in their efforts to know what their own government is doing? The government they pay for, and support. These are disturbing developments and S.B. 2858 will only make it harder for the public and members of the media to find out what is really happening in our State government. I therefore urge my colleagues to oppose this bill."

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

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

"Thank you, Mr. Speaker. I am also in opposition. Thank you, Mr. Speaker. The purpose of the bill is to allow State agencies to appeal the decisions of the OIP. And per Beverly Ann Keever, Professor Emerita, UH Manoa Journalism Program, she says this bill clearly contradicts the Legislature's intent, that OIP's decisions be binding on government agencies.

"The Open Records Law which took effect in 1989, based on the federal Freedom of Information Act that OIP grew out of, this law. At the time the Open Record Law was discussed, the Legislature stated in Conf. Com. Rep. No. 167 on S.B. 1799 in 1989, House Journal page 843, that the intent of a citizen to have the right to appeal a government agency's denial of access to a government record, but the government agency not have the right to contest it, the ruling.

"To allow government departments to sue OIP, a government agency would diminish and fragment OIP's powers. It would be counterproductive given that OIP was intended to serve the public's interests, by providing a place where the public can get assistance on records, questions, at no cost, and within a reasonable time frame. Mr. Speaker, I rise in opposition because I feel that this bill goes against what we have said that we want, open and transparent, good government. Good democracy is really based on freedom and truth, and being able to get access to the truth. 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. 2858, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO OPEN GOVERNMENT," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Carroll, Ching, Fontaine, Marumoto, Pine, Thielen and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1592-12) recommending that S.B. No. 2277, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2277, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

Representative Hanohano 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 the report of the Committee was adopted and S.B. No. 2277, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENDANGERED AND THREATENED SPECIES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1593-12) recommending that S.B. No. 2785, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2785, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

At this time, Representative Riviere offered Floor Amendment No. 5, amending S.B. No. 2785, S.D. 2, H.D. 2, as follows:

"SECTION 1. Senate Bill No. 2785, S.D. 2, H.D. 2, is amended by amending section 2 to read as follows:

"SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . INTERISLAND TRANSMISSION SYSTEM**

**§269-A Definitions.** As used in this part:

"Cable acquisition cost" means the electric utility company's costs, including reasonable transaction costs, to acquire a high-voltage electric transmission cable system pursuant to a turnkey cable contract or a cable purchase contract.

"Cable company" means any person or persons, company, corporation, or entity that is selected through a request for proposals, or other process approved by the commission, to be a certified cable company applicant.

"Certified cable company" means any person or persons, company, corporation, or entity who owns or controls a high-voltage electric transmission cable system and who receives a certificate of public convenience and necessity from the commission pursuant to section 269-B.

"Commercial operations" means the period after the high-voltage electric transmission cable system:

- (1) Passes acceptance tests approved by the commission, as determined by a qualified independent engineer approved by the commission; and
- (2) Meets other criteria the commission determines to be reasonable.

"Commercial operations date" means the date upon which the high-voltage electric transmission cable system begins commercial operations, as determined by the commission.

"Commission" means the public utilities commission.

"Cost-effective" has the same meaning as in section 269-91.

"Electric utility company" means a public utility as defined in section 269-1, for the production, conveyance, transmission, delivery, or furnishing of electric power.

"Electric utility system" means the electric system owned and operated by an electric utility company, including any non-utility owned facilities that are interconnected to the system, consisting of power plants, transmission and distribution lines, and related equipment for the production and delivery of electric power to the public.

"Energy resources coordinator" or "coordinator" means the director of business, economic development, and tourism.

"High-voltage electric transmission cable system" means one hundred twenty kilovolts or greater of alternating current or direct current transmission cables constructed undersea, including connected transmission cables or lines installed on land that connect the electric utility systems on two or more islands or allow for the transmission of power from one or more energy generation facilities to the electric utility system located on another island of the State; alternating current substation or alternating current-direct current converter station; on-island transmission infrastructure if required; fiber optic communication cables; and other appurtenant facilities.

"On-island transmission infrastructure" means the modifications and additions to the existing alternating current transmission grid on an island and other electric utility system modifications needed to reliably connect a high-voltage electric transmission cable system to an electric utility system, and to reliably accept power transmitted via the high-voltage

electric transmission cable system connecting two or more islands of the State's electric utility systems.

"Power purchase agreement" means an agreement between an electric utility company and the developer of an energy generation facility to sell the power generated by the facility to the electric utility company.

"Project-on-project financing risk" means the risk involved when mutually dependent projects, whose risk of completion, and therefore, financing, are dependent on each other.

"Renewable electricity" means electrical energy generated using renewable energy as the source.

"Renewable energy" has the same meaning as in section 269-91.

"Renewable energy generation facility" means a facility generating electrical energy using renewable energy as the primary source.

"Renewable portfolio standard" has the same meaning as in section 269-91.

"Request for proposals" means a request for proposals issued pursuant to a competitive process authorized, reviewed, and approved by the commission, and developed and conducted by the electric utility company or companies to which the capacity of a high-voltage electric transmission cable system will be made available, with input and assistance from the state energy resources coordinator, to select a cable company.

**§269-B Certification.** (a) Prior to installing a high-voltage electric transmission cable system, a cable company shall be selected through a request for proposals, or other process approved by the commission. The selected cable company shall not commence commercial operations of the high-voltage electric transmission cable system until it is issued a certificate of public convenience and necessity by the commission pursuant to section 269-7.5. A certified cable company shall be subject to regulation by the commission and defined as a "public utility" under section 269-1, notwithstanding any law to the contrary.

(b) The electric utility company and the energy resources coordinator, or the energy resources coordinator's designee, shall develop the request for proposals, and the energy resources coordinator or the energy resources coordinator's designee shall be a member of the selection committee that will review and evaluate the proposals. The electric utility company shall suspend or terminate the request for proposals at the discretion of the commission.

(c) Notwithstanding any provisions in section 269-7.5 to the contrary:

- (1) The commission shall approve, disapprove, or approve subject to certain conditions, an application for a certificate of public convenience and necessity for a high-voltage electric transmission cable system, and shall issue a final order within one hundred eighty days after the application is filed, provided that the commission may extend the timeline as necessary;
- (2) In determining whether the cable company is financially fit, the commission may allow for the use of commercially reasonable non-recourse project financing for the high-voltage electric transmission cable system;
- (3) In determining whether the proposed transmission capacity service is or will be required by the present or future public convenience and necessity, the commission shall determine whether the high-voltage electric transmission cable system would be a cost-effective means of:
  - (A) Interconnecting two or more electric utility systems;
  - (B) Helping one or more electric utility companies meet the applicable renewable portfolio standard; or
  - (C) Achieving other considerations the commission may deem appropriate;
- (4) If the primary source or sources of the renewable electricity that will be transmitted to an electric utility company or companies using the high-voltage electric transmission cable system will be provided pursuant to a power purchase agreement or agreements between the electric utility company or companies and an owner or owners of a new renewable energy generation facility or facilities, in reviewing and approving the application for a certificate of public

convenience and necessity, the commission shall, among other factors, take into consideration:

- (A) The status of the power purchase agreement or agreements;
  - (B) The extent to which the project-on-project financing risk of the high-voltage electric transmission cable system and the associated renewable energy generation facilities is materially reduced through agreements between the certified cable company and the owner or owners of the renewable energy generation facilities holding the power purchase agreement or agreements, or through common ownership arrangements; and
  - (C) The extent to which the certified cable company assumes financial responsibility for the high-voltage electric transmission cable system until both the cable system and the new generation facility or facilities have achieved commercial operations;
- (5) In the certification process, the commission shall review and determine ratemaking principles appropriate and applicable to the high-voltage electric transmission cable system during commercial operations. The ratemaking principles shall be used in determining the certified cable company's revenue requirement that is used to determine its transmission capacity charges, and may be used to fix the capital investment costs for the high-voltage electric transmission cable system upon which the certified cable company will be allowed to earn an authorized rate of return and the operating costs that may be included in the certified cable company's revenue requirement. Any applicable land costs shall be included in the determination of the certified cable company's revenue requirement;
  - (6) In determining the authorized rate of return that will apply to a certified cable company, the commission may consider the risks assumed by the certified cable company related to or resulting from the planning, financing, construction, and operation of the high-voltage electric transmission cable system, including other factors deemed relevant and appropriate by the commission, such as the terms and conditions of the transmission tariff as may be approved by the commission;
  - (7) Prior to approving the application for a certificate of public convenience and necessity, the commission shall hold a public hearing on each island to be connected by the high-voltage electric transmission cable system to obtain input from the affected communities about the high-voltage electric transmission cable system; and
  - (8) In no event shall the high-voltage electric transmission cable system be connected to any island populated by less than fifty thousand residents.

**§269-C Transmission tariff.** The commission shall, by order, approve, disapprove, or approve subject to certain conditions, the tariff of the certified cable company pursuant to which the certified cable company shall make the capacity of its high-voltage electric transmission cable system available to the electric utility company or companies. The tariff shall be consistent with the tariff provisions provided in the request for proposals, unless otherwise ordered by the commission. The tariff shall specify the terms and conditions under which the certified cable company will be entitled to receive revenues collected through the cable surcharge, established pursuant to section 269-D. The certified cable company may submit its proposed tariff for approval prior to the expected commercial operations date, and the commission shall take final action on the proposed tariff within one hundred twenty days after submittal of the proposed tariff with supporting documentation as may be required by the commission; provided that the commission may extend the timeline as necessary.

**§269-D Cable surcharge.** (a) The commission shall establish a cable surcharge to allow recovery of the high-voltage electric transmission cable system costs designated for recovery according to the ratemaking principles pursuant to section 269-B.

(b) Pursuant to the transmission tariff, the commission shall, by order, designate the electric utility company or companies to which the capacity of the high-voltage electric transmission cable system shall be made available as the agent of the certified cable company to collect the cable surcharge approved by the commission. The electric utility company or

companies collecting the cable surcharge for the benefit of the certified cable company shall have no right, title, or interest in the moneys so collected. The commission shall approve a fee, to be collected by the electric utility company or companies concurrently with the cable surcharge, for acting as the collection agent for the certified cable company.

(c) Notwithstanding any requirements to the contrary, a high-voltage electric transmission cable system may be deemed "used or useful for public utility purposes" upon commencing commercial operations, subject to the commission's determination and approval.

**§269-E Recovery of electric utility company costs.** (a) An electric utility company may recover, through an automatic rate adjustment clause, its revenue requirement resulting from the capital costs that it prudently incurs for on-island transmission infrastructure; provided that the commission has approved the utility's commitment of capital expenditure costs for the project.

(b) To provide for timely recovery of the revenue requirement, the commission shall establish a separate automatic rate adjustment clause for that purpose, or modify an existing automatic rate adjustment clause. The use of the automatic rate adjustment clause to recover the revenue requirement shall be allowed to continue until the revenue requirement is incorporated in rates in an electric utility company's rate case.

(c) The electric utility company's revenue requirement shall include:

- (1) The commission-approved rate of return, as set in the electric utility company's last rate case, on the utility's net investment in the high-voltage electric transmission cable system from the acquisition date of the high-voltage electric transmission cable system, and in the on-island transmission infrastructure from the date the on-island transmission infrastructure is completed and available for service;
- (2) Depreciation; and
- (3) Revenue taxes and other relevant costs as approved by the commission.

(d) The electric utility company's net investment includes costs incurred by the electric utility for planning, permitting, and constructing the on-island transmission infrastructure, including an allowance for funds used during construction where the utility finances the planning, permitting, and construction costs, less offsets such as accumulated depreciation and associated unamortized deferred income taxes.

(e) The on-island transmission infrastructure shall be available for service before the commercial operations date of the high-voltage electric transmission cable system. Notwithstanding any other provision in this chapter to the contrary, at the time the commission approves the electric utility company's commitment of capital expenditure costs for the project, the commission may either:

- (1) Allow the electric utility company to recover its approved revenue requirement resulting from the capital costs that it prudently incurs for on-island infrastructure at the time that the infrastructure is available for service; or
- (2) Allow the company to continue to accrue an allowance for funds used during construction on such prudently incurred capital costs until the commercial operations date for the high-voltage electric transmission system.

(f) If the electric utility company elects not to complete the on-island transmission infrastructure, and the commission approves this election, or the electric utility company is precluded from completing construction of the on-island transmission infrastructure, the electric utility company shall be allowed to recover reasonable costs determined by the commission to have been prudently incurred by the electric utility company with respect to the on-island transmission infrastructure. The electric utility company shall be allowed by the commission to recover the reasonable costs through the cable surcharge over a period equal to the period during which the costs were incurred or five years, whichever is greater. ""

Representative Riviere moved that Floor Amendment No. 5, be adopted, seconded by Representative Thielen.

Representative Riviere rose to speak in support of the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. S.B. 2785 involves an interisland power cable regulatory structure. Last year, we debated this bill, and at that time there was a discussion about how much wind is available on Lanai and Molokai. The bill did not pass last year, and in the intervening time, another bill has come forward. And the conversation has amazingly changed away from, 'No, we're not trying to get windmills on Lanai and Molokai, but we're just trying to create a regulatory structure to have an interisland cable.'

"The interisland cable itself is not a bad idea. Having a grid providing power and redundancy between communities is a worthy idea. The concern is that most of the power usage, and most of the power generation rests on this island. There is no island that has surplus power to export. So we are now talking about a regulatory structure, which I have serious concerns about the financing elements. And that's all we're talking about.

"So, since we're no longer talking about forcing two of our smaller islands to have windmills to generate electricity so we can open our garage doors on this Island. Since we're no longer talking about including them, this Amendment would exclude from the regulatory scheme, islands with populations less than 50,000 people. I think this cuts to the heart of it. Let's have the interisland cable and let us respect the island where they are so vehemently and dreadfully are opposed to windmills so that we can have power on this Island. Thank you."

Representative Thielen rose to speak in support of the proposed Floor Amendment, stating:

"Thank you, Mr. Speaker. I'm rising in support of the amendment. Thank you, Mr. Speaker. What the amendment is, it just basically is saying let's be honest and let's be transparent. If we're not going to be pointing the gun at the Island of Lanai and Molokai to be our industrial wasteland to provide power for Oahu, let's say it upfront, and that's what this amendment does. It precludes in the regulatory system. It precludes the Island of Lanai and the Island of Molokai from being included as the provider of power for Oahu. It's transparent. It's open. And I believe that it deserves the Members' support.

"The other measure, the main bill that we're trying to amend, really plays kind of duplicitously by saying, 'Gee, this doesn't mean to apply to any island.' I say let's be more honest than that. Let's say it will not apply to Molokai. It will not apply to Lanai. And we can go ahead with a regulatory scheme which I think still needs to be debated on its merits, and we will be able to do that later. Thank you."

Representative Coffman rose to speak in opposition to the proposed Floor Amendment, stating:

"Yes, Mr. Speaker. In opposition. This amendment will be very detrimental to the two islands, in the future. Those two islands currently, right now have some of the highest electricity rates in the nation. And in the future, they may want to have cables running to the Island of Maui to provide them with inexpensive electricity.

"Now I want to address a couple things, statements that were made regarding the fact that there isn't any excess energy to be brought over to this Island. On the Island of Maui, we already curtail a large amount of wind, and we're building additional wind farms over there. In addition to that, we're also looking at developing geothermal on Maui, so there is going to be excess energy brought over here. And the third thing is, there was mention to projects, the cable. This bill has nothing to do with any renewable projects, Mr. Speaker. Thank you."

Representative Riviere rose to respond, stating:

"Yes, thank you. For the amount of surplus energy that is being generated in Maui, I am very concerned that it would be an expensive extension cord, to build a billion dollar cable over there, to get some of the intermittent wind that is curtailed at night. There are better uses for the surplus power in the evenings. Such as, we know, hydrogen power could be generated and stored for daytime use.

"The idea that an island, a small island with a small population would need to connect to a major grid, I'm not accepting that. I think a windmill or two on Lanai could power the wind needs for the people of Lanai, and they could have their clean, green energy, without having to connect to Oahu. So I disagree with the premise that we need to go to an island and extrapolate power against the wishes of the people on that Island. It just seems very imperialistic. Thank you."

The motion that Floor Amendment No. 5, amending S.B. No. 2785, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INTERISLAND ELECTRIC TRANSMISSION CABLE SYSTEMS," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry.

(Main Motion)

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, I was pleased to see the Chair of the Environmental & Energy Committee that says we could get cheaper electricity if we got it onto Lanai or Molokai, from Maui. One of my objections is that there's light at the end of tunnel every time we talk about this undersea cable. Which to me is comparable about the way we've talked about the train. Here's the cost, \$5 billion, \$7 billion, \$1 billion dollars. And all people see is what it's going to cost, rather than what it's going to save. I think, Mr. Speaker, that's really a missing element in this whole thing.

"The same reason that we want to push electrical vehicles. You know what GM did? They suspended production of the Volt. That was America's electric car. They stopped the production of it. People are not buying it. The point is, if we're going to do this stuff, we need to make with incentives, and the logical, rational incentives. We've got to vet this thing throughout our communities. We've got to tell them what it is. Why it's being done. How it's going to be done, so people will understand if they're going to back it. And people are rational. They will understand it, and they'll say, 'Yah, we need this. This is worth the price that we're going to pay.'

"Now I know the opposition or the retort to what I'm saying is that, 'Hey this is only a funding mechanism. All this is, is a mechanism to get the money.' Well Mr. Speaker, I don't know of any banker who will lend you the money if you don't tell them what you're going to do with it, and to me, telling what you're going to do with it, is the same thing as setting this thing up to actually do it. I think it's premature. It's expensive. And we need to know that there's light at the end of the tunnel, i.e. cheaper energy. Thank you."

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

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

"Thank you, Mr. Speaker I'm rising in opposition to the main bill. Mr. Speaker, the price tag on this comes at about \$1 billion. When you add that to what's going on, on the Island of Oahu, with rail, and the added .5 GET tax, pretty soon you reach a tipping point for our residents, where they just can't afford it. They can't afford to pay for these massive public work projects.

"The problem with this bill, there's been no economic analysis other than a Booz Allen report that pretty much puts the price tag at a billion dollars. So what are we doing today to put together a regulatory system for our ratepayers on the island without really going out to them to say, 'How much can you bear? How much can you handle?' A billion here, and a billion there, and pretty soon you're talking about real money. And the people are noticing, because they're having a hard enough time now, and then we're putting this added burden onto them.

"The regulatory system gets set up, and that doesn't mean that this company's going to come to town saying, 'Gee, we're a non-profit. We'll do

it for free. No one's going to have to pay for it.' That's not the way it's going to go. It's going to go that they will go to the PUC. The PUC's going to say, 'Fine.' And then the money will have to be repaid by the ratepayer. That's a billion dollars. The need for an interisland cable system hasn't really been justified, and when you take a look at what the Department of Energy has recently determined are the energy sources for our islands, we have energy sources for each individual island to be energy independent that we can tap into now, and begin developing.

"So the interisland cable may be a theoretically, 'Gee, it'd be nice to link the islands,' and obviously the Administration has come up with that, 'Gee it'd be nice to,' idea. And that's what's behind this bill. But take a look at, can our islands each be independent? And then the question is, can they do that less expensively? And obviously the answer is, yes. And can they do it with renewable energy. Obviously, the answer is yes.

"So to go ahead, and put an 'only a regulatory system' into place, is putting a huge economic burden upon our population. I would ask the Members to look at this. It's like the camel's nose under the tent. It's poking under to say, 'Gee, it's just a regulatory system. Trust us. It's not going to be a problem.' That's a billion dollar request for trust, and I don't think it's justified or needed, because each island can provide its own energy, renewable and less expensive than this system. Thank you."

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

"Thank you, Mr. Speaker. In support. And that's a great analysis of the price tag, but I ponder this question. What is the price tag of doing nothing? Of doing absolutely nothing? To not be able to look beyond our own lifetimes, and to place a burden on our children, and our grandchildren, and the generations to come? This is a great proposal. The only reservation that I would have is that it cuts Kauai out of the deal.

"We are very limited in our resources on Kauai. With our endangered species, it eliminates any possibility of wind. With endangered species, it pretty much eliminates our possibility of having hydro. Now I see the proposals from the Big Island with their geothermal, Maui geothermal. We're coming to a day and age, Mr. Speaker, where the price tag we need to look at is the price tag that our children and grandchildren will be paying by doing nothing at all. United we're strong. Alone we are weak. This is a great proposal to tie in all the islands, to share in the wealth of resources that makes us all diverse. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. Just a couple quick points. You know, this conflation of rail and the undersea cable, I think it's misguided. Rail is going to stand. And Rail has its own source of funding that can only be used for rail, both at the federal and the State level. The undersea cable will have to rise and succeed, or fail on its own funding mechanism.

"With regard to this idea of self-sufficiency, economists I think, would call it 'autarchy.' Nations that have tried to be completely self-sufficient and not interact with other nations generally end up being poor. I think that's both classical economic theory and I think it's also, it was borne out by the experience of the communist countries who did everything they could to be self-sufficient. While their capitalist specializing neighbors were growing by leaps and bounds, the communist economies were sinking and doing nothing of significance. I think we face the same sort of situation in the islands.

"If we trade with each other, including on energy, it's more efficient. Yes, you could be self-sufficient, but it's the least efficient way to do it, and I think in the end, even if the residents of Lanai and Molokai don't want windmills on their land, I know that's their decision to make. But being connected to the grid will lower their electrical prices. And it will also eliminate unnecessary generation capacity, because you can link them all in. The various power plants on the smaller islands can be shut down completely because they're small and inefficient. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations and just a few comments. I would like to adopt the words from the Representative of Kauai and also the Representative of this district to be my own. I'd also like to say, for me, because I represent a very diverse district and this conversation has been very, very emotional among my constituents, I'd like to first say that the reason why I'm supporting it, but with reservations, is because we still have a long way with the conversation in terms of creating that framework. Whether it includes Maui and Molokai. I don't want to not include the conversation of the possibilities that could happen.

"Do I think wind is the answer for Lanai? No. I think that there are other possibilities that could sustain Lanai, as well as Molokai. When looking at Molokai, sustainability is a huge word. I know that they want to look at not being plugged into the grid. However, as we look into the future, like the Representative from Kauai says, it's injustice if we do nothing and we need to look further, because the cost of oil is going up. And I don't see anything soon that will decrease the cost of the gas, or even our electricity on Molokai and Lanai.

"So for further discussion and working on this framework, I'd like to also note that, let the people of each island as we move forward on the discussion of the framework, let their voices be heard. And let them be part of that process when discussing this framework. So for now, I'd like to just conclude here, but to say that I want to support this, with some reservations."

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

"Thank you, Mr. Speaker. A no vote. May I please enter comments which include the comments of four economists that I consulted on this issue? And I'd just like to make a couple comments to the Body here.

"We've heard a lot of discussion about this bill. It is a very important bill. It commits, potentially a lot of our ratepayer dollars, and even our tax dollars up front. These are not lean times. In many ways, this legislation puts the cart before the horse. From the very beginning, before we create a government regulatory, almost mandate, a structure, we should know what's going to be built. About how much it's going to cost. About how much it's going to benefit us. And most importantly, in my opinion, there must be an extensive public discourse, community informed consent, and public buy in, before we start committing this money.

"In recent years, the approach to big projects is, people with big ideas come to the Legislature and they use legislation to do things that under normal circumstances in the free market in particular, they would never be able to do. We should not be making these private market decisions, particularly without public informed discussion. In particular, I think for the small islands, they have not been involved in this discussion.

"We've already seen in the mainland city and state governments, the funding of things that go belly up. Even the federal government is stuck with big projects that won't work. The idea behind sound public projects is we get out more than we put in. And we don't keep private capital or private entities on life support. It's not enough to say to the taxpayer, to the ratepayer, 'We're going to save you money in the future.' People are worried about right now, right here. And we are only now starting to get back into the black.

"Why are we talking about creating a new agency? A new regulatory mandate without community informed consent? There's been shown to be no need for this cable. And I would love to share the comments of the economists, Dr. Paul Brewbaker, Dr. Roumasset, Dr. Stiglitz, and Dr. Endress. Thank you, Mr. Speaker."

Representative Wooley's written remarks are as follows:

"Sometimes, people seem to forget about basic theories of government, the free market, and economic fairness.

"There is no economic justification for this bill at this time. As Dr. Paul Brewbaker said, 'Any energy that can be generated on Molokai and distributed on Oahu via undersea cable can be generated on Oahu and



distributed on Oahu without the undersea cable. Why pay for a cable if you don't have to? I mean, who does that!?"

"Dr. Lee H. Endress took a look at the numbers and came up with a similar conclusion: "The simple numbers don't make a compelling case for cable in my view. Estimates for fabricating, laying and connecting the cable come up to \$1 billion. That's for 400 megawatts of electrical power, which comes to \$2.5 million per megawatt. And that doesn't include the costs of monitoring, maintenance and repair of the cable. ..."

"To add insult to injury, if the taxpayers and ratepayers are going to pay for this undersea cable and bear all the potential risk if the venture fails or costs more than expected, then who owns the cable? Shouldn't the people who pay for the cable and bear the financial risks be the ones to own the cable? Not with this bill.

"With SB2785, the Legislature will force ratepayers (and taxpayers) to pay for cable, but the private company selected by the PUC will be the winner of the contract – and will own the cable until they sell it (or walk away). And winner they will be. They are a for-profit company that is about to have almost all of its costs paid for by someone else. As Dr. Jim Roumasset stated, "the project appears to be Robin Hood in reverse – take from the poor consumer/taxpayer and give to the rich contractors and power companies. However, because of the very high costs and the low or even negative benefit, what will be taken away is many times what will be given. If we want to make the rich richer, it would be cheaper to just give them tax revenues directly, with no strings attached."

"This does not mean a cable is not a good idea. It may be. But shouldn't we, as policymakers, allow the market in renewable energy to develop? Shouldn't the free market be given a chance? Unless there is some significant justification, I, like many others, believe the legislature should not "pre-determine which ones [alternative energy producers] will be, which ones won't be, or where they'll be located," said Dr. Paul Brewbaker.

"The Legislature should, at minimum, fully vet at least the estimated price tag and benefits and give the public information before making grand commitments to massive public works projects – especially when the publicly-funded project will be given to a private entity.

"Nobel Laureate Joseph Stiglitz recently came to Hawaii and spoke about the significant potential of renewable energy, but made clear his belief that economic development will only occur with competitive policies capable of greatly reducing the price of power. He recommends true decoupling where production of power is completely decoupled from the utility and where the utility is required to buy what the producers offer. The beauty of this is the government does not have to pick winners -- rather, the market can."

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

"Thank you, Mr. Speaker. In support with reservations. I agree with much of what many of the proponents of the bill have said. Certainly our future lies in a clean energy future for Hawaii. And I do understand that this bill is establishing a regulatory framework. A regulatory framework does precede, ultimately, a public works project.

"What my reservations are predicated on, are the confluence of a lot of large scale public works projects that I think all have their merits. But ultimately what links them all together, and I think why it's germane particularly on this bill, is there is a common denominator. It is our people, who are the common denominator in all of these large scale public works products, because ultimately they end up underwriting the cost for it. Because it is this confluence that is happening right now, in what I think are some unstable economic times both nationally, and even here. I think we are experiencing recovery, but it's certainly not a robust growing economy. I just worry about our population's ability to absorb some of those costs in the future. Thank you."

Representative Ward rose to respond, stating:

"Yes, Mr. Speaker. Continuing in opposition. But I wanted to commend you for saying that the dialogue so far has been healthy. This is really what the marketplace of ideas is about. This is really what this Floor is for. Because once we make a decision, this is an investment, a public works project of countless amounts of taxpayer dollars. So Mr. Speaker, I think, even though it's going to take us a little bit away from lunch, I think we need to make a couple points.

"First, I see no excess capacity of energy production on any island. Save one, which is now at 35%, if I get the Big Island production through geothermal. Geothermal has the potential, but with some of the barriers that have been thrown in the way, it's taken them 25 or almost 30 years just to get to 35%. Now if they were busting at the seams with energy, and Maui was cranking out so much Energizer. You know let's move on this thing. Let's get on with it. Let's do it. Mr. Speaker, I have a reservation just about the supply and demand factor.

"Secondly, the issue of a public works project that had its leadership, like the train, saying 'We're going to do steel on steel.' This one says 'We're going to do a big grid.' Imagine for example, you're IBM, and this side over here is Apple. What are we going to do for the future? Are we going to go mainframe? Or are we going to go PCs? Those guys who went mainframe have basically died off, and they have a very small piece of the market. The market now is PC. I'm not convinced that the solar on every roof. PV on every roof. Every island doing what it can do, will actually obviate the necessity for such a bill as this, to do it, because of the amount of investment. We have to vet it with the people. We have to get a little bit more option rather than saying, 'Steel on steel.' Or we've got to do the macro grid before we do any of these other things.

"There's a bill coming up by which we're going to cut the heart out of some of the solar on every roof, which I will speak to shortly. But Mr. Speaker, we have to be wise. We're at 3%. We're the nation's potential first leader, world leader in this. We have to make this decision wisely. Thank you."

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

"Yes, Mr. Speaker, in strong support. I think everybody's agreed that this bill is just a regulatory framework for the development of the interisland transmission cable. And basically clarifying the regulatory, the process means that prospective cable developers know precisely what is required for the development of a cable system between islands offering predictability and certainty of the regulatory process. This will help reduce development if they ever occur. This bill does not authorize or guarantee the development of a cable system, or any renewable energy project, nor will it bypass any land use permitting or any environmental laws. This is just prospective. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. I wish to speak for this, very strongly for this. My hope is that someday we'll have a grid right across the islands, all the way from the Big Island to Kauai, each relying on each other for the kind of resources they have. And Mr. Speaker, more importantly, I'm getting hungry. May I call for the question?"

At this time, Representative Souki called for the previous question.

The Chair responded, stating:

"The Chair will recognize Representative Ching for some final statements."

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

"Thank you, Mr. Speaker. I really appreciate it. I just wanted to rise with some reservations and ask for the words of the Representative from Laie to be entered. My main concern is the cost. And I don't think anyone here is saying to do nothing. In fact, I think there's a lot of discussion about possibilities. Wave energy, etc. And I did want to also clarify that

regardless whether you call it the fund for rail, or you call it the fund for cable, it's the people's money. It's people's, taxpayers' money. Thank you."

Representative C. Lee rose to speak in support of the measure with reservations, stating:

"Very briefly. I rise with reservations. I just want to note that I'm absolutely in support of the concept of making us far more renewable, and ensuring our energy future. This is one step in that direction. But I do want to note my reservations, and that's with respect to the impact it'll have on communities and the interests of those communities.

"Unfortunately, it appears as though there's the possibility that there will be impact among some very vocal communities who happen to be divided over this, unfortunately. My interest is just making sure that their voices are heard in the process, and that no matter what happens, they're going to be adequately compensated and so forth. So, just wanted to note that. Thank you, very much."

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

"Thank you, Mr. Speaker. In support. I just want to address some of the comments about not involving the public, and not protecting our rate payers. Again, as everybody has acknowledged, this is a regulatory framework. But in this bill, it protects Hawaii's electricity ratepayers in a number of important ways.

"First, only the cable developer will bear the risk of developing and constructing a cable system. Customers only pay for cable costs after a cable has been installed, tested, and placed into service, passing the regulatory standard of, used and useful.

"Next, this bill also enables a cable developer to get project financing, independently of Hawaii's electric utilities, which would lower financing costs, and result in cable development rate savings for ratepayers.

"Finally, all cable-related costs, which may be eventually paid by electric consumers, must first go through the Public Utilities Commission's review and approval process, that will ensure only prudent costs be recovered.

