

FIFTY-NINTH DAY

Tuesday, May 01, 2012

The House of Representatives of the Twenty-Sixth Legislature of the State of Hawaii, Regular Session of 2012, convened at 9:10 o'clock a.m., with Speaker Say presiding.

The invocation was delivered by Mr. Mufi Hannemann, former Mayor of the City and County of Honolulu, after which the Roll was called showing all Members present with the exception of Representative Ching, who was excused.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 245 and 1191 through 1198) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 245, dated April 6, 2012, transmitting the Lead By Example: State of Hawaii Agencies' Energy Initiatives FY 2010-2011 Report, prepared by the Department of Business, Economic Development and Tourism pursuant to Act 96 and Act 160, SLH 2006.

Gov. Msg. No. 1191, informing the House that on April 27, 2012, the following bill was signed into law:

S.B. No. 2110, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRESERVATION OF HAWAII'S MOVING IMAGES." (ACT 090)

Gov. Msg. No. 1192, dated April 27, 2012, informing the House that on April 25, 2012, pursuant to Section 16 of Article III of the State Constitution, the following bill has become law without his signature:

H.B. No. 2537, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DISCLOSURE OF RECORDS CONCERNING APPLICANTS AND RECIPIENTS OF HUMAN SERVICES AFTER AN IN CAMERA REVIEW BY THE COURT." (ACT 091)

Gov. Msg. No. 1193, informing the House that on April 30, 2012, the following bill was signed into law:

S.B. No. 2084, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE." (ACT 092)

Gov. Msg. No. 1194, informing the House that on April 30, 2012, the following bill was signed into law:

S.B. No. 2126, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE." (ACT 093)

Gov. Msg. No. 1195, informing the House that on April 30, 2012, the following bill was signed into law:

S.B. No. 2247, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY." (ACT 094)

Gov. Msg. No. 1196, informing the House that on April 30, 2012, the following bill was signed into law:

S.B. No. 2798, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURER REQUIREMENTS." (ACT 095)

Gov. Msg. No. 1197, informing the House that on April 30, 2012, the following bill was signed into law:

S.B. No. 2828, HD 3, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EARLY INTERVENTION COORDINATING COUNCIL." (ACT 096)

Gov. Msg. No. 1198, informing the House that on April 30, 2012, the following bill was signed into law:

S.B. No. 3003, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO GEOTHERMAL RESOURCES." (ACT 097)

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 829 and 830) were received and announced by the Clerk:

Sen. Com. No. 829, dated April 30, 2012, informing the House that the President has made changes to conferee assignments for the consideration of amendments proposed by the Senate to the following Bill(s):

H.B. No. 1942, HD 2, SD 2, Added Senator Ige as the first Co-Chair.

H.B. No. 1943, HD 2, SD 2, Added Senator Ige as the first Co-Chair.

H.B. No. 283, HD 1, SD 2, Added Senator Ige as the first Co-Chair.

S.B. No. 2695, SD 2, HD 2, Added Senator Ige as the first Co-Chair.

H.B. No. 2100, HD 2, SD 1, Added Senator Ige as the first Co-Chair.

S.B. No. 112, HD 1, SD 1, Added Senator Ige as the first Co-Chair.

H.B. No. 2873, HD 2, SD 2, Added Senator Ige as the first Co-Chair.

H.B. No. 2806, HD 2, SD 2, Added Senator Ige as the first Co-Chair.

H.B. No. 1953, HD 1, SD 1, Added Senator Ige as the first Co-Chair.

S.B. No. 2344, SD 2, HD 1, Added Senator Ige as the first Co-Chair.

S.B. No. 2778, SD 1, HD 1, Added Senator Ige as the first Co-Chair.

S.B. No. 2827, SD 1, HD 1, Added Senator Ige as the first Co-Chair.

S.B. No. 2939, SD 1, HD 1, Added Senator Ige as the first Co-Chair.

S.B. No. 2958, SD 2, HD 2, Added Senator Ige as the first Co-Chair.

S.B. No. 2536, HD 2, Added Senator Ige as the first Co-Chair.

H.B. No. 1755, HD 2, SD 2, Added Senator Ige as the first Co-Chair.

H.B. No. 2251, SD 1, Added Senator Ige as the first Co-Chair.

H.B. No. 246, HD 1, SD 2, Added Senator Ige as the first Co-Chair.

S.B. No. 2220, SD 1, HD 2 Added Senator Ige as the first Co-Chair.

S.B. No. 2424, SD 2, HD 2 Added Senator Ige as the first Co-Chair.

S.B. No. 2261, HD 1 Added Senator Ige as the first Co-Chair.

H.B. No. 1968, HD 1, SD 2 Added Senator Ige as the first Co-Chair.

H.B. No. 2599, HD 1, SD 1 Added Senator Ige as the first Co-Chair.

H.B. No. 2226, HD 2, SD 2 Added Senator Ige as the first Co-Chair.

S.B. No. 2776, SD 2, HD 2 Added Senator Ige as the first Co-Chair.

H.B. No. 2684, HD 2, SD 2 Added Senator Ige as the first Co-Chair.

H.B. No. 2883, HD 2, SD 2 Added Senator Ige as the first Co-Chair.

S.B. No. 2933, SD 2, HD 2 Added Senator Ige as the first Co-Chair.

S.B. No. 2678, SD 2, HD 2 Added Senator Ige as the first Co-Chair.

S.B. No. 2320, SD 2, HD 2 Senator Ige discharged as Co-Chair. Senator Green added as conferee.

S.B. No. 2435, SD 1, HD 1 Senator Ige discharged as Co-Chair.

S.B. No. 2545, SD 2, HD 2 Senator Ige discharged as Co-Chair. Senator Nishihara added as conferee.

S.B. No. 2779, SD 2, HD 1 Senator Ige discharged as Co-Chair.

S.B. No. 2780, SD 1, HD 2 Senator Ige discharged as Co-Chair. Senator Kidani added as Co-Chair.

S.B. No. 2804, SD 2, HD 2 Senator Ige discharged as Co-Chair.

S.B. No. 2947, SD 2, HD 2 Senator Ige discharged as Co-Chair. Senator Kidani added as Co-Chair.

Sen. Com. No. 830, dated April 30, 2012, informing the House that the Senate has made the following changes to Senate Conferee assignments to the following bills:

H.B. No. 246, HD 1, SD 2 Senator Ige discharged as Co-Chair.

H.B. No. 1726, HD 1, SD 2 Senator Ige discharged as Co-Chair. Senator Kidani added as Co-Chair.

H.B. No. 1755, HD 2, SD 2 Senator Ige discharged as Co-Chair.

H.B. No. 1968, HD 1, SD 2 Senator Green added as conferee.

H.B. No. 2251, SD 1 Senator Ige discharged as Co-Chair.

H.B. No. 2319, HD 2, SD 1 Senator Ige discharged as Co-Chair. Senator Kidani added as Co-Chair.

H.B. No. 2415, HD 2, SD 1 Senator Ige discharged as Co-Chair. Senator Kidani added as Co-Chair.

H.B. No. 2448, HD 2, SD 2 Senator Ige discharged as Co-Chair. Senator Kidani added as Co-Chair.

H.B. No. 2540, HD 2, SD 1 Senator Ige discharged as Co-Chair. Senator Ihara discharged as conferee. Senator Kidani added as Co-Chair. Senator Green added as conferee.

S.B. No. 490, SD 3, HD 1 Senator Ige discharged as Co-Chair.

S.B. No. 2116, SD 2, HD 1 Senator Ige discharged as Co-Chair.

S.B. No. 2220, SD 1, HD 2 Senator Ige discharged as Co-Chair.

S.B. No. 2236, HD 2 Senator Ige discharged as Co-Chair. Senator Kidani added as Co-Chair.

DEPARTMENTAL COMMUNICATIONS

The following departmental communication (Dept. Com. No. 82) was received by the Clerk and was placed on file:

Dept. Com. No. 82, dated April 25, 2012, from Scott T. Nago, Chief Election Officer, Office of Elections, transmitting the Report to the Legislature in accordance with Section 31 of Act 164, SLH 2011.

INTRODUCTIONS

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

Representative Rhoads, on behalf of Representative Manahan and himself, introduced the *keiki* of the HCAP Headstart Program at Kukui Gardens and their chaperones, Ms. Reza Galindo, Ms. Helen Alcaria, and Ms. Linda Tomas.

Representative Manahan also welcomed the *keiki* and teachers of the Kukui Gardens Headstart Program who were accompanied by his legislative staff, Ms. Karen Iwamoto.

Representative Marumoto introduced the volunteers with the Friends of the Aina Haina Library, Ms. Sharon Nagasako, Ms. Jerri Young, Ms. Mary Chung, Ms. Kia Kamaka and Ms. Lisa Yoshimura.

Representative Awana introduced members of ArtSpace, Mr. Stacy Mickelson, Vice President of Government Relations and former North Dakota State Legislator; and Ms. Naomi Chu, Director of National Advancement.

Representative Chang introduced his daughter, Ms. Ren Nabuko Kuuleialoha Chang and her boyfriend, Mr. Mac Heulester, who were visiting from New York.

ORDER OF THE DAY

CONSENT CALENDAR

At this time, the Chair announced:

"At this time, Members, please note that for Part I of our Consent Calendar, the Unfinished Business 5a, we will be deferring H.B. No. 2491 to page 9 as component 6a on Final Reading.

"Once more, Members. On page 1, we'll be deferring H.B. No. 2491 to page 9 and take it up as part of the Final Reading measures. We're combining it with the other three measures because it is all Consent Calendar."

UNFINISHED BUSINESS**H.B. No. 2491, HD 1, SD 1:**

By unanimous consent, action was deferred to Final Reading of the Consent Calendar.

At 9:19 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 9:20 o'clock a.m.

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering certain House and Senate Bills for Final Reading by consent calendar. (Representative Ching was excused.)

CONSENT CALENDAR**UNFINISHED BUSINESS**

At this time the Chair announced:

"Members, at this time there will be no discussion. As you know, this is the Consent Calendar where all the measures on page 2 to 9 have been agreed upon for no debate. It was placed there by all of you for the overall Consent Calendar."

Conf. Com. Rep. No. 7-12 and S.B. No. 2748, SD 1, HD 1, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 12-12 and S.B. No. 2769, SD 2, HD 3, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2769, SD 2, HD 3, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Cabanilla's written remarks are as follows:

"The process of buying a home is difficult enough. Purchasing insurance for it shouldn't be as trying.

"This bill will allow consumers to view the going rates for homeowners insurance without having to make multiple calls or visits to insurance companies. Posting insurance premiums on a State website will not only make it convenient for consumers, but will give them side-by-side comparison on rates and the services that go along with them.

"Hawaii Revised Statutes already requires the Insurance Commissioner to post motor vehicle insurers and premium information. Why not do the same for homeowners insurance? With side-by-side comparisons, homeowners should feel a lot more comfortable and confident about their selection of insurance that meets their needs.

"The bigger benefit is that with premiums from all insurers posted, homeowners can be assured a competitive rate. This would definitely help keep premiums at a fair market price.

"The bill also enhances the present law by allowing the Insurance Commissioner to require that insurance companies submit new rate filings when the current rate may be excessive, inadequate or unfairly discriminatory."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2769, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 13-12 and S.B. No. 2871, SD 1, HD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2871, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER'S LICENSE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 15-12 and S.B. No. 2765, SD 2, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE COMPANIES," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 20-12 and S.B. No. 1500, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1500, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ANATOMICAL GIFTS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 22-12 and S.B. No. 2486, SD 1, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2486, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 24-12 and S.B. No. 2221, SD 1, HD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2221, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this bill, which addresses issues concerning child abuse and possessing child pornography. Specifically, this bill expands the offense of promoting child abuse in the second degree to include possession of particularly violent or egregious child pornography.

"Hawaii law currently criminalizes possession of any form of child pornography, but limits the penalty and severity of such an offense to just a class C felony. This bill strengthens Hawaii's child pornography laws by distinguishing between various forms of child pornography, and increasing the severity of possessing pornography that involves a child under the age of twelve, sadomasochism or bestiality with a minor.

"Child pornography is among the fastest growing criminal offenses on the internet, and is a permanent record of the actual sexual abuse, exploitation, and assault upon the innocent and helpless children of our community. With the rapid advancement in modern technologies, and global proliferation of electronic communication and sharing of digital information, child pornography remains a cause for constant concern.

"Given the fact that Hawaii's child pornography statutes have not been amended since 2002, this bill will provide more effective tools for enforcement and more stringent standards for prosecution of such horrific offenses that shock the conscience of our society."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2221, SD 1, HD 1, CD 1,

entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 25-12 and S.B. No. 2222, SD 2, HD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2222, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"I rise in support of this important measure that addresses the problem of "sexting". As has been reported repeatedly, Mr. Speaker, "sexting" involves people taking nude pictures and transmitting the images to others via electronic communication.

"However, with ubiquitous availability of smart phones for even pre-teens, the electronic transmission of youth-produced sexual pictures and videos is a growing problem with our children. This problem is difficult, especially because the images, once transmitted electronically, can be shared with many people almost instantaneously. Also, once transmitted, the original transmitter has very limited ability to control or prevent further dissemination.

"This bill also covers the situation where images are being transmitted to an adult who has convinced the minor to make the images and send them to the adult.

"Often, the images are intended for the minor's "significant other". But regardless of the reason the images were created, or to whom they were originally sent, the images frequently get disseminated to others, especially after the relationship has deteriorated, or a cell phone is lost, misplaced, stolen, or improperly accessed.

"As the Attorney General's Office testified, "such images may be used as a commodity for exchange" and "the threatened dissemination of such images may also be used as leverage against the subject to make the subject engage in certain conduct."

"In this age of electronic connectivity, the images can instantaneously be shared with many people and can cause great embarrassment and mental or emotional harm to the subjects of the images. The unwanted dissemination has even resulted in suicides in other states.

"Our current State laws do not specifically prohibit "sexting" conduct. While our laws prohibit the dissemination of child pornography, the nude images transmitted through "sexting" behavior often do not qualify as pornography.

"This proposal will make it clear that soliciting and disseminating nude images of minors is harmful and inappropriate behavior. While the severity of the penalties has been amended to reflect concerns about criminalizing children for poor judgment and questions about Romeo-Juliet situations where one person in the couple is an adult by a year or two, this law will be a tool for law enforcement agencies to appropriately wield with due prosecutorial discretion. This bill will also assist parents and school officials in addressing this growing problem with minors and perhaps educating their children or their students of the inappropriateness and harmfulness of "sexting.""

Representative Rhoads' written remarks are as follows:

"Mr. Speaker, in opposition. I support the creation of the crime of promoting minor-produced sexual images in the first degree which addresses adults encouraging minors to send sexual text messages. I do not support the second crime created by this bill, promoting minor-produced sexual images in the second degree. This criminalizes sexting between minors. While I strongly disapprove of the behavior, I don't believe it rises to the level of a crime. Are we really going to arrest 16-year olds for this type of behavior?"

Representative Pine's written remarks are as follows:

"I strongly support SB 2222 to combat the growing trend of "sexting" among young people. Images, once transmitted electronically, can be shared with many people almost instantaneously including classmates and strangers on the Internet. Furthermore, it is almost impossible to completely remove an image from the Internet once it has been posted. It's imperative that our youth understand the consequences of sending photos no matter who the recipient is.

"This bill would make it a misdemeanor for a minor to knowingly electronically transmit nude images of him or herself or other minors to any person, or intentionally or knowingly solicit other minors to do so – and prohibit a person of any age from knowingly possessing a nude image transmitted by a minor. The bill also makes it an affirmative defense if the recipient had made reasonable efforts to destroy the transmitted nude image.

"In addition to harsh punishments, young people need to be educated on the dangers of putting revealing photographs on the Internet. Oftentimes they do not understand the potential consequences and the possibility of a relationship turning sour – turning a once friendly relationship into one that cannot be trusted, opening the possibility of these images being shared openly without the permission of the subject.

"For these reasons, I strongly support SB 2222."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2222, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL IMAGES PRODUCED BY MINORS," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Rhoads voting no, and with Representative Ching being excused.

Conf. Com. Rep. No. 26-12 and H.B. No. 2594, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2594, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 27-12 and H.B. No. 2595, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2595, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST DAM AND RESERVOIR OWNERS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 29-12 and H.B. No. 1925, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 1925, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Mr. Speaker, I support HB 1925 HD1 SD1 CD1. This bill amends HRS sec 281-31(b) to allow local craft distillers to sell directly to people touring their facilities – the law already allows brewers and wineries to do so. Hawaii craft distillers produce brandy, vodka, rum and other concoctions.

"This measure allows holders of Class 1 manufacturer liquor licenses to sell beer, wine, or other specified liquor manufactured or distilled on the licensee's premises from fruit or other products grown in the State, in any quantity to wholesalers in original packages or for private use and consumption.

"There are presently eleven facilities with licenses from the US Dept of Treasury Alcohol and Tobacco Tax and Trade Bureau (one recently ceased

operations, and one facility is a second facility for the same licensee) who would be affected by this change in the law. Of the nine active facilities, five are on Maui (Haleakala Distillers – Rum; Kolani Distillers – Rum; Hawaii Sea Spirits – Vodka; Haiku Lemon Scents – Liqueur; and Haliimaile Distillers – Vodka); two are on Oahu (Aloha Distillers – coffee liqueur; and Island Distillers – Vodka); one is on Kauai (Koloa Rum – Rum); and one is on Hawaii (Hawaiian Rainforest – Brandy).

"Hawaii is becoming internationally renowned for its locally produced wine, beer, and liquor. Craft distillers often make their products with locally grown fruits, grains, cane sugar, and other locally grown commodities. This bill supports this niche in our local economy. Opening the door to opportunity for entrepreneurs interested in starting their own winery or distillery, while cultivating or purchasing from local farmers the ingredients used to make their products, can provide additional opportunities in our rural areas, boost the growth of agro-tourism in our State, and will contribute to our agricultural independence."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1925, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 30-12 and H.B. No. 2686, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2686, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this measure which provides protection to property owners who provide shelter to their neighbors in emergencies.

"This measure exempts an owner of private property who provides emergency access to land, shelter, or subsistence to a person in good faith during a disaster from liability for injury or damage suffered by the person, unless it was caused by the gross negligence or intentional or wanton acts or omissions of the owner of the land.

"Our islands are subject to a number of different kinds of disasters. We are frequently reminded of the devastating toll that tsunamis can take. Our communities make plans to avoid loss of life in the event of such disasters. Swift evacuation to the nearest higher ground is the best option for coastal residents. In some communities there are no public roads leading *mauka*. The owners of higher ground are often willing to let their neighbors evacuate through their land, but worry about the liability if they give permission to open their fences and gates. This bill will exempt such owners from liability in the narrow circumstances of such disasters for allowing access to their land and other emergency assistance. This measure is not a general exemption, but one crafted to protect and encourage common sense, neighborly *kokua* that is part of our heritage."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2686, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL LIABILITY," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 32-12 and H.B. No. 1984, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1984, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 34-12 and H.B. No. 1543, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1543,

SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING LAW," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 35-12 and H.B. No. 2623, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2623, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this measure which provides that real property held in tenancy by the entirety shall continue to have the same immunity from the claims of separate creditors of spouses or reciprocal beneficiaries if conveyed into a joint or separate revocable trust, under certain circumstances. It requires adequate notice in the conveyance document to note tenants by the entirety protection continues after the real property is transferred to the trust. It also clarifies that the real property will be governed by the trust instrument. It further allows spouses or reciprocal beneficiaries to waive the protection in favor of specific creditors.

"Traditionally, holding property in tenancy by the entirety is severed when the property is conveyed into a trust even if the trust is formed by settlors who are spouses or reciprocal beneficiaries. This bill makes a significant change by allowing the protections afforded to spouses and reciprocal beneficiaries for their property held in tenancy by the entirety into their trust as part of prudent Estate Planning. The framework provided in this bill – requiring that such trusts include the names of the settlors – limits the use of this new law to hide assets from bona fide creditors of the settlors.

"Estate planning is of great benefit. As baby boomers age, more and more couples need to make plans for their families and assets. Allowing them to use the benefits of a trust to hold their property, without giving up the benefits of holding property by the entirety will give important security to Hawaii couples, especially as they enter their golden years."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2623, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSFER OF PROPERTY," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 36-12 and H.B. No. 1788, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 1788, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this bill, which addresses issues relating to cybercrime. Specifically, this bill amends certain computer crime statutes related to Computer Fraud and Unauthorized Computer Access, by clarifying and strengthening certain elements, and increasing their severity.

"This bill addresses the rapid advancement in modern technologies and realities of modern cybercrime in a society increasingly interconnected and reliant upon, the Internet for storage and transfer of valuable and confidential information. This bill also reflects the belief that heightening the severity of these computer crime offenses, will deter such activity by would-be offenders, and also emphasize to the public that these types of activities will not be tolerated.

"With the rapid proliferation of advanced and mobile electronic devices over the last decade, it is now possible for practically anyone, anywhere, to engage in online criminal activity, at any time. Here in Hawaii and across the world, state governments and universities, federal agencies and legislative bodies, as well as international companies, have all already been compromised or breached by cybercriminals. Through the ranks of

organized crime to the hobbies of everyday hackers, the value and ease in committing cybercrime is an unfortunate reality that cannot be ignored.

"Given the fact that Hawaii's computer crime statutes have not been amended since their enactment in 2001, this bill will provide more effective tools for enforcement and prosecution of computer crime offenses."

Representative Pine's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in strong support of HB 1788 Relating to Computer Crime. HB 1788, the cybercrime omnibus bill, will toughen computer crime laws by modeling language after existing identity theft laws defining computer fraud as an aggravated form of theft. It will also impose harsher penalties by raising each existing crime one grade higher. The bill creates a new offense of Computer Fraud in the Third Degree, a class C felony. The crime would involve knowingly accessing a computer, computer system, or computer network, with intent to commit theft in the third or fourth degree.

"I am so proud of this Body for advancing important cyber crime legislation this Session. Cyber crimes include harassment, financial fraud, identity fraud and theft, stalking, bullying and luring underage minors via the Internet. Internet crimes have ruined countless lives and businesses.