"Again, this bill sets out the regulatory framework for the development of an interisland transmission cable. Interested parties will be better informed of the regulatory process because of this measure, and the average ratepayer will benefit from the lowering of overall project development costs. 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. 2785, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INTERISLAND ELECTRIC TRANSMISSION CABLE SYSTEMS," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Hanohano, Marumoto, Riviere, Thielen, Ward and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1594-12) recommending that S.B. No. 3011, SD 2, HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3011, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Marumoto 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 the report of the Committee was adopted and S.B. No. 3011, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 42 ayes to 9 noes, with Representatives Awana, Belatti, Hanohano, Jordan, Keith-Agaran, C. Lee, Luke, Ward and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1596-12) recommending that S.B. No. 2825, SD 1, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2825, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm with reservations, because I have some privacy concerns about this measure. Privacy for the public. 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. 2825, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII IMMUNIZATION REGISTRY," passed Third Reading by a vote of 51 ayes.

At 12:43 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2842, SD 1, HD 1  
S.B. No. 2158, HD 1  
S.B. No. 2858, SD 1, HD 2  
S.B. No. 2277, SD 2, HD 2  
S.B. No. 2785, SD 2, HD 2  
S.B. No. 3011, SD 2, HD 2  
S.B. No. 2825, SD 1, HD 1

At 12:43 o'clock p.m., Representative Chong requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:44 o'clock p.m.

At this time, the Chair announced:

"Members, at this point we are at 12:45. We will recess for lunch until 1:30. Recess."

At 12:44 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:53 o'clock p.m., with Vice Speaker Manahan presiding.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1599-12) recommending that S.B. No. 2766, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2766, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENTITIES REGULATED BY THE INSURANCE COMMISSIONER," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Ching and Ward voting no.

Representatives Herkes and Keith-Agaran, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary presented a report (Stand. Com. Rep. No. 1605-12) recommending that S.B. No. 2412, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committees was adopted and S.B. No. 2412, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTRACTS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1606-12) recommending that S.B. No. 2288, SD 1, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2288, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, we had a really long debate about the undersea cable and about the future of electricity, the cost of which is going to go high or low or whatever. This bill is really an opportunity and an answer to one of the Representatives, I believe from Kauai, who said rather than do nothing. Mr. Speaker, this bill is going raise havoc with what has a lot of stuff going on now. But if we take away this solar PV credit, we're going to jeopardize the industry.

"Case in point. This bill basically takes away what otherwise has been from the beginning of the last few years, a boost to the PV industry, and making very robust our green jobs. I don't speak as a sole voice, even though I know some others on the Floor are going to join me in voting against this. But this is also the opinion of the Sierra Club, Blue Planet. It's also strongly opposed by the agencies of DBEDT, County of Honolulu, and all the Solar Energy Association Companies, PV Coalition, Kairos Capital, SunRun, Rising Sun, etc. The problem is Mr. Speaker, it takes the current tax incentives for renewable energy, and basically pulls the rug out from underneath them.

"If we're going to say, 'Oh, we a mistake and this should be changed,' rather than cataclysmically pulling out these tax incentives, we should ratchet them down. The case in point, Mr. Speaker. For this Island, we are now at 3% renewable. We are the nation's leader. I call that the one-eyed among the blind. 3% gets you nation leadership, and we've got \$5 to \$6 billion a year that we're exporting from the State of Hawaii, in terms of fossil fuel.

"If we're serious about getting off of fossil fuel, we've got to keep this in place longer. Let the industry stabilize. Let the PV go up to a percentage that's acceptable, where there's structure. Where there's the pipeline being filled. But if we cut it off cataclysmically now, we're going to lose what otherwise we've started out as the nation's leaders.

"If what they're saying is true, and I think my colleague will repeat it, this is going to be solar only for millionaires. Right now, it's even hard enough to buy solar or PV. Even with the incentives, it's expensive. But if we take out these incentives, it's going to kill the industry. And what is the proof of that? What's the empirical evidence of it? What's this other than just opinion? Look back for the last 30 years, for the solar incentives which have been on and off in place, begging and cajoling people just to put a water heater on their roof.

"What is our penetration of water heater usage on the Island of Oahu? 25 to 30% at the most. In 30 years, to get 30%. With all those incentives and it's still not working. So how are we going to get off fossil fuel, if we're at 3% and we literally take the floor of the incentives away? Mr. Speaker, my suggestion is we ratchet it down. We don't do anything abrupt. We don't do it quickly. And I would like to encourage my colleagues to see this as a real job maintainer of the green industry. It's going to be a job killer if these things are going to be lost. 90% of our energy generation from fossil fuel has got to stop.

"We've got our consumption of imported oil, as the extreme of the only place of the United States that's doing this, and we've got to take some big steps. Not like this in the wrong direction. But in the right direction.

"And lastly, Mr. Speaker, we always look at bills of, 'Gee, we're afraid there's going to be unintended consequences.' My fear is that this is going to be an unintended consequences of killing the industry. Taking PV and saying, 'Yeah, we did okay for a few years. Some people got breaks. But the others who are waiting in line now, it's just too bad for them.' And it's only going to be those who have a lot of excess money, who are going to really afford solar. That's not the equitable. It's not the best way. This bill is not for a good future and strong policy. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in opposition. Thank you, Mr. Speaker. It's really a double whammy. It's the solar for millionaires only bill, and it's the green energy job killer bill. So it does both things. It puts photovoltaic really out of the reach of homeowners that may just stretch a little bit further than they think they can, but still do it to be able to reduce their use of fossil fuel. And then by going after this industry, which was the fastest growing industry, the green industry, in our State.

"By going after it with this bill, it means we're going to kill that industry, or at least wound it enough that it won't be even listed among the top ten after this. And we do it, Mr. Speaker, really in a typical way that this Legislature does it. All of a sudden we decide, 'Okay, let's go ahead and kill this industry today,' without working with them in advance to say other things that we maybe need to reassess, and with working the Department of Taxation."

Representative Evans rose to a point of order, stating:

"Point of order. The previous speaker was implying what other legislators intended by killing the bill. I think that's against the rules."

The Chair addressed Representative Thielen, stating:

"Please, Representative Thielen. Just stay focused on ..."

Representative Thielen continued, stating:

"Without going and putting together, like a task force or a group to be able work on these different things together to say maybe this tax incentive needs to be adjusted. But let's give the industry some advance notice. Let them be able to work with the task force. Work with the group to say, 'What should we take a look at,' so we make sure that we don't have misuse of this system, but that we go ahead and encourage the photovoltaic on the roofs of our residences throughout the State.

"Mr. Speaker, it's just a bad idea. We just now slam the industry. Projects that were in the works that were thought about are now going to be scrambling to say, are they going to qualify? Are they going to be able to get it online before this takes place? Before the bill becomes effective? And then you take a look at the jobs that are out there, in your district. My district. Everyone's district here in this State. Those green jobs. They now are going to be disappearing. It's an amazing thing that a Body like this can take on a green industry, and effectively do it great damage. And that's what this bill does, and I vote no."

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

"Mr. Speaker, I rise in support. Mr. Speaker, I think this measure is geared to address the policy that whenever you have a tax credit, we need to keep in mind that taxpayers who are not currently claiming their credit are subsidizing those fortunate enough to have the means and wherewithal to get the credit to offset their cost. For my constituents in Wahiawa, not many of them are able to afford photovoltaic systems. Some of them are. They, do well enough to afford water heating systems, or solar water heating systems.

"So we're kind of closer to what the Minority Leader talked about. Probably the 30 percentile area. But when I do talk to them, they inform me that with the ever increasing cost of electricity, it's beginning to pencil out more and more for both photovoltaic and also solar. So I think the discussion we're having today, is whether or not we can afford to have this expenditure of about \$29 million a year, up to \$40 million a year, to support those who are well off enough to afford these systems.

"So I think that's where we are with the discussion. I appreciate the work that has gone in to this measure. But I think we need to keep that in mind that anytime you offer a tax credit, it's basically a subsidization for that one individual or family or business, at the expense of all others. Thank you."

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

"Thank you, Mr. Speaker, in support, and I'd like to ask to enter the words of the Finance Chair into the Journal as my own, with a few brief comments. This is not a bill that does nothing. What this does, is it ponders the question of whether we should own our own destiny. Because right now, what's happening is, you can get a federal and a State tax credit, and the developer can then depreciate the cost of their equipment over the expected lifetime, while all the time getting the PPA agreement which is all the gravy on top.

"What this does is ask our taxpayers whether we should own these systems outright. Whether we should own our own energy destiny. I think it's a great measure. Now there's two ways to promote good behavior. One is the heavy handedness of mandates, in which I believe businesses will seek out loopholes. The other way to incentivize good behavior and to put up incentives. That's what we did with this tax credit.

"But there comes a point in time when you need to give it a review, a look back, to see when we create these incentives, businesses will try to maximize and capture every opportunity. And when we're in the process of capturing this opportunity, there could be allegations of abuse. I'm not saying that there are businesses that have abused the opportunity, but there are some things that we need to take into account. Is it fair to put up more than one system on your roof to capture multiple tax credits at the cost of our taxpayers? That is a question that we are here to ponder and that's exactly what this bill does. Thank you, Mr. Speaker. In support."

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

"In strong support. You want to put PV on your roof? You still get a tax credit. And quite frankly, I don't think that any alternative device should get a tax credit. They should rise and fall on their own ability, their own price structure, and their own ability to give us something that we can afford. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. It wasn't that long ago on this Floor that I recall so many speeches about how we are going to be sustainable. That this was going to be our vision. That our vision for our State was to get off fossil fuel because a myriad of reasons. Why being dependent on it is such a bad situation.

"And I've said on the Floor before, how we all recall, how the budgets of all of our schools were thrown into disarray when the price of fuel went so sky high. We are slaves to fuel when that happens. When a school cannot pay its bills, a school cannot meet all its requirements, because the cost of just being open is so high. Boy, it would have been nice to have photovoltaic and all that on our schools, huh? If we had that, we might have.

"So the things is, is our vision originally, if we keep to the page of music, was to be sustainable. And it has already been mentioned by the Representative from Hawaii Kai, the Minority Leader, that we have not come anywhere near saturation point, on helping this. I might also add, Mr. Speaker, unfortunately, I regret to repeat, we are listed about on the bottom for being pro-business, in *Forbes Magazine*. I can only wonder what people in other jurisdictions may think of a state with such an abundance of sun. Sunny Hawaii. That this measly amount now cuts the feet, the legs on its solar industry, when it has the highest rates, bar none, in the nation, which affects business. Which affects our people. Which affects our locals.

"I would like to read from the Sierra Club.

Our current solar industry has been one of the bright spots in our economy, producing approximately 15% of all construction jobs last year. The current system of extending a credit per system is based on the Department of Taxation's expressed interpretation of the governing statute. A drastic change to this interpretation as proposed in this measure would sharply curtail the solar industry, and curb thousands of jobs across the State. A more preferable option would be to follow the Senate's example and minimize the tax credit in an orderly fashion over

time, while we're trying to revive our economy and move to a clean energy future. The measure is terribly misguided.

"You know, we have a native son in the White House. I actually went to school with, as we called him, Barry, at Punahou. Barry. I cheerlead for Barry, for the Buff 'n Blue. That's one thing. I don't know. Us Punahou kids. I don't know. Maybe, you know. The environment is important. We've got to take care of it. And we've got to make sure that we're helping those that are contributing to the industry in a positive way, through solar jobs. They're not saturated yet, Mr. Speaker."

Representative Ward rose to respond, stating:

"Mr. Speaker, just a couple of footnotes. Because people were conscious of the cost of living and that was music to my ears when they said, 'Watch out for the ratepayers,' because we have to do this. But how can we in good conscience just vote up a billion dollar undersea cable, and not want to give \$29 million a year to benefit the people who put it on their roof. That in terms of the numbers for the cable we can actually outfit, probably the whole State of Hawaii with putting PV on the roof.

"The other thing is that, if we think it's expensive in Wahiawa today, wait till you take away the incentives. It's going to be really expensive because there's going to be no incentive for anybody, whether you're Wahiawa, or Kahala, or wherever. It will have died because there's not the incentive to bring people on board. Again, Mr. Speaker, the bill is well intentioned. But what it does too cataclysmically, too quickly, it just does it without ratcheting it down and getting the industry, and getting the people ready to absorb the shock.

"This is going to be a shockwave when it hits. What we need to do is to sort of step back. Take a breath. And say, 'Okay. How are going to fix this without destroying it?' That's what we've got to do. We've got to look at it a little more systematically, and long range. Thank you, Mr. Speaker."

Representative Kawakami rose to respond, stating:

"Thank you, Mr. Speaker. I'm still in support. And just to clarify. We didn't vote up on a billion dollar undersea cable. We voted up on creating the regulatory framework. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. Just a few comments as we've been through this bill before. Again, this is about fiscal accountability, in a time where we've removed thousands of people off of Medicaid, and we've made deep cuts to education. This tax credit, which does not have to come before this Legislature every year, like the Department of Education, or the University of Hawaii, spends more money than we projected. In fact, this upcoming year, the tax year, it was expected to cost over \$40 million. So that's one.

"Two is, in response to the Representative from East Honolulu. The difference is, the tax credit benefits individual residents and businesses. It can benefit the grid, but that's where the bulk of the usage is. The cable will benefit everyone. That's part of the argument of tightening up the language.

"The socio-economic argument, is like the Representative from Wahiawa talked about is. Who can afford it? Not just in the credit, but up-fronting the money. This is a 65% tax credit. 65 cents on every dollar. And by the way, the feds don't have a limit. Only we do, which we're trying to close the loophole that's in the law. That's all this is about. It's fairness, because as we've talked about, the PUC has an intermittent cap limit on a grid. Only 15% of intermittent power can be on the grid. So out of every hundred homes, on average, only 15 people will get to use it. The other 85, one will not be able to, because of the cap. And you can appeal the cap and some people have, but then, that lost revenue to Hawaiian Electric, who's going to pick up the fixed cost? The other 85. So not only are we subsidizing these people at 65 cents on the dollar. The other 85% are now going to have to pay higher rates. Thank you."

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

Representative Wooley's written remarks are as follows:

"This bill will eliminate incentives to invest in renewable energy. We live on a tiny island in the middle of the Pacific and face a high cost of living. 90% of our food is imported and we rely on imported oil for more than 90% of our energy needs. Hawaii is also an ideal place to lead the way for the development and implementation of renewable energy technologies. In order to be successful, the State must work to promote the strengths and opportunities for renewable energy while minimizing its weaknesses. Therefore, I will not support a bill that aims to damage the very foundation of renewable energy industries and prevent Hawaii's efforts to achieve clean energy by 2030. The uncertainties and risk to business caused by this bill and effort to change or eliminate incentives sets up a business environment that is a disservice to investment."

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

"Thank you, Mr. Speaker. I rise in opposition. First I ask your permission for written comments. Thank you. You know, I agree with the Majority Leader in that one of the concerns that we've had over the years is the abuse of this tax credit as it relates to the definition of system. And I have said many times on this Floor that I think the ruling by the former Administration and the current Administration is incorrect, because there's no such thing, from my perspective, of having multiple systems and claiming multiple credits in the same tax year. But this doesn't do it. This actually says that you can claim the credit, one time, and one time only. And I've said many times on this Floor, that I have a problem with that, because there may be future owners on that same TMK.

"And number two, in regards to the TMK. I hadn't thought that we would address it. We all know that there are TMKs throughout the State that have multiple homes, with multiple owners. How is that addressed? It's not. How fair is that? So I think there's still a lot of work that needs to be done on this particular part of the bill.

"In regards to the power purchase agreements, I understand the concerns about the \$40 million. But if you take a look at the cost of the credit, it's mainly from these huge projects. Now I would support a tax credit being limited to residents, or smaller systems.

"I have problems with huge systems benefitting huge corporations, and the people that install it through PPAs. However, a PPA in some cases is good. We did it at Aiea High School, just a couple weeks ago. Governor Abercrombie and a few of us were there touting the benefits of a power purchase agreement for photovoltaic systems. It's been said that this is the example for many schools throughout the State to be using. This bill gets rid of that option, totally. It says that we should go and use GO Bonds. I totally agree, if we have the money. But that's blank right now.

"I'm just curious to find out what the plans are if we're going to get rid of the power purchase agreements for State facilities. But what's not in here, and is not addressed, is the concerns of the counties. The other governmental agencies that utilize the power purchase agreements over the last few years. If you talk to the counties, the four counties, they will tell you, that one of the reasons why they can afford to put up photovoltaic systems is because of this power purchase agreement. We are absolutely wiping it off, with this bill, so no longer can any of our four counties partake in this particular benefit. Thank you, Mr. Speaker."

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

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

"Thank you, Mr. Speaker. I vote with reservations on this measure, and just pointing out that Hawaii must become energy independent and photovoltaic is one way to achieve that energy independence. Thank you."

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

"Yes. Thank you, Mr. Speaker. In strong support. Just a little history. Years ago, I had a subsidiary building solar water heaters. We didn't have any tax credits. We built our own. We sold it. We sold over a thousand homes in Maui, Molokai and Lanai. At that time, we began for the disadvantaged. Those that met the criteria. And so I do know the costs of solar. I have some idea. That is basically a simple mechanism for solar. You get a box, and you get a glass. You get some copper pipes in there. And you get a pump and you connect it to the water heater. It's not rocket science.

"The price of solar heaters has gone up tremendously over the last few years because of the tax credit. And so the major beneficiaries of it are those who sold the solar heaters for relatively exorbitant prices. And of course, some of the contractors. But you don't blame them. They've got to put it on the roof, and then they've got to pay their basic wage. But I believe that the vendors were the beneficiaries. I can almost predict that if we stop this tax credit, the price for solar heaters will come down correspondently. 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. 2288, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Ching, C. Lee, Pine, Takai, Thielen, Ward and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1607-12) recommending that S.B. No. 2752, SD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2752, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC UTILITIES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1609-12) recommending that S.B. No. 2429, SD 2, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2429, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you. May I have a ruling on a potential conflict? For 20 years, I have been a mortgage loan officer," and the Chair ruled, "no conflict."

Representative Riviere continued to speak in support of the measure with reservations, stating:

"Just please note my reservations. This is a bill that obviously needs work, and has proven very problematic to fix. I didn't think it was good idea in the beginning, and it's proving to be quite a rascal to fix. So, note my reservations, please."

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

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"A ruling on a possible conflict. In my law practice, we occasionally have cases involving foreclosures," and the Chair ruled, "no conflict."

Representative Marumoto 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."

Representative Ward 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. 2429, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Brower voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1610-12) recommending that S.B. No. 2763, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2763, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1612-12) recommending that S.B. No. 2767, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2767, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

At 2:23 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2766, SD 2, HD 2  
 S.B. No. 2412, SD 2, HD 2  
 S.B. No. 2288, SD 1, HD 1  
 S.B. No. 2752, SD 1  
 S.B. No. 2429, SD 2, HD 1  
 S.B. No. 2763, SD 2, HD 2  
 S.B. No. 2767, SD 2, HD 1

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1614-12) recommending that S.B. No. 2397, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2397, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

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

"Mr. Speaker, on Stand. Com. Rep. No. 1614. Yes, I rise with reservations. You know, this bill proposes to limit counties from enforcing what I call, fire safety measures. This type of preemptive language is very interesting, in HRS because as you are well aware, very rarely do we preempt counties from doing anything. And I suspect that this is probably, maybe, the only preemption language that we have as it relates to fire safety and fire sprinklers.

"I'm troubled by it. In fact, you know what? I'm going to vote against it, because I just don't think it's appropriate for the Legislature to be telling the counties how to deal with fire sprinklers and fire safety.

"In addition Mr. Speaker, when we heard this in Committee, the fire chiefs throughout the various counties didn't support this. I trust those gentlemen, and I will follow their guidance. Thank you."

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

"Thank you. I've got some very serious reservations on this. In the first place, it doesn't go far enough in dealing with building codes.

"Then the other thing that really bothers me is that it exempts new homes that require a variance from access road or firefighting water supply requirement. What that means is, and what the Fire Council says is that your access road has to be a certain width, and you have to be within 175 feet of a fire hydrant that pumps 4,000 gallons a minute. I got 10,000 people who say, 'What's a fire hydrant?' You know? So we're completely off base on this. Thank you."

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

"I'm speaking in opposition, Mr. Speaker. It's hard to top my friend on my left here, in his manner of speech. But my only concern is, and I served both on the Charter, if I can give you some background. Of course, I'm opposed. I served on the Charter Commission in Maui County, and I was also a member of the Constitutional Convention, so I have some idea of where their responsibilities should lie. Whether it's with the State, or with the county.

"In this case here, we are, I believe, interfering with county home rule. We cannot legislate for the county. They need to do their own legislating. I believe that somewhere along the way, I'm surprised the Attorney General did locate this yet. But again, we cannot make ordinances for the county. If the counties wish to have sprinklers, it is within their purview to have it. Now not that I'm for putting sprinklers in homes, because it does raise the price of homes, and not everybody can afford it. However, it's still a county responsibility and not a State responsibility. Thank you, very much."

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

"Thank you, Mr. Speaker. I'm standing in strong support of this measure. We do have something called the State Building Code which covers all the different islands. If you do not believe in the State Building Code, then we should disband it. But I believe that the State does have a purview on fire sprinkler systems. This bill requires that the counties are prohibited from mandating laws on fire sprinklers. But each individual homeowner can opt to have their own fire sprinklers if they do decide. We want more homes to be built for our people, and not to keep it very expensive that there are less people that can afford it.

"As far as those tight streets were the fire department can't get in, they can apply for a variance not to have a sprinkler system, or for the counties to still mandate it. There is an application process. The permitting process of each county is still enforced. It's just saying that the counties cannot require it as a rule. But it doesn't overlap the permitting process. When you build your home, the counties can still mandate it if it's in the name of safety. But as a State law, they cannot blanket mandate every homeowner to have a sprinkler system. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Just briefly. I just listened to the testimony in Committee as well, and I think it was very clear that the State Fire Council and HFD were in strong support of requiring fire extinguishers, and fire systems in homes. And if I'm going to err, I'm going to err on the side of safety. So I cannot support this bill."

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

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

Representative C. Lee rose to speak in opposition to the measure, stating:

"Thank you. I rose with reservations the last time. And actually, I'd like to change that to opposition, and just to briefly state why. I was going to

put this in the Journal, but I might as well put it out here, just because this is at the core of the debate that occurred in the Finance Committee, which not everybody had the opportunity to hear.

"The reason that the testimony was in support of this bill, asking for prohibition on the State enacting preempting ordinances, was because it was a cost savings. If you're buying a new house, the estimates were somewhere between 5,000 and 10,000 on average, give or take an additional cost that you'd have for the cost of a new home.

"What amount of money, homeowners, new homeowners would save on their insurance costs and everything else, we didn't have answers to that night. What it came down to, was the fact that the fire department and fire chiefs were basically saying and made clear that, in most cases you're going to have about an 80% reduction in fatalities when you have systems like this installed in homes. And so the question is, if that's the case, not just here, but everywhere that you have this, what is the cost? And that's a discussion that people didn't want to get into in that Committee. They didn't want to assign a value to a life.

"Because we're the State saying on the one hand, we're weighing the cost for this, versus ultimately how many lives would be saved in the long run. And that's a discussion that we absolutely should be a part of. No matter where you fall in the spectrum. It's a discussion that hasn't really happened yet, and yet the bill has still moved ahead. That's really my reservation because there's a lot more to this, I think, than meets the eye. So thank you, very much. In opposition."

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

"Thank you, Mr. Speaker. Actually, it's so interesting. That was exactly going to be my written comments. My brother is a firefighter, and I have great regard for the firefighters and all they do. And as a mother, we don't put a price on a life. I was trying to be sensitive to the understanding of those on the Neighbor Islands that may have some, you know, real feelings that this is not just. But with the county.

"And I think with the debate I've heard on the Floor, I would like to change my vote, as well, to a no vote. And adopt the words of the Representative from Waimanalo. We cannot put a price on a life. And if it's your child's or your loved one, oh my goodness. It doesn't matter. Nothing can bring them back. No amount of money. Thank you."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in opposition of S.B. 2397-Relating to Fire Sprinklers. This bill prohibits counties from requiring installation or retrofitting of automatic fire sprinklers in, (1) new or existing one or two-family dwelling units used only for residential purposes; and (2) non-residential agricultural and aquacultural buildings and structures located outside the urban area; provided that this does not apply to new homes that require a variance from access road or fire fighting water supply requirements.

"While I generally support any measure that saves the State money, I do not feel comfortable saving money at the risk of people's safety and lives. I must concur with the State of Hawaii Department of Labor and Industrial Relations, as well as the County of Honolulu Fire Department in opposing this bill. Thank you."

Representative Herkes rose to respond, stating:

"Still with some serious concerns. When we start talking about safety of the home, things like this requirement for fire sprinklers, and all of the other things that are in the Building Codes have resulted in people living, not in homes, because we can't afford to build them. And they can't afford to buy them. We'd have people living in lava tubes, and caves, and tents, and packing crates. And we have to get rid of some of this crap in the Building Code so we can afford to build homes that people can live in."

Representative Cabanilla rose to respond, stating:

"Still in support, Mr. Speaker. And I just want to make a couple comments. By the time fire sprinklers activate, they activate at the temperature of 360 degrees. You die at 107 degrees, Mr. Speaker. So if to save lives, you'll be long dead by the time the water sprinkler comes on. And it's known that it creates a lot more water damage. It has more damage to property if it activates because of the water damage. But as far as saving lives, you are long gone, before 360 degrees comes on. Thank you, Mr. Speaker."

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

"Thank you, very much. With reservations. In support with reservations. I would like the words, the passionate words of the speaker from Ka'u entered into the record as if they were my own. And the reason why I'm not in opposition at this point is I'm hoping that through the Conference Committee, that these concerns could be addressed. Because subsection 2 does address an issue that has come up in the agricultural farming community which has been the ironclad, one-size-fits-all mandate of fire sprinklers which are designed for residential urban areas. It's impeding them from getting basic structures built that they need for their operations.

"Case in point, there's an aquaculture operation on the North Shore who has potential to turn it into a huge industry. And the poor gentleman's been fighting, trying to get permitting for his aquaculture facility which is a glorified greenhouse. But because he doesn't have three separate, independent fire sprinkler systems, they haven't issued him any permitting. So I just would hope the Members would look at that, and give the Conference Committee a chance to address those issues. But I have the same concerns that have been raised by the other Members. Thank you."

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

Representative Awana 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 the report of the Committee was adopted and S.B. No. 2397, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO FIRE SPRINKLERS," passed Third Reading by a vote of 42 ayes to 9 noes, with Representatives Belatti, Carroll, Ching, Keith-Agaran, C. Lee, M. Lee, Rhoads, Souki and Takai voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1615-12) recommending that S.B. No. 2435, SD 1, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2435, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I would like to express my enthusiastic support for S.B. 2435, and commend my colleagues on the compassion they have shown this Session in seeking to improve the wellbeing of our community's humblest members. S.B. 2435 appropriates funds for the Vocational Rehabilitation and Services for the Blind Division of the Department of Human Services to contract for a telephone-based service to maintain a telephone-based audible information access service.

"Those who will benefit from this legislation are not the most strident lobbyists or alluring special interest groups. Rather, they are thousands of typical Hawaii residents suffering from impairments which render daily life significantly more difficult than it is for most of us. These humble individuals fully participate in the communities we seek to build, and ask for few exemptions. They contribute to their neighborhoods, labor at their work, and abide by the laws we pass; therefore, it is paramount that they remain up to date as to the happenings in that world they create alongside

us. Upon research, the Legislature has found it generally impractical to provide time-sensitive information like the daily news in specialized formats such as Braille, large print and audio recording. Even in a media environment where information is frequently available in many formats, portable and interactive access to audible information remains an important necessity for many.

"This bill benefits my own community especially, as Liliha is home to Ho'oponopono Services for the Blind, under the State Vocational Rehabilitation Services Program. Established in 1973, this program is a Federal-State partnership with the primary goal of providing vocational rehabilitation services to enable eligible individuals with disabilities to achieve gainful employment and economic self-sufficiency. Over the years, Ho'oponopono has successfully placed blind and partially-blind individuals in meaningful forms of employment, and thus enriched their lives beyond measure. With S.B. 2435 improving access to events surrounding them, these individuals will flourish in ways unprecedented, particularly in their ultimate success at the jobs Ho'oponopono strives so diligently to provide."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2435, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION ACCESS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1616-12) recommending that S.B. No. 2779, SD 2, as amended in HD 1, pass Third Reading.

Representative Chong 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 Evans.

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

"On Stand. Com. No. 1616-12. Thank you, very much. I stand in strong support of this measure which is really a very important measure because it's part of the aging infrastructure that we're trying to create in the State. And really what this is, is a one stop shop for the elderly or people with disabilities to find their way to get to services that they need. I think it's going to be something very important to the future, with our growing elderly population.

"So I'd like to stand in strong support and hope that people will realize that with the numbers growing in our elderly population, we need to make sure our system is not fragmented. At the present, it's very fragmented. 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. 2779, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGING AND DISABILITY RESOURCE CENTERS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1617-12) recommending that S.B. No. 2213, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2213, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1618-12) recommending that S.B. No. 2750, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2750, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

"Thank you, Mr. Speaker. In opposition. With extreme budget cuts in the past, government workers have been tasked to do more with less. Overtime is a necessity to the employer in order to address work that is required to be performed for 24-7 operations, to maintain public health and safety issues, to address staff shortages and emergency work. Employers authorize overtime. Employees cannot decide for themselves to work whenever they please. There are times that the employee wants to refuse overtime, but cannot because of the critical nature of the work. In other instances, an employee may elect compensatory time off instead of overtime cash payment. That time off is not computed as additional pay. If an employer authorizes overtime, they should pay any additional cost to help curb the unfunded liability. The employee should not be penalized.

"We passed legislation last year to begin addressing the unfunded liability, and before it's even implemented, we are trying to pass more legislation. SHOPO said it best, and I quote, 'If we do not know to what extent intentional spiking exists, or how it was allowed to happen, then we really do not know what the extent or cause of the problem is. If we do not know what the cause of the spiking problem is, then we cannot in good conscience say that this bill is the solution. And passing this bill would be irresponsible on everyone's part.' Thank you, Mr. Speaker."

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

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

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

"Mr. Speaker, in support. This is a complicated and a very difficult issue because of the fact that part of it depends on whether or not, there's no way to tell for sure, what people's motives are when they work overtime. I think this a reasonable compromise between those who would prefer that we have no pension benefit for overtime at all, and those who would prefer just to say it's just a management problem, and that management has to take care of it.

"So I don't think there's any question from the testimony we received in the Labor Committee and from the conversations I've had with stakeholders that there are people who do try to game the system and sometimes brag about it when they get to the end of their careers and go to the ERS in preparing their paperwork to retire. On the other hand, I concur with one of the previous speakers that said that you have to work overtime when you have to work overtime. And that's certainly true for many people too. So whether the line is drawn in exactly the right place, it's difficult to say. Is it a fair compromise? Yes."

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

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

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

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

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

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

Representative Cabanilla 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."

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

Representative Carroll 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 the report of the Committee was adopted and S.B. No. 2750, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 41 ayes to 10 noes, with Representatives Brower, Cullen, Hanohano, Kawakami, Keith-Agaran, C. Lee, Luke, Morikawa, Takai and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1619-12) recommending that S.B. No. 2248, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2248, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I have brief comments with some serious reservations. This is about compassionate release of prisoners who are either, deathly ill, near ill, near death. And for a bill that's supposed to be compassionate, what we've done, at least from the last Committee hearing at Finance, is we have taken the compassion out of it. There are a couple of difficulties. Number one is, of the 4600 prisoners that we have, we have a very limited supply of doctors. And the way that the system is now, to get the compassionate release, it's only one of those doctors, who actually has to give you the slip and the evidence.