"I strongly believe our laws must evolve with ever-changing technologies. This bill is one step toward protecting the people of Hawaii from this awful trend. We must send a clear message to cyber criminals that their heinous behavior will not be tolerated in the State of Hawaii."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1788, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COMPUTER CRIME," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 37-12 and H.B. No. 2232, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2232, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 38-12 and H.B. No. 2568, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2568, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BACKGROUND CHECKS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 39-12 and H.B. No. 2776, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2776, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIABILITY INSURANCE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 40-12 and H.B. No. 2244, HD 1, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2244, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Tsuji's written remarks are as follows:

"This bill strengthens the State's ability to monitor the import and export of plant commodities.

"It authorizes the Department of Agriculture (DOA) to create rules on compliance agreements with federal or state departments of agriculture to

conduct inspections of imported and exported plant commodities. Nationally, origin inspection programs are done through the establishment of compliance agreements between federal and state departments of agriculture.

"HB2244 gives DOA a means to evaluate items at mainland points of origin *before* they arrive in the State and also to assess fees for conducting inspections required under the compliance agreements.

"This type of pre-entry program is especially important for high-risk commodities, such as Christmas trees and leafy greens. I thank the Vice-Chair of the Agriculture Committee for introducing this Bill and urge my colleagues to support the measure."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2244, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE INSPECTORS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 44-12 and H.B. No. 1791, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 1791, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this bill, which clarifies the authority of the court and paroling authority in sentencing an individual convicted of manslaughter.

"Specifically, this bill removes mandatory terms of imprisonment and allows for indeterminate maximum and minimum terms of imprisonment to be imposed. This allows for the possibility of suspension and probation to be considered at sentencing. This bill also grants the courts discretion to impose license revocations for a specific, instead of indeterminate period of time, as well as to impose license revocations in sentencing for negligent homicide resulting from the operation of a motor vehicle.

"According to law enforcement officials, our current law is not clear about the period of time in which a court may revoke an individual's license, as well as whether a sentence of probation is possible for a manslaughter conviction. Further, if a sentence of probation is imposed, the law is not clear on the amount of jail time a court may impose as a condition of that probation.

"With this lack of clarity, courts and prosecutors throughout the State have interpreted this law differently, and this bill resolves this confusion and disparity in sentencing."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1791, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOMICIDE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 45-12 and H.B. No. 2685, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2685, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 47-12 and H.B. No. 2004, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2004, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 48-12 and H.B. No. 2513, HD 1, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2513, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 51-12 and H.B. No. 2326, HD 1, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2326, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 52-12 and H.B. No. 2502, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2502, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE SERVICERS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 53-12 and H.B. No. 2871, HD 1, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2871, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEST MAUI OCEAN RECREATION MANAGEMENT AREA," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 54-12 and H.B. No. 2328, HD 1, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2328, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 59-12 and H.B. No. 1295, HD 3, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1295, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 66-12 and S.B. No. 2103, SD 2, HD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2103, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 73-12 and S.B. No. 2056, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 80-12 and S.B. No. 2810, SD 1, HD 1, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT EXEMPTION FOR DOMESTIC SERVICES AUTHORIZED BY THE DEPARTMENT OF HUMAN SERVICES,"

passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 81-12 and S.B. No. 1382, SD 2, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 1382, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 83-12 and S.B. No. 243, SD 2, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 243, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WESTERN INTERSTATE COMMISSION FOR HIGHER EDUCATION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 84-12 and S.B. No. 2773, SD 1, HD 1, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIBRARIES," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 91-12 and S.B. No. 2797, SD 1, HD 1, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PSYCHOTROPIC MEDICATIONS IN MEDICAID," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 92-12 and S.B. No. 2816, SD 1, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2816, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOSPITAL LICENSING," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 93-12 and S.B. No. 2821, HD 3, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTALITY REVIEW OF DEATHS OF PERSONS WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITIES," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 94-12 and S.B. No. 2833, SD 1, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT EXEMPTION FOR DOMESTIC SERVICES FOR PERSONS WITH DEVELOPMENTAL AND INTELLECTUAL DISABILITIES," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 95-12 and S.B. No. 3006, SD 2, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE TIRES," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 96-12 and S.B. No. 2737, SD 1, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2737, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker, I strongly support the passage of SB 2737, a measure that amends the State's Sunshine Law to permit board and commission meetings to be conducted via any form of interactive conference technology that allows interaction by audio or by audio and visual means, including teleconference, videoconference, and voice over internet protocol, subject to certain provisions. These changes to the Sunshine Law will increase the ability of members of State and county boards and commissions and the public to participate in or attend board and commission meetings.

"Additionally, this measure allows a disabled board member, who is physically unable to attend the meeting, to participate in a board or commission meeting from a location not accessible to the public; provided that the disabled member is connected to other members of the board or commission and the public by both visual and audio means, and the member identifies where the member is located and who, if anyone, is present at that location with the member. This measure will greatly decrease the costs for board or commission members to attend public meetings on a different island and will facilitate the attendance at these meetings for disabled board and commission members."

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC MEETINGS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 98-12 and S.B. No. 2318, SD 1, HD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2318, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 99-12 and S.B. No. 2813, SD 1, HD 1, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DISABILITY AND COMMUNICATION ACCESS BOARD SPECIAL FUND," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 100-12 and S.B. No. 596, SD 2, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 596, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH CORPS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 102-12 and S.B. No. 2158, HD 1, CD 1:

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

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this bill, which protects an individual's constitutional and statutory right to bail. Specifically, this bill standardizes bail processes statewide and requires law enforcement

agencies to accept cash bail, certified copies of pre-filed bail bonds, and original bail bonds, at all hours, not just during normal business hours.

"Presently for example, if an individual is taken into custody by the Department of Public Safety, during non-regular business hours, that individual may not be able to post bail simply because the courts are closed. This bill removes the current bureaucratic barriers that prevent this individual from being promptly released from custody pending posting of bail.

"Though concerns were expressed about the staffing, accountability and feasibility of effectuating these new processes, an individual's right to bail should not be compromised for administrative convenience. In amending a statute that has not been revised since 1972, this bill merits our support because it promotes fairness in process, and ensures equal access to justice for all individuals."

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 111-12 and H.B. No. 1879, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1879, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ONE CALL CENTER," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 113-12 and H.B. No. 1972, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1972, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

Conf. Com. Rep. No. 123-12 and H.B. No. 1974, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1974, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

At 9:22 o'clock a.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2748, SD 1, HD 1, CD 1
 S.B. No. 2769, SD 2, HD 3, CD 1
 S.B. No. 2871, SD 1, HD 2, CD 1
 S.B. No. 2765, SD 2, HD 2, CD 1
 S.B. No. 1500, HD 1, CD 1
 S.B. No. 2486, SD 1, HD 1, CD 1
 S.B. No. 2221, SD 1, HD 1, CD 1
 S.B. No. 2222, SD 2, HD 1, CD 1
 H.B. No. 2594, HD 2, SD 1, CD 1
 H.B. No. 2595, HD 2, SD 2, CD 1
 H.B. No. 1925, HD 1, SD 1, CD 1
 H.B. No. 2686, HD 1, SD 1, CD 1
 H.B. No. 1984, SD 1, CD 1
 H.B. No. 1543, SD 1, CD 1
 H.B. No. 2623, HD 1, SD 1, CD 1
 H.B. No. 1788, HD 1, SD 1, CD 1
 H.B. No. 2232, HD 2, SD 1, CD 1
 H.B. No. 2568, HD 2, SD 1, CD 1
 H.B. No. 2776, HD 2, SD 2, CD 1
 H.B. No. 2244, HD 1, SD 2, CD 1
 H.B. No. 1791, SD 1, CD 1
 H.B. No. 2685, HD 2, SD 2, CD 1
 H.B. No. 2004, HD 2, SD 2, CD 1

H.B. No. 2513, HD 1, SD 2, CD 1
 H.B. No. 2326, HD 1, SD 1, CD 1
 H.B. No. 2502, HD 2, SD 2, CD 1
 H.B. No. 2871, HD 1, SD 1, CD 1
 H.B. No. 2328, HD 1, SD 1, CD 1
 H.B. No. 1295, HD 3, SD 2, CD 1
 S.B. No. 2103, SD 2, HD 2, CD 1
 S.B. No. 2056, HD 2, CD 1
 S.B. No. 2810, SD 1, HD 1, CD 1
 S.B. No. 1382, SD 2, HD 1, CD 1
 S.B. No. 243, SD 2, HD 1, CD 1
 S.B. No. 2773, SD 1, HD 1, CD 1
 S.B. No. 2797, SD 1, HD 1, CD 1
 S.B. No. 2816, SD 1, HD 1, CD 1
 S.B. No. 2821, HD 3, CD 1
 S.B. No. 2833, SD 1, HD 2, CD 1
 S.B. No. 3006, SD 2, HD 2, CD 1
 S.B. No. 2737, SD 1, HD 2, CD 1
 S.B. No. 2318, SD 1, HD 2, CD 1
 S.B. No. 2813, SD 1, HD 1, CD 1
 S.B. No. 596, SD 2, HD 1, CD 1
 S.B. No. 2158, HD 1, CD 1
 H.B. No. 1879, HD 2, SD 1, CD 1
 H.B. No. 1972, HD 2, SD 1, CD 1
 H.B. No. 1974, HD 2, SD 1, CD 1

FINAL READING

The Chair then announced:

"Members, at this time, please note that the House previously gave notice of the intent to agree to the following House Bills. We are now on page 9, which is 6a. There will be no debate as these measures have been placed on the Consent Calendar also."

Representative Chong moved to agree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans and carried: (Representative Ching was excused.)

H.B. No. 2491, HD 1, (SD 1)
 H.B. No. 2314, HD 1, (SD 1)
 H.B. No. 2375, (SD 2)
 H.B. No. 2529, HD 1, (SD 1)

The Chair addressed the Clerk who announced that the record of votes for H.B. No. 2314, HD 1, SD 1; and H.B. No. 2375, SD 2, had been received which indicated that the requisite number of House Conferees appointed had agreed to the amendments made by the Senate, and had cast affirmative votes to report said measures to the Floor for final disposition.

H.B. No. 2491, HD 1, SD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, H.B. No. 2491, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

H.B. No. 2314, HD 1, SD 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2314, HD 1, on the following showing of Ayes and Noes:

Ayes, 3 (Brower, Tokioka and Nishimoto). Noes, none. Excused, 1 (Ching).

Representative Chong moved that H.B. No. 2314, HD 1, SD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this measure. This bill aligns deposits into the Convention Center Enterprise Special Fund (CCESF) with the operating budget of the Convention Center. The law presently provides for depositing the Convention Center's allocation of Transient Accommodations Tax revenues into the CCESF on a calendar year basis.

"The fact that collections are made on a calendar year basis creates an accounting conflict with expenditures made on a fiscal year basis, painting the specter of a discrepancy between the timeline of incoming and outgoing funds. Due to this discrepancy, after the fund reaches its \$33,000,000 limit, further revenues are suspended from deposit into the fund until the new calendar year. Therefore, at times, a paper shortfall appears in the fund's ability to pay the Convention Center debts while at other times a phantom balance may also be shown which could mislead policy makers and other observers."

The motion was put to vote by the Chair and carried, and H.B. No. 2314, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

H.B. No. 2375, SD 2:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2375, on the following showing of Ayes and Noes:

Ayes, 5 (Herkes, Keith-Agaran, Tsuji, Yamane and Marumoto). Noes, none. Excused, 1 (Oshiro).

On motion by Representative Chong, seconded by Representative Evans and carried, H.B. No. 2375, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE MORTGAGE RESCUE FRAUD PREVENTION ACT," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

H.B. No. 2529, HD 1, SD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, H.B. No. 2529, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS," passed Final Reading by a vote of 50 ayes, with Representative Ching being excused.

At 9:24 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2491, HD 1, SD 1
 H.B. No. 2314, HD 1, SD 1
 H.B. No. 2375, SD 2
 H.B. No. 2529, HD 1, SD 1

The Chair then announced:

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

At 9:24 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 Vice Speaker Manahan presiding.

At this time, the Chair announced:

"Members, please turn your attention to Supplemental Calendar No. 1, and Conference Committee Report No. 128-12, on page 3."

SUPPLEMENTAL CALENDAR #1

REPORTS OF CONFERENCE COMMITTEES

Conf. Com. Rep. No. 128-12 and S.B. No. 2927, SD 2, HD 1, CD 1:

At this time, Representative Har offered Floor Amendment No. 7, amending S.B. No. 2927, SD 2, HD 1, CD 1, as follows:

"SECTION 1. Senate Bill No. 2927, S.D. 2, H.D. 1, C.D. 1, Section 2, is amended by amending page 8, lines 6-12, to read as follows:

"(A)Bus transit station or center, as designated by the county to achieve density and ridership goals, located within the county development or sustainable communities plans for Ewa, Central Oahu, and Primary Urban Center that has existing infrastructure, public utilities, and roadways; or"

Representative Har moved that Floor Amendment No. 7, be adopted, seconded by Representative Tokioka.

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

"Thank you, Mr. Speaker. Mr. Speaker and Members, as you may recall, we had received much concern about this particular measure. Specifically, we heard the concerns raised by people from the Neighbor Islands, as well as from the Windward side, and other communities that are not necessarily developable, if there's such word.

"So at this point Mr. Speaker, we wanted to show there was a mistake, and this was truly a learning lesson. The bill had come to us, the CD 1 at literally 11:57. It came to the Chairs while we were all in Room 309 trying to vote on the budget. We all perused the bill and admittedly, thought the language should have been taken out regarding other developed communities, and unfortunately, in the midst of trying to get the bill decked by the midnight deadline, nobody caught the fact that that language had not been removed.

"Accordingly, Mr. Speaker, I do submit this Floor Amendment to show that we are in fact deleting that language, to ensure that this bill would apply only to the communities of Ewa, Central Oahu, and the primary urban core. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Mr. Speaker, I'm rising to speak against the bill, and this is bill, S.B. 2927. The amendment and the underlying bill. But the amendment."

The Chair addressed Representative Thielen, stating:

"We're just talking about the Amendment right now."

Representative Thielen continued, stating:

"Thank you. I appreciated what the former speaker tried to do to remove 'or is within a developed community,' and that's within quotes. That language is no longer there on page 8. However, Mr. Speaker, I see this S.B. 2927 is still aiming at urban areas like Kailua, Hawaii Kai, Kahala ..."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, we're talking about the Floor Amendment right now. We can talk about the underlying bill after we talk about the Floor Amendment. Please."

Representative Thielen: "I am addressing the Amendment. I'm sitting and looking right at the Amendment, Mr. Speaker. So I see it still addressing those areas on page 7 of the Amendment that I'm looking at right here. It says on line 18, within the Amendment, page 7 ..."

Vice Speaker Manahan: "It's only the amendment."

At 10:05 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:08 o'clock a.m.

Representative Thielen continued, stating:

"Thank you, Mr. Speaker. And I understand what the Majority is saying, that I am only allowed to address the language of the cover of the Floor Amendment. Bus transit station, or center, etc.

"I do thank the former speaker from removing the language as I said, of 'or is within a developed community.' However, Mr. Speaker, with this amended language that I'm looking at, that I'm addressing, this bill still would apply to Kailua, Hawaii Kai, other areas that are within the urban district. So I cannot support this concept, even in the amended bill. Thank you."

The motion that Floor Amendment No. 7, amending S.B. No. 2927, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY PLANNING," be adopted, was put to vote by the Chair and carried, with Representative Thielen voting no.

At 10:10 o'clock a.m., the Chair noted that Floor Amendment No. 7, was adopted.

The Chair then announced:

"Members, let's proceed on to the next Floor Amendment on page 11 of your Regular Order of the Day. We are on Floor Amendment Number 8, for Conference Committee Report Number 23-12, Senate Bill Number 2873."

ORDINARY CALENDAR

UNFINISHED BUSINESS

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

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

At 10:10 o'clock a.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 10:12 o'clock a.m.

At 10:12 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:12 o'clock a.m.

Conf. Com. Rep. No. 23-12 and S.B. No. 2873, SD 1, HD 3, CD 1:

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

At this time, Representative Souki offered Floor Amendment No. 8, amending S.B. No. 2873, SD 1, HD 3, CD 1, as follows:

"SECTION 1. Senate Bill No. 2873, S.D. 1, H.D. 3, C.D. 1, is amended by amending section 343-5(d), Hawaii Revised Statutes, contained in section 2, to read as follows:

"(d) Whenever an applicant requests approval for a proposed action and there is a question as to which of two or more state or county agencies with jurisdiction has the responsibility of ~~[preparing the]~~ determining whether an environmental assessment[.] is required, the office, after consultation with and assistance from the affected state or county agencies, shall determine which agency ~~[shall prepare the assessment.]~~ has the responsibility for determining whether an environmental assessment by the applicant is required, except in situations involving secondary actions under this section; provided that in no case shall the office be considered the approving agency."

Representative Souki moved that Floor Amendment No. 8, be adopted, seconded by Representative Ichiyama.

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

"Yes, Mr. Speaker. This Floor Amendment is merely to clarify the language of who is responsible for the secondary impact statements. By secondary impact statement we mean other than the primary impact like on a highway, or waterways and sewage lines, electric lines, and those kinds of things you can build close to a highway. That will be considered as a secondary action.

"So what this bill does is, it determines who is responsible for it. It's the respective agency. If it's going to be on a highway, it would be the Department of Transportation. The Environmental Agency from the State merely identifies who is the one to make the particular assessment. And it goes on to say that the secondary actions on the section 343 provide that in no case shall the Environmental Office be considered as the approving agency. So the approving agency in this case would be the Department of Transportation or whoever is named. Thank you, very much."

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

"Thank you, Mr. Speaker. A no vote on the Amendment and the underlying bill. Mr. Speaker, this Amendment, once again, is taking out the best office, the Office of Environmental Quality Control. That office is the only one that has been out there protecting the environment. The only one in this Administration. DOT is trying to be exempted. The other agencies and the Governor's Office are being very quiet as all of these bills to gut the environmental review are passing through. This amendment simply says to the Office of Environmental Quality Control, 'You've spoken up. You've defended the environment. Now we're taking you out.' Thank you."

The Chair then addressed Representative Thielen, stating:

"Representative Thielen, at this point we are just taking a vote on the Floor Amendment. If it is adopted, it will be up for 48 hour notice and discussion on the underlying bill."

The motion that Floor Amendment No. 8, amending S.B. No. 2873, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," be adopted, was put to vote by the Chair and carried, with Representative Thielen voting no.

At 10:18 o'clock a.m., the Chair noted that Floor Amendment No. 8, was adopted.

The Chair then announced:

"Now Members, if you can refer to page 17, and Conference Committee Report Number 114-12, House Bill Number 280."

Conf. Com. Rep. No. 114-12 and H.B. No. 280, HD 1, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 280, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

At this time, Representative Thielen offered Floor Amendment No. 9, amending H.B. No. 280, HD 1, SD 2, CD 1, as follows:

"SECTION 1. House Bill No. 280, H.D. 1, S.D. 2, C.D. 1, is amended by designating sections 1 through 6 as Part I.

SECTION 2. House Bill No. 280, H.D. 1, S.D. 2, C.D. 1, is amended by amending section 6 to read as follows:

"SECTION 6. Part I does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act."

SECTION 3. House Bill No. 280, H.D. 1, S.D. 2, C.D. 1, is amended by inserting the following:

"PART II

SECTION 7. In the wake of the global recession that saw Hawaii's unemployment rate triple between 2007 and 2009, the

legislature finds that rebuilding and diversifying Hawaii's

economy to create new jobs, to put people back to work, and to build a strong economic base that carries Hawaii into the twenty-first century is a key priority.

The legislature also finds that Hawaii is dangerously dependent on imported food. As the most geographically isolated state in the country, Hawaii imports approximately ninety-two per cent of its food, according to the Pacific Regional Integrated Sciences and Assessments Program. Currently, Hawaii has a supply of fresh produce for no more than ten days. Ninety per cent of the beef, sixty-seven per cent of the fresh vegetables, sixty-five per cent of the fresh fruits, and eighty per cent of all milk purchased in the State are imported. The legislature further finds that Hawaii's reliance on out-of-state sources of food places residents directly at risk of food shortages in the event of natural disasters, economic disruption, and other external factors beyond the State's control.

The legislature further finds that each food product imported to Hawaii is a lost opportunity for local economic growth. The legislature notes that according to the University of Hawaii college of tropical agriculture and human resources, an increase in the production and sale of Hawaii-grown agricultural commodities would contribute to significant job creation. The research shows that replacing ten per cent of current food imports with locally grown food will create a total of two thousand three hundred jobs. The legislature thus finds that increasing the amount of locally grown food by as little as ten per cent could keep hundreds of millions of dollars circulating within Hawaii's economy, stimulate growth, and create thousands of new jobs. Such diversification would help make Hawaii's economy more resilient to worldwide events.

The legislature further finds that increasing local production will ensure that Hawaii has food sources that will be more resilient to global supply disruptions, will be better able to cope with increasing global demand and shortages of commodities such as oil, and will be better prepared to deal with potential global food scarcities.

The legislature notes that the nutrients in fresh fruits and vegetables degrade rapidly and recognizes that increased availability of local food typically ensures access to fresher, later-picked produce with greater vitamin content and higher nutritional value. A more robust local agricultural sector will lead to more consistency and a likely increase in nutritional choices for local residents. The legislature believes communities will thrive by having a steady, affordable stream of local products that act as staple foods to residents and by having their food dollars recycled and reinvested in the local economy.

The legislature further finds that by establishing a food sustainability standard, Hawaii will be able to ensure a long-term commitment of resources and investment to producing a significant portion of Hawaii's food for local consumption. Such a standard will also create a framework for long term planning, including land use planning, resource allocation,

and tax incentives, and will otherwise direct Hawaii toward a more robust and sustainable future.

In summary, the legislature finds that establishing an increase in the production of local food as a key state priority will lead to the diversification of Hawaii's economy, create new jobs, advance Hawaii's long term economic stability, and boost the food security of the people of Hawaii.

The purpose of Part II is to establish a statewide food sustainability standard program.

SECTION 8. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
FOOD SUSTAINABILITY**

§ -1 Definitions. As used in this chapter, unless the context otherwise requires:

"Department" means the department of agriculture.

"Farm cash receipts" means the gross revenue of farms derived from the sale of Hawaii-grown products including livestock, dairy, and edible crops, as determined by the department on an annual basis.

"Food sustainability standard" means the volume of food commodities sold in the State, measured by farm cash receipts or as otherwise determined by the department, that are grown in the State.

§ -2 Department of agriculture responsibilities. (a) The department shall be responsible for measuring and analyzing the amount of food livestock, dairy, and edible crop commodities grown and sold in the State on an annual basis. This information shall be made publicly available in accordance with chapter 92F.

(b) The department shall, on an annual basis and in conjunction with the department of business, economic development, and tourism, identify key food commodities to be targeted for assistance in developing an increased local market share.

(c) The department shall be responsible for planning and adopting the necessary incentives to ensure that the food sustainability standard established under this chapter is met or exceeded.

(d) The department shall submit an annual report to the legislature no later than twenty days prior to the convening of each regular session on the status and progress of the department's efforts to effectuate this chapter and any recommended policy changes or necessary legislation.

(e) The department may adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter.

§ -3 Food sustainability standard. (a) A statewide food sustainability standard to be achieved by the year 2020 is hereby established that requires the State to increase the amount of food grown in the State for local consumption by at least double the amount grown in 2014; provided that the department shall measure this amount by the farm cash receipts for livestock, dairy, and crops without regard to inflation adjustments, or by a comparable measurement as determined by the department.

(b) The department shall submit a report and recommendations to the legislature no later than twenty days prior to the convening of the 2020 regular session on how to raise the food sustainability standard over the following decade."

SECTION 3. House Bill No. 280, H.D. 1, S.D. 2, C.D. 1, is amended by renumbering sections 7, 8, and 9 as sections 9, 10, and 11, respectively and by designating the newly renumbered sections as Part III."

Representative Thielen moved that Floor Amendment No. 9, be adopted, seconded by Representative Ward.

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

"Mr. Speaker, this time I'm standing up in support, and in support of farmers. There was a measure Mr. Speaker, that almost made it through the

legislative process. It unfortunately died, because it was amended into a form that was incomprehensible and unacceptable to farmers.

"So going back to the Senate Draft 2, which is the basis of the amendment. This is what is before us now, to pass and to protect farmers. It keeps the false labeling of Hawaii grown coffee in the bill, because that is a good measure. But the amendment brings forth what we have needed to do to protect our farmers, and to protect our agricultural community, and also be able to have local grown food put onto the table for our community.

"Mr. Speaker, when we take a look at how hard the farmers worked on that original bill, and realized that we asked them to take their time out of their busy days, leave their farm, leave their ag production and come in and testify before this Body. The measure was food sustainability. I mean that's something we all in this Body should be supporting. The food sustainability was important. It would help the farming economy. It would bring more new people into the farming community because we would be expanding this, through food sustainability standards.

"The food sustainability standard was to be achieved by the year 2020. That's eight years out from now, but it would increase the amount of food grown in this State for local consumption. Double the amount grown by 2014, that's within two years. And then keep moving ahead with the food sustainability objectives.

"The bill was excellent, Mr. Speaker. And the farmers were distraught when all of a sudden a new version appeared that made no sense. It talked about housing and all sorts of other things that had nothing to do with our farming community. So this bill, this amended bill, simply goes back and puts forth a measure that everyone was supportive of and it deserves to pass. Thank you."

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

"Mr. Speaker, in support. In the Constitution it says we will preserve agricultural land. Right now Mr. Speaker, land is being used to grow weeds and houses. This amendment gets it back to its initial intention, food. Mr. Speaker, the farmers have a tough road to hoe, literally and physically. We need to send a gesture to them that we are serious about getting more food security, more food sufficiency. And this amendment will do that.

"It protects the coffee growers in the other part of the bill. And with this amendment, makes us true to the Constitution. It's in there, and this bill should be amended to have this component within it. Thank you."

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

"In support. Mr. Speaker, this bill started out from the House. Left the House with support. Passed through the Senate. Came back, not significantly changed, relatively similar. So the two bills going into Conference Committee were not terribly different. Unfortunately, there was a Conference Draft that was submitted which was horrendously different, and included all kinds of things, the kitchen sink. I think that torpedoed the project.

"So I think it's a travesty that a bill that so many people testified on and went so far, really had not that much opposition, in both Chambers, was scuttled in such a way. And for those reasons, I would support the inclusion of this at this time. Thank you."

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

"Thank you, Mr. Speaker. In support of the amendment. I wanted to reiterate that, you know, good legislation. We want to pass, good legislation. We want to hear the voice of our, as was said by the Representative of Kailua, our farmers. This is a goal. This is an important goal. The health of not only our people, their physical health, but the

health of our economy. So I'd like to ask that the words of the Representatives of Kailua and Waiialua be entered as my own. Thank you."

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. I know it's the second time. I just was wondering if the Members are really aware that Hawaii has a supply of fresh produce for only 10 days. If things are cut off, which they could be, due to crisis or other reasons, we have 10 days worth of fresh produce. We also import approximately 92% of our food. Those statistics should be alarming to Members. This bill will reverse those appalling statistics.

"The amendment is necessary. We don't need to delay another year. This had the support of the agricultural community, who worked hard to pass it. We don't need to delay. This had the support of the agricultural community. We can't afford to delay. So, this measure should pass in its amended form. Thank you."

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

"Mr. Speaker, I stand in opposition. I'm not really opposed to what's in the language. However, the amendments that are posed, to be put in this bill, have no relation to the underlying bill. The bill talks about coffee. This language in the Amendment was never heard in Committee, and at the last second, you're going to add it into the bill? This is just bad policy, Mr. Speaker. Thank you."

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

"In support of the Amendment. And just in rebuttal to the previous speaker. Actually, this language was heard a lot. It was heard several times in the House, and several times in the Senate. Unfortunately it was new language that was put in the very good bill at the last minute, and the Conference Committee that killed the bill.

"And so we, in good faith, to support the agricultural community, to support this very Legislature's commitment, so they say, to the people of Hawaii to create a sustainable Hawaii. We know that a lot of things happened in Conference Committee, and as was mentioned in the previous amendment, that a mistake was made. So we are in good faith, believing in the will of the people and believing in the will of this Legislature, who says the people of Hawaii."

Representative Hashem rose, stating:

"Mr. Speaker, a point of clarification. She's referring to a different bill. This bill never had any sustainability language in it. Thank you."

The Chair addressed Representative Pine, stating:

"Representative Pine, please keep your remarks to the Floor Amendment before us."

Representative Pine responded, stating:

"Well actually, in the previous amendment, the buses never had any language in that particular bill. But this Legislature had no problem with that. So I object to your ruling Mr. Speaker, and I ask you to reconsider."

Vice Speaker Manahan: "There's no ruling. I'm just asking you to keep your comments to the Floor Amendment."

Representative Pine: "Okay, which I believe that I was, Mr. Speaker. I understand that things happen sometimes, and we are filled to hold to our positions that we're supposed to come to the Floor to protect. But sometimes it just doesn't make sense, and right now, this is something good, that we're doing. This is something to say to all those people that have so much faith and belief in the bill that is now being inserted into this bill, as we're doing the same action as we did in our previous amendment. We're just saying to these people to don't lose faith in us."

Representative Hashem rose, stating:

"Mr. Speaker, point of clarification. There was no food sustainability amendment in this bill."

Vice Speaker Manahan: "Representative Pine, please proceed."

Representative Pine: "Then we can put things in amendments that weren't in the previous bill, I ask that we reconsider our previous vote, and I would like to make a motion to reconsider the previous action on the previous amendment."

At this time, Representative Pine moved to reconsider the previous action of the previous amendment, seconded by Representative Thielen.

At 10:28 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:28 o'clock a.m.

At this time, Representative Pine withdrew her motion, and Representative Thielen withdrew her second.

Representative Pine continued, stating:

"Well, to conclude, Mr. Speaker, what a wonderful way that we could end this Legislature, to show the people of Hawaii that we believe in them, and that we know that all the hard work that those just regular citizens put in for the language that is in this amendment, to see it pass for the future of Hawaii. I think this is a good amendment, Mr. Speaker."

Representative Ching rose to respond, stating:

"Thank you, Mr. Speaker. Still in support of the amendment, and also to mention that on this House Floor, we've seen many amendments. Many amendments. And I think that the comment made by the Representative is a little, how should I put it. A little unusual. And the title still remains, Related to Agriculture. The language that has been referred to has been heard, probably *ad nauseum* in this House, by various people and various Committees. I mean, do we support the farmers or not?"

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

"Thank you, Mr. Speaker. Regretfully, I do have to oppose the Floor Amendment. I think the concept is fantastic. I for one, if you guys didn't know, have no problem with putting stuff in the titles that are similar. However, there's an important mechanical thing. This thing has to be adopted in the same form in the Senate, Mr. Speaker. And if it doesn't happen, which I don't think it will, you kill the underlying bill, Mr. Speaker.

"It is clear the coffee industry, and I point to the op-ed piece in the *Star Advertiser* today. This is critical for the coffee industry. And the Floor Amendment, it's a good policy statement, it's a good goal, but it simply says to measure the cash standards of the industries. That's not a compelling reason to kill this bill for the industry. And quite frankly, that doesn't help farmers who are struggling with the big thing, cash. If this thing had cash in the bill, Mr. Speaker, then I would be like, 'Let's do it.' But it doesn't."

Representative Thielen rose, stating:

"Mr. Speaker, point of information. You corrected me before and said I could only talk about the amendment, and the amended language. And the other speaker is not doing that."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, the Chair has not recognized Representative Thielen. The Chair's going to call you out of order. Representative Thielen, you're out of order."

At 10:32 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:33 o'clock a.m.

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

"Thank you, Mr. Speaker. Just a few short items, against the amendment. Thank you, very much. First of all, I believe there is support as far as agriculture is concerned with the CD 1 that was proposed. The number one, the breadbasket, the mainstay of all the entities in the State of Hawaii, the Farm Bureau, has supported this Conference Draft.

"Also, going to this Floor Amendment, it talks about a 2020 doubling, but, there's no specifics. In the amendment, from the 16% it does have a proposal, from 16% and it defines doubling up until 30% for food sustainability.

"Number two, the proposed CD 1 also recognizes the importance ..."

Representative Thielen rose, stating:

"Mr. Speaker, here we go again. The proposed CD1 is not an issue. The amendment is an issue and he is supposed to be speaking only to the amendment, right? The standard goes for our Caucus. It should go for your Caucus."

The Chair responded:

"Representative Thielen, thank you. Representative Tsuji, please keep your remarks to the Floor Amendment."

Representative Tsuji continued, stating:

"Thank you. This amendment does not address about exports, renewable energy, and also livestock that is so important. It is not included in this Floor Amendment.

"Also, item number 3. The importance of water in agriculture. The basics of water is not addressed in this amendment. Thank you."

Representative Thielen: "Mr. Speaker, let's go again. He is supposed to be addressing the amendment, and he is not addressing the amendment."

Vice Speaker: "Representative Thielen. Representative Tsuji, please proceed."

Representative Tsuji: "Thank you very much, Mr. Speaker. I'm done. Thank you."

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

"Mr. Speaker, in opposition of the amendment. Clearly this is a procedural call. When we have a bill in Conference, and we try to add new material, just for that bill. It could have been another bill, but just the specific bill we're looking at before us, today. The only time new language can come in for that bill will be by the agreement of both the Senate President and the Speaker of the House. In this case, it hasn't happened. Therefore I respectfully oppose the amendment. Thank you, Mr. Speaker."

Vice Speaker Manahan:

"Representative Riviere, the Chair is recognizing you. Representative ..."

Representative Thielen: "Point of information, Mr. Speaker. It is not new language. It got all the way to Conference Committee."

At this time, Representative Souki called for the previous question.

Representative Riviere rose, stating:

"Thank you. I just wanted to clarify that all of the text that we have objected to, that was thrown into the Conference Draft of 2703, did come from left field. It wasn't heard in any of the Committees. It came broadly from ..."

Representative Souki rose to a point of order, stating:

"Point of order, Mr. Speaker. The question has been called."

Representative Riviere continued, stating:

"I'll continue, if I may, on my point of order. I'm just responding to a statement that was made, and I'm just correcting the statement as I best understand it. Thank you, very much."

The motion that Floor Amendment No. 9, amending H.B. No. 280, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," 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 H.B. No. 280, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Final Reading by a vote of 51 ayes.

At 10:37 o'clock a.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 280, HD 1, SD 2, CD 1

The Chair then announced:

"Members, lets proceed back to page 10, and we're on Part II on the Ordinary Calendar."

SUSPENSION OF RULES

At this time, the Chair announced:

"Members, please note that S.C.R. No. 84, has been re-referred solely to the Committee on Housing per Committee Referral Sheet No. 76. The Committee on Finance has waived its referral to this Concurrent Resolution and it is therefore appropriate for this House to consider action for Adoption."

On motion by Representative Chong, seconded by Representative Evans and carried, the rules were suspended to reconsider action previously taken on S.C.R. No. 84, SD 1. (Representative Nishimoto was excused)

RECONSIDERATION OF ACTION TAKEN

On motion by Representative Chong, seconded by Representative Evans and carried, the House reconsidered its action previously taken pursuant to the recommendation contained in Standing Committee Report No. 1822-12, recommending referral to the Committee on Finance. (Representative Nishimoto was excused.)

ORDINARY CALENDAR

UNFINISHED BUSINESS

S.C.R. No. 84, SD 1:

On motion by Representative Chong, seconded by Representative Evans and carried S.C.R. No. 84, SD 1, entitled: "SENATE CONCURRENT

RESOLUTION SUPPORTING THE HAWAII PUBLIC HOUSING AUTHORITY'S APPLICATION FOR A CHOICE NEIGHBORHOODS GRANT AND URGING THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO SELECT THE HAWAII PUBLIC HOUSING AUTHORITY AS A CHOICE NEIGHBORHOODS GRANT RECIPIENT," was Adopted, with Representative Nishimoto being excused.

At 10:39 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:41 o'clock a.m.

H.B. No. 468, HD 1, SD 2:

By unanimous consent, action was deferred to the end of the calendar.

Conf. Com. Rep. No. 8-12 and S.B. No. 2640, SD 1, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2640, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WASTEWATER," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 9-12 and S.B. No. 2767, SD 2, HD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2767, SD 2, HD 1, CD 1, pass Final 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. 2767, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 10-12 and S.B. No. 2632, SD 1, HD 1, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FEE TIME SHARE INTERESTS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 11-12 and S.B. No. 2745, SD 1, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2745, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising to speak in support, but to add some statements. Thank you, Mr. Speaker. Mr. Speaker, S.B. 2745 creates a climate change adaptation policy for the State of Hawaii by amending the Hawaii State Planning Act, to include climate change adaption priority guidelines. I wish we had something better than warm and fuzzy in the measure, because warm and fuzzy is not going to protect us against the climate change and the sea level rise that is expected to hit Hawaii's shores by the year 2050.

"Mr. Speaker, the rising sea levels pose a substantial threat to Hawaii's infrastructure and overall economy. I think we all know that the Center for Island Climate Adaptation and Policy has stated that as a result of climate change, which this bill addresses, Hawaii is expected to experience a sea level rise of one foot by the year 2050. What does that mean to our islands? What does that mean to our resources? What does that mean to our transportation, that the Transportation Chair, I'm sure, is concerned

about? Well if we don't take steps to adapt to the actual anticipated sea level rise, we will have some serious problems.

"For example, take a look at the airport runways. A rise of one foot at the Honolulu Airport could inundate our reef runway, and make certain sections unusable. That's part of climate change. But the bill doesn't go far enough. It should address that. I have other measures that I'd like to add in written comments, Mr. Speaker, but let me just mention to you what we're talking about here, in the bill. The bill says that the purpose of the Act is to encourage collaboration. Well, I want to mandate collaboration. I want to mandate the government agencies, county level and State level to work in advance.

"We're talking about 2050, Mr. Speaker. Thirty-eight years out and what's going to be happening to the reef runway? And you can't go and wait till that fifty or that thirtieth year to take some steps.

"The bill also goes on with the warm and fuzzy language about explore adaptation strategies. I want to implement them, not explore them. And then it says, 'foster cross-jurisdictional collaboration.' I want to mandate that. We don't have the time left. And then it says, 'encourage planning and management.' Warm and fuzzy isn't going to protect our shores against sea level rise, and we need to step forward boldly, and mandate action. Thank you."

Representative Thielen's written remarks are as follows:

"While I am encouraged that my colleagues, in advancing SB2745 thus far, have shown progress by amending the Hawaii State Planning Act to include climate change adaptation priority guidelines, I fear we are failing to look far enough down the road.

"Rising sea level poses a substantial threat to Hawaii's infrastructure and overall economy. The Center for Island Climate Adaptation and Policy (ICAP) has stated that, as a result of climate change, Hawaii is expected to experience a sea level rise of one foot by the year 2050. Long term sea level rise has contributed to, and will continue to contribute to, ongoing coastal erosion, coastal flooding, and drainage problems.

"The science tells us that sea level rise is coming to our islands regardless of mitigation efforts. In order to successfully adapt to rising sea levels in the coming decades, we must implement land use policies that take into consideration ICAP's predictions before it is too late. SB2745 CD1 does not delve deep enough to accomplish this.

"The current bill language maps out climate change guidelines using soft, feel-good language like "encourage", "explore", "foster", and "promote" ... these are positive words, but they are not substantive. The bill amounts to "fluff and puff".

"To ensure Hawaii makes sound planning decisions, this bill should include language that directs the State and counties to take definitive action based on scientific fact.

"We should require the State Office of Planning and the planning authority of each county to take into account a predicted sea level rise of one foot by 2050 when reviewing present applications for building, zoning, and other development permits and when developing future county plans.

"This language was included in the HD1 of this measure (inserted from HB2330). By removing this language in more recent drafts of the bill, we have taken the teeth out of it. We've whittled our planning down to just a surface treatment of the issue, rather than including a specific sea level guideline by which to measure and map our community planning.

"If we do not take steps to adapt to the actual anticipated sea level rise, the scientifically predicted increase in the sea level will inundate our islands and negatively impact our infrastructure. Take for example our coastal airport runways. A rise of one foot at the Honolulu Airport could inundate our reef runway, making sections unusable. This could hurt our tourism industry, our cargo and freight transport, and leave our local residents and businesses with limited mobility and increased vulnerability.

"Or consider Kamehameha, Farrington or Kalaniana'ole Highways on Oahu, our main coastal roads which run along and at a level with the shoreline. The sea level rise of one foot should be taken into consideration for any development along these roads, concurrent infrastructure such as sewer and utility lines, and their future repair, maintenance, and upgrades. Kamehameha Highway along the North Shore is already frequently submerged during times of high winter surf and storm systems. Imagine the difference with the one foot rise, and then imagine the impact if we do not plan for this elevated level.

"With proper planning to take into account the anticipated one foot rise in sea level, we can realistically adapt to these consequential changes. At least this Legislature began to address climate change, and therefore I will vote in support of this bill. However next year the Legislature must look to the far horizon in planning, rather than gazing near-sighted at the current shore. In other words, enact the following language from HB2330:

"The purpose of this Act is to require the state office of planning and the planning authority of each county to take into account a predicted sea level rise of one foot above current levels by 2050 when planning for development.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§46- Sea level rise; planning. The governing body or planning commission or department of each county shall take into account a predicted sea level rise of one foot above current sea level by 2050 when reviewing applications for building, zoning, and other development permits and when developing future county plans for building, zoning, permitting, and other development."

SECTION 3. Chapter 223, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§223- Sea level rise; planning. The office of planning shall develop a strategic plan for directing statewide growth that takes into account a predicted sea level rise of one foot above current sea level by 2050."

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2745, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENT," passed Final Reading by a vote of 51 ayes.

At 10:47 o'clock a.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2640, SD 1, HD 1, CD 1
S.B. No. 2767, SD 2, HD 1, CD 1
S.B. No. 2632, SD 1, HD 1, CD 1
S.B. No. 2745, SD 1, HD 2, CD 1

Conf. Com. Rep. No. 14-12 and S.B. No. 2402, SD 1, HD 1, CD 1:

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

Representative Morikawa 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:

"Thank you, Mr. Speaker. I rise with reservations on this measure. Thank you. Though the intent to preserve the natural quality of night sky

and its associated values is good in nature, the possible repercussions from excusing grandfathered or current projects seems to deem significant reservations. The bill is unclear as to how much of a new law applies to non-State entities which may pose a regulation issue.

"Dr. Wainscoat from the Starlight Reserve Committee confirmed the ambiguity of non-State projects saying the bill did not include the City and the county. I understand the argument that there are costs associated with retrofitting all projects to meet these standards, but as he confirmed, though inexpensive in comparison to replace and install, these current lights are actually more costly to run, so as a result the State will pay more to retrofit. We need to look at these improvements as investments.

"But the most worrisome exemption is the Cooke Field renovation as this bill does not require the retrofit of the field. Lights from this field, similarly, can easily affect the light pollution for extensive distances, even as far as the Big Island, affecting the projects drawn to Hawaii because of its natural lighting. In an unprecedented investment in astronomy at Yale, the University entered into a partnership with the California Institute of Technology that gave access to the world's premiere observators. Yale has invested \$12 million towards future operations with the observatory in Hawaii, in exchange for 150 nights of observation time over the next 10 years.

"These telescopes are the two largest, the best in the world. Mr. Speaker, we cannot ignore these investments to our sciences, our knowledge, our prosperity. Not only at a local State level, but moreover, at a national, and an international level. So I'm hoping that we will appreciate the fact that we need to take care of our night sky, and understand that light pollution is important. Additional written comments. Thank you."

Representative Ching's written remarks are as follows:

"I rise with reservations to this bill. Though the intent to preserve the natural quality of the night sky and its associated values is good in nature, the possible repercussions from excusing "grandfathered" or current projects deems significant reservations.

"This bill is also unclear as to how much of the new law applies to non-State entities, which may pose a regulation issue. Dr. Wainscoat, from the Starlight reserve Committee, confirmed the ambiguity of non-State projects saying the bill did not include city/county.

"Mr. Speaker, I understand the argument that there is cost associated with retrofitting all projects to meet these standards, but as Dr. Wainscoat also confirmed, though inexpensive in comparison to replace/install, these current lights cost more to run. As a result, the State will pay more to NOT retrofit.