"The bill originally had it where in the conference you could actually bring a member of your family and an attorney to help state your case. That is no longer the case. So, the compassion to argue that this person's going to die in six months is no longer there, because it's one short staff. And two, it's just a unilateral decision, with the people in the prison. So if we could look at this in Conference a little bit more compassionately, it would probably work a little bit better."

"We talk about you know, wanting to give the prisons, bringing people home, number one. And then two, using other than incarceration as a treatment. Particularly for those people who are almost dead, this is an opportunity to be compassionate by putting the compassionate clause back in there. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2248, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1620-12) recommending that S.B. No. 2584, SD 1, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2584, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you. I would like a ruling on a potential conflict. I'm a member of the Hawaii Army National Guard," 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. 2584, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TUITION ASSISTANCE," passed Third Reading by a vote of 51 ayes.

At 2:46 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2397, SD 1, HD 3  
S.B. No. 2435, SD 1, HD 1  
S.B. No. 2779, SD 2, HD 1  
S.B. No. 2213, SD 2, HD 2  
S.B. No. 2750, SD 1, HD 2  
S.B. No. 2248, SD 2, HD 3  
S.B. No. 2584, SD 1, HD 1

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1621-12) recommending that S.B. No. 2655, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2655, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition to this measure. And I won't bore people because I've spoken probably three, four, five times against this issue which is, as far as I've so many times with my Blackberry said that the people who sell me the insurance for \$7 a month, if I drop it to replace it. It gets stolen, I get it replaced. The people who are doing this now have a business license that costs them the normal rate, or nothing. This bill says it's going to cost you \$2,000 to sell this amount. However, I realize the last Committee zeroed out the \$2,000 and put it to a blank.

"The notion is that if we go back to normal licensure figures, it should be about \$100, or \$150. So basically the purpose of my speech is to say, if you're on the Conference Committee and I realize I'm taking myself off the Conference Committee, if we're going to have companies to do this, let's not let do the European model and shut out the competition by raising the bar up. By having all these entry requirement for funding. That's basically how the Europeans control the business community. You regulate, but first you put the standard so high. At \$2,000 to sell the insurance for a portable electronics, it's just too extreme. So I'll take myself out of the Conference Committee, but I would advise those who are on it, please keep it around \$100, \$150. That's the normal licensure figures that it should be before the industry. Thank you."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. At this time, I rise in opposition to this bill. This particular measure attempts to create a market that is futile to the industry. In addition, the requirements and mandates encourage the creation of a monopoly and poses an anti-consumer premise due to its insurance term requirements (minimum 24 months) due by the insurer, who would in-turn issue and retain service (insurance) at a higher rate and require longer-term commitments by the insured.

"Additionally, the ambiguous fee amounts are suspicious to the intent of the bill. Though the bill includes provisions that provide the option for businesses to offer insurance, should they choose to do so, hefty fees would be incurred. This begs the question, if it is going to cost a business significant money to enact a service, where do they benefit? Mr. Speaker, it is at the cost of the consumer. Should businesses seek to capitalize on this measure and begin to adopt insurance services, only a few companies will be able to offer the service and even fewer individuals can additionally afford the insurance.

"S.B. 2655 puts more unnecessary economic hardship on the people of

Hawaii. The Legislature should not add a new form of insurance or regulation to the State code at this time, as there is no need for it. Additionally, if the Legislature cannot determine the costs our businesses and consumers will face, we should not be considering such a 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. 2655, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO PORTABLE ELECTRONICS INSURANCE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Fontaine and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1624-12) recommending that S.B. No. 3062, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 3062, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1625-12) recommending that S.B. No. 2939, SD 1, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2939, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, just standing in strong support. Thank you. As a person who grew up going to St. Francis, my uncles helped people there, and I would go see my grandmother. St. Francis as we know it, St. Francis Hospital was a jewel, a jewel that many could be proud of, particularly in the Liliha community, with all the accomplishments of Dr. Livingston Wong and others. As you know, HMC went down this year. A tragedy for my district. And it's with that and some further written comments, Mr. Speaker, I won't take up on the Floor, that are probably quite obvious. But I say thank you. I am in strong support of this measure."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in strong support of S.B. 2939-Relating to the Issuance of Special Purpose Revenue Bonds to Assist St. Francis Healthcare System of Hawaii. St. Francis Healthcare Systems cares for more than 90,000 patients per year. As a nonprofit corporation, the sole goal of St. Francis is providing healthcare for our community, as it has done for eighty five years now.

"We must do everything in our power to extend aide to St. Francis Healthcare System. The issuance of these bonds will insure the facilitation of the continuity of care and services provided for our community. Additionally, S.B. 2939 would provide numerous job opportunities in light of our current fragile economy. 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. 2939, 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," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1627-12) recommending that S.B. No. 2466, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2466, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2466 – Relating to Long-Term Care Facilities.

"I rise in support of this measure which establishes a nursing facility sustainability fee and special fund which will be used to draw down federal funds to help the struggling long-term care providers. Many states have taken advantage of this process over the years, and Hawaii is late to come to the table. In addition an acute-care sustainability fee resides in another bill which will help save our hospitals. I urge the Members' support."

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

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

"Yes, with, support with reservations, Mr. Speaker. I understand that we are trying various ways to ensure that our long-term care facilities in our hospitals are healthy, here in the State of Hawaii. The problem I have with this bill that concerns me, Mr. Speaker is that it removes the entire reason why we're doing this in the first place. This draft basically deletes as a source of revenues for the nursing sustainability special fund, the federal matching funds received by the Department of Human Services. The entire idea behind the bill was to allow the drawdown of more federal Medicaid funds, to help nursing homes meet their budgets. Now this certainly has been removed from the bill.

"You know, if we're going to be successful in ensuring that our hospitals and our long-term care facilities are successful, we need to make sure that we complete our mission. And by removing the federal funds, Mr. Speaker, I'm very concerned that we're wasting an opportunity. Basically, we're telling the nursing homes, 'We need to charge you this additional fee to keep your entity healthy, to ensure that we don't have another hospital closure.' And this is part of the solution of the several-pronged approach to ensure that our hospitals are healthy.

"I don't know why this has been removed from this, Mr. Speaker. And I find it really ironic that we seem to constantly, at least today, we are saying that we're going to try do one thing to improve an industry. But in the very same breath, we're removing the opportunities that would complete our mission."

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

"Mr. Speaker, I'm standing in support for SB 2466, relating to long term care facilities. Mr. Speaker, the measure before you was proposed and supported by long-term care facilities, and the Hospital Association of Hawaii, Mr. Speaker. What you have before you creates a Nursing Facility Sustainability Fee which will be implemented. It is a provider fee, or tax, to assist State eligibility receiving federal Medicaid matching funds.

"Mr. Speaker, we are only 1 of 4 states in the entire union that does not have this type of mechanism to drawn down federal Medicaid matching funds. Mr. Speaker, this bill, before you has been discussed by the private providers, long-term care facilities, and they have spoken directly to us in support for the passage of this measure.

"The reason why they support this measure, Mr. Speaker, is provider fees would increase Medicaid payments at a time when constraints on our State budget have forced a reduction in payments and benefits. The additional federal funds we can obtain by creating this fee program will reduce the amount of loss incurred by hospitals and long-term care facilities, helping everyone, Mr. Speaker. These fees are created voluntarily by different categories of health care providers and are collected only from these providers. Mr. Speaker, this has been an ongoing discussion for the last several months with the keen eye of looking out for the long-term care facilities, long term benefit.

"So Mr. Speaker, in light of what happened with Hawaii Medical Center, in light of how we are being affected by reductions of federal matching

funds, it is imperative that we work hand in hand at the request and support of these private providers to move forward. Thank you, Mr. Speaker."

Representative Ward rose, stating:

"Mr. Speaker, would the Chair of Health take a question?"

At 2:54 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives Reconvened at 2:58 o'clock p.m.

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

"Thank you, Mr. Speaker. I rise in strong support of this measure. We need measures like this to keep our nursing homes sustainable. The amount of money that these facilities are getting from Medicaid, is so low, and is far from sufficient. So I am just standing in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2466, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE FACILITIES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1628-12) recommending that S.B. No. 2534, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2534, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. On Stand. Com. Rep. 1628, I rise in support, with just some very, very small reservations. You know, we have a school in our district, Likelike Elementary School, and we're trying to keep it open, the Senator from my District and I. We're hoping that people recognize schools in terms of the big picture of urban design. Real important. We can't just willy-nilly go around saying, 'Okay, we're going to develop that one. And we're going to move this.'

"Communities are actually like, they're collages where there's a school. There's business. There's residential. And it adds to the quality of life in our Districts. Every time I see this bill, where we want to start developing our schools. Some are very appropriate. Like I said, some *manini* reservations on this, where it's just like, let's be wary of, let's not go around trying to always close schools. I hope we look for other ways of taking care of our budget woes. Thank you."

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

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

Representative Carroll 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 the report of the Committee was adopted and S.B. No. 2534, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL FACILITIES," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Choy, C. Lee, McKelvey, Nakashima and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1632-12) recommending that S.B. No. 3053, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3053, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

*"Mahalo, Ho'omalu 'Ōlelo, Ke kū nei au me ke kako'o loa. 'O kēia pila e ho'okumu ka 'aha kūka i loko ke ke'ena 'Aina a me Nā Kumu Waiwai. 'O kēia 'Aha kūka e lawe mai ka mana'o akamai e pili nā kūpuna. E holo mua kākou me ka mana'o i'o a me ka ha'aha'a.*

"Thank you, Mr. Speaker. I rise in strong support. This bill creates an advisory council in the Department of Land and Natural Resources. This advisory council brings forth ancestral wisdom. We move forward with confidence and humility. Mahalo."

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

"Mr. Speaker, I wish to vote with reservations. I do respect what the previous speaker from the Big Island said, but there are some questions that need to be answered yet, as to some of the language in the bill. Possibly when it comes down and I get the answer, I would be voting 100% for this.

"My question is, regarding the term indigenous, and what's the meaning of indigenous. I know right now Hawaiian Homes would be considered as possibly indigenous land, and you need to have 50% Hawaiian to be there. But what about the rest of the land? So this is the kind of questions that I have, Mr. Speaker. 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. 3053, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NATIVE HAWAIIANS," passed Third Reading by a vote of 51 ayes.

At 3:05 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2655, SD 2, HD 3  
S.B. No. 3062, SD 1, HD 2  
S.B. No. 2939, SD 1, HD 1  
S.B. No. 2466, SD 2, HD 2  
S.B. No. 2534, SD 2, HD 2  
S.B. No. 3053, SD 2, HD 2

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1635-12) recommending that S.B. No. 3003, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3003, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

Representative Hanohano 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 the report of the Committee was adopted and S.B. No. 3003, SD 1, HD 2, entitled: "A

BILL FOR AN ACT RELATING TO GEOTHERMAL RESOURCES," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1636-12) recommending that S.B. No. 2981, SD 2, HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2981, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. Reservations, because it assumes that the interisland cable will be part of this."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2981, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1637-12) recommending that S.B. No. 1197, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1197, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1638-12) recommending that S.B. No. 2281, SD 1, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2281, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In support. Due to the length of the day today, I'll be short. But this is the one bill in the environmental package this year, that actually does move things along in the proper fashion. It allows projects to move onto Environmental Impact Statements, thereby skipping the EA, saving them a few months, and money. This is the sort of streamline we should be looking at. 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. 2281, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1639-12) recommending that S.B. No. 2787, SD 2, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2787, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICITY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1640-12) recommending that S.B. No. 2927, SD 2, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2927, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In opposition. Conversely this is the sort of bill that we should not be passing along. SB 2927 is too wide open. It would allow, theoretically, unfettered development within a certain radius of transit, and stations. One could imagine a wall of 400-foot buildings in certain areas, blocking views, view corridors that the City purposely has established to provide proper planning. It could violate many rules and ideas that are important in the whole process.

"It is extremely fuzzy. What the definition of exceptional planning project may mean in the future. It could mean anything. Therefore again, we're going wild and woolly. And finally, I do not understand why this is a State concern. Why this is not something the City and County should be dealing with. Thank you."

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

"Thank you, Mr. Speaker. In support. You know, this proposal adopts smart growth principles, principles that have been touted on by environmentalist groups, by developers, by people moving towards the smart growth movement of getting people out of their cars and being able to walk to work, and being able to take mass transit to get off of fossil fuels. These are smart growth principles that focus the energy of development around the urban core so that we don't need to go out into rural areas and develop our open ag lands.

"Mr. Speaker, this is everything that has been, I guess the buzz for the last ten years. Maybe more. I've been to a few smart growth conferences, and this is completely in line with what they tried to attain. Now this is a new concept, and this is why the State is stepping in. But if you take into account the counties' testimony in strong support of this measure, I think it's sending a strong message that they need to have the tools to be able to incorporate these new smart growth concepts into their planning departments. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I am in opposition to this. I somewhat agree with the previous speaker of Kauai. He is right that we should be smart about our pattern of growth and we should adopt some transit-oriented development ideas and methods. But some of the rules that we're setting aside really, I'm wondering whether the end justifies the means.

"Some of these bills run rough shod over the City and County of Honolulu, and would allow things like a 650 ft. tower in the middle of Kakaako. The State is going to build this and completely ignore County density requirements, height requirements, and who knows what else. I just don't think it's a very wise idea to open the door so wide to these particular developments. There's got to be some more constraints. It's got to be a more project-by-project decision. But this is just opening the doors wide open to unfettered development. Thank you."

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

"Thank you, Mr. Speaker. In opposition to the bill. Thank you. Mr. Speaker, you look at page 6 of the bill, and you look at the county exemptions. Any of these exceptional planning projects approved by the legislative body shall receive exemptions from the zone change process in compliance with zoning standards.

"So what we're doing with this bill is under the guise of smart growth or whatever you want to call it, creating these transit centers. They're going to be all over this Island. I don't know about the Neighbor Islands. I can't speak for them. But all over this Island, including for example, in Kailua. A transit center there could mean that all of the land use requirements or the land use protections for the Kailua area are going to be set aside. And these so called transit-oriented areas are going to be able to exceed any height limitations, any density limitations, and just move ahead and create a whole different look for our different rural and urban communities.

"The other thing that's quite interesting is that the decision makers, any county or any officials, or employees, no claim can be prosecuted or maintained against them. So they're home free. Make these decisions. Here's what the community has to live with. And the community has no legal recourse because the bill provides complete immunity for them. It's an amazing bill that has sort of surfaced as people have gone out to these different hearings that have been held by the different transit authorities. And all of a sudden, they're taking a look at maps that are related to right into their own local community, and they're saying: Wait a minute. What about the height restriction? What are you talking about? A hotel, right here in the beginning of Kailua town. What's going on with all of these proposed ideas? Who's behind this? Why wasn't it taken out to the community? Why weren't these things developed as part of the land use scheme, by the community from the grassroots up instead of being laid on now from the Legislature and giving absolute immunity to those government officials that are going to go ahead and implement this.

"So I am opposed to this measure."

Representative Kawakami rose to respond, stating:

"Thank you, Mr. Speaker. My second time, still in support. You know, I think there's some confusion. This bill doesn't allow just these big massive hotel developments to pop up overnight next to bus stops. It gives the county planning departments and the commissions, the tools to incorporate some of these new ideas into the decision making. The counties still have full purview over their approval of these projects. In fact they have 45 days, which you already are bound by in certain projects. And what happens if they can't make the decision within 45 days? They get an additional 10 days. And if that's still not enough time, they're going to disapprove it. It's still going to go through the public process.

"So, Mr. Speaker, there's some confusion on this, and I think if they read the bill, a lot of the clarifications can be found in the language of the bill. And for the record, for something that's going to run over the counties, I would like to point out: David K. Tanoue, Department of Planning and Permitting, in support. Councilmember from Big Island, Fresh Onishi, in support. Michael Dahilig, County of Kauai, in support. Thank you."

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

"Thank you, Mr. Speaker. I'm sorry. I rise in opposition to the measure. Thank you. You know, the bill intends to spark urban growth by facilitating all this development. And actually, I really appreciate what the Representative from Hanalei had to say about smart growth and making sure that we preserve open space. And you don't have urban sprawl, and all that business in the countryside.

"But my point is, number one, not only does this exempt government from environmental protection laws, and eroding the transparency. Don't forget, the urban core's an important place. There are a lot of things here in our Downtown, Kakaako area that are exceptionally important. It's the first thing people see once you're coming off Nimitz, right from the airport. We want to make sure that our development and how we plan it, and how we create that experience, has the input from those that actually live in the area. There are a lot of special things about this Kakaako area, and I certainly, I certainly hope in my lifetime I don't see a hotel there, looking like Vegas, with gambling.

"I'm going to read from some of what the Sierra Club has to say.

While we support the intent of sparking urban growth, the bill prioritizes the elimination of the public voice as a means to expedite growth. This bill requires action by the planning agency and legislative body to disapprove of a developer's application within 45 days. Big developments sometimes require additional discussion. This short of a timeframe, even assuming legislative bodies meet frequently enough to meet this schedule, only harms the public, creates bad projects that fail to adequately analyze traffic impact, infrastructure and community input. But moreover, exempting projects from all zoning requirements, is contrary to the concepts of smart urban planning. It builds distrust. It discourages investment in new buildings. With no assurances that view planes will be protected. Seedy establishments could happen under this.

"I really don't hope that this is just another thing to make the place look like some city that's not in keeping with the spirit of Hawaii. We have so much going for us. And you know our urban space, as well as our countryside. It's beautiful. Not far from here are many historic sites. Let's keep it where we're getting the best practices, the best input, from those who live there, as well as developers."

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

"Thank you, Mr. Speaker. I rise in strong support. Thank you, if anyone has been to Kona recently, you'll drive into the town and you'll wonder why they didn't have planning guidelines and planning districts, and think about smart growth, because it looks hodgepodge. It looks disconnected. It looks like there was no discussion about what are guidelines we want to live by.

"One of the things I really like about this bill, and that's why I want to strongly support it, is it says that any county or county agency participating in the program shall enact ordinance or adopt rules or regulations as necessary for the purposes of this section. I think if you really get into the nitty-gritty detail, it's talking about developing guidelines, strategies. What it is we're going to do if we go into transient-orientated, main street development. That actually gives them a framework and tells them, if you're going to move in this direction, you need to discuss all these things. And you need to do it in the area where you have the bus center or the transit center. It's very smart, that we're doing this, Mr. Speaker. I strongly support it. Thank you"

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

"Thank you, Mr. Speaker. In support. Assuming that growth continues on Oahu, population growth that is, we have a choice between, well on one extreme is we can just keep building subdivisions until there's one big subdivision from Wahiawa all the way up to Haleiwa. Or we can do something that's more in line with what this bill does.

"I think it probably does need a little more scrubbing, and hopefully that will happen in Conference so that the parameters are pretty tight. But the overall concept, I wholeheartedly support. It dovetails with rail. It dovetails with keeping enough of Oahu country so we can still enjoy that part of our environment. Thank you. I do support the bill. Mahalo."

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

"Thank you so much, Mr. Speaker. I rise in strong support of this measure. I think the City of Honolulu is in much need of open redevelopment and I welcome this bill. Furthermore, as far as this topic or this need for community input, although it's well intended, in my observation it almost always leads to that 'not in my backyard' concept. So, although we need this, I think we need to know that it also may have some unintended consequences. Thank you, Mr. Speaker."

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

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

"Thank you, Mr. Speaker. With reservations. Thank you. I think again, the bill is underpinned by a worthy concept. If we're going to have a large public infrastructure project, then we should maximize it for the benefit of the taxpayers. I don't disagree with that at all. In fact, I understand how transit-oriented development can be done successfully. I lived above a metro stop for four years, in Washington DC in a suburb that was largely developed around a certain line of the Washington DC Metro and it's spur into Virginia. So, I think there are potential opportunities to do it well. I think that's what our constituents would want if we're making them on the hook for this.

"My concern though, is that as someone who has two freeways going through their District, the airport in their District, the harbor, Pearl Harbor in their District. My community knows what it is like to be brushed up

right next to major infrastructure and to see the consequences of both the good, and sometimes the bad of what it's like to be buttressed right next to that infrastructure. And my only hesitation with particular bill, I echo the Representative from Downtown, Chinatown, I do hope it gets tightened up. I'm uncomfortable with some of the exceptional planning projects and the abilities to be exempted from certain zoning requirements, because I do worry that there are the environmental consequences. But there are also the traffic consequences. And there are the quality of life issues, that particularly, for many of us who are from the urban core, do uniquely impact our constituents. So, for those reasons, I do support this bill, but have reservations. Thank you."

Representative C. Lee rose to speak in opposition to the measure, stating:

"Thank you, in opposition. I want to of course say, again the process here, the intended purpose is excellent. And I think this is something that if we are going to be able to manage our development in a smart growth sort of way, 50 years down the road. However, I would note that we are a community, or an island of existing communities. Communities which have come a long way, building themselves and maintaining their own character and their own direction for growth. And while the bill empowers counties to come up with designated districts that would allow for these sorts of provisions that are here in the bill, I do think that there aren't quite the restrictions that some of these communities would like.

"There are a number of concerns as well, noting indemnity of the counties which raises potential constitutional questions. The Attorney General notes that the exemptions in the bill, with the specific language could be tightened up to specifically target county versus State zoning issues. Things like that.

"Ultimately we'll need to make sure that whatever happens and whatever direction we choose to go as we continue to focus development and growth, and where people, the next generation of us are going to live here, in Hawaii. We want to do it in a way that is sound, does not open up a number of communities that themselves are, in some sense, mature, and choose to be. So for those reasons I do have concerns. Thank you."

Representative Giugni 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 Giugni's written remarks are as follows:

"This measure creates a process for developers to facilitate approval for residential and commercial exceptional planning projects. My concern is the process will circumvent existing land use zoning regulations, environmental review requirements, and State impact fees for schools and public facilities. This will not be in the public interest."

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

"Thank you, Mr. Speaker. I rise in opposition. Thank you, Mr. Speaker. The title of the bill is, Relating to Community Planning. And I do believe that based on what I read, it should be not relating to community planning, because what we're trying to do is basically exempt the community from the planning process. You know, I support rail. I continue to support rail. But doing these types of things, just to alleviate some concerns of the community, legitimate concerns as it relates to transit-oriented development in and around the rail line, to me, does a disservice to the people that support rail.

"I'll speak for myself as a Representative of Aiea, Pearl City, and I can tell you that our community at the very beginning generally supported rail. And I believe they continue to support rail. But there was some commitments made to our community in regards to access on Kam Highway, in terms of beautification projects and what they call community benefits, a community benefits package. Unfortunately, with the changes of both the State and county Administrations, those types of community benefits promised to our community, is up in the air.

"Now if we pass a bill like this, I suppose that one of the results and consequences of this could be in fact, the ramming down of the throats of people in our community about some of the things that are happening in and around the rail line. And as you may know, the rail line goes right through our community along Kam Highway, from the entire length of Pearl City on the West, all the way through Aiea on the East. In addition, Mr. Speaker, there's been much concern and discussion in our community regarding development right across the street from Pearl Ridge Shopping Center.

"Those of you may recall the Kam Drive-In, when we use to go and watch movies years ago. That is actually, right now, being proposed for a huge development, and many people have mentioned that as a transit-oriented development project, because it is so near to the transit stop at Kaonihii Street and Kamehameha Highway.

"I shudder to think about the consequences to our community and the people that live in and around that project if this bill goes through. And if that particular parcel of land, it gets included in an exemption done by the City Council of Honolulu. I just don't think we need to do this. Again, I support rail. I support what we're trying to do. But I believe and continue to support the current laws that we have in place to provide community input and feedback as it relates to development. Thank you."

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

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, smart growth development is an urban planning and transportation theory that concentrates growth in compact, walkable urban centers to avoid urban sprawl. It also advocates compact, transit-oriented, walkable, bicycle friendly land use, including neighborhood schools, complete streets, and mixed use development with a range of housing choices.

"Smart growth development values include long-range regional considerations of sustainability over a short-term focus. Its goals are to achieve a unique sense of community and place, expand the range of transportation, employment and housing choices, equitably distribute the costs and benefits of development, preserve and enhance natural and cultural resources, and promote public health. Mr. Speaker, I rise in support of S.B. 2927 because that's exactly what this bill does.

"There have been a lot of misrepresentations about this bill, particularly with respect to exempting community involvement. That is absolutely false. Mr. Speaker, the bill states, the counties can establish a transit-oriented development and main street redevelopment criteria which shall include rules or ordinances. The counties can then include that requirement of the application process requiring public participation via community meetings or neighborhood boards. If this process is not satisfied, an interested party may not submit the application, therefore the expedited application process does not exclude public participation.

"There have been other allegations that this bill will just open up the entire island to fast tracking of development. That is absolutely false, Mr. Speaker. Once again, the application process is not valid until the counties designate planning districts, whether that be transit stations, or main streets, and establish criteria which may include rules, regulations ordinances, etc.

"Mr. Speaker, the purpose of this bill is really to focus on smart growth in creating mixed use communities, by allowing mixed use, commercial, industrial and residential, you allow people to live and work within distances that promote walking, biking, and public transportation. In addition, you reduce infrastructure costs to your existing infrastructure, as well as you reduce traffic.

"Now there have been many emails we've been getting from certain community members from the Windward side, because they want to keep their community, their community. Let's be aware of something. S.B. 2927 would allow exceptions to current land use law, laws that would allow preservation of historic buildings and facades. Preserving our community starts with keeping our historic sense of place.

"If our infrastructure cannot sustain growth, then growth needs to be focused in other areas. This bill will not force growth where it cannot be sustained. This is one of the many checks and balances the county process offers and which cannot be avoided, nor exempted. This bill does not enforce any immediate exemptions. Instead, it only allows the counties, if they choose, to establish a criteria for transit-oriented development and main street redevelopment.

"The public is not cut out of the process. The Department of Planning and Permitting has already stated that the exceptional planning project will need to be presented in the community prior to being submitted for the permitted process, the counties will decide on their own criteria and how to implement on a case-by-case process.

"You know, Mr. Speaker. It's interesting we're debating this bill right now, because before me, I have an article that was just published on Friday the 6th, 2012 by the *Pacific Business News*, and the title of the article says, If Oahu's Going to Have Rail, Law Makers Should Pass Senate Bill 2927. And I want to read an excerpt from this particular article, because it's interesting. The *Pacific Business News* makes clear that they are not actually in support of rail, yet they are still in support of S.B. 2927, and I'd like to read from the article:

Rarely do developers in Hawaii get any kind of break when it comes to fees and other requirements. And while we often wish that local and state governments were easier to do business with, we do not have problems with reasonable laws designed to ensure the thoughtful use of our natural resources. At the same time, we think the state would not be violating this approach, even if it were, on occasion, to give developers some motivation for growth that helps achieve a well planned and highly desired outcome. That is why, despite our objections to the elevated rail transit system plan on Oahu, we are in strong support of Senate Bill 2927 ..."

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

Representative Har continued, stating:

"Thank you.

Which would waive development fees and ease some other requirements for developers who want to build residential, retail and office space, near rail stations.

Our first choice, as we've stated on numerous occasions, would be that the City and County of Honolulu find a better alternative to the elevated rail system it plans to build, but if we're going to go through with it, the legislature's attempts to encourage development along the 21 stations anchoring the 20 mile route, are not only appropriate, they are necessary.

Given the project's \$5.1 billion cost, we must do everything we can to encourage ridership and leverage the return on our soon to be enormous investment. As mainland cities from coast to coast have shown, one of the best ways to do this is by incentivizing transit-oriented development. We like the project by project assessment contained within Senate Bill 2927, which would allow the state to emphasize housing as part of its strategy for transit oriented development. Not only would that approach create much needed affordable options, housing concentrations typically result in commercial development, and if enough transit-oriented development projects occur, the flow of jobs will move out of Downtown and along the route of the rail system which would take even more drivers off the road.

"Accordingly, for these reasons, Mr. Speaker, I stand in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2927, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY PLANNING," passed Third Reading by a vote of 30 ayes to 21 noes, with Representatives Belatti, Brower, Carroll, Ching, Choy, Fontaine, Giugni, Hanohano, Keith-Agaran, C. Lee, Luke, Marumoto, Nakashima,

Nishimoto, Riviere, Saiki, Takai, Takumi, Thielen, Ward and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1642-12) recommending that S.B. No. 490, SD 3, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 490, SD 3, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Yes, Mr. Speaker. After that long period of time we spent discussing the other bill, I guess I should make mine very short. I'm speaking with reservations on S.B. No. 490. Are we on that bill now? I just want to make sure because I lost count after all of that discussion on the last bill. Thank you, very much.

"The two concerns I have, and it's quite ironic. You're providing \$2 million to try to provide some special areas in tourism where they can try to get more tourists here. But it's ironic because it's from the general funds and the Hawaii Tourism Authority. The Hawaii Tourism Authority is capped, so it cannot earn anymore. It goes back to the general funds. So what we do now is, we get money from the general fund and we put it right back in. So I think what we should do at some point in time is take off the cap so we won't have this kind of problem. Thank you very much, Mr. Speaker."

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

"Mr. Speaker, I rise in strong support, with written comments. And just a footnote of hats off to HTA, the visitor industry that took us out of the recession. It's the visa waiver program particularly for the Chinese visitor that allotted this \$2 million. Regardless of where it comes from, it's going to go and leverage our industry. Thank you."

Representative Ward's written remarks are as follows:

"Thank you, Mr. Speaker. At this time, I rise in strong support of this measure.

"Recently, the federal government instituted initiatives to increase international travel and tourism in the US. This bill would take advantage of the new initiatives by increasing the level of funding for the tourism special fund per fiscal year provided a certain amount of it be specifically used on expanded visa programs and increased travel opportunities for international visitors.

"These funds could be used to attract visitors from new and emerging markets, specifically those in Asia (China, Taiwan, others). The easing of the visa process for China allows Hawaii to further tap into a market with large growth potential. The number of visitors from China is expected to top 125,000 this year with each traveler expected to spend around \$380 per day, which is higher than any other country.

"Furthermore, the visa waiver status for Taiwan also opens up a fortuitous market for the state. This could lead to an influx of Taiwanese visitors to the state very similar to what happened after Korea received its visa waiver in 2008.

"This increased travel would help solidify and increase Hawaii's already successful tourism industry. The increase in visitors means more off-island money for the economy and State. It also means more jobs as these travel initiatives could help provide up to 154,000 jobs in the State.

"These initiatives should help the State economically recover and expand, but they may also have an impact on a larger, grander scale. The islands are already a unique place in the United States and world, but with increased international exposure, the State could become an even bigger player on the international stage, especially in regards to Asia. In time, the state could become the international focal point of the Pacific.

"I appreciate the opportunity to express my views and to voice my strong support of this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 490, SD 3, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 51 ayes.

At 3:36 o'clock p.m., Representative Aquino requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:37 o'clock p.m.

At 3:39 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 3003, SD 1, HD 2  
 S.B. No. 2981, SD 2, HD 2  
 S.B. No. 1197, SD 2, HD 2  
 S.B. No. 2281, SD 1, HD 1  
 S.B. No. 2787, SD 2, HD 1  
 S.B. No. 2927, SD 2, HD 1  
 S.B. No. 490, SD 3, HD 1

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1643-12) recommending that S.B. No. 3048, SD 2, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3048, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I wish to speak against this measure. Not because it provides an income tax credit for the hotels, which I think, is very timely and needed. But more because of the making permanent the 2% increase that we provided for the Transit Accommodation Tax a couple years ago. When we provided that increase, it was told to this Body here, and to the hotels that it was going to be temporary.