"We ought to look at these improvements as investments. Perhaps the most worrisome exemption is the Cooke Field renovation, as this bill would not require the retrofit of the field. Lights from this field, and similar, can easily affect the light pollution for an extensive distance – even as far as the big island, affecting projects drawn to Hawaii due to its natural lighting.

"As the Department of Transportation reminds us, the implementation of fully shielded outdoor lights will require coordination with the scientific and environmental parties to properly address the State's lighting needs. Many considerations will be necessary to maintain and ensure transportation safety and security, for instance. The Historic Hawaii Foundation also brings up concerns that some historically significant buildings feature external lights integral to the historic integrity of those structures' design and character. As we must strive to retain a notion of living history through the architecture of times past, we cannot afford to deface elemental lighting fixtures arbitrarily.

"This bill contains several inconsistencies of note. For one, we need not exclude populations of under 100,000 people from these requirements; were we to reach that resort, businesses and others far exceeding light restrictions elsewhere may concentrate in small communities, and produce such excessive light pollution so as to defile natural habitats for many miles around despite their small numbers. Additionally, evidence has

shown a maximum correlated color temperature of 4,000 Kelvin harmful to both astronomy and native species, and experts suggest the limit be restored back to its original value of 3,800 Kelvin. If we are to enact such a law, let us design it so as to apply uniformly and effectively.

"In an unprecedented investment in astronomy at Yale, the University entered into a partnership with the California Institute of Technology (Caltech) that gave access to one of the world's premier observatories. Yale invested \$12 million towards future operations of the W.M. Keck Observatory in Hawaii in exchange for 150 nights of observing time over the next 10 years. These telescopes are known to be the two largest and best in the world.

"Mr. Speaker, we cannot ignore such lofty investments to our sciences, knowledge and prosperity – not only at a local/State level, but moreover at a national and worldwide level. Thank you."

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:

"Mr. Speaker, I stand in support with reservations on SB 2402 relating to light pollution and outdoor lightning. I am worried about the potential negative impact this measure may have on Aloha Stadium because the stadium emanates light upward during sporting and special events. I know the bill has an exemption for sporting venues, but the bill is still somewhat ambiguous with respect to replacements and upgrades. I do, however, support the underlying concept of optimum skies for viewing and enjoying, which is why I am willing to support this measure with reservations."

Representative Har 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 Har's written remarks are as follows:

"Mr. Speaker, I rise with reservations on Conference Committee Report 14-12, Senate Bill 2402, Senate Draft 1, House Draft 1, Conference Draft 1.

"The purpose of this measure is to require all State agencies to use new and replacement outdoor light fixtures that are fully shielded in counties with a population of at least 100,000, with certain exemptions.

"While I understand the intent is to preserve the night sky as a natural, cultural, environmental and scientific resource, my reservations lie with the potential cost of replacing State outdoor light fixtures. The issue of cost is not at all addressed in SB2404 SD1 HD1 CD1. Such an overreaching bill would require installation of many new or replacement State outdoor light fixtures from no specified source of funding and could therefore cost our taxpayers millions of dollars.

"For these reasons, I stand with reservations on 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. 2402, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIGHT POLLUTION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 16-12 and S.B. No. 1276, SD 2, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 17-12 and S.B. No. 3062, SD 1, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 18-12 and S.B. No. 3002, SD 2, HD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3002, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"May I have a ruling on a potential conflict? I am a mortgage loan officer," 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. 3002, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE BROKERS AND SALESPERSONS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 19-12 and S.B. No. 2375, SD 3, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2375, SD 3, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, with reservations. I do support helping our agricultural enterprises succeed and I do appreciate the opportunity for farmers to sell their goods, especially farmers who have multiple pieces of property, where they cannot sell produce grown on the other lot. So I am in support of the program.

"Where I do have a reservation however, is the potential for abuse. And so I truly hope this will work as intended, and will not run away from us and create other zoning issues, and commercial activities in areas where they shouldn't be. Thank you."

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

"Thank you, Mr. Speaker. For the reasons stated by the prior speaker, I'm voting no."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2375, SD 3, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL-BASED COMMERCIAL OPERATIONS," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Choy and Thielen voting no.

Conf. Com. Rep. No. 21-12 and S.B. No. 2508, SD 2, HD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2508, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN REPORTING LAWS," passed Final Reading by a vote of 51 ayes.

At 10:52 o'clock a.m., Representative Rhoads requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:53 o'clock a.m.

At 10:55 o'clock a.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2402, SD 1, HD 1, CD 1
 S.B. No. 1276, SD 2, HD 2, CD 1
 S.B. No. 3062, SD 1, HD 2, CD 1
 S.B. No. 3002, SD 2, HD 1, CD 1
 S.B. No. 2375, SD 3, HD 2, CD 1
 S.B. No. 2508, SD 2, HD 1, CD 1

Conf. Com. Rep. No. 31-12 and H.B. No. 2593, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2593, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY RULES FOR THREATS TO NATURAL RESOURCES OR THE HEALTH OF THE ENVIRONMENT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 33-12 and H.B. No. 1666, HD 1, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1666, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 41-12 and H.B. No. 679, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 679, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Takai 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 H.B. No. 679, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," passed Final Reading by a vote of 46 ayes to 5 noes, with Representatives Belatti, C. Lee, Luke, Rhoads and Saiki voting no.

Conf. Com. Rep. No. 42-12 and H.B. No. 1398, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 1398, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

Representative Cabanilla's written remarks are as follows:

"The purpose of this bill is to make public housing more efficient.

"Some 30,000 individuals are on a waiting list for public housing, there is an urgency to service them. But the process it takes to repair and build more housing units takes too long. This bill streamlines the process.

"While the State is concerned with compliance of the Procurement Code, the bill DOES NOT exempt the HPHA from federal procurement regulations, which are stringent with respect to the public-private partnerships that redevelop HUD public housing properties. The State's Procurement Code would just be a redundancy of regulations. Cutting this extra work will expedite the process. In turn, that gets people in the much-needed shelter quickly.

"To alleviate procurement concerns, the HPHA is still required to submit annual reports on all public-private partnerships."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1398, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 43-12 and H.B. No. 2589, HD 2, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2589, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Yes, I rise with some reservations on Conf. Com. Rep. No. 43-12. And just some brief comments. You know, I had an opportunity to speak with some employees with the County of Maui, and removing these vessels could pose a problem for the County, being that they lack the equipment, and other things. As well as a place to store these vehicles. I would like to see, maybe in the future, that we craft some legislation that would include DLNR as part of the equations, looking at ways where we can actually store these abandoned vessels. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2589, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VESSELS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 46-12 and H.B. No. 2175, HD 2, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2175, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising to speak against the measure. Thank you. I'd like to quote from Common Cause. Common Cause states:

This bill exempts task force members from the state's ethics code. We believe that task forces play an important role in the policy making process and the ethics and credibility of task force members is so important.

Although this measure is better than previous versions, in that it's more narrowly tailored, we're still very concerned about section 3 that allows task force members to share confidential government information with the entity they represent. This is problematic in that some companies in a given industry may be represented on a task force, but not their competitors. Those with task force representation could end up using confidential government information for private profit, or to gain advantage over their competitors. Clearly this would not be in the public interest.

"And I agree with the statements of Common Cause. Thank you."

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

"Thank you, Mr. Speaker. I just rise with reservations. Echoing some of the comments that were previously made. I mean clearly, we live in a cynical world. A very cynical world. And we work in a business with tough competitors. And to give one set of folks an advantage over another is questionable. Thank you."

Representative Keith-Agaran rose in support of 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 stand in support of this practical, common sense and reality-based measure which exempts members of government task forces from certain requirements, restrictions, and prohibitions of the State's code of ethics.

"The State benefits when it can call upon knowledgeable people to provide advice and recommendations in the early stages of policy and legislation formation. The Executive and Legislature create task forces composed of such knowledgeable people to provide this kind of expertise. Inevitably, some of the most knowledgeable people will be those who work in the area. People who work in a subject area can offer valuable insight gained through daily exposure to a subject area. However, working in the area would constitute a conflict of interest if these knowledgeable people were treated as State employees. However, task force members – other than those serving by virtue of their position as a State official – are not state employees. They have no ministerial or discretionary power and are often uncompensated for their time and expertise.

"In recent years the Administration has convened a working group on homeless issues which include many stakeholders who have long worked in such area. The Legislature recently also convened and benefitted greatly from stakeholders addressing issues related to the foreclosure crisis facing Hawaii homeowners.

"These task forces are not decision making bodies. The recommendations of such task forces are considered by the decision makers in full knowledge of the identity of such task force members. Actual decision makers remain subject to the State Ethics Code requirements. They are free to evaluate the advice of a task force and accept or reject it in whole or in part.

"The numerous requirements of the State Ethics Code – if applied wholesale to task force members as if they were full-fledged "employees" of the State – would discourage knowledgeable people from serving on task forces and giving the state their time and expertise. They cannot be expected to make their knowledge available to the public, when to do so would impinge on their livelihoods.

"This measure exempts members of task forces from specific Ethics Code requirements that would discourage them from serving on task forces and freely giving of their knowledge and time. The State will benefit by having better informed policies and legislation and no harm will result because these task forces are not decision makers.

"This bill exempts persons appointed to serve on task forces or groups established for the sole purpose of recommending possible legislation, from the provisions of Chapter 84, Hawaii Revised Statutes (HRS), the State Ethics Code. It does this by seven means: (1) defining "task force"; (2) specifically exempting task force members from HRS Section 84-12 on Confidential Information; (3) exempting task force members from HRS Section 84-13 on "Fair Treatment"; (4) exempting task force members from HRS Section 84-14 on "Conflicts of Interest"; (6) exempting task force member from HRS Section 84-15 (b) on the award of contracts; (7) exempting task force members from 84-18 (c) on representation of on matters on which an employee participated.

"The objective of this bill is to carve out persons tapped to share information and expertise with State officials and agencies on an ad hoc, particularized basis, from the Ethics Code. As the Attorney General testified, this bill recognizes two realities: first that with increasing frequency, State officials and agencies need to deal with issues and situations that require technical or experiential information that government does not have and cannot readily obtain; and second, that individuals capable of providing State decision-makers with this knowledge and expertise often acquired that information and experience by owning or working for business or other undertakings that deal with the very issue or situations which the government needs to deal.

"Similarly, this bill responds to the recently raised questions as to whether the Ethics Code's conflict of interest provisions preclude these knowledgeable individuals from serving on these task forces or foreclose them from future associations with the business or undertakings through which they gained that knowledge and expertise. The Legislature, as a

policy matter, resolves any ambiguity as to the Ethics Code's applicability to individuals tapped to serve on task forces and other groups, by opting in favor of informed decision-making, and exempting members of these *ad hoc*, particularized groups from the Ethics Code. The public will have the benefit of their specialized knowledge, expertise, and advice in the policies and legislation considered and enacted."

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

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

"Thank you, Mr. Speaker. I also rise with reservations. I'm inclined to support the measure even though I have some concerns just because I do believe that it is in the interest of good government and the people to have the expertise beginning at the phase of creation and/or potential revision of some of our laws and/or creations of the State. I think you need that expertise at the beginning stages of process. I also believe that sometimes in the implementation end of things, you need that same expertise, particularly in a smaller state where we're less able to draw from a pool of talent.

"I do worry that there might be potential conflicts of interest and maybe ask that in the future, when this Body considers changes to the ethics laws, perhaps we consider some of the federal guidelines that end up creating carve outs. So if you are involved in the inception of the entity or the regulation of an entity and formation of it, in the future if you are still subsequently involved, then with respect to profits and other personal gain, sometimes those things are carved out at the federal level. Thank you."

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

"Thank you. And may the highly nuanced and specific comments of the previous speaker be entered into the Journal as my own," and the Chair "so ordered." (By reference only.)

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. Please allow me to express several reservations regarding H.B. 2175, despite my overall support for the bill's intentions. H.B. 2175 exempts task force members from certain requirements, restrictions, and prohibitions of the State's code of ethics. It defines "task force," and becomes effective July 1, 2012.

"Most specifically, H.B. 2175 provides an exemption for members of task forces or working groups established by the Legislature from the conflict of interest law under the State Ethics Code, and excludes such members from the definition of "employee." The intention of this bill is to broaden the pool of qualified candidates who serve on legislative task forces, and encourage those to join who would maximally contribute to dialogue between task force members and the industries investigated.

"The League of Women Voters of Hawaii voices grave concern about the "inherent risks of actual or at least the perception of conflict of interest, including undue influence and the use of public office for personal gain." In these times of eroding public trust in government, we must take care not to build loopholes to obscure transparency. Of all people, task force members who formulate recommendations on possible legislation must be held to utmost standards of scrutiny.

"Last year, the State Ethics Commission advised the Mortgage Foreclosure Task Force on about the application of the conflicts of interest law to their ability to lobby the Legislature on behalf of a private business. Restrictions are placed on paid lobbyists serving on task force in order to prevent "influence peddling," and State employees are also subsumed under such restrictions. Let us remain consistent to past applications of the

Ethics Code, and simplify boundaries for our "red tape." Once we open up loopholes, we invite the system down a slippery slope.

"Americans for Democratic Action in Hawaii also opposes H.B. 2175, reasoning that – by excluding members of task forces and working groups from the Ethics Code definition of "employee" – we would imply it acceptable for those members to: accept or solicit gifts intended to influence recommendations; disclose confidential information to the public; seek favors; seek contracts with a State agency without undergoing the bid process. Indeed, any one of these concerns amply justifies our reasons to be wary of this bill and its repercussions. Let us follow our best instincts, and reexamine how its expansive intentions may swerve recklessly once applied."

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

"Thank you, Mr. Speaker. For the same reason stated previously, with reservations. And as I read section 3, that looked like a good location for a Floor Amendment. Thank you."

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

Representative Belatti 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 H.B. No. 2175, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ETHICS," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Pine and Thielen voting no.

Conf. Com. Rep. No. 49-12 and H.B. No. 2347, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2347, SD 1, CD 1, pass Final 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. This measure authorizes the counties to issue GO bonds secured by a pledge of certain receipts. Now what does that mean? That means they can borrow more money if they pledge such things as, in addition to property taxes, rental fees, charges, taxes, State and federal grants, etc. Mr. Speaker, this is like you wanting to increase your borrowing power by throwing in your, not just your house, but your boat, your dog, your cat, your kids, your surfboard and everything else.

"The point is this is the State of Hawaii saying to the counties, 'Hey guys. We want you to borrow more money.' That is not a good sign, and the argument against that is, 'Hey, money is cheap now. We should be borrowing more money.' Case in point. When you borrow more money, you have to pay more money, and right now, there are places on the mainland that have done this, and they've nearly bankrupted their counties.

"Case in point, the City and County of Honolulu, the City Council just passed a \$450 million line of credit. A line of credit for \$450 million. The point is, if they're trying to secure the rail by having more of State taxpayers' money in hock, I don't think we should be part and parcel of that. And, Mr. Speaker, because of those various reasons and the endangerment of an indebtedness, particularly in a nation of the United States, where we're 40 cents on every dollar that we spend is borrowed money. This is a dangerous downward trend that we shouldn't let the counties get into. And for those reasons I am voting no. Thank you."

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

"In support. I think it's probably also true that revenue bonds have even lower interest rates than regular bonds because there is something backing them up. That's why you get the lower rate. So there's actually a fiscal advantage to doing this.

"With regard to rail, I mean, this is a perfect example. The City has a revenue stream coming in that they can borrow against because they know they're going to get the money for rail, because that's the only purpose that money can be used for.

"So I think, as a fiscal matter, if you're going to borrow the money anyway, revenue bonds probably make sense. If you're not going to borrow the money at all, then I agree with the former speaker. Thank you."

Representative Thielen 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 Thielen's written remarks are as follows:

"Mr. Speaker: I rise with reservations on HB 2347, a bill that would allow the counties to issue general obligation bonds, that is borrow money, in excess of what the county property taxes can support.

"This bill was supported by the City and County of Honolulu. They say it is to give bondholders more security by using fees, receipts and even State and federal grant funds as collateral to issue general obligation bonds.

"But in reality this bill will leave the residents of Oahu less secure since the City will be pledging fees and grant funds that can easily change or disappear. This leaves the taxpayers, such as the voters in my district, with having to pay off these bonds – money that was borrowed using volatile revenue sources.

"Mr. Speaker, look at the history of cities in California who pledged various revenues to borrow large sums of money that they could no longer pay off when the economy soured. In some cases, such as Vallejo, California, local governments had to declare bankruptcy.

"We have an obligation to ensure our counties remain financially viable. This bill sets an ominous precedent. I urge my colleagues to show they are financially responsible and vote against this measure."

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

"Thank you, Mr. Speaker. I have reservations on this, because I feel that it could be a risky venture. Revenue bonds do have the proceeds going toward repayment of the bonds as it's fairly sure bet, so that's why the interest rates are lower. These are GO bonds with slightly higher rates and I think the risk is greater. So I caution the counties on using this particular device. Thank you."

Representative Johanson 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."

At 11:05 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 11:07 o'clock a.m.

At this time, the Chair announced:

"Members, it is 11:07 and I have just been informed that the Senate is finished with their Floor session for today. The finished at 10:56."

Representative Ward rose to respond, stating:

"Second time, and a cautionary note in terms of revenue from the train. If there's anything that is not a revenue winner, it's the mass transit. Case in point, almost all of the metros in the United States have a fare box that contributes maybe 35% on the dollar, which means 65 cents on the dollar is public subsidy. And I believe I'm at the end of my thing unless I can't say anything else."

Representative Chong rose to a point of order, stating:

"Mr. Speaker, point of order. It's not in the bill. Thank you."

The Chair addressed Representative Ward, stating:

"Representative Ward, please talk about the bill."

Representative Ward continued, stating:

"The point is, I'm responding to the gentleman saying, that 'Hey, fare boxes on mass transit is a money winner,' and my point is that it's a money loser because 65% is subsidized. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, still in support. If we're going to go off on that tangent of argument, almost all forms of transportation are subsidized. Certainly airlines are. Cars are as well, if you look at the construction costs of putting together the streets and highways. So if we're talking about revenue bonds, that's a different issue. And the actual revenue, whether it covers the cost of the transportation type, is irrelevant to the question of whether there will be revenue. That's what the bond issuers look at. They don't look at whether the proposition makes money necessarily. What they're looking at is whether the source of revenue is secure, and certainly the source of revenue would be secure under those circumstances."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2347, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL OBLIGATION BONDS FOR REVENUE-PRODUCING UNDERTAKINGS," passed Final Reading by a vote of 50 ayes to 1 no, with Representative Ward voting no.

At 11:10 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2593, HD 2, SD 1, CD 1
 H.B. No. 1666, HD 1, SD 1, CD 1
 H.B. No. 679, HD 1, SD 1, CD 1
 H.B. No. 1398, HD 1, SD 1, CD 1
 H.B. No. 2589, HD 2, SD 2, CD 1
 H.B. No. 2175, HD 2, SD 1, CD 1
 H.B. No. 2347, SD 1, CD 1

Conf. Com. Rep. No. 50-12 and H.B. No. 2099, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2099, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in opposition to H.B. No. 2099. Thank you, Mr. Speaker. This is just yet another bill that will hurt job creation. It will slow our economic recovery, for it attempts to overthrow well-reasoned court decisions issued by the Intermediate Court of Appeals in 2008, Kelly vs. Metal-Weld Specialties that clarified a party that goes to court over a workers' compensation case is not responsible for paying the attorney's fees, if it is determined that the case was brought to the court on unreasonable grounds.

"Mr. Speaker, my concern is that the people who decide whether a case is unreasonable are biased against employers, small business, and insurers. Hawaii's track record of workers' compensation costs show that our small

businesses are paying higher premiums, have more claims, and that workers stay out longer than other states. So now we are adding to the workers' comp burden, by saying that if you try to defend yourself, someone can decide that you have to pay all of the attorney costs. So this just is not right. It will further hurt employment in Hawaii.

"I'm urging my colleagues to stand up for the fairness, to uphold the ICA decision, to vote no, because it will be a nail in the coffin of jobs and employment in our State. It'll just send a chilling effect on all employers in the State that now you are responsible for paying all of the attorney costs of a worker's compensation legal case, if the Director of DLIR says you are somehow, 'unreasonable' in protesting the workers' comp claim.

"Mr. Speaker, unreasonable is a vague and arbitrary standard. No two people may agree on what constitutes a 'unreasonable' action. So to tell the small businesses in my district, who I talk to on a regular basis, and they all bring this up, workers' comp. That you run a huge financial risk when you think that an employee has improperly filed a workers' comp claim. It's just not balanced and further discourages companies from hiring our people, and getting our economy going. Thank you."

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

"Yes, Mr. Speaker. After much thought, I would like to vote no on this measure. And the reason I want to vote no on this measure, is because it seems to be a defense insurance kind of a measure. There's little attention being paid towards the plaintiffs. I'm disappointed we didn't pass any measure for plaintiffs who seek better care in the hospitals, and etc. This opens the door for suits, expenses. 'Unreasonable' can be identified in many different ways, and this bill here makes me very concerned that the defense attorneys and the insurance companies will have an advantage over the working people. Thank you, very much."

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

"Mr. Speaker, in support. This bill is an attempt to eliminate frivolous lawsuits, both from plaintiffs and defendants, whichever side of the workers' comp divide you're on. This should ensure fairness, that the other side is not moving forward with the defense, or bringing a claim that's frivolous. Because if you lose, if it is frivolous, and the court catches you doing it, you get to pay the other person's attorney's fees and that's often a substantial sum of money.

"With regard to it being some kind of a job killer. I don't see how. On the contrary, those who are injured, if the workers' comp case is moved quicker, people would be back to work sooner, and that would actually be a job creator in the sense that more people would be working. So, I'm not sure what the rationale there is.

"The other thing to point out is that workers' comp rates have been falling in this State for several years now. And if we can't take care of the workers who are legitimately injured without insurance companies raising frivolous defenses, that poses a problem. I think the reason that the insurance companies are opposed to this measure is because they're the ones that are putting forth the frivolous defenses. The people, who are actually injured, don't play those games as often. I'm not saying they never play them, but they don't play them as often, and that's why this has broken down on the ideological lines it has. Because it's the insurers who were doing most of the game playing. Mahalo."