"It was going to be sunsetted in a few years. And now I'm looking at this bill to make it permanent. So this additional 2%, instead of going for marketing, will be coming into the general fund.

"I understand that for emergency purposes, you need to do this thing. But with this year's budget, I don't believe we need to. And more important is the ability, when you convince people to vote for a measure, that you keep your word. Your word is golden. So this is one of the reasons I am voting against this measure. Thank you."

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

"In opposition, for the same reasons."

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

"Mr. Speaker in support, with the words of the Representative of Wailuku inserted as if they were my own," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, in support. While I understand the words of the Representative from Wailuku, the measure in extending the tax is essentially, and mainly just to pay for the credit. So, I think it's just a fiscal responsibility issue. And if we can't do that, then the credit will be difficult as well. Thank you."

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

"Mr. Speaker, no vote on this measure. And a couple of comments. To sweeten the pie obviously, they spliced to make nice, some of the opposing issues by making nice. On the one hand, a tax credit. On the other hand, making permanent what otherwise was a temporary one. This is one of the few, how would you say, tax increases, because it makes permanent that which we have. And we have another one coming up in a couple of bills, but it's when we give our word that something is permanent.

"It's no wonder the political subculture, when someone says it's just a permanent tax like the one for the train, how many people really believe us when we do what we're doing now, by making permanent that TAT tax. And the same way with the rental cars. Mr. Speaker, we jacked it up to \$7.50 a day because we told the rental car agencies we're going to put the money to build on their premises at the airport. And again today, we took it out. We didn't do what we promised.

"I think our credibility's at stake with a bill like this. And like the speaker of Maui said, this is not what we should have done. And if we were going to do it, we should have been more honest about it. Thank you."

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

"In opposition. I guess the wonderful thing about living in paradise is that sunsets never come. They just always get extended. So it's a beautiful place to live, but it's a terrible place to put your faith that things are only temporary. Thank you."

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

"Thank you, Mr. Speaker. I will vote aye with reservations for much of the same reasons as the Speaker Emeritus. I do support the tax credit for hotel construction. I believe the construction activity and revenues derived from it will help pay for the tax credit. I do oppose keeping the retention of the hotel tax at the current high rate. I believe it's 9.5% percent. And be aware, if you're voting for this, you are voting for a tax increase. Thank you."

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

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

"Mr. Speaker, I rise in support. Mr. Speaker, just for the edification of Members and maybe those who were not here back in 2007. We did increase the hotel room tax by 1% over 2 years. So it went up from 7% to 8%, and 8% to 9%. And at that time, the naysayers said that it would cause the demise and the end of the Hawaii tourism industry. That never came to pass. In fact, we've been seeing record numbers of tourists visit us. So now we extend the increase of the TAT upon their rooms. We're setting new records every year since we began to emerge from the great recession of 2008.

"So I think this is the real background and honest truth of where this measure is coming from. Back then, we tied it to a 6-year financial plan, Mr. Speaker, so that it would go out to the year 2015. At that point in time, the Legislature will have a time to address that sunset. We're currently, in the current calendar year of 2012, entering to the fiscal year '13 cycles.

"There's two more years for the bill, the Act to be effectuated. So this is just being brought up for this Legislature to consider. The carrot, I guess for the hotel industry to receive a tax credit, both for new rooms, as well as to remodel their older rooms. So that's part of the discussion. I think there's some interested parties out there. So I ask that we move this measure forward and continue discussion. But there's still some time for an open, honest debate on this revenue stream, as well as the incentives for the hotel owners. Thank you."

Representative Johanson rose in support of the measure with reservations and asked that the remarks of Representative Marumoto be



entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

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

Representative Brower rose to respond, stating:

"Thank you, Mr. Speaker. Still in support. And I would agree with the Finance Chair. That support of this measure is not, I wouldn't consider it to be that you're raising taxes. I would possibly consider that you are open to maintaining a tax that was set to be sunset in 2015. And since the amendment is fairly new to the bill, I do welcome more discussion in the next few days and few weeks. Thank you."

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

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

"Mr. Speaker, with some reservations and a question. The bill is creating an income tax credit for hotel construction or renovation, but yet we can't continue a credit for homeowners that want to put in photovoltaic systems. At least we can't continue it at the same level.

"I just would like to ask the Chair of Finance if he would yield to a question. If you want to call a recess, I'll go ask him a question. Why one, but not the other. One's homeowners, the other's hotel constructions."

At 3:47 o'clock p.m., Representative Thielen requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:49 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. 3048, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAVEL AND TOURISM STIMULUS INITIATIVES," passed Third Reading by a vote of 37 ayes to 14 noes, with Representatives Belatti, Cabanilla, Carroll, Choy, Fontaine, Herkes, Luke, McKelvey, Nakashima, Riviere, Souki, Takumi, Ward and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1644-12) recommending that S.B. No. 2739, SD 2, HD 1, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2739, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1646-12) recommending that S.B. No. 2226, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2226, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition. This is a tax increase. It's real. It's now. It's going to be an increase in the cost living for everyone in the State of Hawaii who is near, or at least dear to buying online, anything that comes into the State. And I know that the logic of this is that it's the Use Tax that came about decades ago, which I submit if it was a Use Tax

today, it wouldn't be implementable. It would have never pass an august body such as this.

"But this is another way of saying it's a tax increase and it's due. And the other response is it's unfair to the local retailers. I say that being that we're in Hawaii and we are brick and mortar, we can sell to the rest of the world our products with our name, with our brand as easily as anybody else can sell to us, Mr. Speaker. And having been a retailer in Waikiki for 15 years at the Royal Hawaiian Hotel, we used to send stuff to the mainland and we never paid the GET tax. Hawaii has that same opportunity as everybody else. But this is a tax increase. It's now, and I vote no on it. Thank you."

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

"In strong support. Mr. Speaker, yes I agree with the Minority Leader. It is a tax increase, if you're a tax cheat. And if you cheated on your taxes all this time, and never paid your Use Tax, and you have to pay this new tax, then I guess, it is an increase. So yes, sir. I do agree with you. But tax cheating should not be a planning technique. It should not be used against all of us who pay our taxes. So this is not a tax increase for the honest tax payers. But it is, for the tax cheaters. Thank you."

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

"Thank you, Mr. Speaker. Well with that, Mr. Speaker, I rise in opposition to this bill. The bill proposes to make a law. The bill proposes to increase, create taxes for consumers, for our Hawaii residents, for consumers, specifically for our electronic and catalog purchases. Something of which we've had lots of debate on.

"Testimony provided by Amazon during a recent hearing said the bill would not be an effective source of revenue. Let's face it. This is a source of revenue. It's one more, let's get some money. It says that it would sever the relationships with Hawaii-based advertisers, exempting the repercussions of this measure. It also says it will reduce tax collections as local businesses with affiliate relationships would lose that revenue.

"The point is, I guess, my concern, my number one reason for rising in opposition, is that this affects my people, the people of my district. Mr. Speaker, I've said before on this Floor, we are not like the mainland. Let me repeat it. We are not like the mainland. And one thing that always comes clear too, if you like to go shopping, is that being the farthest from any landmass in the world, we don't have that interconnected railway system of the contiguous 48 states. So they can just, you know, go ahead and take shipped goods and all that kind of stuff. So when you go shopping on the mainland, you have a huge choice of stuff to buy. Yeah, ship everything in here, until some people decide they're going to go on the internet. What they want to get. What they want to get, and have choice.

"Choice, that's a nice thing because it's connected to freedom. Freedom and choice. Like you choose your doctor. You choose your doctor. You choose other things. Choice. So they've got to go on the internet to get what they want. But when they go on the internet and they purchase, and I appreciate the Representative from Kauai who introduced the Resolution to address this comment that I made on the Floor, previous. A couple months ago. That you're paying top shipping costs.

"So sometimes, I've heard arguments, 'Oh that this is for the brick and mortar guys. This is, you know. It's anti-business not to tax the internet because after all, you know, they've got to pay taxes on it and price differential and all that.' But actually it's just raising prices on our people. That's all it's doing.

"I would like to share with you, if you don't mind, one of the testimonies from Miles Tanabe of the Island of Kauai. Miles says,

As a small business owner and Kauai resident, in the rural county of Kauai, I rely on out-of-state catalogue retailers and businesses that use the internet to supply much of my uniforms, the specialized equipment, and the supplies I sell. So actually, you see, small businesses are using the internet. Small businesses like those in the County of Kauai. This type of interstate commerce allows companies like mine to be able to obtain items that cannot be found in the County of Kauai or within the

State of Hawaii, and as such we have no other choice, than to shop on the internet.

"Our people. Our people, Mr. Speaker, shop on the internet. They want to get certain things that you just can't get in Hawaii. A lot of things you can't get, because of the way we're located so far away. And I appreciate, like I said before, the Resolution introduced to address what I said on the Floor. I said that we're paying higher shipping costs. So what's it all about, is it's about a money grab. Or is it about taking care of making sure people have choices, so they can have the highest quality of life for our people. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support with some very brief comments. I will not adopt the words of my good Vice Chair, but I do have concerns over the last comments about choice. That this takes away choice. That somehow, by having fairness, about paying just a .5%, or 4%, or whatever it is, GET, like you would at any retail store in Hawaii, that now you don't have the choice.

"The internet isn't going anywhere, Mr. Speaker. It's still there. People can get online. All we're saying is, pay the GET like you would if you bought it here. The prices are still going to be much better. This doesn't stop the good gentleman from the Neighbor Islands from purchasing the uniforms. It's just if like you would at a brick and mortar. All it's saying is, pay the GET.

"And we can say, 'Hey, you know what? Let's go on the internet, 100%. No need. Just go 100% internet.' Well, you can imagine what the cumulative picture of that would be? And also that would be a job killer, Mr. Speaker, because then what would be the next progression? You'd lay off your staff, right? And I think Amazon is not the company whose testimony, with all due respect, I would look to. I would look to that of the Retail Merchants Associations, of our neighbors and friends, who own stores.

"I use the internet all the time. I love it, you know. And I pay my GET on what little I buy off of it. And you can go on the internet tomorrow. Now for resellers in the State of Hawaii, they are being unfairly victimized by Amazon. And I think the blame should be pointed at them for pressuring these small people out of it. But to say because there's no resellers in the State of Hawaii that you won't be able to go to Amazon, or to other internet sites is not accurate.

"So, Mr. Speaker, I'm just sad that Amazon continues to do this nationally. And that we have to continue to have this debate. I hope Congress acts in one form or another so we can stop having this debate. I just feel bummed out, right now, pardon my French, that we're having this conversation about, well this is a new tax. This is something that's going to really take away people's choices. They won't be able to use the internet anymore, which is not true.

"I'm siding with the mom and pops on this, because I think it is unfair, that they have to be responsible for collecting the tax. But yet, an entity that's far away on the mainland is somehow given a free ride on that. And that's why I support this measure. Thank you."

Representative Ching rose to respond, stating:

"Sorry, Mr. Speaker. I'm still in opposition. With all due respect to the Representative from Lahaina. You know, one of the most fallacious arguments I remember in logic class, which I did pretty well in, actually, believe it or not. It is a fallacious argument. We call it fallacious in logic. Where you take something all the way to an extreme. You create a straw man and say, 'Boy, if you're for protecting and not raising this tax, therefore you're against all of this.' Taking it to the extreme. It's a typical argument, but it's still categorized as fallacious.

"I rise and say, in fact my whole point, in bringing this gentleman, Mr. Tanabe's testimony, and I ask that it be submitted into the Journal, was that I'm defending small business people. That's my point. And I'm saying

truthfully, as he says in his testimony, that excessively high rates apply to Alaska and Hawaii. I'm just saying that it's raising taxes on our people. Their quality of living. Thank you."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. At this time, I rise in opposition to this bill. This bill proposes to increase/create taxes for consumers, specifically for electronic and catalogue purchases; something of which, we have engaged in much debate.

"Testimony provided by Amazon during a recent hearing confirmed that this bill would not be an effective source of revenue, as Amazon and similar companies would sever their relationships with Hawaii-based advertisers to be exempt from the repercussions of this measure. This would reduce tax collections as the local businesses with affiliate relationships would lose that revenue.

"The revenue that the State seeks would be a result of the newly collected tax at the expense of consumers, or Hawaii residents. This bill is actually anti-small business in the sense that it does not encourage free enterprise and many small businesses rely on internet sales. This bill encourages a mainstream of commerce through large corporations, while the innovation and creativity of local small-business owners is compromised, due to the extravagant costs. As a result, this bill would encourage more residents to become victims to the declined economy.

"Previous testimony for HCR37, Mr. Miles Tanabe, a small business owner and Kauai resident put it best when he said, "As a resident and small business owner in the rural county of Kauai I rely on out of state catalog retailers and businesses that use the internet to promote their products, to supply much of my uniforms, specialized equipment and supplies. This type of interstate commerce allows companies like mine to be able to obtain items that cannot be found in the county of Kauai or within the state of Hawaii. As such, we have no other choice than to shop through mail order catalogs or on the internet."

"Mr. Speaker, this bill increases the cost of living for our residents, and the small businesses that rely on internet purchases. Hawaii consumers already pay inflated prices, while limiting consumer choice and therefore compromises the quality of life for our residents. Shipping costs, out-of-state taxes and extra packaging will be exacerbated costs next to the increases on internet taxes to consumers.

"The goal is simple; we must protect our residents from additional tax burdens. Their costs are already exponentially higher than retail, due to the shipping costs related to the geographic location of our home. Let us not compromise choice, quality of life, and heighten the cost of living for our residents through increased taxes AND shipping. Thank you."

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

"Thank you, Mr. Speaker. I know I said I wasn't going to stand up, but I did introduce that Resolution for Mr. Tanabe, and it was for a different subject.

"I'm sorry, Mr. Speaker. I'm in support, by the way. It was for a different subject. It was talking about shipping to Hawaii and Alaska, and the advertising from companies talking about shipping to Hawaii. When I did talk to him about the tax at that time, he told me he didn't have a problem with that, as long as it was equally applied. So I just wanted to set the record straight. Thank you, Mr. Speaker."

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

"Yes, Mr. Speaker. I'm standing in opposition. I hope that when this measure goes to Conference that Members will look at the US Supreme Court's Quill decision which basically stated that states are prohibited from requiring sellers to collect sales tax in states where they lack a physical presence. So this bill may be unconstitutional, and there may be issues with that. That will need to be researched. 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. 2226, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 39 ayes to 12 noes, with Representatives Brower, Ching, Fontaine, Hanohano, Johanson, Marumoto, Nishimoto, Pine, Riviere, Takai, Thielen and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1647-12) recommending that S.B. No. 2238, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2238, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1648-12) recommending that S.B. No. 2457, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2457, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you. On Stand. Com. Rep. No. 1648, S.B. 2457, I rise with reservations. My only reservations with this bill, and I do think that we need to address the procurement process, is with respect to the exemptions allowed to the Governor and the Mayor. I just think it's a little overly broad delegation of powers to the Chief Executive. Thank you."

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2457, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1649-12) recommending that S.B. No. 2947, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2947, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Third Reading by a vote of 51 ayes.

At 4:04 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 3048, SD 2, HD 1  
S.B. No. 2739, SD 2, HD 1  
S.B. No. 2226, SD 2, HD 2  
S.B. No. 2238, SD 1, HD 2  
S.B. No. 2457, SD 2, HD 2  
S.B. No. 2947, SD 2, HD 2

At 4:04 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:12 o'clock p.m., with Speaker Say presiding.

At this time, the Chair stated:

"Members, at this time we are on page 23. We've got 4 more pages to go, which is fine. But at this time, we will be taking out of order, Stand. Com. Report No. 1658-12, S.B. No. 2789, SD2, HD2."

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1658-12) recommending that S.B. No. 2789, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that notwithstanding the recommendations contained in Standing Committee Report No. 1658-12, that S.B. No. 2789, SD 2, HD 2, be recommitted to the Committee on Finance, seconded by Representative Evans.

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

"Just in support of the motion, Mr. Speaker."

The Chair addressed Representative Pine, stating:

"Can you confine your remarks just to the motion to recommit."

Representative Pine continued in support of the motion, stating:

"I think in times when we, perhaps see legislation that may out-step our bounds, and may isolate a certain group, and separate them from others, I think it's imperative and important, and proper that we recommit a bill such as this."

The Chair then stated:

"Thank you. Any further discussion before calling for the voice vote? The Chair would like to state for the record, for all of you in the legislative process, we have a process where measures like this are recommitted back to their respective Committees.

"But also understand that we have two Chambers; the House and the Senate. I truly hope that the House, we will recommit this particular measure, but the Senate, who made a Floor Amendment to this particular measure with a House Bill, will be giving us the opportunity, and the Administration the opportunity, of having a vehicle in Conference this coming Thursday. They will be making their decision.

"But they did a Floor Amendment this morning, and the Floor Amendment has a defective date. So I hope, and I truly wish, that they will send the House Bill back for further discussion."

Representative Ward rose and stated:

"Mr. Speaker, point of information. Was the Floor Amendment similar to the one that we saw earlier?"

Speaker Say: "No, it's just a defective date."

Representative Ward: "I see. So nothing as to what ..."

Speaker Say: "Nothing as to substance. To clarify it to all the Members of this Body."

The motion was put to vote by the Chair and carried, and S.B. No. 2789, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was recommitted to the Committee on Finance.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1650-12) recommending that S.B. No. 2745, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2745, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1651-12) recommending that S.B. No. 2001, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2001, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1654-12) recommending that S.B. No. 2335, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2335, HD 2, pass Third Reading, seconded by Representative Evans.

Representative C. Lee 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. 2335, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL MANAGEMENT AREAS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1655-12) recommending that S.B. No. 2678, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2678, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict? I'm a Board member on the Japanese American Citizens League. Thank you," and the Chair ruled, "no conflict."

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

Representative Ichiyama's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support. This bill proposes to provide State support in the preservation of the Honouliuli Internment and prisoner of war camp site and establish an advisory group to leverage funding to develop an educational resource center at the site.

"On March 1, 1943, the Honouliuli camp opened to house several hundred Americans of Japanese ancestry. In an effort to demoralize any pro-Japanese sentiment, a vast majority of detainees were community leaders, including members of the Territorial Legislature, Senator Sanji Abe of the First Senate District in Hilo and Representative Thomas Sakakihara of the Hawaii First District. For two and a half years, these internees endured extremely difficult living conditions in a remote internment camp and none were ever charged with any crime.

"Today, all that is left of the Honouliuli Internment Camp are concrete slabs and a stone path, with no indication that this was the site of a grave injustice against local Japanese Americans. The development of this site

as a historical center will help shed light on a dark time in the nation's history and commemorate the experiences of those who were confined in internment camps. It is my hope that this site will serve as a symbol of strength and solidarity, signifying our promise that we will never forget the Japanese American incarceration in Hawaii, and reaffirm our commitment to civil and human rights.

"Thank you very much, Mr. Speaker."

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

"In strong support."

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

Representative Cullen's written remarks are as follows:

"Mr. Speaker, I rise in support for S.B. 2678. Mr. Speaker, I rise in support of this measure because the State is taking a step towards preserving the Honouliuli Internment Camp Site established during World War II.

"Mr. Speaker, the site is a part of our district and it serves as a constant reminder for the next generations of the injustices that war brings to not only our nation, but also to our communities. I have visited the site and have seen the efforts already started. This measure will allow those efforts to continue. This measure continues Hawaii's rich and unique history within our world."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2678, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HONOULIULI," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1656-12) recommending that S.B. No. 2782, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2782, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

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

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

"Thank you Mr. Speaker, reservations. Part 1 and Part 2 I believe were pretty good and not controversial. Then Part 3 got thrown in. This is the part that would have the Job Corps for several hundred people, which is a great idea. It's a worthy idea. We could use them up in the watersheds. The problem and my reservation revolves around the opposition by DLNR, because they're afraid that other parts of their Departments will be gutted. In other words, the professionals that they have on permanent staff will be displaced for temporary help of unskilled. So for that reason, I have some reservations. Thank you."

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

"With reservations and the words of the Representative from the North Shore. And in addition, because of opposition on Part 3 from the University of Hawaii Research Corporation, the Land and Natural Resources Department, and several environmental groups whose funds will be affected. Thank you."

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

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

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

Representative Thielen 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 the report of the Committee was adopted and S.B. No. 2782, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL PROTECTION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1659-12) recommending that S.B. No. 2116, SD 2, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2116, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

"Support with reservations. My reservations basically focus on the exemption from the Ethics Code of these people under the Charter Schools. I hope we can resolve this in the end. Thank you."

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

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

"Support with reservations for the similar reasons as the Representative from Pearl City."

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

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

"Mr. Speaker, in support. Just with a clarification for the purpose of those who are noting reservations. This is actually Senate Bill No. 2116 that deals with the implementation and transition for the Charter Schools. So it's not actually the bill that the Representative from Newtown was talking about. 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. 2116, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Souki voting no.

At 4:21 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2745, SD 1, HD 2  
S.B. No. 2001, SD 1, HD 2  
S.B. No. 2335, HD 2  
S.B. No. 2678, SD 2, HD 2  
S.B. No. 2782, SD 2, HD 2  
S.B. No. 2116, SD 2, HD 1

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1660-12) recommending that S.B. No. 2535, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2535, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Morikawa's written remarks are as follows:

"This bill is another step to legislate a function of the Department of Education and the Board of Education. When Act 51 was enacted, the Department and Board of Education should have started its implementation. It seems like the Legislature is doing what the Board of Education should do, which is set policies. The Legislature's primary responsibility or power is that of budgeting, which can influence or mandate education programs. It is time for the new appointed Board of Education to do what they should ... make education in Hawaii better."

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

"In opposition with brief remarks, Mr. Speaker. I know that this bill on mandating certain bell schedules and other instructional issues is well intended.

"The reason why I'm against the particular bell schedule portion of this bill is, when Campbell High School's Principal, many years ago, who is my former High School teacher, Dr. Awakuni, got together with teachers and parents, as well as student leaders, with the commitment to bring excellence to the High School, they all realized that they needed to change their bell schedule to fit this quest for excellence. And so in their own creative way, they came up with their own unique bell schedule that actually increased instructional time in their own way. But it perhaps would not work for another school.

"By mandating specific schedules, it really takes away the creativity and the individuality of a particular school who wants to succeed. I know that this bill was intended for those schools that aren't succeeding. But should we handle that in a different way. Because in a sense, by targeting this bill towards those schools that aren't succeeding, we are actually going to hurt those many schools that are being creative and innovative in the process, and succeeding."

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

"Mr. Speaker, I rise in opposition. I'd like to have the words from the previous speaker entered as my own, and just a brief comment. I'm just concerned, again, that this would reduce the flexibility of schools. And it removes community involvement in the process, which I think some of our constituents would consider that to be kind of a top-down micro-managing approach by the Legislature to do that.

"Mr. Speaker, in my county, there is one school in particular I believe, Hana School, that actually only has four days of instruction, and they have one day of developmental time. And it varies, depending upon as you go out throughout the county, there are various needs to having bell schedules a certain way. So for those reasons, that's the reason why I object to this measure. Thank you."

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

"Mr. Speaker, I'm sorry, but I have to rise with reservations on this measure. I just don't feel that this would take into consideration students who sometimes are immigrant students who need some more time, or need that flexibility. But I also feel that this is just one of those measures that should be addressed by the Department, and not the Legislature. So for those reasons, I'll be voting with reservations."

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

Representative Johanson's written remarks are as follows:

"I rise in opposition to SB 2535, relating to instructional time in public schools. I understand the desire to standardize instructional time across the State, but I am concerned that the standardization proposed in this bill does not take into account certain intra-school and inter-school dynamics. This bill may limit schools' flexibility and adversely impact the progress and achievements they are making.

"We have many successful schools across the State that are meeting AYP and continue to have positive educational developments. The standardization proposed in this measure may adversely impact these high-performing schools. I do think it is a worthy intent to try and ensure that students all across Hawaii have the same amount of instructional time, but I do not believe this is the most ideal way to accomplish this end. For these reasons, I stand in opposition."

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

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

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I oppose SB 2535 which is another bill asking the Legislature to handle an issue better addressed at the local level and which again hedges on the commitment we made to extend Hawaii's school instructional years. This bill abolishes the goal of providing 1080 hours of instructional time to students per school year. This opens the door to significantly lowering the number of instructional hours they receive, which is already quite low in comparison with the national average. It requires the Board of Education to develop multiple standard bell schedules for elementary, middle, and high schools, with the exception of charter schools and multi-track public schools, and amends the public education instructional time law.

"Simply standardizing bell schedules will not meet the bill's desired outcome of providing equal quality education to all of our public school students. Schools determine their bell schedules based on their unique needs, and the current process of determining bell schedules through dialogue between the schools' administrators, teachers, and parents is a process that local communities value. There is a myriad of reasons why standardized bell schedules would throw schools, especially those in rural areas, into chaos including, but by far not limited to: the great distances that teachers, students, and parents must travel to get to and from schools in rural areas, the fact that cafeterias and buses are sometimes shared between multiple schools, and the inability to adjust school schedules to allow for additional instructional time and extracurricular activities as needed.

"In my community we have a mixture of elementary and middle and high schools along the same transit corridor. It's folly to mandate the same bell schedule and risk different aged children leaving campuses at the same time – some in their vehicles while younger kids are walking home.

"Finally, I feel this legislation circumvents teachers' right to collectively bargain for fair working hours and especially fair pay for the hours that they put in. Standardizing bell schedules could mean that teachers work longer hours than they currently do, but this bill makes no mention of compensating them for their additional labor. These are issues that must be open to negotiation, and should therefore not be legislated."

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

Representative Manahan rose, stating:

"Mr. Speaker, I will be voting no."

The motion was put to vote by the Chair and failed to carry, and the report of the Committee was not adopted, and S.B. No. 2535, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSTRUCTIONAL TIME," did not pass Third Reading by a vote of 19 ayes to 32 noes, with Representatives Aquino, Brower, Carroll, Chang, Ching, Choy, Cullen, Fontaine, Giugni, Hanohano, Har, Hashem, Ichiyama, Johanson, Kawakami, Keith-Agaran, C. Lee, M. Lee, Luke, Manahan, Marumoto, McKelvey, Morikawa, Nakashima, Pine, Riviere, Takai, Thielen, Tokioka, Ward, Wooley and Yamane voting no.

At this time, the Chair stated:

"Madame Clerk, for Stand. Com. Report No. 1660-12, the Chair counts that there are at least 27 no votes at this point in time, so this measure is defeated on the Floor of the House. Am I correct?"

The Clerk responded:

"That is correct, Mr. Speaker."

The Chair then addressed the Chamber, stating:

"Let's have some proper decorum, please. Why are you elated? This is just a vote, where the Committee sent this particular measure out in trying to address the budget deficit. This was going to save the State of Hawaii a lot of money in the Department of Education budget.

"This particular measure has been defeated."

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1661-12) recommending that S.B. No. 2545, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2545, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you Mr. Speaker, I rise in support with reservations. This measure proposes to create the Executive Office on Early Learning. I don't have a problem with that. In fact, I support that because we need to address the issue of educating our young people. The concern that I have is really in section 3. And those of you unfamiliar with the bill, I'll just note that, that section proposes to eliminate the Junior Kindergarten, effective the 2014-2015 school year.

"Mr. Speaker, this is coming up because there was some misunderstanding, I believe on the part of the Department of Education. They had thought that we had eliminated Junior K last year. I had mentioned to them that I didn't think so. So I made a request to the Attorney General's Office, and in a response from the Attorney General dated December 14th, they clarified that in fact, Junior Kindergarten is alive and well in the Hawaii Revised Statutes.

"My concern is this. I do support elevating and requiring 5 year olds to start Kindergarten when they are 5. Those of you who have been here for quite awhile, know that I have been advocating this for most of my legislative career. I see no reason why our public schools should be no different from some of our best private schools in mandating that requirement. In fact, I think that part of our problem with competing not only on the State level, but also on the national level, is the fact that many of our children are one year younger than their counterparts in either in private schools or schools on the mainland. So we needed to make that change. We needed to mandate that children be 5 years old when they start Kindergarten.

"The problem was implementation of Kindergarten and Junior Kindergarten a few years ago. And as the Chair of Education has noted on the Floor quite a few times, there is one-third of the schools that follow the mandate. There is one-third of the schools that didn't follow the mandate.

And one-third of the schools that kind of did a hybrid where they basically put Kindergarteners and Junior Kindergarteners in the same room.

"My concern is that we needed to, or the Department of Education needed to, label the students appropriately. They're either Junior Kindergarteners, or Kindergarteners. Now this is not a big issue for many of you, but it is a big issue from my perspective, because just last year, we codified into law the Interstate Compact on Education for Military Children. And in that Compact it said that any child who starts a particular grade level, in a particular school, in a particular state, and then moves to another state, is allowed to transition at that grade level.

"With some of the schools, the one-third of the schools not following the requirements as set for by law, some of the kids were moving from Hawaii to other states, at a lower age. And that was a problem.

"The problem with this bill is that it entirely eliminates the Junior K program. Now some will argue that the bill also specifies that the Executive Office on Early Learning, by the 2014-15 school year have an implementation plan and projected financials in order to address the seamless transition of these Junior K kids. But I asked in Committee, what does that mean? What happens when they submit their implementation plan to the Governor, and the Governor submits it to the Legislature? What happens if the Legislature doesn't act? The answer was, these kids, these Junior Kindergarteners will have nowhere to go. And I don't believe that that's our intent. Our intent is to create a seamless transition for these kids who are not 5 years old, come the 2014-15 school year. And this bill doesn't do it.

"So I would hope, since there's a flawed effective date, that when it comes back, as a Conference Draft, that we will see the elimination of the Junior K drop, unless there's a requirement tied into the creation of something else that we can hold our hats on, and say once and for all that there will be something for these children. Otherwise, I can almost guarantee you that two years from now, or maybe even next year, we'll be coming in with another bill, extending this lapse date, or eliminating the lapse date because of concerns throughout our community.

"I don't know if you've heard it, but I've heard it from a number of parents already in our communities, wondering what was going to happen to their kids, because their kids were going to be hopefully going into the Junior Kindergarten program in 2014-2015. But now it's clear based on this bill if it passes, that they'll have nowhere to go. Thank you, Mr. Speaker."

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

"Thank you. I thank the Representative from Pearl City requesting we go back to this, because I really agree with him. I'd like to amplify a little bit on his remarks. I agree with everything that he has said. I have a real concern that we are eliminating Junior Kindergarten, and leaving a lot of children in the lurch. There's no substitute for Junior Kindergarten.

"So what would happen is that we are requiring Kindergarteners now to start when they are 5 1/2 years old, starting in the 2014 year. You must be born in the first 6 months of the year. And then if you are late-born, then you have to wait another year. Kindergarten is not mandatory in this State, and some people will keep their children out. Well, they will have to keep them out until they are old enough. But if they don't put them into a Pre-plus, or Head Start preschool, and there's no Junior Kindergarten. Some children will not be starting until they are fairly old, and it does not help their development. They will be behind as far as being ready for school. So I really question the wisdom of dropping Junior Kindergarten. It's good that we're starting the Pre-plus Program, and that we're allowing them to use school facilities.

"In asking the Governor's Office, will the Pre-plus people handle Junior Kindergarten or 5 year olds, the answer was, 'Well, it's sort of a condition that if they're using the school facility, that they will take in the 4 1/2 and 5 year olds. But in talking to the Good Alliance people, they said the Pre-plus Programs have no money to take care of this older group of children. So we'll have to come back next year and really work on this to make sure

there is something, good education, available for our young children before they start Kindergarten. Thank you."

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

"Mr. Speaker, I speak in favor, but with a reservation. I understand the need for early childhood education. I ran a Head Start Program for 18 years. And I can see the great results you get from students as you watch as they grow. However, the State of Hawaii presently, in our budget, we don't have the money. And I think I heard the last speaker say, where's the money? And that's my same question. We still have programs that are running at about 50% capacity. We have the ag, which could use 50% more. We don't have enough inspectors. I could go on, and on, and on, and on.

"So, again Mr. Speaker, Finance Chairman and Members, where is the money? You cannot be taking away from special funds all the time. At some point in time you've got to make a major decision. If you're going to keep on adding, if you want to put this State into a quality situation, you run quality programs. So that's the only reservation that I have. I want to see where the money is going to come from. Hopefully, not from the highways. And hopefully not from the TAT. Thank you."

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

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

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

Representative Takai rose to respond, stating:

"Thank you, Mr. Speaker. I just request to insert a letter that I wrote on November 18, 2011 to the Attorney General, and his response on December 14, into the Journal. Thank you."

Representative Takai's written remarks are as follows:

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## HOUSE OF REPRESENTATIVES

STATE OF HAWAII  
STATE CAPITOL  
HONOLULU, HAWAII 96813

November 18, 2011

The Honorable David Louie  
Department of the Attorney General  
425 Queen Street  
Honolulu, Hawaii 96813

Dear Attorney General Louie:

Senate Bill 2068 SD2 HD1 CD1, enacted as Act 183, Session Laws of Hawaii 2010 (Act 183), amended the age requirements for entrance into kindergarten at Hawaii's public schools. According to Act 183, beginning with the 2013-2014 school year, a child who will be at least five years of age on the first day of instruction may attend a public school kindergarten. This appears to have caused a great deal of confusion in the early childhood community.

Some, including the Department of Education (DOE), believe that Act 183 relieves the DOE of its responsibilities for providing early childhood education through its Junior Kindergarten Program by completely eliminating the program itself with the start of the 2013-2014 school year. I respectfully disagree with that assessment and believe that the DOE must continue to provide for both junior kindergarten and kindergarten.

Although Act 183 amended the age requirements for entrance into the Kindergarten Program, it does not appear that this change absolves DOE of its responsibilities to provide the Junior Kindergarten Program as well, as evidenced with statutory language continuing to mandate this requirement. Specifically, section 302A-411(a), Hawaii Revised Statutes (HRS), states:

*"(a) The department shall establish and maintain junior kindergartens and kindergartens with a program of instruction as a part of the public school system..."*

Moreover, section 302A-411(b), HRS, states:

*"(b) The department shall establish a two-tier junior kindergarten and kindergarten program to support the range of developmental abilities of children in junior kindergarten and kindergarten. Schools shall not move students between junior kindergarten and kindergarten, except in cases where the movement is warranted and based on appropriate assessments determined by..."*

2011102802

Representative K. Mark Takai  
State Capitol, Room 305 • Honolulu, Hawaii 96813  
Phone: (808) 586-8455 • Fax: (808) 586-8459 • E-mail: reptakai@capitol.hawaii.govLetter to the Honorable David Louie  
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Some cite that word "may" contained in section 302A-411(c), HRS, as a reason that DOE no longer needs to provide junior kindergarten as an option for parents. Specifically, section 302A-411(c) states:

*"(c) Beginning with the 2004-2005 school year, a child who will be at least five years of age on or before December 31 of the school year may attend a public school kindergarten. Beginning with the 2006-2007 school year, a child who will be at least five years of age on or before August 1 of the school year may attend a public school kindergarten. Beginning with the 2006-2007 school year, a child who will be at least five years of age after August 1 and before January 1 of the school year may attend a public school junior kindergarten. Beginning with the 2013-2014 school year, a child who will be at least five years of age on the first day of instruction may attend a public school kindergarten."*

However, it is my belief that, as used in this subsection, the word "may" is applicable to the parent of a child and is intended to provide the greatest flexibility to a parent in determining their child's early educational needs and whether or not they want their child enrolled in kindergarten or junior kindergarten. Dependent upon when a child attains the age of five, a parent "may" choose to enroll their child in either a kindergarten or a junior kindergarten at a public school in Hawaii.

I've been a long-time advocate of requiring children to be five years old prior to the start of their kindergarten year. I've also been a long-time advocate for junior kindergarten programs that provide for adequate educational services for children who turn five after the start of school and before January 1. The problem with the Junior Kindergarten Program is that only one-third of the schools in the state followed state law and adopted some variation of the Junior Kindergarten Program.

The purpose of this letter is to formally request an opinion from your office regarding this issue. Can you please provide an opinion on whether DOE can eliminate the Junior Kindergarten Program with the start of the 2013-2014 school year? Your opinion on this issue alone is of great importance to approximately 5,000 Hawaii families with children who will turn five after the 2013-2014 school year starts and before January 1, 2014.

Additionally, I request your opinion, based on current state law, on whether a child who doesn't turn five by the start of the 2013-2014 school year can be allowed to attend kindergarten in 2013. This opinion is necessary if junior kindergarten is still a legal option in 2013. Your decision on this issue may affect member states of the Interstate Compact on Educational Opportunity for Military Children since a four-year-old child being accepted into kindergarten in Hawaii will need to be recognized by mainland school districts if the family relocates to another state.

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Furthermore, I would like to ask for some clarification on whether a child who turns five after August 1, 2011, and before January 1, 2012, or whether a child who turns five after August 1, 2012, and before January 1, 2013, can officially attend a public school in Hawaii as a kindergartener? Under a common sense interpretation of current state law, assuming that August 1, 2011, is the first day of instruction, a child who is at least five years of age on August 1, 2011, will be allowed to enroll in kindergarten at a public school in Hawaii while a child who turns five years of age on August 2, 2011, will not be allowed to attend kindergarten at a public school in Hawaii. However, a child who turns five years of age between, and including, August 2, 2011, and December 31, 2011, can officially attend junior kindergarten at a public school in Hawaii. Also based on current state law, if August 1, 2012, is the start of the 2012-2013 school year, and is also the first day of instruction, then a child who will be at least five years of age on August 1, 2012, will be allowed to attend kindergarten at a public school in Hawaii. A child who turns five years of age on August 2, 2012, however, will not be allowed to attend kindergarten at a public school in Hawaii. Again, it would appear that the child who turns five between, and including, August 2, 2012, and December 31, 2012, would be eligible to enroll in junior kindergarten.

Please contact me at 586-8455 if you have any questions. I look forward to hearing from you.

With warmest aloha

K. Mark Takai  
State Representative  
3<sup>rd</sup> House District

KMT: omo

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December 14, 2011

Hon. K. Mark Takai  
State Rep., 34<sup>th</sup> House Dist.  
State Capitol, Rm. 305  
Honolulu, Hawaii 96813

Dear Representative Takai:

This responds to your letter to the Attorney General dated November 18, 2011 requesting advice from the Department of the Attorney General (the "Department") as to the Hawaii Department of Education's ("DOE") obligation to provide both a Kindergarten Program and a Junior Kindergarten Program, and the age requirements for entry into the programs, as required under section 302A-411, Hawaii Revised Statutes ("HRS"), as amended by Senate Bill 2068 SD2 HD1 CD1, enacted as Act 183, Session Laws of Hawaii 2010 ("Act 183").

I. Questions Presented:

- (1) Whether the DOE can eliminate the Junior Kindergarten Program beginning with the start of the 2013-2014 school year?
- (2) Assuming the DOE must continue providing the Junior Kindergarten Program after the start of the 2013-2014 school year, can a child who is not yet age five by the start of the 2013-2014 school year attend kindergarten?
- (3) Whether a child who turns five after August 1, 2011, but before January 1, 2012, can attend a public school in Hawaii as a Kindergartener? Similarly, can a child who turns five after

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DAVID M. LOUIE  
ATTORNEY GENERAL  
RUSSELL A. SUZUKI  
FIRST DEPUTY ATTORNEY GENERAL



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August 1, 2012, but before January 1, 2013,  
attend Kindergarten?

**II. Analysis and Advice:**

We present you with the following advice based on our review and analysis of HRS Chapter 302A and Act 183.

**Question 1**

In answer to question 1, it is the Department's position that Act 183 does not permit the DOE to eliminate the Junior Kindergarten Program beginning with the start of the 2013-2014 school year.

Prior to the enactment of Act 183, HRS section 302A-411(c) read as follows:

Beginning with the 2004-2005 school year, a child who will be at least five years of age on or before December 31 of the school year may attend a public school kindergarten.  
Beginning with the 2006-2007 school year, a child who will be at least five years of age on or before August 1 of the school year may attend a public school kindergarten.  
Beginning with the 2006-2007 school year, a child who will be at least five years of age after August 1 and before January 1 of the school year may attend a public school junior kindergarten.

Thus, beginning with the 2006-2007 school year, children who were age five by August 1 have the option of attending public school kindergarten, whereas later born children who are going to turn five in the first-half of the school year have the option of attending public school junior kindergarten. Children turning five on or after January 1 of the school year have to wait until the following school year to begin kindergarten.

Act 183 amended HRS section 302A-411(c) by adding the following sentence at the end of the above-quoted paragraph

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regarding the age requirement for regular kindergarten starting with the 2013-2014 school year:

Beginning with the 2013-2014 school year, a child who will be at least five years of age on the first day of instruction may attend a public school kindergarten.

The amendment is silent as to junior kindergarten. The amendment also uses "the first day of instruction," as opposed to "August 1," as the cut-off date for eligibility.

At the outset, we do not read the statute as allowing a parent to choose between kindergarten and junior kindergarten. If the Legislature intended to give parents such a choice, the statute would have simply provided that any child who turns five prior to January 1 of the school year can choose to be placed in either program. Instead, the statute provides quite clearly that children who want to attend public school and who are five by August 1 (for school years 2006-2007 through 2012-2013), or by the first day of instruction (beginning with the 2013-2014 school year), are placed in kindergarten, whereas children who turn five after August 1, or after the first day of instruction as applicable, but before January 1 are placed into junior kindergarten. There is nothing in the statute that gives parents the right to choose which program to have their child placed in. Thus, a student that is five by August 1 (for school years 2006-2007 through 2012-2013), or by the first day of instruction (beginning with the 2013-2014 school year), cannot choose to be placed in junior kindergarten, and an eligible student who is still four years old on August 1, or on the first day of instruction as applicable, cannot choose to be placed in regular kindergarten. Such an interpretation makes sense since the obvious aim of the statute is to help the later born students, who may not be as developmentally ready as their earlier born peers, succeed in school. Accordingly, the parents of eligible but late born children, born after August 1 (for school years 2006-2007 through 2012-2013), or after the first day of instruction (beginning with the 2013-2014 school year), but before January 1, have the choice to either start their child in junior kindergarten,

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or wait until the following school year when the child will be five at the beginning of the school year and more ready for regular kindergarten.

We do, however, agree with you that the statute does not permit the DOE to eliminate the Junior Kindergarten Program beginning with the start of the 2013-2014 school year. While the statute, as amended, is silent as to junior kindergarten starting in 2013-2014 school year, there is clearly nothing in the statute authorizing the DOE to eliminate the Junior Kindergarten Program. To the contrary, and as you have pointed out, HRS sections 302A-411(a) and (b), which were unaffected by Act 183, expressly requires the DOE to provide both kindergarten and junior kindergarten.

Furthermore, HRS section 302A-411(c) continues to provide that:

Beginning with the 2006-2007 school year, a child who will be at least five years of age after August 1 and before January 1 of the school year may attend a public school junior kindergarten.

Act 183 did not affect this language and so it continues to be controlling with regard to junior kindergarten. Therefore, it is the Department's position that HRS section 302A-411, as amended by Act 183, does not permit the DOE to eliminate the Junior Kindergarten Program beginning with the start of the 2013-2014 school year.

**Question 2**

As noted above, it is the Department's position that the DOE is required to continue providing the Junior Kindergarten Program after the start of the 2013-2014 school year. It is also the Department's position that if a parent wants to have their child attend public school in the 2013-2014 school year, and if the child is not age five by the first day of instruction, but will turn 5 by January 1, the child will be placed in junior kindergarten. There is no option for a four year old to choose to be placed in

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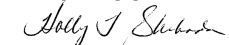
kindergarten. If the parent wishes to wait until the following school year when the child will be eligible for regular kindergarten, the parent has every right to do so.

**Question 3**

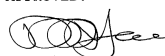
The same analysis for answer to "Question 2" above applies here. A child who turns five after August 1, but before January 1, 2012, can attend a public school in Hawaii, but only as a junior kindergartener. Similarly, a child who turns five after August 1, 2012, but before January 1, 2013, can attend public school only as a junior kindergartener. Again, regular kindergarten is not an option for eligible students who are still age four at the beginning of the school year. These younger students must be placed in junior kindergarten because of the assumption that they may not be as developmentally ready for school as their older peers. However, if the assumption is proven wrong for a given student who does well in junior kindergarten, that student can be promoted to first grade like any other regular kindergartener. See HRS 302A-411(b).

We hope this letter adequately addresses the questions raised in your November 18, 2011 letter. Please do not hesitate to contact me should you have any further questions.

Very truly yours,

  
for Gary S. Sugauma  
Deputy Attorney General

APPROVED:

  
David M. Louie  
Attorney General

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Representative Giugni 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 the report of the Committee was adopted and S.B. No. 2545, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1663-12) recommending that S.B. No. 2804, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2804, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict of interest? I currently sit as an alternate on this particular Interagency Council for Homelessness," and the Chair ruled, "no conflict."

Representative Jordan continued to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I would like to note my reservations, and a few comments, please. I am objecting to Section 7 of this particular measure, and hopefully as it moves into Conference, we will be able to discuss that issue in this measure, and support this measure from the Administration. Thank you, very much."

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

"Thank you Mr. Speaker, I rise in support. Mr. Speaker, in 2011, the homeless population in the State of Hawaii was approximately 7,000. I've got a rhetorical question for you Mr. Speaker. Have we been efficient in addressing homelessness in our State?"

Speaker Say: "Yes, we have."

Representative Mizuno continued, stating:

"Rhetorical question. A good political answer. I would beg to differ. Mr. Speaker, I've got another question. Will we end homelessness in Hawaii? And, before you answer, I can share the answer. I know you're pretty fast at the draw, Mr. Speaker. But, the prior State Coordinator on Homelessness had said this on numerous occasions, that we will end homelessness in the State of Hawaii. It would be politically incorrect to say 'No, we wouldn't.' And the answer is, no. No, we will not end homeless in the State of Hawaii. In fact, we can come back 20 years from now, and we'll still have homelessness in the State of Hawaii.

"The correct answer is, will we substantially reduce homelessness? And will we be efficient and effective in addressing homelessness? That answer is, Yes. Yes, we can. We're not doing it right now. Why, Mr. Speaker? I give the non-profits, the advocates, State, fed and county agencies, an 'A' on effort. I give them a 'D' on their end game.

"There's no end game. Mr. Speaker, there are a buckshot of services. Everyone is trying to do the right thing, but they lack one thing. One word. I can sum it up. It's complex, but it's a simple answer. Coordination. We're not coordinated.

"Mr. Speaker, when we have the federal government, the State, county, the non-profits, the churches, faith-based organizations, and businesses, all come to the table and work as one, we will be very effective. And we will substantially reduce homelessness. Until we get to that point though, we're not doing a good job. That's why I support this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2804, SD 2, HD 2, entitled: "A

BILL FOR AN ACT RELATING TO THE HAWAII INTERAGENCY COUNCIL ON HOMELESSNESS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1664-12) recommending that S.B. No. 2568, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2568, HD 2, pass Third Reading, seconded by Representative Evans.

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

"On Stand. Com. No. 1664, it's the Homeless Return to Home Program appropriation. And while it's been changed now to 'permits' rather than 'requires', as I said earlier, we don't want to be known as a place where crime pays. But then you have to start to wonder, 'Gee, does it pay to be homeless?' Because if there's no way to, and I don't see there's any foreseeable way, to double check that these people who we want to send back home, won't just get back on a plane and come back.

"This could become a great system for sabbatical. I'm sorry, Mr. Speaker. Where one state is paying for them, maybe, to get over here. And then we are paying for them to go back. There's got to be a better way to have a process by which we don't have people take advantage of this. Thank you."

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

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

"Thank you, Mr. Speaker. In strong support. Although there are a lot of doubts or even ridicule to this measure of returning homeless to the mainland, I feel that this is one tool that we need to explore and implement. There are over 7,000 homeless people in Hawaii. And some of us want to hang on to every homeless person here in Hawaii, because it offers federal funding, State funding, and all kinds of funding, that it now becomes one source of livelihood to certain people, whether it be mental health or outreach services.

"That is not right to the taxpayer, Mr. Speaker. There is beauty to this bill. Every un-housed, homeless person takes away over \$35,000 a year. Mental health services cost about \$2,897 a month. And that doesn't include if they ever get sick.

"This bill doesn't mandate anybody to go back to the mainland. It is only, for those who want to go back, that have been stranded to our islands. We are surrounded by water, Mr. Speaker. It's not like the mainland, where you can take a bus, a Greyhound, and go somewhere. It costs a lot of money to go there. But, it only costs about \$400 to fly to the West Coast. However, it's costing our State over \$6,000 a month, on a good day. Not to mention if they ever get incarcerated or hospitalized.

"There are checks and balances in here, and I trust the people that will implement this, that they will do the right thing. This is not going to be a sabbatical. You have to be homeless. If it costs you to be in a homeless shelter to have a sabbatical, I don't think so, Mr. Speaker. I think this appropriation would be for the best use for those people who really need to be re-unified with their families. It's a good bill, Mr. Speaker, and we need to reduce the number of homeless population in this State. Thank you, very much."

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

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

"With reservations, and a brief comment. The Chair of Human Services said, the one thing missing in homelessness, and why it will last forever and ever, is coordination. I would say, Mr. Speaker, there is one proven solution to homelessness, and that's the family. Family is the best homelessness cure. And this nudges up, gets close to, suggestively, if you re-unite families, you've got a chance at it.

"So with that reservation, I think it's worthy experimenting with, piloting, see if it works, because re-uniting with the family, and the reason why there's so many homeless is because they've broken off those relationships. Hardened relationships have cast them out, either if there is drug use or other arguments that have ensued. And we've got to do something to bring that family back together. This is a gesture in that direction. Thank you."

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

"Thank you Mr. Speaker, in support. Mr. Speaker, this bill is a pretty simple bill. The concept is relatively easy to understand. We're returning homeless. Let me break it down in three simple steps. We are reducing homelessness in the State of Hawaii, Step 1.

"Step 2, we are protecting our finite resources for local homeless. Why has that become an issue? Because approximately 30% of our homeless population is from the mainland, or out of our country. Compact citizens – Marshall Islands, Pohnpei, Chuuk, the State of Micronesia.

"Third, we ensure that these individuals will go to a home. A support system, a strong support system, as was suggested by the Minority Leader. Three simple points.

"On July 2, 2010, we sent our first homeless person through this program back to Seattle, Washington. Gregory Reece. He came over here on a job offer that fell through, and his father who had lung cancer couldn't afford a ticket back home for this young man. We sent him back.

"Mr. Speaker, since July 2 of 2010, we have sent back 16, 16 individuals. And not one has returned to Hawaii. Not one has abused this program, this system. And the State has not paid one cent for this program. It's all volunteers.

"Mr. Speaker, I'd like to highlight a story of a homeless mother and daughter, homeless daughter. Because I think it displays the intent of this measure. You see, in May of 2010, a 32 year old female from Houston, Texas, found her way in Honolulu, Hawaii. It was a traumatic experience, and we didn't really question her. We thought she may have been trafficked. She suffers from an intellectual disability, Mr. Speaker.

"Because of the fine work from Honolulu Police Detective Erick Tanuvasa, he befriended this woman. And after talking to her, he looked her up on the missing persons registry. He was able to ascertain that she was from Houston, Texas, and he contacted Yughette's mother. Her mother, Cheryl Walter, who used all her disability pay to fly out to Hawaii to get her daughter back. In doing so, Mr. Speaker, Cheryl Walter became broke. She didn't have any money to pay even for her change of flight fee. They didn't have money to get Yughette, her daughter, back to Houston, Texas.

"I shared this with the Chair of Housing, and we put a public plea out. Hawaii News Now I believe, sent it out an hour after we put it to the press, and within 45 minutes we had two callers willing to donate for the entire flight home. It was a success story. Mr. Speaker, I don't think I would do justice to Cheryl Walter, or to her daughter Yughette, if I tried to display in words the heartfelt thanks of Cheryl Walter. And so if I may, I'm going to share with you a brief statement by the mom, Cheryl Walter, who stated:

I was willing to become homeless to be with my daughter. I have no regret using my entire disability pay to come to Hawaii to find my daughter. I couldn't eat while thinking my baby is without food or shelter. I think what I did would be what any mother would do for their baby.

Yughette is ready to come home after this most difficult ordeal. I have used up all my money finding my daughter and staying in Hawaii this past week. Therefore, words can never display my heartfelt thanks to the people of Hawaii for their kind generosity in purchasing the one way ticket for my daughter, and for covering my change of flight fee.

When I searched for my daughter, I met so many homeless children. I realized their families should come for them like I have for my daughter. I am so excited about going home with Yughette that I couldn't sleep last night.

"Mr. Speaker, this is how we effectively address homeless in our State. One person at a time. One family at a time. One community at a time."

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

Representative Mizuno continued, stating:

"Again, Mr. Speaker, 16 individuals have gone back and reunited with families. Not one has come back. And we've made sure that each family was willing to accept that homeless individual, to offer them a solid support system where they can go to school or get employment. That's why this works. For those reasons, I support this measure. Thank you, Mr. Speaker."

Representative Ching rose to respond, stating:

"Thank you, Mr. Speaker, I think it's necessary for me to clarify. I am in support of this. I've supported the Representative from Ewa on this in years past. So again, I think that's wonderful, and I applaud the Chair of Human Services for his accomplishments. It's wonderful. And it's absolutely true. One person at a time. Each one is unique. Each one is an individual. Different types of reasons for being homeless. So it's just the slight reservations that, should this someday be abused, it would not be a good reflection."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2568, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Keith-Agaran voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1665-12) recommending that S.B. No. 3025, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3025, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Morikawa 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 Morikawa's written remarks are as follows:

"The County of Kauai is a political subdivision of the State of Hawai'i and subject to State and federal fair housing laws; affordable housing required by zoning ordinances pursuant to HRS 205 (State Land Use Law) and Ordinance No. 860 (the Housing Policy for the County of Kaua'i) is to be for the general welfare of its citizens – all citizens; the proposed bill would allow that housing to be assigned to a specific racial subset on request; if this resulted in the majority of affordable housing being built on DHHL lands, this would expose the County to potential litigation under the federal fair housing laws. Open-ended/unlimited – credits can be requested for all existing (past) and future (planned) DHHL projects – no completion or construction is required prior to the date of the bill's repeal.

"This bill allows ALL affordable housing required by County law for development to be requested by DHHL, and the County would have to comply. This would also allow any developer to satisfy ALL of its required affordable housing on DHHL lands, not in proximity to the development or its impact – for example, a North Shore developer could end up providing all its affordable housing in Kekaha rather than in the

Hanalei District (For its Lihue development, a developer built over 600 units for affordable sale in Lihue/Puhi – what if these had all been committed to Anahola instead?) The bill allows application of affordable housing credits to DHHL developments regardless of income qualification of lessee households.

"The bill if enacted would have the effect of undermining the Housing Policy Ordinances of all counties, in that it would separate the "nexus" (legally required connection) of the impact of the market development on the availability of affordable and workforce homes in the area. This bill would have the potential for significantly reducing the availability of affordable homes for households in the 80%-140% Kaua'i median income."

Representative Kawakami 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. 3025, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING CREDITS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1666-12) recommending that S.B. No. 2737, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2737, SD 1, HD 2, pass Third Reading, seconded by Representative Evans.

Representative Marumoto 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 the report of the Committee was adopted and S.B. No. 2737, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC MEETINGS," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1669-12) recommending that S.B. No. 2941, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2941, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with enthusiasm and support, and written comments, except for a couple of brief introductory notions. Mr. Speaker, there is a section in this bill that is all about our future. It's about aerospace. I've said many times on this Floor, NASA is in love with Hawaii. NASA is in love with the Big Island. There's no closer simulation of any planet, or Mars, or the Moon than we have on Mauna Kea. That is a gold mine in terms of the lunar research park that will be put there. The high-paying jobs, the complementary of University of Hawaii, good futures for not only our children, but for attracting people such as Google, for the aerospace industry, NASA, and for a lot of those and Lockheed, and other places.

"Mr. Speaker, this is a win-win. This is a job creator. This is really the future of diversifying our economy, and quite frankly, the private sector is now left with the ball that basically NASA has been taken out of the public sector, and has cancelled all of its future space exploration. The ball is in our court. Mr. Speaker, I appreciated being in your office, and meeting with the Lieutenant Governor from Alaska who basically said this. Hawaii is known throughout the nation, as well as the world for what it's doing in space exploration. A lot of our colleagues may not know that what we're doing, even though it's small, is exceptional in terms of all the other states.

"But Mr. Speaker, he said this. And it was very compelling. That we almost are compelled to stand up to the plate to do what we're doing, with the Big Island, for space, for the sake of the nation, and for the sake of the

world. That was rather compelling, that the Lieutenant Governor said. So for those reasons, I'll submit the rest in writing. Thank you."

Representative Ward's written remarks are as follows:

"Thank you, Mr. Speaker. At this time, I rise in strong support of this measure.

"This bill, among other things, authorizes the establishment of aerospace high technology enterprise zones and aerospace high technology parks. The establishment of aerospace high technology enterprise zones including an aerospace pilot program will help boost the economy overall and especially in related sectors and industries.

"The zones allow 'qualified businesses' to receive tax credits and may be exempt from GET and use taxes. The benefits of the zones and parks should help attract aerospace and lunar transportation companies and other related industries. Many of these companies would be high technology and research and development based meaning attractive, high quality, and high paying jobs that could reward talented Hawaii residents.

"A park on the island of Hawaii would also benefit UH Hilo by offering educational and career opportunities to students and creating an influx of research dollars through its proximity to the school.

"The bill would help PISCES and in turn its proposed International Lunar Research Park. This park is intended to attract companies from the aerospace, technology, and energy industries along with capital investment. The lunar park will boost the number of high technology and high paying jobs. The use and expansion of the park will also benefit the service and support industries and possibly the tourism industry in Hawaii.

"The park has already received extensive national and international interest including space agencies, NASA, Google Lunar X-Prize foundation, and other groups and companies from the aerospace and technology industries. The zones and park will also place Hawaii in position to take advantage of the future of the aerospace industry.

"In the lunar park aerospace companies may take advantage of the unique landscape in Hawaii that allows them to test and develop automation, robotics, and other aerospace related equipment and technology. These new technological developments will help drive the industry.

"Space tourism is still in its infancy but is also a possibility in the future for Hawaii. There is also a resolution this year that encourages the state to propose to the FAA to be selected as a site for unmanned aircraft testing.

"I appreciate the opportunity to express my views and voice my support for this bill. Thank you, Mr. Speaker."

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

"Thank you Mr. Speaker in strong support. You know, 4 years ago when I first came here, I didn't even believe in this aerospace to high technology, economic diversification. But my good Chair had educated me, and as the Minority Leader said, and as my good Chair led, this particular initiative is very, very important for Hawaii. And it has to do with location.

"Location, location, location. And we do have the best location for this particular project. We are in competition with other states. But because of our location, we are poised to take a leadership role in aerospace. And I'm really, really in support of this particular bill. Thank you, Mr. Speaker."

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

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 2941 – Relating to High Technology.

"I rise in support. This bill allows an aerospace high technology park in the agricultural district and designates pilot aerospace high tech enterprise zones in Hawaii County. When dealing with aerospace issues, location is paramount. Hawaii Island has areas much like the moon which will be helpful to the development of this niche industry which can do so much for Hawaii's future. I urge the Members' support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2941, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 51 ayes.

At 4:57 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2545, SD 2, HD 2  
 S.B. No. 2804, SD 2, HD 2  
 S.B. No. 2568, HD 2  
 S.B. No. 3025, SD 2, HD 2  
 S.B. No. 2737, SD 1, HD 2  
 S.B. No. 2941, SD 2, HD 2

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1671-12) recommending that S.B. No. 2030, SD 2, HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2030, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Rhoads 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. 2030, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1672-12) recommending that S.B. No. 2235, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2235, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. Just note my reservations. I'd like to point to the testimony of the Chair of the Public Utilities Commission that has grave concerns regarding the inadvertent consequences of this measure on health and safety issues. Thank you."

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

"Thank you, Mr. Speaker. With reservations. I think the Representative from Upcountry, Maui has made a lot of compelling arguments on measures that are similar to this, and I'm persuaded by them. The only thing that I am concerned by is any governmental process that has an automatic action irrespective of the number of days. Thank you."

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

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

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

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

Representative M. Lee rose in support of the measure with reservations and asked her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise with reservations of Senate Bill 2235 – Relating to Communications Technology.

"I rise with reservations. Although in principle this bill has a good purpose, my community of Mililani has concerns about any and all antennas introduced or modified and wants to have a voice in approval. Concerns voiced have been disruption view planes, noise such as humming, and unresolved health issues. Mainly, the community really wants to have a voice in placement and use of broadband structures. Perhaps more education on the value of such technology would result in better understanding of the need."

Representative Wooley 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 Wooley's written remarks are as follows:

"If SB 2235 becomes law, it will require the State and counties to approve, approve with modification, or disapprove all broadband-related permits within sixty business days. Such mandated deadlines result in inappropriate approvals and inadequate projects reviews and for that reason I do not fully support the passage of SB 2235."

Representative Ching 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 Ching's written remarks are as follows:

"Thank you, Mr. Speaker. At this time, I rise with reservations to this measure. This bill requires the State and county to decide and act upon a broadband related permit within 60 days of the application submission. If not decided upon, the permit will receive automatic approval.

"While I am afraid of the aesthetic sore that these broadband works and utility poles may cause, that isn't the only problem I have with this bill.

"I feel the Sierra Club, Hawaii Chapter, said it quite well in testimony against HB 2325 HD1 [House bill almost identical to the Senate bill]. "The 'automatic approval' of any project is simply poor policy. Permits should be granted on their merits, not by mistake or government inefficiency. No community should suffer because government failed to perform." I wholeheartedly agree with this view of the process. Why should people, our community, suffer because the government failed to act? Why should our community be at the mercy of a time restriction when what is decided could have a sizeable impact? What happens when there is a time limit on the automatic approval process? What is the result if the State drags their feet, purposely or not? Poor choices, poor results, and adverse effects on our people and community.

"Why should government be, in a way, rewarded for inefficiency, failure to act, or for unscrupulous purposeful delays? Shouldn't we, as Representatives, err on the side of caution and protect those we serve? Shouldn't we be looking out for what they want and not creating shortcuts for the government?"

"We should remember; there is a means to the process; it isn't just about the ends. I appreciate the opportunity to express my concerns and to voice my reservations to this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2235, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COMMUNICATIONS

TECHNOLOGY," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Fontaine, Riviere, Thielen and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1673-12) recommending that S.B. No. 2958, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2958, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1676-12) recommending that S.B. No. 2434, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2434, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support with reservations. When this proposal came up to create the Hawaii Health Insurance Exchange, I supported it. And I guess at this time I would like to request a ruling on a potential conflict. I sell health insurance," and the Chair ruled, "no conflict."