Representative Souki rose to respond, stating:

"Yes, Mr. Speaker, I wish to rebut. The workers' compensation law that we have, at one time provided a 69% in savings in the workers' comp law. And it still provides considerable savings in relation to the rest of the nation. Our workers' comp medical cost is between 110 of Medicare. Nationally, the average is 141. And I can point to people right now in the hospital, emergency rooms, on the verge of dying because they didn't get timely medical care. Thank you, very much."

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

"Mr. Speaker, I'm in opposition to this particular measure. I think most employers would like to see their employees' injuries taken care of in a timely fashion. But there are times when you feel that it may not be a reasonable injury. This further adds to the cost and impacts of a skewed workers' compensation insurance system in Hawaii. And even though the cost may be lower now, it may arise if we keep adding on increased cost, like this one, for attorneys' fees.

"It has long been documented that work comp costs in Hawaii are high and the program is distorted because the presumption is, that any injury to a worker occurs on the job. Remember the fellow jogging after work. He fell, and that was a work injury. The burden falls on the employer and their insurance company then, to prove otherwise, that it wasn't a work injury. Further, our State says that the DLIR Director, the Director of the Labor and Industrial Relations Board, or a court decide that the employer's efforts to challenge the work comp claim are unreasonable. Then the small business must pay for the legal proceedings.

"In 2008, the ICA, the Intermediate Court of Appeals, as aforementioned, determined that attorneys' fees should not be included in the cost of these proceedings, and now this bill would reverse that court decision. It puts a further financial impact on companies who question work comp claims.

"I have no problem with the concept of loser pays in court actions. In fact, I wish Hawaii would adopt this in tort liability cases. But the work comp program is not a loser pay system. Rather, it allows for an arbitrary and possibly capricious decision to be made against the small business man or woman, who questions a work comp matter and decides to prosecute the claim. When will my colleagues realize that every time you pass laws like this, you add one more obstacle to those who want to employ people? I will vote no because I know this bill is bad for jobs and for the workers of our State. Thank you."

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

"In strong support, Mr. Speaker. Mr. Speaker, first may I have the words of the speaker from Chinatown entered into the record as if they were my own? Secondly, Mr. Speaker, I do insurance defense work, and I can attest to the fact that there are frivolous claims brought every day. And as the speaker from Downtown, Chinatown, noted, that generally, it's not the actual plaintiffs themselves. But the fact is that you have insurance companies and their lawyers, who do this knowing that there's no downside.

"And I'll give you a perfect case in point. Chapter 480-2 which deals with unfair and deceptive trade practices. There's absolutely no penalty there for someone who brings a frivolous suit because, and most plaintiffs' lawyers, my friends tell me all the time, 'We bring that suit all the time because we've got nothing to lose.' So the fact is, this type of measure here will prevent those frivolous claims, because it ensures that you must have a legitimate claim in order to get your attorneys' fees, and as such, I do support this measure wholeheartedly. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker, in support. With regard to the presumption for workers' comp cases. The presumption is not if you're injured anytime that it's going to workers' comp. If you're playing softball after work and you get hurt, you're on HMSA, or Kaiser, or whatever your insurance policy is. But you have to look back at the history a little bit, too, with regard to that presumption. It used to be that if you got hurt at work, you just sued in a normal court case, and punitive damages can be pretty crippling to a company.

"Finally, eventually, it was decided that this is a really inefficient way to do things. Let's just get rid of the torts for workers' cases, and we'll go to what we have now, which is essentially a no fault system. If the presumption is that if you're at work, and you're injured or there's some kind of illness that results from that, then it goes into the workers' comp system. But that was I think, the explicit tradeoff between getting rid of it. What business gained by going to the workers' comp system is, they don't

have to get sued in a regular, drawn out litigation with depositions and expert witnesses every time somebody stubs their toe at work.

"So we have to look at the overall picture of the context here which is one of workers' comp I'm sure is cheaper and much less hassle than going back to a tort system. Thank you."

Representative Marumoto rose to respond, stating:

"Mr. Speaker, if I may rebut. I could only wish that the remarks of the Chinatown Representative were true, that work comp injuries were always adjudicated on the basis of whether they're hurt on the job or for other activities. But I cite again the case that went clear up to the Hawaii Supreme Court, where a fellow was jogging after work at the Kalani High School track, fell and injured himself. That was deemed a work comp injury by the Hawaii Supreme Court. The employer has to prove otherwise that it was not. So you know, this is a problem because the word unreasonable can be determined. It could be arbitrary. It could be capricious, and no two people will consider it the same way. So this is not a good bill to pass. I think it would add costs, increase premiums, and hurt job creation. Thank you, very much."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2099, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Final Reading by a vote of 45 ayes to 6 noes, with Representatives Carroll, Ching, Marumoto, Pine, Souki and Thielen voting no.

Conf. Com. Rep. No. 55-12 and H.B. No. 2290, HD 1, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2290, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you. I'm standing in support, Mr. Speaker. International Children's Day is recognized on June 1st of each year. In fact, Hong Kong celebrates Children's Day on April 4th. The People's Republic of China celebrates this day on June 1, and in Japan it's celebrated on May 5th. Truly, this is a global event. Hawaii is the only state in the nation that has enacted legislation to recognize and celebrate Children and Youth Day. We do this on the first Sunday in October, and for the entire month of October. This is in Hawaii Revised Statutes, Section 8-11.

"This measure will authorize Children and Youth Day to be held at the State Capitol, unless otherwise determined by the Governor. Mr. Speaker, the importance of this is that we have 40,000 people that come to this event annually. 40,000. That's near the capacity size of the Aloha Stadium. And again, we're celebrating our most precious resource, our *keiki*.

"What kind of events do we have for the youth? A number of events. Over 200 exhibitors and community organizations provide sporting events, games, rides, demonstrations, tournaments, teen zone, free tours, hands-on art and cultural activities. I think you get the picture. This event is very important to the kids and to our State. Again it shows that the State Legislature supports Hawaii's most precious resource, and that's our *keiki*. Therefore, I support this measure and I'm hoping that all Members support it also. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in strong support of this measure, and I commend the Representative from Kalihi and his predecessor and my Senator who started this so many years ago. It is so beautiful sight to behold the children coming to their State Capitol, having fun. But most importantly, being comfortable here. It's so important that we appreciate when the children come here, because they're going to be our future, and as you all know, we appreciate when they testify, whether it be the Education Committee. And I think more events like this should happen. We should remember that this is a huge piece of property right here, with a big setback and a beautiful lawn. And it belongs to the people of Hawaii. I just

think that the Children and Youth Day is truly one of the most beautiful events to behold. A great idea. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2290, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN AND YOUTH," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 56-12 and H.B. No. 2320, HD 2, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2320, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise in favor. I'd like to express one reservation if I may. Thank you. It's just that this deals with the lifetime revocation of getting one's driver's license back. Lifetime to me, meant lifetime. But now this bill changes the lifetime to 5 years, and I just thought that was too short. So I wanted to express that thought. Thank you."

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 slight reservations to this bill.

"The current draft of this bill provides individuals with LIFETIME revocations to apply for reinstatement of license and privilege to drive a motor vehicle without an ignition interlock after 5 years. The SD2 version of this bill provided the 7 year term, something more agreeable, as I believe this is a serious issue.

"These said individuals would have had their driver's licenses revoked due to impaired driving, not once, but multiple times. Statistically, as noted by MADD on their website, the average drunk driver has driven under the influence an average of 80 times before their first arrest. Mr. Speaker, these ignition interlock devices are installed after MULTIPLE times being caught driving impaired. If we do the math that could mean many of these drivers have been on our roads HUNDREDS of times impaired. The very roads we drive home from work, pick the kids up from school, attend evening functions, etc. Every moment these drivers have been on the road, they have put lives at risk.

"Mr. Speaker, my reservations are simply that 5 years is not enough for these repeat offenders. These offenders have been provided an opportunity to rectify their personal practices by utilizing an ignition interlock device. I would hope these drivers would be so thankful as to not mind utilizing such devices. I would hope they would be thankful to not only have their transportation, but additionally their lives. MADD also notes that these ignition interlock devices decrease drunk driving up to 67%. That is why I believe these devices ought to be utilized to the fullest extent.

"Mr. Speaker, while I stand with reservations to this bill due to the timeframe mandated for repeat offenders, I must commend the efforts to instill a stronger stance in the prevention of impaired driving. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2320, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 57-12 and H.B. No. 2740, HD 1, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2740, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 58-12 and H.B. No. 1705, HD 1, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1705, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 60-12 and H.B. No. 2644, HD 2, SD 1, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2644, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 61-12 and H.B. No. 1892, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 1892, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, in support. This is a small bill that would ensure that the Elections Office will act in a timely manner to fund the work of future Reapportionment Commissions. It may not make headlines, but this is the kind of measure that should appeal to my colleague from Manoa, because it fills the gap in a law. I can hear him assuring me, 'I was inspired, and I'm an accountant.' Mahalo."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1892, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REAPPORTIONMENT COMMISSION," passed Final Reading by a vote of 51 ayes.

At 11:29 o'clock a.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2099, HD 1, SD 1, CD 1
 H.B. No. 2290, HD 1, SD 2, CD 1
 H.B. No. 2320, HD 2, SD 2, CD 1
 H.B. No. 2740, HD 1, SD 1, CD 1
 H.B. No. 1705, HD 1, SD 1, CD 1
 H.B. No. 2644, HD 2, SD 1, CD 1
 H.B. No. 1892, SD 1, CD 1

Conf. Com. Rep. No. 62-12 and H.B. No. 2265, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2265, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE PROCUREMENT CODE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 63-12 and H.B. No. 1875, HD 2, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 1875, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'd like to get a ruling on a potential conflict on this one, and later on, on S.B. 2763. I just wanted to state that I am a mortgage loan officer," and the Chair ruled, "no conflict."

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

"Thank you. On this particular measure, H.B. 1875, I stand in opposition. I know a lot of work has gone into this, and I know the product that has come out at the end is quite a bit better than it started out. And I can understand why people would be reluctant to oppose this.

"My objection is to the 60-day provision. After the foreclosure process is expired, there's still 60 days in which somebody can claim an Unfair and Deceptive Act Practice, and that will have an even more chilling effect than exists now, when in fact, as I've said many times, nobody has used the non-judicial process. What we're doing is, we're making it even harder for judicial foreclosures in the affirmation clause.

"There's some testimony that in probate cases, the attorneys already sign off that everything included in the file is 100% golden, and they'll attest to it. I don't believe that's the correct interpretation of that. So anyway, without getting too far into the details here, I am still concerned that this bill does not fix the non-judicial process. Nobody will use it. This doesn't fix any of the fatal flaws of the system, and I fear that it will also make it worse in the end for judicial foreclosures. So for those reasons, please note my opposition. Thank you."

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"Yes, I'd like a ruling on a potential conflict. At my law firm we occasionally do work involving foreclosures," and the Chair ruled, "no conflict."

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

"Thank you. In support. But we may not do foreclosures anymore. Thank you."

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

"Mr. Speaker, may I request a ruling on a potential conflict? I serve as a director on a homeowner association. Thank you, Mr. Speaker," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. In strong support. This is a very significant bill for Hawaii's homeowners, and it's the result of a lot of work, collaboration, negotiation, and quite frankly, heart. Despite the criticism of Act 48, the task force which we discussed a little earlier, a group comprised of stakeholders with diverse interest did a thorough and comprehensive analysis of Act 48 over the year, and in the end they recommended a number of refinements to preserve the intent and spirit of the law and make it work.

"The task force recommended, number one, that we temper the UDAP provisions so lenders need not fear the UDAP liability for minor violations.

"Number two. Make permanent the process allowing the owner occupant to convert the non-judicial foreclosures, to judicial foreclosures.

"Number three. Establish a separate non-judicial foreclosure and lien collection process for associations.

"Number four. Give similar rights and obligations to planned community associations.

"Number five. Provide specific language for informational notices to the public on the foreclosure process.

"And number six. Provide technical clarifications in improvements of various provisions in Act 48.

"The bill virtually adopts all the task force recommendations with a few modifications. As a legislative body we went a little further, fully repealing

Part 1, non-judicial process that once had been used to take land from Native Hawaiians. And in the last 10 to 15 years had been the mechanism to non-judicially foreclose on homeowners, often without their knowledge and without providing them a fair opportunity to save their homes. In Act 48, we just put a stop to it. Now we've gotten rid of it. This is a dreadful part of Hawaii's Code, through which too many people suffered, and repeal of this law is long-overdue.

"We made the Dispute Resolution Program permanent. In Act 48, we sunset it after five years.

"We have language resulting from a tremendous amount of discussion and negotiation, that creates a solid lien collection and foreclosure process for condominium, homeowner and planned community associations, which harmonizes with Hawaii's foreclosure process. We incorporate the requirement that for the next 5 years, lenders' attorneys filing for a judicial foreclosure must sign an affirmation stating that it verified the bank's legal standing and the accuracy of the documents submitted to court. This is a requirement that has been imposed on all judicial foreclosure actions in New York State. Since all foreclosures are now being pursued judicially, we can assure that our courts and State resources are not exploited and used as instruments of fraud.

"We cleaned up the publication requirements for auction notices, so no one newspaper will have a monopoly on these notices. One paper doubled their prices in response to Act 48. This is exploitive and troubling.

"We also gave State agencies the authority to establish and maintain a website to electronically publish these notices. To get us started, the DCCA will create a website for property subject to the Dispute Resolution Program. If a lender chooses to publish their auction notice electronically, they will need to publish it once in a newspaper at least two weeks before the auction. These provisions balance cost against the need for widespread dissemination. Homeowners will be helped because these publication fees are passed on to them in the cost of foreclosure.

"And I want to thank my colleagues here in the House and my counterparts in the Senate, for their support and hard work on this bill. And I'd especially like to thank Senator Baker, and Everett Kaneshige, in particular. They marshaled the condominium and planned community associations in their agreement. I don't have any of them in my district, so I don't get involved. These issues were very contentious and they should be credited for encouraging their consensus and firming up the association lien collection and foreclosure.

"But all is not rosy with this bill. Just like Act 48, we managed to offend a lot of people. In the aftermath of Act 48, the opponents said the banks would stop lending, but today, strangely, the banks are advertising reduced mortgage rates to encourage more borrowing. The opponents said our courts would be overwhelmed. Well yes, the courts said we would experience a surge, but the overall foreclosure rate ... "

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

Representative Herkes continued, stating:

"The overall foreclosure rate has been cut in half, and through sound leadership, our courts are managing. They said property values will decline, but according to reports, home prices are not only stabilizing, but growing stronger. They said bankruptcy rates would rise, but Mr. Speaker, the rate of bankruptcy filings has fallen dramatically.

"So just like last year, we managed to offend some of the offshore banks, and especially the attorneys that deal with foreclosures with this bill. Well, we also offended the newspaper. A lot of you got a letter involved in that, but we did the right thing.

"You know, it's clear to me that this Body and the Senate has once again won one for Hawaii's homeowners, and I couldn't be more pleased. Thank you, Mr. Speaker. And I'd like to insert additional comments."

Representative Herkes' written remarks are as follows:

"In a recent news release this week from the US Department of the Treasury, the Financial Crimes Enforcement Network found that Hawaii ranks #2 in the nation for Mortgage Loan Fraud. Mr. Speaker, Hawaii's people are a prime target for predatory lending. And when they can't pay, the banks further strip them of their dignity when they foreclose. Act 48 gives them a shot at mitigating the damages to homeowners, their families, and our communities. This bill strengthens the ground-breaking work of Act 48.

"I also want to elaborate further on the Attorney Affirmation that is in this bill.

"In New York State, foreclosures are only allowed judicially. Based on the experience the New York Courts have had with the pervasive fraud perpetuated in their system during the foreclosure crisis, the Chief Administrator of their statewide court system determined it was necessary to impose a requirement that is almost verbatim to the language adopted in this CD.

"When speaking on the affirmation requirement, the Chief Justice of the New York State Courts explained in article published in the New York Law Journal on October 21, 2010:

"We feel we have an obligation to make sure the attorneys do their due diligence and come to us with credible papers because the consequences [of wrongful foreclosures] are so great. . . . I think this makes clear to everybody the court system's absolute commitment that we are not going to allow anything to interfere with the integrity of the court process[.] . . . We want to make sure that everyone is focusing like a laser on these particular types of proceedings[.] . . . It puts them on notice. That's what this is all about. We all have to make doubly sure that we are doing what we should be doing in the first place[.] . . . [W]e cannot allow the courts in New York State to stand by idly and be party to what we now know is a deeply flawed process. "

"The article quoted one New York judge, who explained: "[S]ome lawyers appearing before him have admitted to signing documents at a rate of 'hundreds a week and thousands a month, and the notary wasn't even in the room[.]"

"According to the article, unlike the Hawaii State **Bar Association**, "The New York State Bar Association welcomed the new requirement. Its president, Stephen P. Younger, said in a statement that 'the chief judge has taken swift steps to address a nationwide problem in foreclosure actions. The New York State Bar Association applauds any effort to preserve and maintain the integrity of the foreclosure process'."

"This approach is not only taken in New York State, but also two major counties in the State of Ohio. Despite court challenge, these attorney affirmation requirements in New York and Ohio still stand.

"By filing all their foreclosures in courts, the banks have essentially clogged up our judiciary with countless fraudulent claims – preventing our courts from swiftly disposing of other more legitimate claims.

"The attorney affirmation requirement will limit the use of the judicial process to only those lenders with proper legal standing.

"There is no attorney affirmation requirement in the non-judicial process. Lawyers uncomfortable signing the affirmation can advise their clients to go the non-judicial route.

"As a result, we may see use of the dispute resolution program as the only viable alternative. Nevertheless, that process requires banks to show their paperwork that would establish standing. The reaction of the banks should help us determine just how pervasive their problems with legal standing are.

"In earlier testimony, the Hawaii Bar Association claimed there was no empirical evidence that would warrant the attorney affirmation. I beg to differ. An audit by the San Francisco County Recorder's, as reported in the NY Times in mid-February 2012, found that 84 % of the foreclosure files

they reviewed were done illegally; with two-thirds of those with 4 separate instances of fraud or irregularity.

"This requirement is necessary to protect homeowners against banks who've cheated. Too often, the banks win on default because the homeowners don't know what defenses to make.

"We are still in a foreclosure crisis. A recent article by the Associated Press dated March 14, 2012, noted that RealtyTrac projects foreclosures to rise by twenty-five per cent this year. Placing a 5 year limit should appease the concerns of the bar association and other legislators while we do what is necessary to protect Hawaii's homeowners from lender fraud during this foreclosure crisis.

"This requirement is not as unorthodox as the opponents suggest. Hawaii's Rules of Court on Probate has an attorney affirmation requirement, Rule 5(b).

"The bar association testifies that there are "existing safeguards to ensure the integrity of the judicial foreclosure process; and that sanctions for misconduct already exist and are effective." However, a recent order from Judge Seabright in Hawaii's federal district court (March 29, 2012 p. 13 on Civil No. 11-00632 JMS/RLP) determined that the lender did not have legal standing, and admonished the lender's attorney for failing to verify such standing. The judge said: "This dismissal does not prevent Plaintiff from performing due diligence (as it should have before filing the instant complaint) to determine whether and how it validly received the Mortgage and Note and bringing a new action seeking foreclosure." [Emphasis added.]

"Clearly, this order – coming out just last month – proves that the problem of standing is alive and well and infecting countless foreclosure files – if detected.

"Enacting the attorney affirmation requirement should significantly curb the rate of fraudulent judicial filings by requiring, as Judge Seabright suggests, that lawyers first determine whether their clients have legal standing **before** seeking foreclosure.

"It's clear that "existing safeguards" did not prevent the lender's attorney in this case from filing a foreclosure action – perhaps because they did not expect a homeowner to challenge standing or a court to make the inquiry.

"If lenders' attorneys have actually verified legal standing, they should have nothing to fear by signing such an affirmation.

"Opponents to the attorney affirmation cite to one NY case that held the affirmation requirement was "invalid." LaSalle Bank, NA v. Pace, 919 N.Y.S. 2d 794 (N.Y. sup. 2011). However, this was a ruling by a trial level court so its application is extremely limited to Suffolk County in New York. The analysis by that court rendered the requirement invalid not for any of the reasons cited by the bar association, but because it felt the Chief Administrator of Courts had overstepped his authority by instituting the requirement. The case discusses at length how its analysis would have been different if the requirement were a legislative act.

"Nevertheless, the requirement is still in effect in all of the rest of New York; as well as in two counties in Ohio where it has also survived challenge.

"It's easy to know when a borrower defaults on his or her mortgage. And it is happening more and more in this faltering economy – an economy we can lay blame upon the behemoth banks for creating. But we shouldn't allow the very same banks to foreclose on people's homes because they are stealth about hiding the multiple ways they've cheated.

"We must do what we can to ensure that homeowners at risk of foreclosure face a just resolution."

At 11:38 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 11:46 o'clock a.m.

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

"Mr. Speaker, I would like to address Conference Committee Report No. 63. After the nice speech given by the Chairman of Consumer Protection, unfortunately, I will speak in opposition. I think this is a bill that makes a bad mortgage foreclosure system, even worse. I opposed Act 48 in 2011 because I knew that it would make the housing situation in Hawaii, worse, and in the past year I feel that I have been proven right. As soon as the Legislature passed the bill, Fannie Mae and Freddy Mac issued a mandate to lenders in Hawaii to stop all non-judicial foreclosures. That forced the lenders to switch to the judicial process. The result has been a clog in our courts, resulting in a backlog of mortgage foreclosure actions.

"The situation will only prolong a return to a strong housing and construction market. Now this bill attempts to correct some of the bad consequences of passing Act 48 last year, but this bill makes some things worse. The Hawaii Credit Union League, the Hawaii Financial Services Association, the Hawaii Bankers Association, and even the State Bar Association have all testified against 1875. They're still very much afraid of the Unfair and Deceptive Practices Act. Their suggestions have been largely ignored.

"While I support efforts to ensure that condo associations and homeowners associations can recoup amounts owed them, this bill does not go far enough, in making it easier for these associations to ensure that delinquent and non-cooperative condo owners pay their fair share promptly or lose their property. Condo associations are not banks or mortgage companies and they should not suffer by having to wait long periods to recover their costs. Further, this bill fails to address the need to continue prompt foreclosures against investor-owned properties.