Representative Takai continued to speak in support of the measure with reservations, stating:

"Thank you, very much. As you know, I sell health insurance. Some people have said that it's crazy that I supported the creation of this because it's really going to put people like me out of business. And the reason why they said that is because we're creating our own Health Insurance Exchange to address the 100,000 or so uninsured residents who can't afford health insurance currently. And I support that, and I continue to support it.

"Unfortunately, we've been receiving some emails to the effect that what we have created is actually pushing the discussion, deliberations and decisions of this Exchange towards the insurers. And I think they raise a great point. They mentioned that the interest of Hawaii's consumers are not being served when there are insurers on the Exchange Board and they are allowed to vote on decisions involving setting up the health insurance marketplace for these particular consumers. And again, these are consumers that right now, can't afford current health insurance.

"They are concerned, and I agree, about the inherent conflicts, financial conflicts of interest, and the lack of transparency and accountability to the public as it relates to how we created the Insurance Exchange Commission. So as we move forward, and I know this bill is ready for final passage if the Senate agrees, and it'll go straight up to the Governor. But if this does go into Conference and we have an opportunity to further review the makeup of this Insurance Exchange, I would hope that we would keep these concerns in mind as we move forward. Thank you."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in opposition of S.B. 2434 SD1 HD3 – Relating to the Hawaii Health Insurance Exchange, which requires the Hawaii Health Connector to conduct an assessment before establishing a program to serve the individual and the small group markets. It establishes a navigator program and clarifies the conduct of board meetings. It also establishes staggered terms for board members and clarifies board compositions and the role of the Department of Human Services in determining Medicaid eligibility.

"Chapter 414D limits navigators to nonprofit entities and excludes trade, industry, and professional organizations that can conduct navigators. Thank you."

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

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

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

Representative Johanson 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 Johanson's written remarks are as follows:

"I rise in support with reservations on SB 2434 regarding the Hawaii Health Insurance Exchange. Regarding the Hawaii Health Connector program, I honor the intent of the measure to streamline the process of comparing and purchasing health insurance. However, I am concerned about the financial sustainability of the Hawaii Health Connector program, particularly because the grant that is being used to fund this endeavor expires in 2014 and there are no guarantees of renewal.

"I do recognize and honor the provisions in the measure designed to increase transparency for the Hawaii Health Connector Board's public meetings, notices and records. Organizations such as the AARP brought up their concerns with potential conflicts of interest pertaining to the makeup of the Health Hawaii Connector board, mainly the inclusion employees of health insurance providers on the board, which would be a direct conflict of interest as the board should be aimed at reducing consumer insurance rates while the employee would be looking at increasing costs and profits for his employer.

"These concerns were somewhat addressed in revisions made by the House, however, I still have concerns about the Board working to overcome significant hurdles with regards to transparency and accountability to the public, as they are funded by State revenue, but operate almost semi-autonomously and with limited transparency to the public. For these reasons, I stand in support with reservations on this measure."

Representative Marumoto 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 S.B. No. 2434, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Ching, Marumoto and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1678-12) recommending that S.B. No. 2424, SD 2, HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2424, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

Representative Ching 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 Ching's written remarks are as follows:

"Thank you, Mr. Speaker. Although I stand behind the intentions of S.B. 2424, please allow me to express my reservations on several

components of the bill. S.B. 2424 adds powers and duties to the Director of Labor and Industrial Relations regarding the registration and regulation of professional employer organizations. It authorizes various penalties for noncompliance, amends definitions and bond level requirements, and establishes the professional employer organization special fund.

"I support the overall direction of this bill, as it streamlines operations for simplified administration, by combining two separate chapters in the Hawaii Revised Statutes relating to professional employer organizations. As noted by the Department of Labor and Industrial Relations, it proposes single fees, rather than initial registration fees and biennial renewal fees. Divided fees open chaotic loopholes, whereby entities could avoid paying graduated renewal fees by changing their corporate name to pay a much lower new registration fee. Furthermore, concentrating oversight into a single organization increases accountability, to ensure a more orchestrated – and diligent – regulatory process.

"Nevertheless, let us proceed with caution. Proposed registration requirements could serve as effective barriers to new entrants in the market, so we should keep in mind DLIR's ameliorating amendments. Furthermore, if we are to empower a new fund, we must recall – as the Tax Foundation of Hawaii elucidates – that the creation of numerous special funds in the past has eroded the integrity of state finances: 'Moneys in special funds are neither subject to the general fund expenditure limitation nor to the close scrutiny that general funds are subject to in the budgeting process. Special funds that earmark general fund revenues cannot be justified as they restrict budget flexibility, create inefficiencies, and lessen accountability. Further, as evidenced by recent legislative sessions, special funds have been raided in the search for additional revenues.'

"In realizing S.B. 2424, we must guard our initial intention to streamline and simplify administrative processes. We must not, in seeking accountability, apply provisions that cripple processes extant. Thank you."

Representative Fontaine 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. 2424, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1679-12) recommending that S.B. No. 2671, SD 1, pass Third Reading.

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

Representative Fontaine 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. 2671, SD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Marumoto voting no.

At 5:05 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2030, SD 2, HD 1  
 S.B. No. 2235, SD 2, HD 2  
 S.B. No. 2958, SD 2, HD 2  
 S.B. No. 2434, SD 1, HD 3  
 S.B. No. 2424, SD 2, HD 2  
 S.B. No. 2671, SD 1

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1683-12) recommending that S.B. No. 755, SD 2, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 755, SD 2, HD 3, pass Third Reading, seconded by Representative Evans.

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

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

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

"Mr. Speaker, I'm rising to speak against Senate Bill 755. Mr. Speaker, this bill has been portrayed by a Pritchett cartoon titled, *Damn the Environmental Laws, Full Speed Ahead*. And basically I think that what he has done with a single cartoon is capture exactly what this bill does.

"You take a look at the Committee Report, which is very well written. I have to give credit to the Vice Chair of Water Land, who I understand was the principal author of the Committee Report. And it goes on about how the purpose of the bill is to promote economic development by temporarily removing regulatory restrictions. Regulatory restrictions refer to environmental laws. To the expeditious construction of certain State and county projects. In other words, those pesky environmental laws get in the way of moving ahead with State and county projects, so let's temporarily, for about a 5 year period, set them aside.

"And then the Committee Report goes on and talks about how, don't worry about it, because there are federal laws, basically, that cover all of these different areas. And it goes through and lists them all. The National Environmental Policy Act, NEPA. Federal EIS, FAA permits, etc. Federal Clean Water Act, Clean Air Act, Federal Water Pollution. It goes on and it lists them. Federal National Historic Preservation Act, Federal Marine Mammal Protection Act, etc., etc. It goes on and lists in detail, all of the different federal laws that really are going to cover these projects that are then going to be exempt from State law.

"But actually, the federal laws don't cover everything that Chapter 343 does, which is our Environmental Impact Statement law. They don't cover everything that Chapter 343 does. And basically, they only cover projects with federal funds. Now, we don't always do things on a State and county level with federal funds. So when you're talking about State projects without federal funds, then we're exempting those from environmental protection. And yet the federal laws won't come in and cover those projects.

"In addition, your federal, and this I believe that our Big Island Representative will care very much about this, as will others in this Body. The federal laws are weak on cultural issues. Our State laws aren't. Because they're particular to Hawaii, and we realize the importance of cultural issues.

"There isn't duplication, Mr. Speaker. So when you talk about pesky environmental laws, the Committee Report seems to make it sound as if everything is in duplicate. Why do we have to have it in duplicate? Why can't we just eliminate the State portions?

"The Committee Report seems to appear to say, it's all duplication, so we don't really need it. Well I've explained to you, if it's a State project without federal funds, then we're not talking about federal law that will come into play.

"But you don't have to do things twice. There's certainly the way that the agencies have worked together to make sure that you don't have the duplication. There's another issue that is of great trouble. And that's when you turn to Part 5, to temporarily authorize a streamlined process for exempting State projects from Chapter 343. That issue, that bill, was never

heard in the Senate, to my knowledge. And yet it is coming forth here in Part 5 of the bill."

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

Representative Thielen continued, stating:

"Mr. Speaker, it's a bill that says basically as Pritchett put it in his cartoon, *Damn the Environmental Laws, Full Speed Ahead*. And then it shows some legislators sitting in the boat that is titled, S.B. 755. The legislators are saying, 'We're exempt. Rules are for others,' as the boat goes moving ahead.

"It's an amazing bill, Mr. Speaker, that captures all of the exemptions in one vehicle. And then in a Standing Committee Report, and thank you for the correction. In the Standing Committee Report, it tries to justify in 9 pages, saying it's duplication. You don't need it. It's all taken care of. It's taken care of by other laws. Well, that's incorrect. And then the basic issue is, do we want to exempt State and county projects from the SMA, the Special Management Area, and from Chapter 343?

"And what is the justification for doing that? If it's just a valid thing to do, why are we only doing it for 5 years? Why don't we say instead, 'Okay, 30 years ago, and 37 years ago, those two laws were put into place.' If we're finding them to be inconvenient, why don't we just eliminate them? Why this 5 year hiatus? Why not just say, 'Humph. Too much trouble. Too much problem. Get rid of 343. Get rid of the SMA, Special Management Area, and let's let the projects just go ahead. We won't have a 5 year hiatus. We'll have forever.'

"And then as to the cultural analysis that we like to have go on in our State. That's an inconvenience. Just eliminate that requirement. And basically this is what the bill does. Damn the environmental laws. Full speed ahead. And I think that that should be the revised title of the bill, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I feel compelled to read from a recent report, *Construction - Neighbor Islands Continue to Slide, Oahu Improves*.

Neighbor island construction continues to slide with no relief in sight. In December it was nearly 13% lower than the prior year with the greatest weakness on Maui. The UHERO economic team said it will present more detailed picture in their forthcoming 'Hawaii Construction Forecast.'

#### Public Construction Contracts Down 67%

Perhaps the darkest news from the building trades came from public sector where public contracts awarded for the first three quarters were off a staggering 67%.

"Furthermore, Mr. Speaker, DBEDT reports of the first quarter in 2012, a report on county economic conditions, reported that unemployment went up in all counties except Maui. However, listen to this. Hawaii County lost 500 jobs, 400 of which were in construction. Maui County lost 850 jobs, 350 of which were in construction. Kauai County lost 450 jobs, 150 of which were in construction. As far as unemployment benefits that were being claimed for the State of Hawaii, the highest percentage, at 28.2% of all of those claims, came from construction. 3,867 construction workers, not able to put food on their tables for their families.

"Just recently, Mr. Speaker, at the end of last Session, you gave the Freshmen an assignment. You told us that we'd been gone. Go back home. Reestablish yourselves with your community. And go and talk to the people. And we have. I have been invited to some Christmas fellowship luncheons with the Building Industry Association, all under \$25. And we met with some of the union officials. And we've heard them. When we asked them, what do you guys need? From the Carpentry Unions, they asked us to look for redundancies, inefficiencies. They asked us to look at

being a more effective government. And they asked us to get them back to work.

"It is heartbreaking. Once you get to the ground level with these people, and you hear their plight. Mr. Speaker, I learned a lot. I learned a lot from going out into the community. From going to my daughter's classroom, and seeing that some of these kids that are children of these unemployed construction workers, not knowing if they are going to eat Saturday and Sunday. So they created backpack programs. Can you imagine that? They have organizations that fill backpacks full of food, because we don't know if these kids are going to eat over the weekend. When we furloughed teachers, people were complaining about the loss of educational time. But for a lot of these unemployed construction workers, they were worried that it's one more meal their kids are not going to get to have during the week.

"I feel very insulted that we are portrayed in that way. That we are portrayed as, damn the environmental laws. That we are portrayed as hating the environment. I love the environment. I'm the one who takes my kids to the beach. I'm the one who takes my kids up *mauka*. A lot of these construction workers are the ones down at the beaches, barbecuing, enjoying the environment that we all love. Would it be fair to be portrayed in a cartoon, the opponents of this bill, with their feet stomped on the unemployed construction workers? That's very unfair. I think it's very inaccurate, and that's where we stand on the bill. And to claim and be proud of that cartoon is something to me, that's just appalling, Mr. Speaker.

"But you know, recently, we got to hear from Director Bill Aila. Why should it take so long to resurface a drag strip on Mana? There are very few things to do on Kauai. One of the most beloved places on Kauai is that Mana Drag Strip. And he posed the question, why should it take so long? An existing drag strip with simple resurfacing.

"Mr. Speaker, we're not asking to just wipe out environmental law. I think we all appreciate the environmental laws that are set. But when people ask us to take a look at redundancies and inefficiencies, that's what we're doing. When people come to us crawling, and saying, please put us back to work. We're tasked with that. So unless you have a solution to get these guys back to work, it's a hard claim to make. And to say that we hate the environment because we are supporters of this bill is like me saying, you guys hate the ..."

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

Representative Kawakami continued, stating:

"It's like my saying that you guys hate the construction workers that are unemployed. And I don't believe that. But those claims are very unfair, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker. In support and some comments. Mr. Speaker, in addition to the comments that we just heard from the previous speaker, I'd like to ask if I could have the words of the Representative from Kauai to be my own in the Journal. And furthermore, just to remind this Body that a lot of those people who lost those jobs, have also lost their homes. Thank you."

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

"In opposition, Mr. Speaker. I think it's really polarizing to categorize this as a jobs or environment bill. I just think the premise is misguided. Everybody wants to see people get back to work. Everybody wants to see people do well. The economy has not been cooperative. It has been a tough several years. So, likewise as some people are offended by certain comments and insinuations, I don't believe it's fair to say that anybody is supporting people staying out of work.

"There are problems that are fundamentally wrong with this State, as far as the economy, getting people back to work. There is timing. There's



financing constraints. The money markets have dried up. Believe it or not, the financial crisis of several years ago is still reverberating in all aspects. So there's not much money for construction projects.

"As far as the thought of going back and talking to your community, I've got to tell you, I talk to my community all the time. Every two weeks I've got a newsletter, I've got an article in the North Shore news, and people are very, very behind the position that I present on this Floor. There is no question that the public, if the public were aware of this, and if this were coming up for a public vote, it would not pass. There is no question in my mind. There are other elements going on here. There are people that would like to vote no. They might not. And so everybody is going to vote their conscience. I'll grant that everybody will vote as they will.

"I think you cannot avoid a couple of simple facts. This bill does allow the Governor to wave his magic wand and exempt projects. It does exempt SMA permits and shoreline setbacks for certain State government projects. It does exempt all permits and requirements for submerged lands. We've talked about this again, and again throughout the last few months. These are bad policy decisions.

"There are processes for exemptions. And when we write into statute that the Governor may, and just for those people who say, 'Gosh, those guys never read the bill,' I take exception to that. We do read the bills. Here's one. The Governor may establish the list of exemptions without necessity of approval from the Environmental Council, or compliance with the procedures established by the Environmental Council. Or adoption of the rules under Chapter 91.

"The Governor, therefore, has greater awareness of what may or may not constitute environmental impacts. We have an agency for that. That is specifically what they do. They work with agencies. It's called the Office of Environmental Quality Control. They have exception lists. DLNR is often mentioned as an agency having a problem. DLNR has worked with the Office of Environmental Quality Control. They have agency lists. They have lists for fencing that they're going to put up in the watershed. Yes, the exemption list could take up to several months to get, but that list then is useful as guidance for each project as they go along.

"If you build a restroom facility in the middle of Downtown, it may not have much impact. But if you build it in the middle of a marsh, it may have a completely different impact. Somebody should take a look at that. The people that are so opposed to these rules, what I call the heinous omnibus. The people are opposed because we're allowing us to close our eyes. Close our eyes. Don't worry about it. It's going to be fine. The State would never do wrong. Which brings up the other question of, if the laws are so bad, why not just void them and go back?

"So we are at a watershed moment, folks. This is the year where everything turns. On one side, you have what used to be, environmental protection. On one side you've got some arguments to say, 'Let's repeal them.' Everything can use refinement. Streamlining can always be improved. There are processes that are in place, and I just think this is reckless to do this. So thank you all for listening, and please have a nice day."

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

"Mr. Speaker, I speak very strongly for this measure. To the Members here, this is a very important bill. You've got a lot of people on the bench. Airports need to be improved. DLNR needs to be improved. And at the same time we can protect the environment. There's over 70% of our working people are on the bench. Electricians, labor, carpenters. This bill is to provide a balance, to allow the airport to come up to standards that we can be proud of this airport, as an international airport, which needs much improvement right now. Right away.

"DLNR and the harbors need a lot of improvement. A lot of these structures are falling apart. So let's not talk about delay. Let's get to work right now, Mr. Speaker.

"And may I make another point. There's a certain Member here that has a function at 5:30 and he's going to be late for his function. Thank you, very much."

The Chair then stated:

"Well, I apologize, we're going to go all the way through, and with the exception of the elected official who has a function. He may leave, but he may not be able to cast his vote."

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

"Thank you, Mr. Speaker. In opposition. I understand what people are saying when they say, 'Oh we need jobs.' There's a saying the Chinese say. They say, 'When you drink water, remember the source.' It's the key. It's the key. Remember the source, that which gives us our wealth. Our wealth is dependent on our beauty. Everyone knows that. Everyone knows that.

"So what this bill does is it undoes the environmental laws. The health of our people, economy, future, dependant on our natural beauty. And whether it's the ocean, the green space, the historical site that draw the residents and tourists to our State, it is that overall magnificence that makes us unique. It's the source.

"So when you are passing a bill like this, you're allowing open season, open season on the treasures of the land. It becomes then open season on the health of our people. And it infringes on the vitality of all that makes us wealthy, and makes us healthy.

"These environmental laws are not put in place to stop development. They're just there to balance it. Balance. That is also a Chinese concept. Definitely, health by the Chinese philosophy of Chinese medicine is balance. They say you will get unhealthy if there is no balance."

The Chair addressed Representative Ching, stating:

"Representative Ching, I can appreciate your philosophical statements that you are making, but on this particular measure, can you address the different parts."

Representative Ching continued, stating:

"Well, I was just going to quote the Chapter of which this attacks. Because that Chapter talks about, it actually uses the word, balance. And in fact, it's in the same email from the cartoon that the Representative of Kailua said. It actually is a quote. And so that's why I used the term 'balance.' Chapter 343. Economy and environment. And it was those that drafted that Chapter that understood that we always have to keep this unique balance.

"So while I understand, we want our people to get back to work, we have to remember the source that gives us our health, our wealth.

"I wanted to also insert some of the comments, maybe I will not speak so long then, of the Sierra Club. They pointed it out well in your show, Mr. Speaker, that you and Mr. Aila, and Mr. Harris, and the Representative of Waialua were on. I highly encourage all of the House to watch, because I think it brought out the points. But that's what we have to look for. And if we're at a better reputation, perhaps, for business, this also impacts jobs. Thank you."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to this bill, as this bill creates exemptions from environmental laws of our natural resources.

"The health of our people, economy and future of this state is necessarily dependent on our natural beauty. Whether it is the ocean, green-open spaces, or the historical sites that draw residents and tourists to our humble state, it is the overall magnificence that makes Hawaii more unique among the rest. When you allow an 'open season' on treasures of the land it then becomes an 'open season' on the health of the people and infringes on the vitality of our tourism industry.

"These environmental laws were not put in place *per se* to stop development, but rather to balance it, and do it intelligently. A Chinese concept of balance teaches us that balance encourages good health and prosperity. The preamble of HRS 343 states that the support of the economy and environment should be balanced.

"May I add the words provided in testimony by the Office of Environmental Quality Control (OEQC) where it is said this bill, "... sets a bad precedent, provides a separate set of rules for the public and private projects, and is not in the best interest of the public or the environment." OEQC also states that there is a current, established procedure which already provides a straight forward, easy to implement exemption list process for actions/projects that are likely to have no or negligible environmental impacts.

"Mr. Speaker, I do not oppose all development; however, I am against thoughtless, brash disregard for the environmental laws that protect our land. We must put forth a concerted effort to remember in part why we love Hawaii – it is the aloha and the beauty.

"As an aside, if our Legislature is eager to get construction employees "off the bench", as a Representative of a historic district, I am curious as to how this Chamber has never passed tax credits for the revitalization of dilapidated areas. Why not encourage vibrant restoration of older structures? Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In strong support. It's 5:30, we've been here a lot of hours. All day. But Mr. Speaker, I have to ask for your forgiveness because I did say I wasn't going to stand up, but I feel compelled to, for the second time.

"I think some of the things that were said earlier, some of the things that were brought up were the counties. I think if you read the bill now, the counties are not part of this bill. And I think what's important to take into consideration is, if the counties were that concerned, why didn't they come and testify? They did not come and testify. In fact, when you talked to them in the Capitol while they were here, they support it. Because they're piled up with work. And if they can't get their projects out in their respective counties, then those jobs are not going to get done, Mr. Speaker.

"So Mr. Speaker, I'd also like to ask a point of information. Can I insert comments from a Representative who hasn't spoken yet?"

Speaker Say: "No."

Representative Tokioka continued, stating:

"Okay. Well then, I'd like to insert the comments as if they were my own from the Representative from Wailuku, North Kauai, and from Hana. Thank you, very much," and the Chair "so ordered." (By reference only.)

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

"Thank you very much, Mr. Speaker. In support. Mr. Speaker, I just want to take this from a completely different tact, no pun intended. Because to me, that's not what this is about. It's about creating jobs. And that to me actually, really says that this is about, well, we've got to put people back to work. So that's why these rules are being looked at and why we're looking at using the federal rules. That's not what I look at it as.

"What I look at it is trying to find, as the previous Representative spoke about, balance. Because there is an option already for the Governor, Mr. Speaker. It's called the State of Emergency. It's been used before, for things. I found it interesting that the Representative from North Shore talked about a bathroom in a marshland. If you have a State of Emergency proclamation by the Governor, it suspends everything. 4E, 343. And according to the Committee Report, Chapter 343, Cultural Impact Statements will still be required. Under a State of Emergency, no they will not.

"We have a case with the Kahului Airport right now, where it has to be repaved. Now it's been discussed on the Floor before, well they've issued the SMA permits before for the Kahului Airport, so no harm. Well I just got an *ex parte* communication from the Department of Transportation saying that the feds have put us on notice. That if we don't get this project completed in time, they will not encumber the funds. The runway will not be repaired, and that airport will probably get shut down. That would probably invoke a State of Emergency Proclamation which will suspend everything, Mr. Speaker.

"What this seeks to do is to use the federal laws that are in place, to make sure this review takes place. But we can expedite these essential projects, which are for the critical health and safety, Mr. Speaker.

"I want to give you a real world example of, and I have to disagree with the previous statement that the federal laws are weak. This is real world, Mr. Speaker. We have an emergency maintenance dredging project for the Lahaina Harbor, because of sand that has blocked the channel, causing the waves to shoal. We've been put on notice, too, that if a boat cracks up on the channel that they will shut the harbor down. Well, the State wanted to come and do the emergency dredging. And under the current rules, an emergency dredging would be an EA. And because it's maintenance, the existing channel, it wouldn't be required any kind of review or mitigative actions. The feds came in, Fish and Wildlife, and everybody else, and said there will be mitigative actions. Several.

"The first thing they said is, 'You will not re-dump the sand back out in the middle of the ocean. You will take it to a qualified county landfill,' which the State did. The second thing that they said is, 'You will put in silt curtains and other mitigative devices to ensure the water quality is not impeded, and that boat traffic and access to cultural resources in the area will be protected,' Mr. Speaker.

"The contractor for this project has done projects all over the State of Hawaii, and this is what I've found kind of ironic. He said, 'I have never had to go through these kinds of mitigation efforts for a maintenance dredging.' They just did a job on another island recently, and they didn't do any of that, Mr. Speaker. But all of this was required under the federal laws.

"I personally think of a State of Emergency as the big hammer that everybody fears. I think we are headed to the total unbalance between one side, the State of Emergency, and the other side, which is nothing. And then when the airport gets shut down, when the harbor gets shut down, when the boat crashes, then what happens is the backlash, against the environment. Then you start seeing some really nasty stuff coming out.

"And I do share the thoughts of the Representative of Kauai, and I take great offense at this demonization of people who are trying to support this as a way to meet a compromise, a halfway to get these things done, but still make sure there's oversight and mitigation.

"I go surfing every weekend, Mr. Speaker. I'm in the water. I don't want to get sick. I don't want to catch fish that's going to make me go 'bleagh' all over the place. Come on. I get offended. And what? Unleash the bulldozers? You're going to unleash the bulldozers? That's the last thing I want. And especially, it hurts me to hear that we're going to destroy our historical treasures? That's the last thing that I would want, Mr. Speaker. It's imperative that we protect them. But if we don't find some ways to allow these emergency things to proceed, if we don't look at trying to find some middle ground here, and I'm glad that parties are still talking, then we are going to be pivoting between extreme, to extreme, to extreme. And that would be a very big tragedy.

"And I think, Mr. Speaker, we should all remember the bumper stickers we see on our car saying, 'This ain't the mainland.' Because that's what really just makes me sick to my stomach, this polarization. Accusations by special interest groups and others that are turning this into a microcosm of Washington DC. And I just hope that Members, I respect the comments that were raised here. I respect the concerns that were raised, and I share them too. There is much work to be done."

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

Representative McKelvey continued, stating:

"And I will conclude. Thank you Vice Chair. And so that's why I stand to speak on this measure, Mr. Speaker. Because I believe that this is a way to try to alleviate the concerns. But to get these critical things done without replying to the heavy hammer of the State of Emergency Proclamations. And I would just hate to see a tragedy turn around and become the whip, the driver for the initiative to get the public behind really undoing the environmental laws and Cultural Impact Statements. That would be a tragedy. Thank you."

Representative Keith-Agaran rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. In support. I do have some slight reservations that I'd like to express in written comments, but I do want to commend the Representative from Royal Kunia for the hard work that she put into this bill. Thank you."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I write to express my reservations on House Draft 3 of S.B. 755.

"With regard to Part II of the bill (Sections 2 and 3 of SB 755 HD3), I have no doubt that the closure of Kahului Airport would be a disaster for Maui County, its economy and for the general public. Consequently, I am willing, with reservations, to support a temporary exemption for airport structures and improvements from the special management area permit and shoreline setback variance requirements when the structures and improvements are necessary to comply with FAA regulations.

"Part III (Sections 4, 5 and 6 of SB 755 HD3) temporarily authorizes the Department of Land and Natural Resources and Department of Transportation, with the approval of the Governor, to exempt certain projects from the special management area permit and shoreline setback variance requirements. I assume that under the Federal Coastal Zone Management Act, the Office of Planning may still have jurisdiction—beyond the consultation mentioned in the bill – to insure that nearshore values will be considered, protected, and, when necessary, condition the project with the mitigation of impacts.

"My major concerns, as this bill moves to Conference, is Part IV (Sections 7 and 8 of SB755 HD3) which permanently exempts all work involving submerged lands used for State commercial harbor purposes from any permit and site plan review requirements for lands in the conservation district. This part does not sunset.

"Hawaii is an island state and has recognized the importance of our watershed and nearshore waters for maintaining both the aesthetic and recreational quality of life for our residents and visitors, and for the sustainability of all life in these islands. Hawaii has almost uniquely in our union imposed development restrictions on conservation district lands in order to conserve, protect, or preserve the important natural resources of the islands. As described in the Department of Land and Natural Resources (DLNR) website:

the Conservation District is divided into subzones, each with a limited number of permitted identified uses. Depending on the subzone and the project, you might need site plan approval from the DLNR, a departmental permit, or a board permit and an approved management plan. The Conservation District has five subzones: *protective*, *limited*, *resource*, *general* and *special*. Under Hawaii's law, the four subzones are arranged in a hierarchy of environmental sensitivity, ranging from the most environmentally sensitive (protective) to the least sensitive (general). Each subzone has a unique set of identified land uses. The subzones define a set of *identified land uses* which may be allowed by discretionary permit. These are outlined in Chapter 13-5 Subchapter 3 of the Hawai'i Administrative Rules. Chapter 13-5 Subchapter 4 of the Hawai'i Administrative Rules, lists the varying types of permits required for each land use. A project might require a site plan approval from the DLNR chair or their representative, a departmental permit approved by the chair, or a comprehensive review and permit from the DLNR board.

Unique circumstances might allow for a temporary variance or an emergency permit. Projects with the greatest impact might also require public hearings and/or an Environmental Assessment or Environmental Impact Statement.

"While Hawaii's commercial harbors were likely developed prior to the creation of Hawaii's unique State land use district "zoning", there remains value in a State review of expansion projects. Commercial harbors are identified as an allowed Public Use requiring a board permit in even the Protective Subzone. See HAR Section 13-5-22(b) (P-6 uses). I assume that Part IV does not apply to work requiring a permit for commercial harbors in the protective subzone.

"I believe Part IV applies to dredging submerged lands in the Restrictive Subzone since the administrative rules allow such a project beyond maintenance dredging of a harbor through a board permit. See HAR Section 13-5-24(c)(R-5 uses). While exempting maintenance dredging—which requires a site review presently—may have some merit, I am cautious about expansion of a harbor basin which may implicate Hawaii coastal and nearshore waters that would benefit from a thorough review through the conservation district use application process.

"Since I am concerned about the efficient and timely completion of work on the Kahului Airport runway, which may be supported through Part II, I will vote in favor of the present bill. The permanent exemption in Part IV raises graver concerns in my mind."

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

"Mr. Speaker, I rise in opposition."

Speaker Say: "Please proceed. I thought you were a businessman."

Representative Ward continued, stating:

"I'm aghast. Well in fact, that's what I'm going to talk about. It's the structure of the argument that I want to change. But first I want to identify with the remarks of the Representative from Kauai.

"It was gut-wrenching to hear about what his constituents are telling him about being on the bench. Are my kids going to get food? Is my life really going to continue in any normal way or fashion? Mr. Speaker, I cry. And I have cringed when I get the statistic in front of me, that 57% of Hawaii's families can't send their kids to school with lunch without a subsidy from the federal government. 57% of the people of our State. Something is amiss with the economy, Mr. Speaker, and some of that is symbolic of what is in this bill.

"The sector that we're trying to get back on its feet is not the government sector. And this bill is all about the government doing it. Put us back to work, government. 70 to 80% of all the jobs come out of the private sector, Mr. Speaker. This bill is exempting the government with the promise that we're going to live happily ever after. Government can't create wealth. CIPs can prime, but they are not the long-range solution to the problem that we have with the low-incomes that we have in our jobs, the low-paying jobs that we've got. And if people don't have the jobs, of course we have to give them something temporarily. But this bill says, the Government, by exempting itself for these State projects, is going to be the elixir. And I think that's the wrong way. It's an economic problem, Mr. Speaker. Not an environmental problem. And I think we've got to look at the structure of that. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of the bill. It seems that there has been kind of a lot of misinformation and misunderstanding regarding this draft, House Draft 3, that needs to be cleared up. For those of you who have DVR or I think it's still on Olelo's website, the Finance hearing on April 2nd was a great educational tool. So let's kind of go through some of the points or comments that have been made about the bill.

"Is SB 755 a blanket exemption? No. The House proposal narrowly, clearly states which projects are temporarily exempted and specifies the

type of exemption. Furthermore, exempted projects will still be subject to numerous federal regulations, including but not limited to the Clean Water Act, the Clean Air Act, the Endangered Species Act, the National Environmental Policy Act, all requirements, rules and regulations of the EPA, the Federal National Historic Preservation Act, and the Federal Marine Protection Research and Sanctuaries Act. Furthermore, other State or local regulatory requirements include Chapter 6E, 46, 174C, 342B, 342D, 342E, 342F, and a Cultural Impact Assessment as per 343. So there are a lot of other requirements, and I know the Members across the aisle like to streamline government.

"Second, will SB 755 degrade our State's environment and natural resources at the expense of much economic growth? No, I don't think so. The purpose of the bill is to temporarily remove specific regulatory restrictions in order to expedite certain State projects. Exemptions of this practical nature will not only jump-start projects and foster job growth, but also reduce redundancies in State and federal regulations.

"And also to the point of what the Representative from East Honolulu said that, these are government jobs. Yes. But people have to remember, private sector invests in large part because of government infrastructure. Would you have hotels if you didn't have an airport? Would you have certain stores or warehouses if you didn't have highways, roads and bridges? Probably not. In fact ... Well anyway, I'll try and keep it short.

"And for those of you who fear SB 755 will trigger an environmental exemption free-for-all, let's clarify the misrepresentations that have been made.

"First, every single project that would move forward on this bill will still be subject to a multitude of other environmental laws. Even if the exemptions in this bill are allowed to go through, there are a number of safeguards for the environment should these projects move forward.

"Second, public participation remains, notwithstanding the exemptions. There has been a lot of false information pontificated. I like that word. About how these exemptions take away the public's right to participate in these planning projects. Yet, if you understand the numerous environmental laws that these projects will continue to be subject to, public participation and therefore transparency is still in place. For example, NEPA, or the federal EIS process, solicitation of public input or agency input is required, if an EA or EIS is required.

"Finally, in no way are we degrading or eroding our environment by passing this bill, due to many, many, many other environmental laws that will continue to be in place, which these projects will be subject to. We are simply streamlining the environmental redundancies that exist in our laws.

"Mr. Speaker, this bill is not a matter of eroding environmental protections. Further scrutiny of the actual bill shows that this measure is able to preserve the status quo, the current level of environmental protections. This is a matter of eliminating repetitive and wasteful government review.

"Job creation is a desired side effect of streamlining our review process across all levels of government. By reducing bloated and redundant environmental review, we are stretching taxpayer dollars and spending them wisely, while preserving all levels of environmental review. These are the very same taxpayer dollars that are hard to come by, even during our recovery.

"This legislation is pro-environment because it consolidates the ranks of our infrastructure, our public welfare sectors, and our economic sectors to ensure the preservation of the public trust."

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

Representative Chong continued, stating:

"Thank you. Our constituents, via our State Constitution, have entrusted us to uphold the public trust of the environment, and we have faithfully preserved all of these environmental protections via SB 755.

"This is not a matter of repealing or weakening Chapter 343. This is an integration into existing mechanisms, both at a federal and State level of review. Anything else is a wanton mischaracterization. And that's why I support it.

"And if I could also add, Mr. Speaker. As I have stated in prior speeches, the streamlining is important not just to better use our tax dollars, not just to get more projects out and more construction workers back to work, but also for the simple fact that it clarifies, I think, what environmental approvals are for. I have seen many cases where people who don't want a project or a development nearby use the environmental permitting process in legal tiddlywinks to kill another project nearby. They know there's no environmental impact, but yet they use the process to kill the project. And it's ironic that we want to protect the environment, but we have no problem abusing the laws when it suits us. Thank you."

Representative C. Lee rose to speak in opposition to the measure, stating:

"Thank you, in opposition. It has been a long debate on this, and this certainly won't be the last of it. But I did want to highlight just a couple things and put my vote on the record. It is a fallacy to believe that this is purely a jobs versus environment bill, and that the two are mutually exclusive and cannot exist together. That we cannot have adequate protections and a streamlined system of processing and so forth that ensures the continuation of the values that we hold in our State Constitution that protects the environment itself. And at the same time, get things out in a timely matter to make sure that people can get to work, particularly in a down economy, and keep that money rolling through the economy.

"There has been, if you look at the history of it, and I have been through about a list of 180 public works projects. I wish I had it compiled and done today so I could insert it into the Journal. But the biggest holdup in time has not been by and large, in the environmental review process and jumping through those hoops. Rather it has been within the departments itself. For example, in the Department of Transportation or other departments where you have approvals that need to be processed by the departments. These things are supposed to happen within short windows, often 60 to 90 days, a few months, and they've languished for years in many, many cases. And this has been compounded on top of the fact that, and to the credit of the various Administrations that have come and gone, a repetitive review.

"At the change of an Administration you'll have a whole list of projects that are in the works, in the pipe, going. And all of a sudden it will be held up. Even our Governor now has said, he's held up on stuff purposely to review it. And that's fine, but again, that's not the fault of the environmental review process, nor anything within there.

"We have a whole lot of suggestions that have been made both from the construction industry, from our different government departments and agencies that administer these processes, and our functioning as the purveyors of the process itself. And many of these have come up for review, time and time again, year after year, and we've seen them over and over, and yet so very few of them we have actually taken and adopted into law. And many of those are simple things that eliminate redundancy, that provide adequate funding and adequate staffing to make these processes both viable and able to follow through in a timely manner. That is where the holdup really is, in the large scheme of things.

"Now we're in a time where there's a whole lot of economic slowdown. Obviously there are tons of people who are out of work. But to assume that this is going to be the kick-start, and the one-size-fits-all, be-all-end-all solution to that, I think is very short-sighted. Because in the end, what you've found again is that the other side of the equation, if not being stuck in departments and other regulatory processes, things get held up in the courts again, as the Majority Leader had pointed out. And that's a result of often, on average about 1 or 2 times out of 50, due to something legitimate that was either ignored in the review process, or was an oversight or something legitimate that actually benefits the community to have it sorted out.

"And we cannot lose sight of that, because for every 5 or 10 projects that go, that have no real legitimate impact, that go through that process, there's going to be one every now and then that does. And that's going to be the one that, of course, ends up in the news and has all kinds of other things attached to it that create extra work, extra time for developers, costs the State money, costs them money, and that's something that we can't ignore.

"And so I want to be very careful when I say that, we do need to review the way that things move through the process. We need to review our departments and make sure that they're doing their job adequately, but we cannot assume that this is going to be the be-all end-all, and for that reason I don't think that we should be necessarily taking the process apart just yet. There's a lot more that we can do without going to the extremes and the lengths that we are today."

Representative Ward rose to respond, stating:

"Thank you, Mr. Speaker. I just want an additional comment in creating the argument of what this is all about, and that's quoting the famous Hawaii Senator from East Honolulu, Senator Slom. He said, if this is all about the economy and jobs, why don't we just exempt all the private sector projects? This is only exempting the government projects. A lot of the building permits, a lot of the jobs, and a lot of the creation are in the private sector. Not the public sector. So why are we excluding them? If we really want to do a wild job creation blitz, the private sector has been excluded. I think it's a pertinent question. Thank you."

The Chair then stated:

"Representative Ward, your statement is well taken. I believe at the *Island Insights* with Representative Riviere, the Members of this House and I do not have the courage to expand it to the private sector. If you were so sincere about having that as what the Senator from the other Chamber had stated, you could have proposed a Floor Amendment, and maybe the Majority Caucus would have supported you on that particular Floor Amendment. But at this point, there is no courage among the Members of this House, and that's why we are having a very lively discussion on just State projects."

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

"In support, Mr. Speaker. There has been a lot of discussion, Mr. Speaker, and I'd like to just clarify some of the factually incorrect information that has been espoused on the Floor today. First of all, this is not a 5-year exemption. This bill allows for a 3-year period exemption with the exception of Part 5. And it does make clear that the Legislature's intent for the Governor's list is only to exempt those projects on the list for 3 years. If in fact the construction has begun before the sunset in 2015, then yes, those projects can be extended just to be finished, completed. But this is not a 5-year exemption as was stated on the Floor.

"Another Representative noted or alleged that federal laws do not cover Chapter 343. Members, Chapter 343 is the State's environmental protection law. And it was enacted in 1974. Interestingly, in 1979, after doing a legislative history, the House Judiciary Committee made substantive amendments to Chapter 343. Specifically they noted, Senate Bill 1591, House Draft 1, makes substantive amendments to reduce the duplication of effort which occurs at the State, county and federal levels of government, when the environmental review requirements of both the National Environmental Policy Act and Chapter 343 apply to the same project. Under the provisions of this bill, State and county agencies are required to cooperate to the fullest extent possible with federal agencies in order to expedite the review process.

"So interestingly, the Legislature, when making this amendment, recognized in 343-5F, that there was going to be in fact duplication, redundancy in these processes. And as a result, specifically stated that these redundancies should be eliminated. And unfortunately through the evolution of Chapter 343, as the Majority Leader noted, there has been certain abuses of 343. And all we're trying to do in this measure is make it clear that, again, that exists currently on the books right now. And interestingly at the Finance hearing on April the 2nd, the Director of the Office of Environmental Quality Control in fact admitted, and I quote,

'There is no reason to do two reviews of NEPA and HEPA,' end quote. So again, he himself acknowledged that, to the extent there will be an overlay, there should not be two sets of review that are done.

"There was also an allegation made regarding, that once federal funding is not involved, no federal environmental laws will kick in. That is absolutely incorrect. Mr. Speaker, again, depending on what kind of project you are talking about, whether you're touching the water, whether you're dredging, the fact is, you're going to have Army Corp of Engineers permits that kick in. Whether it's 401 for dredging. Whether it's 404 for water. Those all will kick in, regardless of whether federal funds are going to be used.

"In addition, I would draw to the Members' attention, for State permits, although it's on the website for the Office of Planning, there is a State permit guide. And it basically is very clear, that all State or federally funded projects will be subject to any of the requirements applicable, even if SMA and SSV are exempt. Also if Chapter 343 is exempt, all projects will be subject to these permits. And I would ask my colleagues to go online and look at the State permit guide, because again, it ensures that there will be that overlay, as well as those safeguards to ensure that our environment is going to be protected.

"You know, Mr. Speaker, there has been so much discussion about balance today, and so it behooves me to talk about some of the balance that has been discussed. I think at the end of the day, everybody in this Body cares about the environment. It's just the way in which we interpret things, and I think that's where we're at issue here. And so I don't believe that anyone here, I think we take great umbrage, those who supported this bill, to say that we are somehow are eroding our environmental laws. And there was talk about balance from certain Members, about the environment. And that's exactly what we are doing. We are ensuring that those environmental safeguards are in place. But now there's a different type of balance that needs to be discussed.

"Mr. Speaker, every year we as Representatives, we love to go home to our districts, and we love to talk about CIP. We love to talk about, 'Well, I brought home this money for our district. And this is what I brought home. And this is how much money I got for this school.' And interestingly, if the Members ..."

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

Representative Har continued, stating:

"Thank you. If the Members would note, there are so many projects that we have all gotten funding for. And people are always asking me, why does it take so long for government to get things done? Why does it take so long?

"I was looking at a list of projects that have been issued CIP. Kailua High School, natural science building, subject to Chapter 343. Baldwin High School, softball field, subject to Chapter 343. Campbell High School, eight-classroom building, Chapter 343. Number One Capitol District Building, courtyard revitalization and other improvements. It went through the whole process of an environmental assessment. And again, we keep saying that we want to brag about these CIPs, and we want to say that government is getting things done. And then when push comes to shove, why aren't things being done?

"The interesting thing here is, according to the *Comprehensive Annual Financial Report*, as of June 20, 2011, the State of Hawaii had \$1.4 billion in General Obligation Bonds authorized but unissued, and \$6.2 billion in Revenue Bonds authorized but unissued. The total authorized but unissued was \$7.6 billion. Additionally, Mr. Speaker, the Governor's supplemental budget proposes another \$300 million in General Obligation Bonds, and at least \$900 million in Revenue Bonds for highways, harbors and airports.

"So it's great that we're issuing all these bonds, but when is the work going to be done? And again, we can continue to talk about inefficient government, redundancies. And we can continue to talk about, oh, somehow we're degrading the environmental laws. But I think the fact here

is that we have made sure that every environmental safeguard has been protected. And all we're actually trying to do is reiterate what the 1979 Legislature said in Chapter 343-5F, which was to eliminate those redundancies, and make sure that again, the agencies are cooperating with the feds.

"And so Mr. Speaker, at this point, I really, truly believe that we have effectively refuted all of the misrepresentations and false information espoused by the opponents of this bill, and therefore opposition to this bill leads only to one of four conclusions. A) Opponents have not read the bill or simply have not read the Committee Report. B) Opponents do not understand the numerous environmental laws that are safeguards out there to ensure that our environment is still protected, and they do not understand that they're still in place. C) Opponents support redundant, duplicative processes and therefore inefficient government, thereby supporting increased costs of government projects for all of our constituents. Or D) All of the above. Mr. Speaker, I'll let you decide. Thank you."

Representative Pine rose and stated:

"I'm just rising for a point of information. I want to explain Campbell High School's classroom building. First of all, is going to be opening soon. The reason it had to go through Chapter 343 is because it is right next to a residential community and other environmental issues that would have been problematic should it not go through that process."

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

"Thank you, Mr. Speaker. In opposition. I would like to insert written comments. I know we have been talking about this issue for quite some time. But I want to just make clear to the Body here that the reason that we are fighting so ferociously over this issue is because we believe that the environmental laws will not apply in this circumstance. I think the previous speaker tried to categorize people, but the reality is, those laws have been on the books for almost 40 years. And the claim that somehow the federal laws are going to protect us when the State laws don't apply, doesn't make any sense.

"Many of our laws are actually, we've had federal delegation, so for example, the Clean Water Act laws are done through the State. Federal EPA is not going to come in on one project and take over. It simply doesn't make sense. These laws have been on the books for a very long time, and I think that streamlining and making the process combined is already happening. I think every agency but DOT already has a streamline process so that you're not doing duplicative work. You're just doing one plan. Thank you."

Representative Wooley's written remarks are as follows:

"As an advocate for increasing jobs, streamlining the permit process, and the protection of Hawaii's environmental and cultural resources, I cannot support a bill which threatens the very foundation of each one of these. If passed, this bill would apply to State construction projects at airports, harbors, schools, and other State-owned properties. Those projects currently require a Special Management Area permit because of their proximity to the ocean, but if SB 755 becomes law, SMA permits would no longer be required. This bill would also allow the Governor to choose State projects he feels would have little or no impact on the environment and would therefore be exempt from environmental assessments and impact studies.

"It is the Legislature's and Administration's priority to streamline construction projects by bypassing environmental assessments and impacts and thus forgoing the public's right to comment on the developments in their communities. SB 755 proposes economic recovery, but the consequences of inadequate planning, could have irreparable effects. For that reason, I rise in opposition of SB 755 because of concerns about the exemption of State projects at the cost of Hawaii's environmental review process. Good planning requires the integration of environmental, of cultural considerations into the plan."

Representative Riviere rose to respond, stating:

"Thank you, still in opposition. I guess we're setting the record straight. And I guess this really comes down to a matter of perception. We can all see the same thing and describe it differently. So I'm glad we have this opportunity to air this out here, and I really hope nobody's carried any hard feelings. This is just a matter of principle that we fight for, and then we cast the votes.

"I still, I mentioned earlier today that sunsets never seem to come. So the 5-year sunset, the 3-year sunset, whatever. Okay, call me skeptical. I just think that temporary things often get extended and then made permanent.

"Regarding the comment about the two reviews, and there was an attribution to a certain testifier in Finance. I do remember that interview and I do remember the conversation that yes, the federal EIS is somewhat different than the State EIS. Yet they are an overlay and they are to be done, and can be done, and should be done as essentially the same work. Where the reports are different, there has to be additional work. So there's a little bit of difference.

"The cultural assessments are a little bit more, as they say, robust, in the State version. So what I'm getting at is there's no reason to do two EISs. Where they overlap they can be done, and you make photocopies, that's not so hard. It's up to the agency to expedite and do the report. So when an EIS takes 5 years, whose fault is that? It's the agency who's not moving that along.

"GO Bonds. There's a lot of money waiting out there. I have mentioned in previous debate about something about SMA permits for the Kahului Airport. There's \$34 million of projects waiting to be done, and they have been waiting to be done since the SMAs were cleared in 2009. So I'm giving examples of inefficiencies in the system. The environmental process could be sped up. The procurement could be sped up. The actual implementation, the planning. I would argue that the planners are far behind. Maybe they're overloaded. There's too much work going on for them. But there's a whole cornucopia of elements that come into a project. So making the scapegoat those crazy and duplicative environmental laws, I think is so misguided. And I guess we'll cast the vote and see what happens. Thank you."

At 6:03 o'clock p.m., Representative Souki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:04 o'clock p.m.

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

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

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in support of Senate Bill No. 755, Senate Draft 2, House Draft 3.

"At the outset, I would like to incorporate the words of the Representative from Kapolei and the freshman Representative from Hanalei as if they were my own. From my perspective, the points they raised reflect the intent of your Committee on Finance in recommending the approval of this bill on Third Reading. Regarding the words of the Representative from Hanalei, his plain, but powerful statement of truth reveals his clear appreciation for his constituency and their needs and desires, and aspirations.

"I firmly agree with my colleagues across the aisle that we have a duty to protect and preserve our precious *aina* for future generations, but we have an equally important responsibility to promote the health, welfare, and economic prosperity of our citizenry. Where the difficulty presents itself is finding balance between these two very important obligations.

"As stated by the Representative from Hanalei, the Great Recession continues to threaten the livelihood of workers, their families, and entire communities. Hundreds of construction workers are still without jobs, despite the fact that just last year this Legislature approved \$2,858,762,000 in all means of financing for capital improvement projects for fiscal biennium 2011-2013.

"The Budget Act of 2011 was intended to get people back to work. Conference Committee Report No. 143, Regular Session 2011, states:

*"Your Committee on Conference also finds that the need to invest in local infrastructure to help stimulate direct and indirect job creation is highly critical at this time. Expedience in the creation and maintenance of local construction jobs, as well as jobs for architects, engineers, and other consultants associated with capital projects, will generate more disposable income, which will in turn circulate throughout our economy." [Emphasis added.]*

"House Bill No. 200, Conference Draft 1, the bill which became the Budget Act of 2011, was approved by your House of Representatives UNANIMOUSLY. Let me state that again, it was approved UNANIMOUSLY.

"As a matter of policy, both the Majority and Minority were united in emphasizing the need to expedite the creation of construction jobs through the State's capital improvement program.

"Yet, it is evident that even with our best intentions, the labyrinth of regulatory bureaucracy has hindered job creation in our State. Hundreds of millions dollars in appropriations approved sit on the books while our Departments are stymied by numerous duplicative and in certain instances, totally unnecessary reviews. Why must an environmental assessment have to be performed if we all know at the outset that a project will need the more intensive environmental impact statement?

"My colleagues on the other side of the aisle have tried to depict the supporters of this bill as being anti-environment. This mischaracterization is pejorative, inflammatory, and totally unfair. As one who calls Wahiawa and North Shore, Oahu home, I have always done my best to protect our rich agricultural lands, and preserve our clean ocean waters and sacred ancient sites -- specifically, Lake Wilson, the Galbraith Lands, and Kukaniloko.

"As noted in the Committee Report to this bill, and in the words of the good Representative from Kapolei, there are more than adequate safeguards within federal, State, and county laws to ensure that our environment is protected even when the projects authorized under this bill for fast-tracking proceed.

"What this bill represents is BALANCE – respecting our fragile environment while promoting the economic sustainability of our people. Mr. Speaker, this is a reasonable bill. This is a responsible bill. And with the support of my fellow colleagues, this bill will get our citizens back to work without damaging the *aina* we so dearly love.

"I urge my colleagues to support this bill."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 755, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 32 ayes to 19 noes, with Representatives Belatti, Brower, Ching, Fontaine, Giugni, Hanohano, Johanson, C. Lee, M. Lee, Luke, Marumoto, Nishimoto, Riviere, Saiki, Takai, Takumi, Thielen, Ward and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1684-12) recommending that S.B. No. 2742, SD 1, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2742, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE

HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1685-12) recommending that S.B. No. 3010, SD 2, as amended in HD 1, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3010, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

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

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition, to Senate Bill 3010, Senate Draft 2, House Draft 1, Relating to Transportation.

"The current draft of this bill attempts to exempt eleven Department of Transportation Projects—bridge projects—from historic preservation law and various environmental laws—a total of 20 different chapters or parts of the Hawaii Revised Statutes. We are told that the exemptions are necessary because the bridges are "Structurally Deficient".

"Time we are told, is of the essence! The implication is that these historic and environmental laws—such as chapter 343, Environmental Impact Statement law—get in the way. But during the House Committee on Finance, David Penn, Environmental Center, University of Hawaii challenged the need for this type of measure. It was indicated that HRS chapter, 343, Environmental Impact Statement law, was not the problem, and that when Chapter 343 is run properly, it can make a program run more efficiently.

"Sierra Club has testified: This bill is a terrible idea, and bad policy. They [Sierra Club] stated, "If government cannot follow basic regulations to protect health and safety, why should a private developer? Ultimately this creates a slippery slope to the significant detriment of our communities and Hawaii's fragile environment." And they are right. It is easy for any construction agency or any developer to claim that environmental laws get in the way. Part of being a savvy developer or an efficiently run agency means planning ahead to avoid conflicts with environmental laws.

"Further, Historic Hawaii Foundation believes that the bill exemptions are "unnecessary and could put significant historic properties at risk." Even further, HHF states that "Exemption from this [the historic preservation process] would mean that the historic and cultural significance of the bridges and their settings may not be fully considered during planning, design or construction."

"Are we willing to forego that heritage just because DOT has a problem in coordinating its resources and complying with the law? I hope the answer is no.

"I am aware of DOT's desire to see these projects proceed, but there must be a better way to facilitate the repairs of these bridges. If DOT needs to proceed, there is the possibility of exemptions under existing law. I appreciate the opportunity to express my concerns and to voice my opposition to this measure. Thank you, Mr. Speaker."

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

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

"In support, Mr. Speaker. On this list there are three bridges that will affect my community. Two of them we have been working on for over 10

years now. Talk about community participation. Yes, as a resident of my community, I have participated on that dialogue. Three weeks ago we had the opportunity of getting the second to the last permit, and we would be able to start in September. And a body across the street decided to hold off decision making on that. Therefore delaying my project another 18 months.

"How important are those bridges? Well, to 3,000 people, if one of those collapse, it'd be very important because they couldn't go home. That's why this measure is so important. These are shovel-ready projects. And I think we should have everybody support these projects too. As my fellow Representative from Kauai had pointed out earlier, get our guys back to work. Get these projects moving. My project has \$15 million in federal funds. I don't know where we're going to be in the next few years with that. So, in support. Thank you very much."

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

"I rise in support. Mr. Speaker, I want some written comments included in the Journal. Mainly this bill is about safety, and as I've said before, if I have to err, it will be on the side of safety. Thank you."

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in strong support of Senate Bill 3010 – Relating to Transportation.

"I rise in support of this measure to expedite the rehabilitation and replacement of certain State-owned bridges with temporary exemptions. One such bridge is the Franklin D. Roosevelt Bridge over Kipapa Gulch on Kamehameha Highway. Built in 1933, this bridge has been the site of many fatal accidents and other injuries. The old bridge has a distinct curve with two narrow lanes and no distinct shoulder. Recently it has been declared to be at risk for supporting heavy weights, and signs placed limit the weight of certain vehicles. An exemption had to be made for buses.

"Since 1933, the population of Central Oahu has mushroomed and this bridge carries lots of traffic, providing the second access to Mililani Town. I urge the Members' support."

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

"Mr. Speaker, I am also standing in support. A brief comment. Mr. Speaker, many of these bridges are major arteries throughout our communities. One of them that was added was the Franklin D. Roosevelt, the Kipapa Bridge. At times when the H-2 may be closed, that is the only artery from the North Shore to town. And so Mr. Speaker, as we move forward looking at these bridges, please know that these bridges connect communities, and connect families. Thank you, Mr. Speaker."

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

Representative Riviere's written remarks are as follows:

"I oppose blanket exemptions of environmental protections. This bill exempts virtually every State environmental regulation for certain bridges for a certain period of time. We do not have to look any farther back than 2011 to see the mistakes that were made in highway construction by exempting proper disclosure and public input. Last year, DOT rushed through a shoreline hardening project on Honoapiilani Highway near Ukumehame, based on a Governor's exemption. Sadly, the road was not relocated inland as had been planned, beach access is no longer possible because there is nowhere to park and the hardened shoreline has increased beach erosion nearby. It would have been wiser to take a little more time and build the project correctly."

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

Representative Pine's written remarks are as follows:

"I stand in support of SB 3010, which will speed up the construction of eleven bridges that are currently in the design phase, thereby preventing potential hazards to the public that are posed by the presence of deficient bridges by reducing State and county requirements. This should help to mitigate delays like those affecting the Makaha bridge. Taxpayers should not have to endure these kinds of delays.

"The Department of Transportation intends to comply with all State requirements during the construction of these bridges; this bill will simply eliminate regulations that require time consuming environmental processes that can take up to fifteen years. If this bill passes, the DOT will be able to have construction underway within five years. This temporary measure is needed to ensure the safety and wellbeing of our community by eliminating some of the red tape that is preventing the Department of Transportation from advancing the quality of infrastructure available."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3010, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 38 ayes to 13 noes, with Representatives Ching, Fontaine, Giugni, Hanohano, C. Lee, Luke, Marumoto, Riviere, Saiki, Takumi, Thielen, Ward and Wooley voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1686-12) recommending that S.B. No. 1276, SD 2, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1276, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 51 ayes.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1689-12) recommending that S.B. No. 2394, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2394, SD 1, HD 3, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In opposition with brief comments. I just want to preface very quickly that I have every intention of supporting the section that has to do with lending practices for military members. I don't think anybody wants deceptive and unfair practices there, and we need to protect them as consumers. My main point of opposition is the second part of the bill which has to do with the buying up of distressed residential properties. I've supported many of our measures aimed at curbing this, but I just worry that this overall poses significant systemic risk to the State in buying up some of these distressed properties and ultimately to our constituents. Thank you."

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

"Mr. Speaker, I rise in opposition with also brief comments. Mr. Speaker, as a Vietnam Veteran, I'm very proud to associate, support and really push for the first part which is basically giving counseling for military personnel regarding difficulties with their mortgage. How to budget and how to actually make abusive lending practices not part of their lifestyle, or at least defending them from it.

"However, the second section is, you know they say if it looks like a duck, walks like a duck, smells like a duck, sounds like a duck, it's probably a duck. And this is toxic mortgages. And so it brings up the old State Bank and buying toxic mortgages. Mr. Speaker, if we get into buying and selling of houses, we have no experience. We have no money to do this. This is high-risk. But you put it right next door to the military families, so you make it a sweet-sour kind of a combination and it leaves a bad feeling. So I'm going to love one section, hate the other, and because of that I'm going to have to go down on it, because it looks too much like a State Bank."



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

"In opposition with the words of the Representative from Moanalua, as well as the Minority Leader incorporated as my own. In support of the first section, but having concerns with the second section. So additional written comments too, please."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. At this time, I rise in opposition to this bill. Mr. Speaker, please allow me to preface by saying the original draft of this bill was most likely constructed with good intent, however; with the recent amendments to this bill, I can no longer support it. This bill establishes a special fund where the Legislature and private contributions are able to purchase loans (or parts thereof) of distressed residential properties – or those facing foreclosure. This measure encourages the use of public monies to benefit these distressed consumers and lenders.

"While I supported the original draft of this bill, my concerns are based on the following testimony provided by the Hawaii Housing Finance and Development Corporation, as they are the primary organization to fully implement this bill. They said, "Any property subject to legislative approval of sale or gift of land in accordance with section 171-64.7, HRS, is not eligible to participate in the program. This provision makes the program unworkable. Under the terms of the program, HHFDC would acquire the fee simple title to the property and re-sell it to the homeowner. However, except for lands "subject to resale restrictions set forth in section 201 H-47 and that were acquired by the Hawaii housing finance and development corporation either at a foreclosure sale of under a buyback as authorized in section 201 H-57", lands to which the HHFDC in its corporate capacity holds title is subject to section 171-64.7."

"Hawaii Bankers Association also expressed their reservations by saying that this bill doesn't make sense. "This distressed residential properties program is a wholesale bailout of lenders who made bad loans. It creates a State of Hawaii portfolio of toxic mortgages. The State will be basically becoming the mortgagor."

"The Hawaii Association of Realtors testified, "We are concerned about the impact this measure will have on Hawaii's bond rating. Specifically, the provision that the Hawaii Housing Finance and Development Corporation (HHFDC) issue ... revenue bonds, which is exempt from the debt ceiling and taxes, may impact Hawaii's bond rating and needs to be carefully considered."

"Mr. Speaker, while I support the idea of protecting our residents (both military and civilian) from bad lending practices, the second portion of this bill creates an additional burden to the taxpayers, and I believe the State of Hawaii cannot afford this bill. Thank you."

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

"Thank you, Mr. Speaker, I rise with very strong reservations, and again the same concerns. I love the first part, but the second part I totally disagree with. I was going to make a Floor speech, but I will instead, because of time, I will submit it as written comments." [Note: Representative Fontaine later changed his vote to a no vote.]

Representative Fontaine's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition on Senate Bill 2394 Senate Draft 1, House Draft 3, Relating to Consumer Protection.

"Prior to House Draft 2 and House Draft 3, the bill was a very positive bill. It was simply a mechanism to incorporate federal law into Hawaii, to help protect military service members and their families from abusive lending practices.

"However, the House Consumer Protection & Commerce, added another part to the Bill. While maintaining the positive aspect of the original bill, the HD2 and the subsequent HD3 added a new part to establish a distressed residential properties program.

"This program sees the creation of a new special fund within Hawaii Housing Finance & Development Corporation (HHFDC).

"The fund may be used to purchase, in whole or in part, existing loans, of distressed residential properties.

"Bill states that sales of property under the Program do not require legislative approval.

"I am concerned that that the sources of funding appear limitless—not that there is unlimited money out there, but that the bill's proponents are willing to look just about anywhere for money to fund this program.

"The bill states that funds may consist of:

- Appropriations made by the legislature.
- Private contributions.
- Repayment of loans and interest.
- Other returns and money from other sources.

"Further, the bill authorizes HHFDC to issue up to \$10 million in revenue bonds for this program.

"It also appropriates an unspecified amount of general funds and general obligation bonds.

"I am concerned about the fiscal implications for the State. We would be buying toxic mortgages with taxpayer money. This is simply unfair to taxpayers.

"Further, the Hawaii Association of Realtors stated: We are concerned about the impact this measure will have on Hawaii's bond rating.

"Further, the bill states if the mortgage lender declines to contract for purchase of the existing loan, then HHFDC may acquire the existing loan by condemnation. This appears to be an abuse of eminent domain powers, as there is a questionable "public use".

"I cannot in good conscience give my full support to this bill. It places too much at risk. In the name of compassion, it ironically puts our State and its residents in a financially disadvantageous position and grows the size of government.

"Ultimately, this is not compassionate. For these reasons, I vote no on this measure. Thank you, Mr. Speaker."

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

"Similar comments, Mr. Speaker. The first part is wonderful. The other is not. In opposition."

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

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

"In very strong support. Most of the mortgages entered into in the last 10 or 15 years are no longer held by the originating bank. Those mortgages have been sold and resold multiple times, often into securitized trusts. These transactions occurred with such great speed, carelessness, and in many cases outright fraud and illegality, the final order of the mortgage debt may be, if challenged, have trouble proving it. It has the legal authority to collect on the loan and foreclose on the property. In order to gain the most profit, the banks look at many factors, including the strength of their legal standing, the rate of the borrower default in this troubled economy, and the cost of foreclosure. Many of these banks have decided to cut their losses, and they sell their loans to hedge funds for 30 to 60 cents on the dollar.