"Mr. Speaker, I feel that we have messed up. This bill tries to fix the mess, but it only makes it messier. The people who suffer are families and homeowners who have to face higher down payments and more difficulty in getting home loans because this Legislature disrupted a mortgage foreclosure system that, for the most part, has worked satisfactorily for the past 50 years. I will vote against this bill, and warn my colleagues that you are making another mistake just as you did when you supported Act 48. Mahalo."

Representative Herkes rose to respond, stating:

"Thank you, Mr. Speaker. A lot of the issues that the previous speaker brought up, were echoed by the offshore banks, the attorneys that do foreclosure law and the newspaper. And they're all wrong. We have found that the rates are going down, nationally. And I might add that when the one newspaper, the foreclosure attorneys, and the offshore banks are all upset with this bill, that we did something right."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1875, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FORECLOSURES," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Marumoto and Riviere voting no.

Conf. Com. Rep. No. 64-12 and H.B. No. 2078, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2078, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 65-12 and H.B. No. 1054, HD 1, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 1054, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. At the risk of wearing out my welcome, I just want to say thank you on this particular measure. We owe the Chairman of Education a vote of thanks for championing this bill through this House, and also Senator Tokuda the Chair of the Senate Education Committee, for doing a really great, heroic job on this measure in the Senate. She did a gut and replace so this bill survived to live on to Conference Committee. The House Bill, although I prevailed upon the House Chairman to hear it in the Education Committee, died in House Finance.

"But what we have is a great measure that enables volunteers to work for their branch libraries, their neighborhood libraries and raise money for their own libraries and be able to turn over the money for the benefit of their libraries. So it's a great victory, it's a great fix. And I really thank the two Education Chairs. Thank you."

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

"Mr. Speaker, in strong support with written comments, please."

Representative Chong's written remarks are as follows:

"Mr. Speaker, I stand in strong support. I would like to thank the two Chairs of Education for addressing this issue. I especially would like to thank Representative Mark Hashem who led the charge to have this bill address the issues to help the Aina Haina Library and many other library volunteer associations. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. Mr. Speaker, as a former Peace Corps volunteer, volunteerism means a lot. This bill puts life back into volunteerism. It's a real victory for those who give hours, upon hours, upon hours of their time to their libraries of which now, there's a settlement about where the money's going to go and what it's going to be used for. But it doesn't have the discouragement factor of which, the actual Friends of the Library of Kailua were at warring odds with the Friends of the Library of Aina Haina.

"This bill is a victory for peace between those communities. This victory is a peace for the communities that were at odds, and now for those with the financial concern, everybody seems to be happy. But overall, it shows that the democratic process does work. It's self-correcting. And when people sit and reason together, better than the task force that was going to be set up for people to sit and argue together. When they reason together, they can come to bills like this, and we should all be proud that this is taking place. Thank you."

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

Representative Hashem's written remarks are as follows:

"I am in strong support of HB1054 HD1 SD1 CD1. This measure will help assist communities to more effectively support their local libraries in a meaningful way. The role that libraries play to enhance the lives and minds of people in Hawaii's communities is important. HB1054 will provide the opportunity for, and encourage, additional public-private partnerships to continue to benefit the State Library System at the community level and make sure that these vital public institutions are supported in the best way possible.

"I believe that HB1054 recognizes and acknowledges the passion, hard work, and dedication of such individuals who have given so selflessly to our local libraries without any real inhibiting factors. For these reasons, I am in strong support of this measure."

Representative M. Lee rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, can I have a ruling on a possible conflict? I'm a member of the Board of the Friends of the Mililani Public Library, and a charter member of the Friends of the Mililani Public Library," and the Chair ruled, "no conflict."

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

"Thank you, and just briefly in support. You know, I'm very glad that this passed and I just wanted to make a comment about some things that appeared in the media. One was, you know, that this was the fight between the big Friends, and the little Friends. You know, all of us are little friends. The Mililani Library is an affiliate, but they're also everyday people working in the community. It's not a lot of fun to sort dusty and mildewed books, but it makes money for our libraries and that's what it's all about. Thank you, very much."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you. First, I echo the comments made by the Representative from Kahala, in that we owe a debt of gratitude to our Chairman of Education for shepherding this bill through. He did a great job. And despite some of the concerns that were raised just recently, regarding tax liability and consequences I think, that he also cleared that one up with the Attorney General's Office. So thanks to him, we're here today, supporting this bill."

"When we had this discussion in Education, there was, I think, a lot of hateful words, a lot of hard feelings. And a lot of things that were said to us, by way of, those Friends. And that, you know, those other Friends, across the State. You know, from the far reaches, on the East side of the Big Island all the way to the West side in Kauai. This probably captured most of our attention in Education, despite all of the other bills in terms of the amount of emails that we received in our offices."

"I said at the hearing then, and I hope that the Library System hears this again. I said that I think the Library System has a responsibility for educating all the Friends, affiliates and non-affiliates alike, of what occurred and how we're remedying this situation. Because as I mentioned before, there were a lot of hurtful words said back and forth among supporters of libraries throughout the State. I think the onus now, is with the Library System to educate everyone throughout the System, the supporters of libraries, about why we did what we had to do, and how we're supporting all Friends. Thank you, Mr. Speaker."

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. Please allow me to express my enthusiastic support for H.B. 1054. This bill authorizes affiliates of the Friends of the Library of Hawaii and certain nonprofit organizations supporting state library branches to use State library facilities for concessions, vending machines and other activities and to maintain their own accounts for the net proceeds under specified conditions."

"As Hawaii moves forward into our current economic recovery, public-private partnerships become more crucial than ever. Small businesses and nonprofits, in particular, fall onto the fence between survival and failure, as they attempt to compete without windfall profit margins, or against more robust big brothers and chain corporations. The visibility and traffic these community-minded organizations gain, by partnering with the State library system, could make the difference between their continuing to provide irreplaceable services and having to shut their doors."

"The Maui County Library supports this bill – claiming it seeks to most effectively, efficiently and maximally support the public library system – as do various volunteers in libraries throughout the State. Primary opposition comes from members of the Friends of the Library of Hawaii, known colloquially as "Big Friends." In 2010, a Memorandum of Understanding was issued between the State Librarian and the "Big Friends," allotting the latter exclusive rights to sell books on State property. Any organization that does not choose to become an affiliate of the Big Friends, faces potential prosecution for "illegal" book sales. Such a case arose last year, when an unpaid volunteer group attempted to sell books at the Aina Haina Public Library. This group has over the past two years raised over \$25,000 for books, children's programs, furniture and

other needs: surely one of many charitable organizations our State must laud and enable, rather than prosecute to maintain a bureaucratic monopoly."

"By supporting this bill, we support the local community's fundamental freedom of choice. Both the State library system, and its small enterprise or nonprofit partners, stand to mutually gain from free expression of public demand. Thank you."

Representative Jordan 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 H.B. No. 1054, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 67-12 and S.B. No. 2341, SD 2, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2341, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

At this time, on motion by Representative Chong, seconded by Representative Evans and carried, the Main Motion was amended to delete consideration of Conf. Com. Rep. No. 67-12 and S.B. No. 2341, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," for passage on Final Reading, for the purpose of deferring one legislative day.

At this time, the Chair noted that Conf. Com. Rep. No. 67-12 and S.B. No. 2341, SD 2, HD 2, CD 1, was deferred one legislative day.

Conf. Com. Rep. No. 68-12 and S.B. No. 2646, SD 1, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2646, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising with reservations on this measure. The measure will really provide exemption to building permits in the agricultural lands. Mayor Alan Arakawa from Maui expressed that many farmers and ranchers were concerned about the bill. And on Oahu, the Department of Planning and Permitting opposed the bill saying that health and safety issues are home rule issues. I believe that the Maui farmers, ranchers, and the Department of Planning and Permitting are concerned about the potential for abuse when any one of these buildings that are allowed to be constructed without going through the regular permitting process, where they could be turned into a transient vacation rental or I guess, a short term bed and breakfast, or just breakfast, bed, and the automatic approval also is a reason to be concerned about the bill. Thank you."

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. 2646, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BUILDING PERMITS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 69-12 and S.B. No. 2746, SD 1, HD 3, CD 1:

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

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

"Thank you. May I have a ruling on a potential conflict? I'm an owner of an electric vehicle. Thank you, very much," and the Chair ruled, "no conflict."

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

Representative Takai's written remarks are as follows:

"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 Har 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 Har's written remarks are as follows:

"Mr. Speaker, I rise with reservations on Conference Committee Report 69-12, Senate Bill 2746, Senate Draft 1, House Draft 3, Conference Draft 1. The purpose of this measure is to replace Act 290, Session Laws of Hawaii 1997, with updated provisions that address the current use of electric vehicles in the State.

"To be clear, I support the intent of the bill. As the owner of a green vehicle, I understand the importance of minimizing dependence on foreign oil imports and doing our part to protect the environment. However, my reservation is specifically with regards to the sunset date of June 30, 2020.

"For this reason, I stand with reservations on 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. 2746, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," passed Final Reading by a vote of 49 ayes to 2 noes, with Representatives Jordan and Takai voting no.

At 12:00 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2265, HD 2, SD 2, CD 1
 H.B. No. 1875, HD 2, SD 2, CD 1
 H.B. No. 2078, HD 2, SD 2, CD 1
 H.B. No. 1054, HD 1, SD 1, CD 1
 S.B. No. 2646, SD 1, HD 2, CD 1
 S.B. No. 2746, SD 1, HD 3, CD 1

Conf. Com. Rep. No. 71-12 and S.B. No. 2787, SD 2, HD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2787, SD 2, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with serious reservations. Mr. Speaker, this bill is about the reliability standards for the interconnection, which is all about when we get PV, and solar, and all of the renewable energies up to speed. Things are going to be beneficial, but also possibly discombobulating in terms of stability of the system, which is to be expected to a degree. But to have an open-ended blank check for surcharges to be passed on, my fear is, and my biggest reservation is, this becomes like the fuel surcharge.

"It used to be where we pay for electricity at a certain amount, and then the fuel surcharge was sort of ancillary attack. And now the fuel surcharge is big, if not bigger. The tail has wagged the dog. And I would hate to see the tail of this one wag the dog because of going for PV instead of lowering the rates for our constituents, yours and mine and everybody's. We're actually going to increase it. Fearing the stability factor, in effect destabilizes all of our household budgets, which have to fit around the kitchen table. All balanced budgets. And this may be a destabilize. 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. 2787, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICITY," passed Final Reading by a vote of 50 ayes, with Representative Marumoto being excused.

Conf. Com. Rep. No. 72-12 and S.B. No. 2825, SD 1, HD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2825, SD 1, HD 1, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Thielen 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 Thielen's written remarks are as follows:

"Mr. Speaker, I rise with reservations on this Administration bill.

"This bill would give more people access to personal medical information stored in the government's immunization database.

"While the database contains records about vaccines, dosages, dates administered, etc., it also includes some very private information, such as a person's:

- Name
- Address
- Date of Birth
- History of vaccine-preventable diseases.

"This last item is especially troubling. Some of these diseases carry a lot of social stigma, like Hepatitis B or C, or tuberculosis. And according to the Department of Health, the database will also note whether a person has

AIDS or HIV [this was stated during the House Judiciary Committee hearing on companion House Bill 2563].

"For that reason, it is of paramount importance that the database administrators and users be fully trained on protecting the security and confidentiality of this information. If there was a security breach, immunization information could potentially be used to harass or discriminate against certain individuals.

"Yet when the companion bill was heard in the House Judiciary Committee, the representatives from the Department of Health's immunization branch couldn't seem provide us with details on how the other entities granted access to the registry will safeguard patient privacy throughout the process. It seemed like they didn't have any kind of concrete plan in place.

"I find it very ironic that the Administration is asking us to pass a bill that would put confidential medical information in the hands of more people, without a stronger guarantee that those people will be properly trained on protecting the privacy of the information, and without any language in the bill that would impose sanctions for security breaches.

"But in a way, maybe this isn't so surprising. The Legislature was recently asked to consider a bill that would have required businesses handling personal information to have a written policy and procedure to prevent identity theft, and to train all their employees on the procedure. The bill imposed stiff penalties on the businesses that failed to comply, but didn't address government entities at all.

"If the government is going ahead with this plan for the immunization registry, it should at least hold itself to the same standards that are expected of private businesses. To do otherwise would be unfair and hypocritical."

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

"Thank you Mr. Speaker. In support with reservations. Just briefly, I think the ACLU makes some very compelling points in its testimony on a previous iteration of this bill. And I realize that while it has been revised, I do think that there are some privacy implications inherent in this bill and that is why I'll be voting with reservations. 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.)

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII IMMUNIZATION REGISTRY," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Pine voting no, and with Representative Marumoto being excused.

Conf. Com. Rep. No. 74-12 and S.B. No. 2001, SD 1, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST," passed Final Reading by a vote of 50 ayes, with Representative Marumoto being excused.

Conf. Com. Rep. No. 75-12 and S.B. No. 2763, SD 2, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2763, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'd like to get a ruling on a potential conflict on S.B. 2763. I just wanted to state that I am a mortgage loan officer," 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. 2763, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATION," passed Final Reading by a vote of 49 ayes to 1 no, with Representative Pine voting no, and with Representative Marumoto being excused.

Conf. Com. Rep. No. 76-12 and S.B. No. 2540, SD 2, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2540, SD 2, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran rose to disclose a potential conflict of interest, stating:

"I'd like your ruling on a potential conflict. In my law practice, my partners and I have had occasion to provide advice on gender equity issues on high school sports," and the Chair ruled, "no conflict."

Representative Keith-Agaran continued to speak in support of the measure with reservations, stating:

"Thank you. Please note my reservations to sections 9 and 43."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2540, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading by a vote of 46 ayes to 4 noes, with Representatives Choy, Hanohano, McKelvey and Nakashima voting no, and with Representative Marumoto being excused.

Conf. Com. Rep. No. 77-12 and S.B. No. 2800, SD 1, HD 1, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTIONS FROM CHILD CARE LICENSING," passed Final Reading by a vote of 50 ayes, with Representative Marumoto being excused.

Conf. Com. Rep. No. 78-12 and S.B. No. 2655, SD 2, HD 3, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2655, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PORTABLE ELECTRONICS INSURANCE," passed Final Reading by a vote of 50 ayes, with Representative Marumoto being excused.

At 12:06 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2787, SD 2, HD 1, CD 1
 S.B. No. 2825, SD 1, HD 1, CD 1
 S.B. No. 2001, SD 1, HD 2, CD 1
 S.B. No. 2763, SD 2, HD 2, CD 1
 S.B. No. 2540, SD 2, HD 2, CD 1
 S.B. No. 2800, SD 1, HD 1, CD 1
 S.B. No. 2655, SD 2, HD 3, CD 1

Conf. Com. Rep. No. 79-12 and S.B. No. 2277, SD 2, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2277, SD 2, HD 2, CD 1, pass Final 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 Keith-Agaran rose in support of 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:

"I support this measure that will extend the Department of Land and Natural Resources' authority to enter into safe harbor agreements and habitat conservation plans, and incidental take licenses through June 29, 2017, while also repealing section 195D-27, Hawaii Revised Statutes.

"Since being allowed temporarily in 1997, safe harbor agreements, habitat conservation plans, and incidental take licenses have been valuable tools for the State's ongoing conservation efforts. These tools, available previously only under federal law, provide a flexible framework for landowners to move ahead with land-use projects, while providing protection for endangered or threatened species.

"In the fourteen or so years that the law has been in effect, the Department of Land and Natural Resources has issued eight habitat conservation plans and six safe harbor agreements. These have proven effective in helping to restore certain populations of *nene*, montane-nesting seabirds, and Hawaiian hoary bats.

"This bill started off as what was represented as a compromise bill that would have allowed the law to become permanent while providing a private right of action to enforce these agreements. In the course of this session, the private right of action was eliminated and most parties acknowledged the existing administrative procedure for enforcing rules, habitat conservation plans and safe harbor agreements and accompanying licenses is problematic. This Conference Draft repeals section 195D-27, Hawaii Revised Statutes, which establishes administrative enforcement procedures in response to such concerns.

"While I believe that the use of these tools to foster better conservation efforts has already shown its worth and deserves to be permanent, I support at least extending the sunset date so that DLNR can continue to enter into safe harbor agreements and habitat conservation plans, and incidental take licenses in a responsible way and in concert with its federal partners processing of federal permits."

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENDANGERED AND THREATENED SPECIES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 82-12 and S.B. No. 3008, HD 3, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3008, HD 3, CD 1, pass Final Reading, seconded by Representative Evans.

Representative Keith-Agaran rose in support of 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:

"Honorable Speaker, I support SB3008, HD3, CD1 which allows impoverished family court litigants to post pleadings at the courthouse rather than incur the outrageous costs charged by newspapers for legal notices. This measure provides an alternative to serving notice by publication by allowing the posting of pleadings at the courthouse for all family court matters. The increase in legal classified rates has placed a burden on impoverished litigants who are unable to locate the opposing party and must serve constructive notice as part of the due process required under our system of justice. However with the decrease in competition among Hawaii's daily newspapers and with the contraction of newspaper readership, the practice of service by publication appears increasingly obsolete as a meaningful means of meeting due process concerns.

"The posting in lieu of publication for impoverished litigants is not new in Hawaii. Current statutes have allowed for posting of publication in

divorce actions since 2000, and prior to 2000, Family Court rules allowed for posting in lieu of publication.

"SB3008, HD3, CD1 would assist Hawaii's impoverished families and their children while still providing the constructive notice required to meet due process concerns."

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURT," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 87-12 and S.B. No. 2766, SD 2, HD 2, CD 1:

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, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENTITIES REGULATED BY THE INSURANCE COMMISSIONER," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 88-12 and S.B. No. 2742, SD 1, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2742, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

At 12:07 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 reconvene at 12:08 o'clock p.m.

Representative Thielen 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. 2742, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 89-12 and S.B. No. 2238, SD 1, HD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 2238, SD 1, HD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"I'd like to request a ruling on a potential conflict. I work for a non-profit in my private work," 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. 2238, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 97-12 and S.B. No. 2335, HD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 2335, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL MANAGEMENT AREAS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 105-12 and S.B. No. 2858, SD 1, HD 2, CD 1:

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

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

"Mr. Speaker, I rise in opposition. My objections to this measure are numerous, but probably the real remedy would be a measure to restore the OIP, Office of Information Practices to become the court of last resort as envisioned by past Legislatures. Based on the federal Freedom of Information Act, it was not meant to allow Departments to appeal an OIP decision in court. OIP argues that it is, but that will take a paper review that would take 30 days. However, I think it is an unnecessary step.

"According to Professor Beverly Keever of the UH School of Communications, she said it best, and I would like to quote her:

Senate Bill 2858 is ill-advised for several key reasons. Rather than adhering to the dispute resolution process that has worked for 24 years, this bill establishes a judicial process in which a government agency can go to court rather than release a record to which a citizen requestor is entitled. Rather than adhering to the 24 year old legislative intent barring government agencies from suing each other, Senate Bill 2858 risks, almost invites, one taxpayer-funded government attorney contesting another taxpayer-funded government attorney in court proceedings.

Rather than aiding the public and gaining access to a government record, this Senate Bill sets up a judicial process that denies taxpayers and citizens, unable to hire their own lawyer to be represented in the complex court proceedings. In short, Senate Bill 2858 risks, one, causing bureaucratic red tape and confusion at the taxpayer expense. Two, emboldening government agencies to deny taxpayer and citizen records to which they are entitled under Hawaii's Freedom of Information law. Three, wasting scarce government resources in these dire economic times. And four, making it even more difficult for taxpayers and citizens to obtain government records in a timely manner.

Senate Bill 2858 causes the most serious erosion of Hawaii's Freedom of Information law in its 24 year old history, and shackles public participation in their own government.

"Mahalo."

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

"Thank you, Mr. Speaker. In opposition. Thank you, Mr. Speaker, as stated in the Uniform Information Practices Act, a government agency dissatisfied with an administrative ruling by the Office of Information Practices does not have the right to bring an action into Circuit Court, to contest the OIP ruling. The legislative intent for expediency and uniformity in providing access to government records would be frustrated by agencies suing each other.

"Mr. Speaker, a letter from media and open government groups against this measure has been signed by: Beverly Keever, Right to Know Committee; Barbara Kim Stanton, AARP; Barbara Polk, Americans for Democratic Action / Hawaii; Nikki Love, Common Cause Hawaii; Kat Brady, Community Alliance on Prisons; Marjorie Ziegler, Conservation Council for Hawaii; Choon James, Country Talk Story; Larry Geller, Disappeared News; Isaac Moriwake, Earthjustice; Stirling Morita, Hawaii Chapter of the Society of Professional Journalists; Rafael Del Castillo, Hawaii Coalition for Health; Ikaika Hussey, Hawaii Independent; Donna Wong, Hawaii's Thousand Friends; Alethea Rebman, Kapiolani Park Preservation Society; Henry Curtis, Life of the Land; Chris Conybeare, Media Council Hawaii; Non-Partisan Hawaii Ohana; Robert Harris, Sierra Club Hawaii Chapter, and then a number of other individual signatories.

"The measure isn't in the best interest of open government and we should choose to stop it here. Thank you."

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

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

"Mr. Speaker, in support. Just briefly, but first let me ask that I be able to submit written comments. Generally this bill takes a balanced approach to deal with the reality of the situation, which is, that despite what the statute says, the courts have ruled that people can appeal, and agencies can appeal. This bill takes the balance towards disclosure and puts a limit on how long an agency can take. And so, I would ask my colleagues to vote in favor of this bill."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I stand in support of this measure which creates a uniform procedure for State or county agencies and boards to seek judicial review of decisions by the State Office of Information Practices ("OIP") relating to the Sunshine Law (Part I of Hawaii Revised Statutes Chapter 92) or the Uniform Information Practices Act (Hawaii Revised Statutes Chapter 92F) ("UIPA").

"In light of the courts' recognition of a right to appeal OIP decisions under UIPA, this measure is necessary to provide clarity by creating clear procedures for appeal of OIP decisions. The inclusion of a 30 day period to file appeals and requiring appellants to show that the OIP's decision was "palpably erroneous" ensures that appeals will not be undertaken lightly and there will be great stability in this area of law while ensuring that citizen requests for disclosure of documents are not ignored by agencies. This bill confirms that in the balance of government transparency, the weight of our law tilts clearly towards the public's right to disclosure of government records.

"OIP administers and resolves disputes under both the UIPA and Sunshine Law. Each law has different provisions for judicial appeals from OIP's decisions. The UIPA has no provision allowing an agency to judicially challenge an OIP decision, while the Sunshine Law permits "any person" to appeal to the courts. At the time that the Sunshine Law was enacted, OIP did not exist and the "any person" standard was meant to allow an individual to challenge an agency's actions for an alleged violation of the Sunshine Law. UIPA did not contemplate allowing an agency to challenge OIP's decisions. However, in 2009, the courts allowed an agency to judicially challenge an OIP decision mandating the release of records pursuant to the UIPA, because that determination was based on an underlying Sunshine Law decision and the "plain" language of the Sunshine Law permitted an agency, as "any person," to appeal. County of Kauai v. Office of Information Practices, 120 Haw. 34, 200 P.3d 403 (Haw. App. 2009) (summarily affirmed by the Hawaii Supreme Court on June 23, 2009).

"OIP asked the Legislature to establish a simplified and uniform appeals process for both laws. Some opponents of the bill have argued that the bill relinquishes OIP's current authority to have the last word in UIPA decisions, while other opponents (agencies and county councilmembers) claim that OIP is being granted too much power for an entity that is not a court. Supporters of the measure, which include OIP, the Governor and many state agencies testified and understood that the bill reasonably balances these competing interests and would provide a clear and uniform avenue of judicial review to ensure that OIP's decisions are founded on proper legal bases while also discouraging agencies from simply ignoring decisions with which they disagree. Rather than being embroiled in litigation against other agencies, the bill would free OIP to continue to provide training as well as informal dispute resolution, which constitute the bulk of OIP's work and are important activities that help to ensure open government

"I agree with supporters of the bill. The Conference Draft allows agencies to judicially challenge OIP's decisions, but requires agencies to timely appeal within 30 days and does not require OIP or the person who requested the decision to appear in court as parties to the appeal. While the bill now gives agencies the right to judicially challenge OIP's decisions, it also sets a strong standard of review that would accord a presumption of validity and require the courts' deference to OIP's factual and legal determinations concerning the administration and interpretation of the UIPA and Sunshine Law, unless such determinations are "palpably

erroneous" and result in a definite and firm conviction that a mistake has been made. See e.g., Right to Know Committee v. City Council, 117 Haw. 1, 175 P.3d 111 (2007); Aio v. Hamada, 66 Haw. 401, 664 P.2d 727 (1983). The bill further clarifies that the de novo standard of review referenced in HRS Sec. 92F-15(b) applies only to judicial appeals brought by the general public, and that agencies' appeals are instead subject to the higher "palpably erroneous" standard. The bill does not affect the standard to be applied by the courts in reviewing OIP decisions with respect to constitutional issues or other matters beyond OIP's sphere of expertise regarding the UIPA and Sunshine Law.

"As is typical in appeals from administrative decisions, this bill limits the record in an agency appeal to what was presented to OIP when it rendered its decision, thus requiring an agency to present its best case to OIP and not rely upon having a second chance to present new evidence in a judicial appeal. Only in extraordinary circumstances would the circuit court allow discovery and admission of additional evidence during an appeal from an OIP decision.

"A key provision is that if an agency fails to timely appeal within 30 days from an OIP decision mandating disclosure of a record under the UIPA, then such agency will not be able to challenge the decision if the citizen requesting the record is forced to bring an action to compel disclosure. This provision thus encourages agencies to take timely action, and it discourages agencies from simply ignoring an OIP decision and indefinitely refusing to disclose a record that OIP has determined should be disclosed under the UIPA.

"Finally, this bill does not affect the general public's existing right to bring appeals or to recover reasonable attorney fees and costs as prevailing parties in actions brought under either the UIPA or the Sunshine Law.

"It's unfortunate that we live in a cynical world. A cynical world, in this case, that believes the worst about the intentions of OIP and this present Administration. This bill provides a framework in the reality that OIP and the public faces, not the fantasy world that opponents of this measure seem to believe exists."

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

"In opposition, Mr. Speaker. I'm still trying to understand why the Administration would promote this bill. Our Legislature never intended the Office of Information Practices to be challenged in court on its rulings. OIP decisions were meant to be the final authority and government agencies would have to abide by their rulings.

"The legislative history makes it very clear behind their creation of the OIP. The OIP is a product of our Freedom of Information Laws in 1989, which gave the public the right to obtain the government records they need to fully participate in our democratic process. At the time, the Legislature stated in Conference Committee Report No. 167 on S.B. 1799 of 1989, its intent that a citizen have a right to appeal a government agency's denial of access to a government record, but that the government agency not have the right to contest the OIP ruling.

"This intent could not have been more clearly stated. Again, I don't understand why this Administration is promoting this bill. Whether it's access to the Environmental Impact Statement for a controversial development project, or making sure that a local neighborhood board is following the open meeting laws, the OIP helps the public exercise their right to know what their own government is doing. This bill would completely frustrate the entire purpose of the OIP and undermine over 2 decades of sunshine in government. I can only imagine a private citizen who wants to get some information from a government agency, Mr. Speaker, and then they find out that they're going to be challenged in court.

"Why would anyone ever want to find a justice through information for people? This basically says if you have all the power and all the attorneys, then go ahead and try to get public information, because a private citizen is going to now be so fearful to ever want to request information for their community that they would represent. So that's why I'm voting in opposition of this measure, Mr. Speaker."

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

"In support. I would just like to make a few remarks in response to the previous speaker. You know, I rise because I do think this is a balanced approach to a legal situation where our courts in 2009, did in fact give agencies and acknowledge that the agencies do have the right to appeal OIP's decisions. I believe that what has been adopted, the 30 day requirement in which to file a complaint, provides time limits that will make it reasonable for agencies to challenge and then for courts to respond timely in a way that the public's needs and rights to know are going to be recognized.

"And finally, one last thing. The standard applied in this bill for palpable erroneous review would provide great deference to OIP's decisions. So, in fact, it provides as the Chair of the Judiciary said, a very balanced approach given our current legal situation with open government. Thank you."

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

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

"Mr. Speaker, in opposition. Mr. Speaker, the hallmark of democracy is openness and transparency. That's like saying motherhood and apple pie is something favorable. However, this Administration has not been, perhaps, the most open in terms of the Judicial selection. Perhaps in having Executive Orders being given, and now this particular issue comes up. Is there a pattern, question mark?

"So I would strongly urge the Administration to veto this, to get rid of what otherwise looks to be a secret Administration on which this is going to fall on, subject to, just reinforcing it. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2858, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OPEN GOVERNMENT," passed Final Reading by a vote of 43 ayes to 8 noes, with Representatives Carroll, Ching, Fontaine, Hanohano, Marumoto, Pine, Thielen and Ward voting no.

At 12:22 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 2277, SD 2, HD 2, CD 1
 S.B. No. 3008, HD 3, CD 1
 S.B. No. 2766, SD 2, HD 2, CD 1
 S.B. No. 2742, SD 1, HD 2, CD 1
 S.B. No. 2238, SD 1, HD 2, CD 1
 S.B. No. 2335, HD 2, CD 1
 S.B. No. 2858, SD 1, HD 2, CD 1

Conf. Com. Rep. No. 106-12 and S.B. No. 3001, SD 2, HD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 3001, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WILDLIFE," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 112-12 and H.B. No. 1617, HD 2, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1617, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 115-12 and H.B. No. 2487, HD 1, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2487, HD 1, SD 2, CD 1, pass Final 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 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 to HB 2487 regarding pension spiking. I do agree that we need to curb the practice of pension spiking amongst public sector employees. However, I am not sure that this measure accomplishes this effectively. Ultimately, I believe the onus is on management to monitor and prevent pension spiking and other abuses by employees. Nonetheless, discussions around this measure have been helpful in bringing this practice to light and helping raise awareness about the practice, which adversely impacts all of Hawaii taxpayers."

Representative Cullen 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 Yamane 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2487, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 116-12 and H.B. No. 609, HD 2, SD 2, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 609, HD 2, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'll try to put the bulk of my comments in written comments as remarks into the Journal. Thank you, Mr. Speaker. But I rise in strong support.

"This bill. There's a lot of gratitude and appreciation to what the Senate, the House, the Leadership, my colleagues, to provide the option and to be able to preserve medical services. The Chair of Health. Mr. Bruce Anderson of HHSE confirmed the intent of HHSE, by stating in his testimony that this measure will be a vehicle to potentially double long-term care capacity, meeting the demand for skilled nursing beds, but enabling also collaboration with St. Francis Healthcare Systems in providing daycare, respite, and other services to meet the needs of Hawaii's aging population.

"The difficulties that were faced by HMC East, Mr. Speaker, and I will comment again. I know that you have ruled on a potential conflict, but my husband did work there at one time," and the Chair ruled, "no conflict."

Representative Ching continued, stating:

"Thank you, so much. It has been a great source of great concern, for myself, my people of Liliha, and the State as a whole. And seeing how we can work together for such a worthy cause is inspiring, and I hope we can find that common ground that benefits all. That benefits so many.

"The sisters had a legacy in Liliha, and I hope it's not a conflict of interest, but I'm a baptized Catholic, and now President of the Catholic Women's Guild," and the Chair ruled, "no conflict."

Representative Ching continued, stating:

"Thank you. But the health of our people is of vital concern and those that help our people, we want to help them. So with much gratitude, and strong support."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in strong support to this bill.

"Mr. Speaker, I would first and foremost like to thank my colleagues for supporting this appropriation. I would additionally like to thank HHSC, who helped our Legislature provide the option and experience to preserve medical services. This measure presents the supplementary opportunity (possibility) to provide our aging population with additional long-term care.

"Dr. Bruce Anderson, of HHSC, confirmed the intent of HHSC by stating in his testimony, "HHSC supports this measure as a vehicle to, potentially, double our long-term care capacity on Oahu, meet the demand for skilled nursing beds, and to enable collaboration with St. Francis Health Care systems in providing day care, respite and other services to better meet the needs of Hawaii's aging population."

"Dr. Anderson also noted in a provided diagram that Queens Medical Center and Maui Medical Center, with the greatest volume of waitlisted patients, experienced net annual losses at least 3 times those of other hospitals. This bill would help alleviate the numbers of those waitlisted and economic loss, providing a more centralized focus for facilities like Queens to continue their emergency services and transplant care – of which they assumed since the HMC closure.

"The recent difficulties faced by HMC-East have been a source of great concern for myself, the people of Liliha, and the State as a whole. Seeing how we can work together for such a worthy cause is inspiring. I hope we can continue to find that common ground that benefits us all. This appropriation is an investment in a community institution; one that benefits everyone in our community, and it will prove its worth by its continued good works and service to the people of this State.

"Mr. Speaker, at this critical time in our State's history, the health of our people is of such vital importance. The laws we make right now will continue to affect the well-being of our communities for generations. Nowhere is that more true than in my district. So on behalf of the people of my district and myself, I strongly support HB 609 HD2, and offer my most sincere gratitude to all of my colleagues who have done the same. Thank you."

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

"Mr. Speaker, I'm standing in strong support. Mr. Speaker, I would like to commend the Body for the consideration, and I hope the positive movement of this bill. This bill, in effect will start the discussion to potentially double the amount of long-term care beds available for all of our citizens, and all of our constituents as we move forward dealing with the health care situation in our State. And Mr. Speaker, this is again, another measure that we tried to emphasize in the pursuit of a true public and private partnership as we move forward in addressing the rising health care costs. Thank you, Mr. Speaker."

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:

"Thank you, Mr. Speaker. I want to sincerely thank all of my colleagues in this Body for supporting this important legislation to protect healthcare in the communities affected by the closure of Hawaii Medical Center. This bill will authorize the assimilation of Hawaii Medical Center-East on Oahu into the Hawaii Health Systems Corporation and appropriate funds to enable the assimilation.

"According to HHSC, the bill could "potentially double our long-term care capacity on Oahu, meet the demand for skilled nursing beds, and enable collaboration with St. Francis Health Care systems in providing day

care, respite and other services to better meet the needs of Hawaii's aging population."

"Mr. Speaker, when one community is hurting, many others are affected either directly or indirectly. I appreciate this effort to ease the strain caused by the closure of HMC-East as I believe this will also help patients across this island to receive the care that they need."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 609, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 120-12 and H.B. No. 2569, HD 2, SD 1, CD 1:

Representative Chong moved that the report of the Committee be adopted, and that H.B. No. 2569, HD 2, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, in support. Particularly regarding the church membership issue, which is a bit of a sticking point. It could lead to lawsuits and other complications. Thank you."

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

Representative Keith-Agaran rose in support of 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 stand in support of this measure which clarifies various issues raised regarding the application of Act 1 of 2011, Hawaii's civil unions law. The core of this measure was the work of many months by a task force working with the Department of Health.

"This bill clarifies the power of family court to grant divorces, annulments and separations to those who entered into a union in another jurisdiction that is recognized as a civil union in this State, without which the couple might have no jurisdiction which could address issues arising from their relationship.

"The bill addresses practical issues for couples formerly in reciprocal beneficiary relationships who entered or will enter civil unions. It retroactively ensures that couples do not lose the benefits of reciprocal beneficiary relationships – including the benefits of holding property in tenancy by the entirety – and civil unions by the prior requirement that their reciprocal beneficiary relationship be dissolved before they can enter a civil union. It eliminates this gap going forward by automatically terminating a reciprocal beneficiary relationship when the couple enters a civil union.

"The measure further clarifies who may solemnize a civil union. It authorizes name change on the certificate of civil union. It clarifies the standard for recognizing a union performed another jurisdiction as a civil union. It also clarifies the treatment of reciprocal beneficiaries who enter into a legal union in another jurisdiction that is not marriage to have their legal union recognized as a civil union here.

"While many of these provisions will affect only a small number of people, they are important to make sure that the laws of Hawaii are comprehensive and humane.

"The measure also contains a narrow exemption from liability for the refusal to perform civil unions in religious facilities under certain circumstances that was the subject of a great deal of input by various stakeholders and a great deal of work by the Legislature. The exemption added to the civil union statute is crafted to protect religious freedom while ensuring that the public accommodation law continues to protect all citizens where it is applicable. For churches and others who believe that

the federal and/or State constitution requires more or less protection, they certainly have other recourse than legislation aimed primarily at establishing and clarifying fundamental rights for civil union partners."

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

"I have some reservations on this particular section of this measure. I'm speaking on the solemnization bill. The concern that I have is on 572-b, section 2, item 2 there. Where the organization, the religious organization, if you have members of the church and they want to have a civil union solemnization service, the church will not be exempt then. That's what I gather from this language in here.

"I could be wrong, but it seems that they are providing exemptions. However they provided that there are a number of things. And I can understand if you're running a for-profit you certainly should not be exempt. But in this case here, it could kind of create a problem, as we move along in Section 2. And if we can, I would like to clarify this and if I could have a recess to discuss this with the Chairman. Thank you, very much."

At 12:29 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 12:33 o'clock p.m.

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

"Thank you, Mr. Speaker. I'll have to go WR, on this measure, CCR 120-12 and I'll have additional written comments. Mr. Speaker, I think from the beginning of time, and my time here at the Legislature, I've always felt it's important to respect people's religions. In fact, historically the Mayflower, the whole reason people came over here, was to practice what they wanted to. I have a lot of respect for people who practice their religion. Jews, Orthodox Jews, don't eat pork. They don't eat shellfish. There are other sorts of things that religious people don't do. My feeling is, you know, we respect that. And that's what we do in America. We respect it. Thank you."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. Although I support the intentions of H.B. 2569, I do so with several reservations which I would like to explain. H.B. 2569 amends various statutory provisions related to civil unions for clarity and conformity.

"It provides uninterrupted rights for couples holding property in tenancy by the entirety who enter into a new legal relationship simultaneously with or within ninety days after the termination of an earlier legal relationship; provided that no liens were perfected and attached on the property in the interim.

"It provides for non-liability of religious organizations and religious facilities under certain circumstances.

"It ensures that rights held by certain reciprocal beneficiaries carry over to a civil union; provided that the reciprocal beneficiaries terminated their relationship simultaneously with or within ninety days after the termination of the reciprocal beneficiary relationship.

"It extends rights created by the solemnization of a civil union that were not included within a reciprocal beneficiary relationship to be recognized as of the date the civil union was solemnized.

"It amends various statutory provisions relating to solemnizations, and authorizes name change on the certificate of civil union.

"It also confirms the family court has jurisdiction over the divorce, annulment, and separation of a union that is recognized as a civil union in Hawaii.

"It allows reciprocal beneficiaries who enter into a legal union in another jurisdiction that is not marriage to have their legal union recognized as a civil union effective upon approval.

"Finally, it exempts religious organizations from liability under certain circumstances when refusing to avail a religious facility for civil union solemnization. The bill is to be retroactively effective January 1, 2012.

"On technical grounds, this bill raises concerns by eliminating the gap requirement between terminating a reciprocal beneficiary relationship and entering a civil union. It would allow couples in a reciprocal beneficiary relationship, otherwise eligible to enter a civil union, to do so without first terminating their reciprocal beneficiary relationship. While this would eliminate an unintended gap in rights and benefits, it would also lead to potential overlap. Especially for couples transferred to civil unions in other counties and thus required by this law to manually terminate their reciprocal beneficiary statuses, it could potentially result in conflicting statutes.

"Numerous organizations including the Hawaii Family Forum, Hawaii Catholic Conference, Temple Emmanuel and Lahaina Baptist Church – while appreciating this bill's attempt to somewhat relieve churches from having to make their facilities available to civil unions – asked that the bill's language be strengthened. For example, they prefer it would specify a church's immunity from any legal cause of action, including injunctions and civil rights complaints, and include not just solemnization but any celebration or event related to a civil union. The current bill requires, for all other purposes unrelated to solemnization, churches cannot discriminate on the basis of sexual orientation. Religion by nature inevitably makes such distinctions in its philosophies, so such a clause against discrimination is both unfair and illogical. Thank you."

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 House Bill No. 2569, Conference Draft 1, RELATING TO CIVIL UNIONS. In my capacity as Chair of your Committee on Finance, I served as a Co-Chair on the Conference Committee for this measure.

"Throughout the negotiations, my main concern has been and will continue to be the manner in which religious organizations will be treated under the terms of Act 1 and the amendments thereto that will be made pursuant to this bill.

"Accordingly, during the negotiations, I had drafted a proposed Conference Draft 1 for the Conference Committee's consideration. The draft kept intact the substantive provisions of an earlier proposal, but included a substantial revision to the legislative findings found on SECTION 1.

"For sake of fairness to religious organizations, I feel it is vital for these findings to be inserted into the legislative history on this bill. The pertinent language is as follows:

". . . In addition, there is a case pending before the United States District Court for the District of Hawaii, *Jackson v. Abercrombie*, Civil No. 11-00734 ACK KSC, in which the plaintiffs have alleged that the marriage law and the "marriage amendment" to the Hawaii state constitution are unconstitutional. Not only has no court thus far found Hawaii's marriage law to be unconstitutional, a majority of states currently have similar laws. Despite this, Governor Abercrombie has publicly declined to defend it, although his administration is defending the law.

"The legislature finds that the administration introduced this Act. By virtue of introducing this Act concerning civil unions, it is an implied acknowledgement by the administration that it is the legislature, under article III, section 1, of the Hawaii state constitution, that determines the benefits and responsibilities between couples. This was affirmed in the constitutional amendment that resulted in article I, section 23, of the

Hawaii state constitution, which confers the power to the legislature to define marriage and establish the parties who may enter into a marriage under section 572-1.

"The legislature maintains the authority to determine whether marriage should be reserved to opposite sex couples and therefore also maintains the power to adopt any amendments to the marriage and civil union laws. As such, any amendments to these laws are done so under the authority given to the legislature by the Hawaii state constitution.

"Lastly, the legislature acknowledges that critical to this Act are the amendments made to clarify that religious institutions are protected from civil liability in denying the use of their facilities for the purpose of solemnizing civil unions. The Legislature finds that the United States Supreme Court has held that government regulation cannot interfere with a citizen's First Amendment right to associate for the purpose of engaging in protected speech. In *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000), citing *Roberts v. United States Jaycees*, 468 U.S. 609 (1984), the Supreme Court ruled that:

" . . . implicit in the right to engage in activities protected by the First Amendment is a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, education, religious, and cultural ends. This right is crucial in preventing the majority from imposing its views on groups that would rather express other, perhaps unpopular, ideas. . . . Government actions that may unconstitutionally burden this freedom may take many forms one of which is 'intrusion into the internal structure or affairs of an association' like a 'regulation that forces the group to accept members it does not desire.' . . . Forcing a group to accept certain members may impair the ability of the group to express those views, and only those views, that it intends to express. Thus, freedom of association. . . . plainly presupposes a freedom not to associate."

"The Legislature asserts that religious organizations are expressive associations that are free to not associate with persons wishing to solemnize or celebrate civil unions at their facilities. To do so through the application of the public accommodations statutes would significantly affect its expression in violation of the First Amendment.

"The Legislature finally acknowledges that the First Amendment to the United States Constitution, applicable to the States through the Fourteenth Amendment, prohibits governments from prohibiting the free exercise of religion. Under this guarantee, public authorities may enforce neutral and generally applicable rules and may do so even if they burden faith-based conduct in the process. However, if the law appears to be neutral and generally applicable on its face, but in practice is riddled with exemptions or worse is a veiled cover for targeting a belief or a faith-based practice, the law satisfies the First Amendment only if it "advance[s] interests of the highest order and [is] narrowly tailored in pursuit of those interests." *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993). "Tolerance is a two-way street. Otherwise, the rule mandates orthodoxy, not antidiscrimination." *Ward v. Polite*, United States Court of Appeals, 6th Cir. (Slip Op. 10-2100/2145, January 27, 2012)."

"Thank you for the opportunity to comment on this bill. It is for the aforementioned reasons that I vote in support."

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

Representative Mizuno 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 Mizuno's written remarks are as follows:

"I rise with reservations on HB2569, Relating to Civil Unions. I am glad to note that the final version of this bill allows for religious organizations to be exempt (not required) from performing marriage for couples under civil unions – that is the solemnization of marriages pursuant to Chapter 572, and that said religious facility will not subject to

any fine, penalty, or civil liability for the refusal of performing such a marriage.