"The mortgage purchase program and Senate Bill 2394, HD 3, would capitalize on this secondary market for the benefit of Hawaii's homeowners. And it is targeted to assist homeowners facing hardship,

whose mortgages are held by banks who have trouble showing they have legal standing to foreclose. Eligible homeowners would have to be living in their homes as a primary residence, and have received a default notice from their bank, or denied a loan modification under a federally-sponsored program. A Hawaii State agency would evaluate homeowners applications which detail their financial condition and ability to pay a modified mortgage loan deemed reasonable by the State.

"If the homeowner cannot demonstrate the ability to pay the State, the homeowner's application will be denied. If accepted for further evaluation, the State would give the bank 30 days to provide documentation and an explanation showing it has legally acquired ownership of the loan. The bank's response would be publicly recorded. The information provided by the bank would enable the State agency to assess the value of that loan. In addition to discounts, it may negotiate based on the bank's paperwork. The State's offer would allow it to offer a modified loan through principal or interest reduction, payment restructuring, etc., to the homeowner.

"If the bank refuses to sell its loan to the State, it may assert eminent domain power to acquire the loan. Just compensation would reflect the quality of the bank's documentation, showing that it actually owns the loan. The homeowner would undergo housing counseling, and be guaranteed residence in the property as long as all the requirements of the new loan are satisfied. In exchange for the modified loan, the homeowner must agree to transfer title to the house over to the State, along with a limited power of attorney on matters with the bank regarding the loan.

"Once the obligation with the State is satisfied, the homeowner would regain title to the home, and the power of attorney would expire. The homeowner would be prohibited from selling the home for a period of time, and after the loan is satisfied, and upon resale must contribute a share of the appreciation back to the State agency to enable it to assist other homeowners in similar circumstances.

"If the homeowner defaulted on his or her new loan with the State, the State would not have to go through foreclosure proceedings because it already holds title to the property. Thereafter, it can land-bank, revitalize, rent out, or sell the property. This is especially favorable to the State when they are able to obtain the house for a fraction of the homeowner's prior mortgage loan balance.

"This program is designed to protect the health, welfare and safety of Hawaii's citizens by ensuring clear title to residential property, reducing the hardship on families and communities resulting from wrongful or avoidable foreclosures, safeguarding the courts and recording systems from illegal, improper or fraudulent filings, stabilizing the housing market, reducing blight and deteriorating property values, and preserving the existing stock of residential housing.

"Mr. Speaker, this is truly a win-win for Hawaii's homeowners and the State, and you can be assured that this Representative is clearly on the side of the homeowners, and not the offshore banks."

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

"Thank you, Mr. Speaker. I have reservations on this measure. I'm in support on Part 1 of the bill. My reservation is not about purchasing distressed properties. But my reservation is the use of funding from the HHFDC. HHFDC has a very clear mission, Mr. Speaker. That is to build or renovate affordable housing. And it has very limited funds, Mr. Speaker. Affordable housing is something that our State needs. And this measure will bring down the allocation for HHFDC.

"Furthermore, in the use of this funding, it doesn't say if there is a price limit for the residence that will be purchased, or the income requirement. So at least, if you are going to use HHFDC money, let's put some income requirement and some ceiling on the house that it will purchase. Otherwise, we are taking funding from those people who critically need housing. And for those reasons, Mr. Speaker, I ask my colleagues here to think about the people that need affordable housing. Thank you."

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

"Mr. Speaker, I'm in opposition to this particular measure. The program as outlined by the Chairman of Consumer Protection, it sounds like he has great compassion for families who hold distressed mortgages and who are in financial trouble. But I'm concerned about the financial viability of the State, and if these people are not able to make the payments on their modified mortgages, and then the State has to condemn their property and take it over as a landowner, I don't know how long that the State would allow their tenants, or the former owners to stay on the property. If they cannot qualify for a loan, or if they cannot repay a loan that they've made, at what point does the State sell the house from under them, or allow them to stay without paying?"

"There are so many questions to this issue that I just think it is an unwise investment for the State of Hawaii, for the taxpayers to make. I prefer the federal program which will help bring down the principal of the loan, and will allow the banks to work out a modified agreement. In this way, the homeowner retains title to the home, and perhaps can work out a program. And then the State money, our money, is not at risk. So I ask the Conferees to please consider all aspects of this thorny problem. Thank you."

Representative Fontaine rose and stated:

"Mr. Speaker, I'm going to rise and change my vote to a no vote on this. I wasn't going to speak, but after hearing the Chair from CPC speak, I felt I was compelled to make a few comments.

"The concern I have is that the sources of funding appear limitless. Not that there is any unlimited money out there, but the bill's proponents are willing to look just about anywhere for money to fund this program. And a new special fund in HHFDC. The bill states that funds may consist of appropriations made by the Legislature, private contribution, repayment of loans and interest, other returns and money from other sources.

"Further, the bill authorizes HHFDC to issue up to \$10 million in revenue bonds for this program. It also appropriates an unspecified amount of general funds and General Obligation Bonds. I'm concerned about the fiscal implications for the State. We would be buying toxic mortgages with taxpayer money. This is simply unfair to taxpayers. During the testimony from the Hawaii Association of Realtors, they stated that they were concerned about the impact that this measure will have on Hawaii's bond rating.

"Further, the bill states that if the mortgage lender declines to contract for the purchase of the existing loan, then HHFDC may acquire the existing loan by condemnation. This appears to be an abuse of eminent domain powers, and there is also questionable public use. I cannot in good conscience give my full support to this bill. It places too much at risk in the name of compassion, and it ironically puts our State and its residents in a financially disadvantaged position and grows the size of government. So I will change my vote to no. Thank you Mr. Speaker."

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

"Mr. Speaker, I rise in support. A couple of things. First, may the record reflect the words of the Chair of Consumer Protection as my own? I just want to make some clarifying points here. I think just yesterday the Hawaii Housing Finance and Development Corporation, HHFDC, announced a new Down Payment Assistance Mortgage Program for first-time homebuyers. This is a State program, Mr. Speaker. They've been around for about, I think 25 years or so. I think created during maybe the Waihee Administration. But HHFDC assists local folks in becoming homeowners.

"Through this new program they announced yesterday, they have \$43 million in Hula Mae funds that are available to help folks put up a down payment and enter into a 30-year mortgage at a very low rate. Actually, they're competing against some of the larger offshore banks.

"Servicing these programs would be some of the local banks here, including American Savings Bank, Bank of Hawaii, Castle & Cooke Mortgage LLC, Central Pacific Bank, First Hawaiian Bank, and Honolulu

Home Loans, Incorporated. So the Hawaii Housing Finance and Development Corporation is certainly in the program of providing housing, affordable housing, for local Hawaii residents. In fact, according to their press release, the Hawaii Housing Finance and Development Corp currently has a production plan in place to facilitate delivery and preservation of more than 5000 workforce and affordable housing units over the next 5 years.

"Since 2006, the Hawaii Housing Finance and Development Corp, HHFDC, has delivered 3890 workforce, affordable housing units in Hawaii.

"Third thing I need to point out is that, as the Chair of the Consumer Protection Committee illiterated in his remarks, this program is a revolving fund. It's not a bank, Mr. Speaker. I'll give you an example of how it can be funded, either through General Obligation Bonds or Revenue Bonds. Or even if I were to get one half of one percent of the money that we now ship out of state to Bank of America, or Morgan Stanley, one half of one percent of the amount of money that goes out of state to the foreign national banks, that would be more than enough to capitalize this program and save several hundred homes at a discounted rate in a bulk purchase pool, based upon current values.

"I think maybe what he failed to mention, and I'll mention right now, is that there's this current 9th Circuit Court of Appeals decision that's binding upon the State of Hawaii, that imposes upon all foreclosure proceedings under Hawaii, a strict liability standard, under the Unfair and Deceptive Trade Practices Act, HRS 480-2. That means they need to comply strictly with every step and condition of their contract. And failure to do such in the proceeding of foreclosure will nullify and void the foreclosure proceedings. That means for some of these banks that hold these notes right now with this questionable title because of the MURs or mix-up, they may have a hard time selling and getting true title on their properties.

"So I think some of these properties are over-valued. And it may be of interest to them to finally get some clarification for the investors and their holdings on these questionable titles.

"So I see this proposal right now before us, Mr. Speaker, as a win-win proposition that could serve both the needs of the local banks, the homeowners in trouble, as well as the rest of the industry here. And for these reasons I ask for the Members' support. Thank you."

Representative Ward rose to respond, stating:

"Second time in opposition. Clearly we need to increase our housing supply. We need to increase our housing ownership, Mr. Speaker. If you look at the numbers, 55% ownership in Hawaii, and 70% on the mainland. 45% of people Hawaii are renters. 55% own their house. Even the mainland is not high at 70%. As you know, when we went to Taiwan, we were told specifically, 90% of the Chinese in Taiwan own a house. So we obviously need to help housing. We need to help it. Now is this the method, is the question. Is this the way that we take it and run with it?"

"And if we use eminent domain, Mr. Speaker, that scares me. Eminent domain is the ultimate claw of the government reaching into the private sector, grabbing something, supposedly for the public good. Can you imagine eminent domain going in and around all the communities of the State of Hawaii? That's going to scare the daylights out of the private sector. Government can come in and take the house.

"And lastly, for this cheap 30 cents on the dollar. We hear car lot sales. 'Come to our lot. You can get a car for \$800.' Well there are maybe two of them, and the rest of them that are market. So this sense about buying houses for 30 cents on the dollar, 35 cents on the dollar. That is, I think a bit of a bait and switch, and I think we shouldn't get sucked into. This is taxpayers' money that we represent. This is a very risky proposition. This is the time when the feds and all the other agencies are moving to do this. I think we should take a breath. Stand back. Stay out of it. And let it resolve itself. Thank you."

Representative C. Lee rose to speak in support of the measure with reservations, stating:

"Thank you. I just wanted to note just a few, slight reservations."

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

"Mr. Speaker, I'm standing in support with brief comments. Mr. Speaker, I'm going to be referring to an article in the *New York Times* which was posted today, April 10, regarding new stances on forgiving mortgages. Mr. Speaker, the acting Director of the Federal Housing Finance Agency, Edward J. DeMarco, just stated that in some circumstances, it might make economic sense for the government-run companies to reduce borrowers' mortgages, taking a hit to modify the loan, but also making it less likely that homeowners will default. Mr. Speaker, this federal director also stated that economists have suggested that principal reductions, if granted judiciously to underwater homeowners, would help the economy.

"In a February whitepaper, the Federal Reserve supported principal reductions from the government-sponsored enterprises as one option for helping the housing market. Mr. Speaker, our federal representatives have noted the fact that it may, and should be looked at cautiously, moving forward regarding government-supported options.

"Mr. Speaker, in the *New York Times*, on February 15, 2012, it was reported in an audit of 400 recent foreclosures completed in the San Francisco County area showed that 84%, Mr. Speaker, 84% of the files contained what appeared to be clear violations of the law. Mr. Speaker, there has been an ongoing issue regarding mortgage foreclosure and settlement.

"This innovative program is designed to keep local people in their home, Mr. Speaker. There have been ongoing issues regarding how to fund the principal. We've looked at very creative ways to do that, trying to limit the liability of the State. However, Mr. Speaker, how do you put a price tag on a person's home? Mr. Speaker, how do you look into a family's face and say that you didn't try to keep them, their family, their children in the home that they hold so dear? Mr. Speaker, I ask the Members to continue this discussion as we try to work on these issues preventing these hardships to our families, to our communities. Thank you, Mr. Speaker."

Representative Pine rose to respond, stating:

"Mr. Speaker, I just wanted to explain my reservations. Like most people, I strongly supported the original intent of the bill, and that was to help military families. A couple of concerns. My family is very involved in the construction industry, and so is my community. \$10 million can go a very long way in repairing our vacant properties that the State does own that needs repair in our public housing. But this is only going to, and really in our market. \$10 million is only going to help maybe 20 homes. But \$10 million to repair existing vacant public housing units could help hundreds of them, if we do what they're trying to do right now, which include volunteers and public-private partnerships.

"So who are we really helping and how many people are we really helping? And that's my reservation. We're not really maximizing our thought process here. And we're not thinking smart. In this economy, we need to think how can we make this taxpayer dollar stretch as far as we can. And so that's really my reservation, is that I really don't think this is a solution. It's kind of scary. When you talk about taking over people's properties. I don't even know if that's a good thing for us to get involved in. Because who gets to determine when we possess your home, like how a bank does. We're going to start doing that?"

"So I really hope that by the end of this Session that this bill will be restored to its original glory, where we can all agree that we believe that we should do everything we can to actually go after those institutions that are trying to hurt our military families."

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

"In opposition. The first part is great. It's fine. The bill is fine. The second part got hooked on a great idea. Well, the road to hell is paved with good intentions. But there are a couple of important facts. Facts are

immovable. You can't change them. We can't pass a law that would make the sun rise in the West so that the people in Lanikai can have sunsets. That's not going to happen. You can't pass a law to cause things that are not possible. The Attorney General, in the Finance Committee, testified that this bill calls on HHFDC to issue the full faith and credit of the State of Hawaii in condemning these mortgages. And he noted that they have no such authority to be putting the full faith and credit of the State of Hawaii out in this program. So that's question number one. Fact.

"Within a couple of days of the hearing, everybody on the Finance Committee got this letter. It says, in response to some questions from the hearing, number one, can the State use Section 101-71 of HRS to condemn mortgage loans from lenders who decline to have their contract bought out? Answer, no.

"Question two. Have any other states enacted similar measures? And is there any federal or state case law addressing this issue? No. Question number three.

"Now folks, we have a lot of great ideas. This is the marketplace of ideas, as has been said so many times. But you have got to be in reality. Last year we created a mortgage foreclosure mediation process. We applied two million bucks. We created a new agency. We got 26 mediators standing by. Zero people have entered this. You have to deal in reality, folks.

"So lastly, there was questioning at the hearing. What happens to the shortage? If the mortgage value, if the loan balance is \$400,000, and we magically, with an authority that doesn't exist, seize that mortgage at \$300,000, the question then is, what happens to the other \$100,000? Well the lender is entitled by federal tax law to issue a 1099 statement to the recipient of this gift that then becomes taxable income. So the question, which was really well asked, was well who's going to pay the income tax on that forgiveness? On the project that we can't do because it's not legally and physically possible.

"So folks, this Part 2, as much as everybody's heart is there for the homeowners, is impossible. So please, restore it to helping the military folks who need the help. 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. 2394, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Ching, Fontaine, Johanson, Marumoto, Riviere, Thielen and Ward voting no.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1690-12) recommending that S.B. No. 2115, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2115, SD 2, HD 2, pass Third Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. With reservations, please. And it's the reservations I had on an earlier bill. I believe, perhaps the Representative from Pearl City is the same way. It's being exempted from the Code of Ethics. Thanks."

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

"I rise in support with reservations. I think people need to take a look at this bill. This bill basically codifies into law new language for Charter Schools. And I don't want to get into the details of all of this, but one of the concerns that I had, and I mentioned it earlier on a wrong bill, is the exemption from State law, mainly the exemption of the Charter Schools to Chapter 84, which is the Ethics Code.

"We've heard recently, numerous instances of Charter Schools going rogue. And some of their leaders and staff kind of stepping over the line, so to speak. And I think that having this language in here sends a very bad signal to people out there very much concerned about how our Charter Schools are doing. There's a lot of exemption language in here. Page 51, exemption from additional State laws including 103D, and Chapters 91 and 92. And I do know that there's some exemptions already provided to Charter Schools.

"But the biggest concern that I have in regards to this bill is, we first did Charter Schools maybe about 10 years ago. And the Representative from Kaneohe was the Chairman, and I was his Vice Chair. We looked at Charter Schools and reluctantly supported it with significant provisions in terms of caps. HRS Chapter 302B-4 continued to provide for caps, and there are no caps in this current bill in front of us.

"So I do know that this is a work in progress, I got assurances from the Vice Chair of Education that it still is. But I must note that there's a lot of people that have been working on this particular bill, and it just surprises me that in the last Committee, namely the Committee on Finance, those members that participated in this task force still have significant concerns as it relates to this current draft.

"So I don't know what we're going to do, Mr. Speaker, but I think that it needs a lot of work. I'm hoping that in the Conference Committee process, we'll be able to resolve that work. But I will reserve my final vote for Final Reading. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker, in strong support. First I would like to thank both the Chair of Education and yourself, Mr. Speaker, for giving me the opportunity to work on this, and to help shepherd this through. The work on this bill began a long 7 months ago with the convening of a task force that involved lots and lots of stakeholders. What I want to point out is that the measures of accountability that are codified in this law, which is actually a re-codification of the Charter School law, is very robust. The critical piece is the reorganization of the current Charter School Panel into a Commission with statewide chartering jurisdiction authority and oversight of Public Charter Schools.

"An important part of this monitoring and oversight is going to be the annual reports by the authorizer for each of the Public Charter Schools which is not in the current bill. In addition to the annual reports, there is a 5 year renewal process of all charter contracts. And finally a third critical piece of the overall re-codification is the clarification of charter contracts and the spelling out of what is going to be the performance framework within each of the charter contracts.

"So Mr. Speaker, there's a lot of work that's been done. There is a lot more work to do. One regret I have, and I do want to take note of the Representative of Newtown's concerns, about the ethics exemptions, is that, unfortunately, during the task force hearings, the Ethics Commission as represented by the Executive Director, actually removed himself from participation in our task force. We would have loved his participation in this. The exemption language that was put in for the Ethics Code at pages 58 and 59. If you look at that, it mirrors in fact the way that the exemptions to the procurement law, which are currently in statute for Charter Schools. So this is a work in progress. There is a commitment that we're going to clean up exemption language for the ethics.

"And one last point I would say, Mr. Speaker, is that the intention of the amendment for the ethics exemptions was not to actually exempt them from any ethics requirements. The bill in fact does say that they should have ethics policies and procedures in place, but that they would just not be subject to the Chapter 84 ethics requirements. So Mr. Speaker, thank you again for the opportunity to be able to work on this, to be able to take this to Conference, because I think that this will be a bill that can be something that we can all be proud of at the end of the day. Thank you."

Representative Keith-Agaran rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, just note my reservations in support. And I will be watching this bill as it goes through Conference. So based on the representations from the good Representative from Tantalus, I'll vote with reservations."

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

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

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

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

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

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

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

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, first of all I really do want to acknowledge the recommendations of the Charter School Governance Accountability and Authority Task Force. I know they did a lot of good work and there are a lot of good provisions in this bill. But I need to be clear on why I am rising in opposition.

"There is a poison pill in this bill. And it has been acknowledged by the Vice Chair of Education and many others including the speaker from Pearl City. But the fact of the matter is this. Let's read the language. Charter Schools and their employees, the Commission and its employees, and the authorizers and their employees, shall be exempt from Chapter 84, provided that they shall develop internal policies and procedures for gifts, confidential information, fair treatment, conflicts of interest, and contracts consistent with the goals for the State Ethics Code pursuant to Chapter 84.

"Mr. Speaker, as many of us recall last summer, there was a whole series of articles done in the *Star Advertiser* regarding abuses in our Charter School System, which led to a performance audit by our State Auditor. There were some really disturbing provisions in this audit. I'll quote some of the provisions by our State Auditor.

In our review of our charter schools financial information, we found the same cascading delegation of responsibilities. In many cases, charter schools are free to spend public funds with little or no oversight. As a result, we found school spending and employment practices that were unethical and illegal, ranging from the seemingly frivolous, excursions to a water park, an ice skating rink and a school financed prom, to the possibly fraudulent, administrators doubling and tripling each other's salaries. Unless the Charter School Review Panel and the Charter School Administrative Office takes central and active roles in a robust monitoring and reporting system, school spending will continue unrestrained, and a clear picture of the financial viability of an individual school and the charter school system itself will remain elusive.

"The report goes on to say:

According to the State Constitution, public officers and employees must exhibit the highest standards of ethical conduct. They are subject to the State Code of Ethics and should not use or attempt to use their official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment for themselves or others. Public charter school employees and local school board members are also subject to the code's conflict of interest provision, which prohibits them from taking an official action if the action affects their financial

interests. Also they cannot take action affecting an undertaking in which they, in a private capacity, represent a person or business.

"So one of the recommendations that was made by the State Auditor was to establish and implement stronger and more effective controls to reduce improper and abusive purchases and to ensure operational efficiency by incorporating the requirements of ethical public procurement and the State Ethics Code conflict of interest provisions in compliance with Chapter 84, HRS, to ensure the employees conduct and participate in public procurement in an ethical manner.

"Mr. Speaker, the provisions in this poison pill fly in the face of that direct recommendation from the State Auditor. Moreover Mr. Speaker, I direct the Members to the testimony of the Attorney General. The Attorney General states:

This bill exempts charter schools and their governing boards from Chapter 84, the State Ethics Code. These exemptions appear contrary to the mandate in Article XIV of the State Constitution, which requires the Legislature to adopt a code of ethics that applies to the employees of the State and members of State boards. Article XIV states, 'the people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct, and that these standards come from personal integrity in each individual in government.'

"Mr. Speaker, I also note the testimony of the League of Women Voters, who also express reservations regarding this particular exemption. I look at Common Cause's testimony that, again, mirrored the same concerns as the AG's Office and the League of Women Voters.

"Mr. Speaker, for those of us who are about good government, there is absolutely no reason to have this poison pill. It flies in the face of every testifier who is about good government, and it should not be in the bill. I do realize it's a work in progress, but this poison pill has forced me to vote in opposition. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support with reservations. You know, Mr. Speaker, the previous speaker is implying and inferring that somehow the poison pill was put in there intentionally, deliberately, and just the very phrase, 'poison pill' insinuates that there's something sinister and conspiracy minded about this section of the bill. I can assure you, Mr. Speaker, that is not the case. As was said, time and time again, the intent when we go to Conference is to take that section out.

"But why did this arise? Why did this issue arise to begin with? It arose because, you have Charter Schools out there, Mr. Speaker, that either have strong partnerships with non-profits, or for-profits, and as a result should their boards be subjected to the State Ethics Code? The intent is to say, that is an indirect relationship, and those boards should not be subjected to the ethics code.

"Now I realize we can only vote on the bill that's before us. So naturally when you see it on its face, it does seem, and hence as a result we have these groups opposing it. But all we can do is assure you that when we go to Conference, this will be taken care of. And if that poison pill is in there on Final Reading, I am certainly not going to be one to urge everybody to take that pill, Mr. Speaker. Because it won't be in there. You have my assurances of that. Thank you, Mr. Speaker."

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

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

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

Representative Marumoto 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 the report of the Committee was adopted and S.B. No. 2115, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Third Reading by a vote of 40 ayes to 11 noes, with Representatives Aquino, Carroll, Chang, Cullen, Har, Ito, Kawakami, McKelvey, Souki, Tokioka and Yamane voting no.

At 6:52 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 755, SD 2, HD 3  
 S.B. No. 2742, SD 1, HD 2  
 S.B. No. 3010, SD 2, HD 1  
 S.B. No. 1276, SD 2, HD 2  
 S.B. No. 2394, SD 1, HD 3  
 S.B. No. 2115, SD 2, HD 2

### THIRD READING

#### S.B. No. 1142, SD 2, HD 1:

Representative Chong moved that S.B. No. 1142, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Tsuji's written remarks are as follows:

"Food safety and good agricultural practices have become increasingly important to both the agriculture industry and consumers. With the demand for local products on the rise, we should not neglect to provide safeguards and guidelines to ensure the best quality of such items.

"Another Bill, HB 1947, was introduced with language to address these issues. However, the measure was not heard by the last Senate referral committee and thus is no longer viable this year. Therefore SB 1142 became the vehicle.

"Part I of this Bill establishes an agricultural practices audit and certification revolving fund; defines "good agricultural practices" and "producer"; and authorizes the Department of Agriculture to establish a voluntary program to audit and certify that producers are following good agricultural practices. Testimony received in support of the measure came from numerous industry stakeholders and I urge my colleagues to allow the dialog to continue."

The motion was put to vote by the Chair and carried, and S.B. No. 1142, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 45 ayes to 5 noes, with Representatives Ching, Hanohano, C. Lee, Riviere and Ward voting no, and with Representative Chang being excused.

#### S.B. No. 2868, SD 1, HD 1:

Representative Chong moved that S.B. No. 2868, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. Please allow me to voice my strong objections to S.B. 2868. S.B. 2868 imposes fees to obtain a tax clearance or a certified copy of a tax clearance. Specifically, this bill proposes a fee of \$20 for each tax clearance application, and an additional \$5 for each certified copy of a tax clearance. The proposed legislation argues these fees necessary based on the volume of tax clearances processed by the Department of Taxation, between 20,000 and 30,000 applications per year.

"As the Tax Foundation of Hawaii brings to light, this logic is flawed: "A tax clearance is merely a validation on the Department of Taxation that the taxpayer is compliant." Taxpayers are already required to abide by the laws of the state, and pay what is due. Amounts included in taxes should therefore include such routine government services as tax clearance processing. Were we to impose fees for each public service utilized by a large fraction of the population, based simply on the logic that the service yields a high volume of output, we could reach no end in the number of additional taxes proposed. Government, by definition, operates on behalf of a population as a whole. Therefore, in fact, a large number of beneficiaries for a given service should be an argument *for* – not against – bundling that service into government tax coverage.

"Testimony also notes that taxpayers may obtain tax clearances from the Department of Accounting and General Services' Hawaii Compliance Express program, which charges annual registration fees of only \$12. This alternative renders the fees imposed by S.B. 2868 redundant, and tax clearance selection methods arbitrary. Furthermore, comparing the fees suggested by S.B. 2868 with those imposed by other state departments reveals the \$20 application fee and \$5 copy fee excessive: Department of Health, for instance, only charges \$10 for the first copy of a birth, death or marriage certificate, and \$4 for each copy thereafter.

"What most concerns me about this legislation, however, is the aggressive damage it could reap upon our community's most valuable organizations. The Hawaii Alliance of Nonprofit Organizations (HANO) reminds us that many nonprofits have multiple contracts for doing business with the state, and need to provide tax clearances frequently throughout the year. The aggregate sums of these fees could push many of these organizations toward closure, as nonprofits do not often have ample disposable unrestricted income to pay such fees on top of today's escalating fuel and energy business costs. As HANO states, "Many nonprofits partner with state government to provide critical services that provide enhanced health and safety and improve our quality of life in communities across the state ... It is important to note that these services are often provided by nonprofit organizations because state government is unable to deliver these services as quickly or cost-effectively as its nonprofit partners." Hawaii cannot afford to dismiss its nonprofits, for these organizations fill in essential holes for services we would otherwise struggle without.

"Finally, discussions of this bill have raised the question of whether electronic requests would qualify for exemptions from these application and copy fees. As testimony points out, however, the bill's current language does not address electronic exemptions. Thus, the argument that S.B. 2868 provides incentive for paperless processing is currently moot.

"Please consider my serious concerns and objections, as we seek to reformulate this potentially destructive legislation. Thank you."

Representative Hanohano 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. 2868, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CLEARANCE FEES," passed Third Reading by a vote of 42 ayes to 8 noes, with Representatives Ching, Fontaine, Johanson, Marumoto, Pine, Riviere, Thielen and Ward voting no, and with Representative Chang being excused.

#### S.B. No. 2967, SD 2, HD 1:

Representative Chong moved that S.B. No. 2967, SD 2, HD 1, pass Third Reading, seconded by Representative Evans.

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

Representative Kawakami's written remarks are as follows:

"Mr. Speaker, I stand in strong support of SB 2967. This bill would create a separate bargaining unit in HGEA for Ocean and Water Safety Officers. These Ocean and Water Safety Officers risk their lives daily to

protect our most valuable resource, our *keiki*, our *kupuna*, our *kamaaina*, and our *malihini*. They protect our tourist industry and they are stewards of our island resources. These brave men and women put their lives on the line daily. The stories of their heroic rescues often reach the headlines but what we don't hear are the countless lives they save through preventative measures.

"Mr. Speaker this measure gives our bravehearts of the sea the recognition that they deserve. It allows them to be seen as they should be. A unique group of men and women who's call of duty requires the attention and resources that they deserve."

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

Representative Riviere's written remarks are as follows:

"I support creation of Bargaining Unit 14 for the Ocean Safety and Water Safety Officers. These professionals have long served our State and saved thousands of lives through skillful training and attention. It is appropriate to remove them from the same bargaining units as office staff because their skill sets and job requirements are so dramatically different. While this will be the smallest bargaining unit in the State, this profession is unique in deserving of an appropriate bargaining unit."

The motion was put to vote by the Chair and carried, and S.B. No. 2967, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Third Reading by a vote of 50 ayes, with Representative Chang being excused.

At 6:55 o'clock p.m., the Chair noted that the following bills passed Third Reading:

- S.B. No. 1142, SD 2, HD 1
- S.B. No. 2868, SD 1, HD 1
- S.B. No. 2967, SD 2, HD 1

**ANNOUNCEMENTS**

Representative Ward: "Mr. Speaker, thank you for the excellent lunch, and for the excellent debate that we've had today. And Mr. Speaker, your question of, why did we have excessive celebration, deserves an answer. Because 99.999% of the times that we vote on this Floor, everything passes. That was a 1 percenter that we actually voted down. The 8 votes made a difference. We did the right thing. We voted for the teachers. We let the bell schedule stay in place and let them determine at that level. So Mr. Speaker, have a good recess. And thank you to all the Majority. Aloha."

Representative M. Lee, for the Committee on Finance requested a waiver of the 48-hour advanced notice requirement for the purpose of decision making on the following measures tomorrow, Wednesday, April 11, at 11:15 o'clock a.m. in Conference Room 308, and the Chair "so ordered."

HCR 157 and companion HR 121, Requesting a study on the feasibility and benefits of establishing certification and licensure fees to support certain Department of Human Services programs; and

HCR 159 and companion HR 123, Requesting the Department of Human Services to conduct a study on the State's compliance with the Patient Protection and Affordable Care Act, with emphasis on Medicaid program integrity.

Representative Aquino: "Thank you, Mr. Speaker. Tomorrow, April 11, from 10 a.m. to 1 p.m., we'll be having the National Guard Legislative Day here at the Capitol. Again, tomorrow from 10 a.m. to 1 p.m. And the purpose, Mr. Speaker, is to demonstrate the diversity and uniqueness of our National Guard. It will be held throughout the Rotunda area, as well as Room 309."

**COMMITTEE ASSIGNMENTS**

The following measures were referred to committee by the Speaker:

<u>S.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
34, SD1	Committee on Labor & Public Employment, then jointly to the Committee on Finance and the Committee on Legislative Management
73	Jointly to the Committee on International Affairs and the Committee on Energy & Environmental Protection
97, SD1	Committee on Transportation, then to the Committee on Consumer Protection & Commerce, then to the Committee on Finance
162, SD1	Jointly to the Committee on Energy & Environmental Protection and the Committee on International Affairs

**ADJOURNMENT**

At 6:58 o'clock p.m., on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon, Thursday, April 12, 2012. (Representative Chang was excused.)

**HOUSE COMMUNICATIONS**

"April 10, 2012

The Honorable Neil Abercrombie  
Governor of the State of Hawaii  
Executive Chambers  
State Capitol  
Honolulu, Hawaii 96813

Dear Governor Abercrombie,

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 Bill, a copy of which is attached hereto:

S.B. No. 650, H.D. 1, entitled:

"PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE CONSTITUTION OF THE STATE OF HAWAII AUTHORIZING THE CHIEF JUSTICE OF THE STATE SUPREME COURT TO APPOINT RETIRED JUDGES TO SERVE AS EMERITUS JUDGES."

Said measure passed Third Reading in the Hawaii House of Representatives on this date.

Respectfully,  
/s/ CJ Leong  
CJ Leong  
Chief Clerk

Enclosures

cc: Carol Taniguchi, Senate Chief Clerk  
Scott Nago, Chief Election Officer"