"HB2569 also contains language which confirms that requisites of a valid marriage contract shall be only between a man and woman. I believe the added language will protect our churches from a State mandated law which would violate the Freedom of Religion clause in the U.S. and State constitutions. I also believe that this measure does respect freedom of religion and respect the couples and churches. Moreover, I believe this would protect the individual and businesses for their expression of choice as they do business.

"However, I rise with reservations, to display my continued concern of laws or policy being produced by this Legislative Body which appear to mix the long standing position that we must continue to recognize and honor the separation between church and State. Please note that bills that mandate that the State of Hawaii become involved in religious affairs may blur the line of separation between church and state.

"For the foregoing reasons, I provide my reservations on this measure. Thank you, Mr. Speaker."

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

Representative Pine 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 Pine's written remarks are as follows:

"I stand with reservations on HB 2569 Relating to Civil Unions. My concern is that the language does not sufficiently immune religious organizations from the definition of 'public accommodation.'"

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2569, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 122-12 and H.B. No. 2848, HD 3, SD 2, CD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 2848, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Final Reading by a vote of 51 ayes.

At 12:37 o'clock p.m., the Chair noted that the following bills passed Final Reading:

S.B. No. 3001, SD 2, HD 2, CD 1
H.B. No. 1617, HD 2, SD 2, CD 1
H.B. No. 2487, HD 1, SD 2, CD 1
H.B. No. 609, HD 2, SD 2, CD 1
H.B. No. 2569, HD 2, SD 1, CD 1
H.B. No. 2848, HD 3, SD 2, CD 1

At 12:37 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:40 o'clock p.m., with Speaker Say presiding.

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering a certain Senate Bill for Third Reading by consent calendar. (Representative Carroll was excused.)

CONSENT CALENDAR

UNFINISHED BUSINESS

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1823-12) recommending that S.B. No. 3017, SD 2, pass Third Reading.

Representative Chong moved that the report of the Committee be adopted, and that S.B. No. 3017, SD 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3017, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Marumoto, Rhoads and Souki voting no, and with Representative Carroll being excused.

At 1:42 o'clock p.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 3017, SD 2

At this time, the Chair announced:

"Members, please note that the Standing and Conference Committee Reports listed on the remainder of page 18 through Con. Com. Rep. No. 121-12 on page 20 will be deferred one legislative day.

"These are the measures that have the fiscal implications, if you notice, that the budget will have to come before these measures. Not unless you guys want to go through it and then it's going to be null and void."

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1824-12) recommending that S.B. No. 2952, SD 2, pass Third Reading.

By unanimous consent, action was deferred one legislative day.

Representative Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 1825-12) recommending that S.B. No. 2740, SD 1, pass Third Reading.

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 70-12 and S.B. No. 155, SD 2, HD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 85-12 and S.B. No. 240, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 86-12 and S.B. No. 2115, SD 2, HD 2, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 90-12 and S.B. No. 2383, SD 1, HD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 101-12 and S.B. No. 1083, SD 1, HD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 103-12 and S.B. No. 2323, SD 1, HD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 104-12 and S.B. No. 2324, SD 1, HD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 117-12 and H.B. No. 2248, HD 2, SD 2, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 118-12 and H.B. No. 2626, HD 2, SD 2, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 119-12 and H.B. No. 2495, HD 1, SD 1, CD 1:

By unanimous consent, action was deferred one legislative day.

Conf. Com. Rep. No. 121-12 and H.B. No. 2476, HD 1, SD 2, CD 1:

By unanimous consent, action was deferred one legislative day.

FINAL READING

Representative Chong moved to agree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans and carried:

H.B. No. 2398, HD 2, (SD 1)

H.B. No. 2526, HD 2, (SD 2)

H.B. No. 2553, HD 2, (SD 2)

The Chair addressed the Clerk who announced that the record of votes for H.B. No. 2398, HD 2, SD 1; H.B. No. 2526, HD 2, SD 2; and H.B. No. 2553, HD 2, SD 2, had been received which indicated that the requisite number of House Conferees appointed had agreed to the amendments made by the Senate, and had cast affirmative votes to report said measures to the Floor for final disposition.

H.B. No. 2398, HD 2, SD 1:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2398, HD 2, on the following showing of Ayes and Noes:

Ayes, 3 (Chang, C. Lee and Coffman). Noes, none. Excused, 2 (Har and Riviere).

Representative Chong moved that H.B. No. 2398, HD 2, SD 1, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising to speak against this measure. Thank you. This House Bill, 2398, is relating to land use and it's also relating to the Public Land Development Corporation. The bill will exempt State public lands from the definition of public lands and that would include any public lands set aside by the Governor for the Public Land Development Corporation, any State department or agency, public lands lease to, and controlled by the Public Land Development Corporation, including, but not limited to not public lands from the Department of Land and Natural Resources. That means conservation lands and small boat harbors.

"Those of you who have the small boat harbors in your district should be very concerned about this. Department of Transportation commercial harbors and coastal airports; University of Hawaii, Manoa, Mauna Kea, West Oahu, Hilo public lands; and even the Hawaii Community Development Authority, Kakaako *makai* and *mauka*, Kalaehoa, and Heeia. And any public lands to which the Public Land Development Corporation holds direct title.

"You know, the Public Land Development Corporation is becoming a very scary entity. It operates really outside of the public purview. It still hasn't adopted its rules of procedure under which it'll operate, but it's been given great, great power and authority. It was a brain child, or a brain ... I don't know how I would term that. Of Senator Dela Cruz, who wanted to have the public ..."

The Chair addressed Representative Thielen, stating:

"Representative Thielen, you're out of order. Please do not state the name of the Senator at this point in time, since ..."

Representative Thielen continued, stating:

"Let me just say the proponent for the Public Land Development Corporation sees this entity as having these broad powers to be able to go ahead and do what it feels is best with public lands. But actually it also will allow the Public Land Development Corporation to manage any State or county lands which end up under PLDC control, and then it transfers to the Public Land Development Corporation, the management and development proposals for 123 acres of public land at Honokohau Harbor. And this includes some lands of landmark historical and cultural significance.

"The concern I have, Mr. Speaker, is the wisdom of establishing a policy where we have this sort of quasi-independent Public Land Development Corporation going ahead and doing what it wants to do with these lands that it either is able to get from the government or taking other steps where it actually has condemnation powers. It's kind of a scary operation. At least with the organization that takes care of Kakaako, that operates within the public, in the public interest, and it's also very open to public input. The PLDC isn't. It's a group with vast power. We've established it under our policy, and now we're adding more rights and authority and ability for them to go ahead and do what they want to do.

"I don't think it's wise. I think we need to call that group to a halt and find out how it's operating. What it's doing. I was present at the one meeting held by the Senator who I can't name, but the one that gave birth to this PLDC. I was present at that meeting that he held, and the PLDC Executive Director really couldn't answer anything. They didn't have rules. They weren't really clear on how they were going to go ahead and operate. Would the public be able to have any input? That was up in the air. And yet they've got this power, and we continue to give it to them.

"I'm voting no, and I hope others that are concerned about what this group is going to do with land within the districts they represent, will also cast a no vote."

Representative Fontaine 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 support of the measure, stating:

"Thank you, Mr. Speaker. In support. Mr. Speaker with respect to the language that was being referred to by the speaker from Kailua, please be advised, Members, that this language mirrors that of other groups that we've created, whether it is the Hawaii High Tech Development Corporation, whether it's the Agribusiness Development Corporation. These were not exceptional powers that were given to the land use, Public Land Division.

"But more importantly, this language was given to us by the Attorney General's Office. They had asked us for these amendments, given the fact that Act 55 had passed last year. So they needed to have conforming amendments put into the current law. So this language was provided

directly by the Attorney General's Office just to address those concerns. Thank you."

Representative Coffman 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 Coffman's written remarks are as follows:

"This bill consists of three parts: Part I of the bill directs the transfers of planning and management authority for the Honokohau Small Boat Harbor land to the Public Land Development Corporation (PLDC). I have reservations about this bill because the transfer includes adjacent land that is outside of the current intended harbor development area: land that is designated as "open space" in the Kona Community Development Plan and coastal areas that are part of the Kaloko Honokohau National Historic Park. I would like to note that based on conversations with the PLDC Executive Director, the adjacent land is being included to enable the PLDC to incorporate shoreline access and deal with environmental protection issues – the adjacent land is not being transferred for development purposes. Nonetheless, I am hesitant to support this transfer of adjacent land because I do not want development on these lands and do not see any assurances of this in the wording of the bill.

"Part II and Part III of the bill was not in the original bill, is unrelated to the Honokohau Small Boat Harbor redevelopment, and was not intended by the bill's authors."

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 HB 2398 regarding the Aloha Stadium Special Fund creation and the Public Land Development Corporation. I have significant concerns about the parts of this measure regarding the Public Land Development Corporation. I worry that it cedes too much power to an entity that is exempted from many of the same regulations and processes that govern other State departments. However, I do believe the Aloha Stadium, Stadium Authority and Stadium management team need to be on a path to financial self-sufficiency. I am willing to support this bill because I believe the special fund established for the Aloha Stadium would help attain that self-sufficiency and ultimately help the State and our community."

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

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

"Thank you, Mr. Speaker. In opposition with just a one brief comment. My major concern with this bill is procedurally, in the manner in which it was amended and adopted, that I wish that there had been more opportunity for the House to have public comment and receive public comment on this very important bill which has very important issues."

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

"Thank you, Mr. Speaker, in opposition. I share the former Representative's concerns about the process, and how things magically come across different than they started. This bill started out, I believe and I might be wrong, but I believe it was to address the Aloha Stadium development. That is a conversation worthy of having. It also, along the way, swept in the Honokohau Harbor development, which is quite controversial, and has always been controversial, and opposed by many people in West Hawaii.

"I support the Chair of the Committee who narrowed the scope to just the harbor itself, that was a good amendment along the way. But now again, magically, it sweeps up a whole bunch of land in the Honokohau area. I would note, hopefully, every Representative saw this email. It came

in at 5:00 o'clock last night, 5:14, from the Kaloko Honokohau Park Service, and it's from the Superintendent. The Superintendent has grave concerns that this bill will sweep in parts, portions of the park, and the Superintendent notes that it would be highly inappropriate for this Public Land Development Corporation to be developing in and adjacent to the national park. So I think there's a very fundamental flaw right there, and for those reasons, I am in opposition."

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 to H.B. 2398, and would like to elaborate upon my reasons why. H.B. 2398 transfers development rights of certain lands under the division of boating and ocean recreation and land division to the public land development corporation. It exempts certain lands from the definition of public land under Chapter 171 HRS, but requires legislative approval for the sale or gift of those lands. It creates the stadium facilities special fund into which shall be deposited a portion of the proceeds generated by the PLDC on Aloha stadium lands and facilities. It allows the PLDC to contract with State and county agencies for lease management services of PLDC-controlled land. Finally, it clarifies the definition of development rights.

"Although this bill may have stemmed from good intentions, such as concerns for job stimulus and interests to enhance State revenue, the routes by which it attempts to achieve these are unrealistic and non-navigable. According to one longtime land use advocate, the public land development corporation (PLDC) "is not intended to be a traditional administrative agency of the lands it will be (re)developing which this particular bill expects it to do over the next several years." A more logical maneuver would be to place the site within DBEDT.

"Numerous Native Hawaiian associations and individual advocates raise concerns in regard to the development of the Honokohau marina on the Big Island. Office of Hawaiian Affairs states that this bill "raises unknown implications with regards to responsible development and management by an entity that has not yet established its guiding documents." Community groups such as Life of the Land also oppose this bill on the principle that it overrides informed consent of the people, reflecting back to the recent occasion in the late 1990s when several native Hawaiian families were evicted from Honokohau grounds in order to formalize the area's recognition as a "National Park." In our attempts to marshal land into designated entities, let us not forget the true meaning of cultural preservation.

"This bill fails to assign managerial responsibility to an appropriate administration agency. In maneuvers of such a magnitude, we must not set out in the wrong lane. Thank you."

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

"Thank you, Mr. Speaker. In support, although I do have one slight reservation. It's just to make a historical footnote that, I'm just concerned that the future direction could be the PLDC will subsume the powers of some of these other agencies like the Hawaii Tech Development Corp. So that's the only reason for my slight reservation. Just for historical record. Thank you."

Representative Har rose to respond, stating:

"Thank you, Mr. Speaker. Just briefly, I think again, it's important that we understand the role of the LDC. I think, first of all, I want to quell some of the incorrect information that's been espoused about the LDC. First and foremost, they are subject to sunshine. Second, they are subject to Chapter 343. Any project is subject to Chapter 343. Number three, they are subject to Chapter 6E Historic Preservation.

"I would invite the Members, on March the 22nd, 2012. The draft rules for the LDC just came out. They are now going out to public hearing as required by Chapter 91. So for any of you who have concerns, I would

urge you to review those rules. And if you have the opportunity, please attend those public hearings to get your input recognized. Thank you."

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

"Yes, Mr. Speaker. In spite of that great speech, I wish to vote no on this measure. My major concern is that it takes away from the oversight of the State as a whole. Even though the Legislature will still have the authority to approve or disapprove, I think it weakens the whole system. It is all going to be dependent on the Board. If we're very fortunate, we will have a good Board and things will work well. If they don't have a good Board, things will not work well. Thank you, very much."

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

"Mr. Speaker, I also have reservations on this measure, mainly because the bill seeks to develop land around Aloha Stadium. I think the first order of business is to look for a replacement for Aloha Stadium. It's very important to the citizens of Hawaii to have an arena of this size. Secondly, the bill pertains to land use, and this section sets up a special fund, albeit a special fund to gather revenues generated from Stadium lands and facilities. But I just raise that question rhetorically. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition to this bill. I just wanted to kind of clarify. I do believe that the Representative from Kapolei mentioned that the Attorney General's Office requested some clarifying amendments to the PLDC language, or to the PLDC law that we passed last year. However, I wonder whether Part III of this particular bill, relating to the Stadium, was actually requested by the Attorney General, because my understanding is that it was not. So I want to make it very clear to the Members that this bill included other language outside of the recommendations made by the Attorney General.

"Now, I'd like to focus for a minute on Part III which is regarding the Stadium. As we all know, the Stadium Authority is the governing body over, not only the facility, but the surrounding land. This bill, I think confuses the situation. Are we not saying that the PLDC is going to be running the Stadium lands, in and around the structure? Where does that put the Stadium Authority? And as the Representative from Kahala mentioned, there has been for a few years now, talk about the replacement of the Aloha Stadium. One of the probably, most logical solutions to the aging facility is actually to rebuild in place, and the place is the lower lot of the Stadium. I understand from the Senator from Moanalua, that the Aloha Stadium lands in the lower lot are actually State lands, and not governed, he believes, by the deed restrictions of the federal government.

"Having said all of that, I just don't think that it's proper or good form for us to give another entity the development rights of that particular site, that particular area surrounding Aloha Stadium in light of the fact that eventually the Stadium facility will have to be rebuilt and we'll probably be rebuilding it on that particular area. I do have significant concerns regarding this portion of the bill, because as the Representative from Tantalus mentioned, that part of the bill was not even heard by the House. We are accepting a Senate Draft of this particular House Bill, and that particular Part III was inserted at the very last minute by the Senate. We've had no public discussions about this particular provision in the House, and I think that is clearly a violation of our House Rules and possibly even a violation of the State Constitution.

"Mr. Speaker, I have concerns regarding the PLDC. I've mentioned it to some of you earlier, and I'll mention it publicly. I think the biggest concern that I have regarding the PLDC is that, as the Representative from Kapolei already mentioned, the PLDC is in the process of promulgating rules that'll talk about how their processes work. I had thought that until those rules are defined and voted on, and set in stone, that we would not be pushing along these routes. And for a Representative of an area close to Aloha Stadium, I think that the community in and around the Stadium may have some concerns as it relates to public discussion and debate, regarding the future of the Aloha Stadium lower parking lot, or for that matter, anything in and

around Aloha Stadium. So for those reasons, Mr. Speaker, I do not support this measure."

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

"Thank you, Mr. Speaker. In opposition. I'd just like to make a couple brief comments. Thank you. I've talked about the Public Land Development Corporation. I also have serious concerns about the broad authority that it has, in particular about land. It can condemn and sell land, essentially. And I think these issues are so critical to the people of Hawaii, all of us, whether it's a host culture of any of us who enjoy these islands, but especially the host culture. I'm concerned, and when I look at this bill, the Public Land Development Corporation, it's primary goal was to do culturally appropriate development. I have a hard time understanding why, with a bill like that, it would not go to Hawaiian Affairs, and EEP."

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

"Mr. Speaker, I rise in opposition to this measure with written comments. I'll just summarize my comments. There are three challenges with this legislation. The first is that it is an unconstitutional abdication of the Legislature's role in the disposition of public land. Second, this legislation violates the three Reading requirement as discussed in the case entitled Taomae vs. Lingle. And third, this legislation does not conform to the legacy that has been set forth by prior Legislatures.

"In the absence of governing principles with respect to the environment in this Body, we can look to the Governor's agenda. Unfortunately he set forth five guiding principles for the environment and natural resources, which I would like to restate here. Number one, considered interest of people many generations into the future. Number two, sustainable use and management of natural resources. Number three, long-term planning. Number four, taking responsibility for our own mess. And number five, personal responsibility and leading by example. Thank you, very much."

Representative Saiki submitted the following:

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108 Hawai'i 245 Supreme Court of Hawai'i.

Patrick Y. TAOMAE, Barbara L. Franklin, Gene Bridges, Nan Kaauoana, A. Joris Wattland, George Harris, Hacksoon Andrea Low, Esther Solomon, Richard G. Chisholm, Michael J. Golojuch, Christopher A. Verleye, Heather K.L. Conahan, Juliet Begley, Pamela G. Lichty, Sheryl L. Nicholson, Eric G. Schmedier, Carolyn M. Golojuch; Colin Yost, William A. Harrison, Norman V. Bode, Rodney E. Aiu, Richard C. Jackson, Theodore N. Isaac, Mark R. Ewald, Rev. Michael G. Young, Paula F. Myers, Louis Rosof, Joan H. Rich, Susan L. Arnett, Pamela O'Leary Tower, David Bettencourt, Lunsford Dole Phillips, Mary Anne Scheele, Raymond Scheele, Robert P. McPherson, Jean A. Evans, Donald E. Evans, and Arthur E. Ross, Plaintiffs

v. Linda LINGLE, in her official capacity as Governor of the State of Hawai'i; and Dwayne D. Yoshina, in his official capacity as Chief Election Officer for the State of Hawai'i, Defendants.

No. 26962. | Sept. 1, 2005. | As Amended Sept. 2, 2005.

Synopsis

Background: Thirty-eight registered voters initiated original proceeding for declaratory and injunctive relief to challenge passage by the electorate of constitutional amendment that allowed state legislature to define what behavior constituted a continuing course of conduct in sexual assault cases, and that amended the law defining continuous sexual assault of a minor.

[Holding:] The Supreme Court, Acoba, J., held that proposed constitutional amendment failed to conform to procedures set forth in Constitution.

Declaratory and injunctive relief granted.

West Headnotes (7)

[1] Constitutional Law Reading of Proposals

Proposal to amend Hawai'i Constitution failed to conform to procedures set forth in Constitution, inasmuch as proposed amendment entitled "A Bill for an Act Relating to Sexual Assault" was not titled as a constitutional amendment, and the proposal to amend Constitution was not subjected to three readings in each house on separate days, but rather, received only three readings in total; such errors were plain, clear, manifest, and unmistakable violation of the Constitution beyond a reasonable doubt. Const. Art. 3, § 15; Art. 17, § 3.

[2] Constitutional Law Presumptions and Construction as to Constitutionality Burden of Proof

Constitutional amendments that have been approved by the voters will be upheld unless they can be shown to be invalid beyond a reasonable doubt, and the burden of showing this invalidity is upon the party challenging the results of the election; the infraction should be plain, clear, manifest, and unmistakable.

[3] Constitutional Law Strict, Mandatory, or Literal Compliance with Procedural Requirements

Constitutional provisions regarding constitutional amendments are not directory, but mandatory, and strict observance of every substantial requirement is essential to the validity of the proposed amendment.

discernible argument in support of that position.

13 Cases that cite this headnote

Attorneys and Law Firms

**1189 *246 Lois K. Perrin, American Civil Liberties Union of Hawaii Foundation; (Earle A. Partington, Honolulu, on the briefs) for Plaintiffs.

Mark Bennett, Attorney General of Hawai'i; (Charleen M. Aina & Russell A. Suzuki, Deputy Attorneys General, with him on the briefs) for Defendants.

Susan Jaworowski (Senate Majority Attorney) and Richard Dvonch (Chief Attorney of the House of Representatives), Honolulu, for Amicus Curiae The Legislature of the State of Hawai'i.

MOON, C.J., VINSON, NAKAYAMA, ACOBA, and DUFFY, JJ.

Opinion

Opinion of the Court by ACOBA, J.

We conclude that articles III and XVII of the Hawai'i Constitution require that (1) a proposal to amend the constitution must be reflected in the title of the bill and (2) a proposed constitutional amendment must be read three times in each house to be validly adopted. For the reasons stated herein, we determine that House Bill 2789, House Draft 1, Senate Draft 1, 2004 Haw. Sess. L. Act 60 at 301 [hereinafter, H.B. 2789, H.D. 1, S.D. 1] violated these requirements.

I.

In this original proceeding, thirty-eight¹ registered voters of the State of Hawai'i *247 **1190 (collectively, Plaintiffs) challenge the passage of H.B. 2789, H.D. 1, S.D. 1, which

¹ The Plaintiffs are Patrick Y. Taomae, Barbara L. Franklin, Gene Bridges, Nan Kaauoana, A. Joris Wattland, George Harris, Hacksoon Andrea Low, Esther Solomon, Richard G. Chisholm, Michael J. Golojuch, Christopher A. Verleye, Heather K.L. Conahan, Juliet Begley, Pamela G.

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propose[d] a constitutional amendment to allow the [Hawai'i State Legislature (legislature)] to define what behavior constitutes a continuing course of conduct in sexual assault cases [and] amend[ed] the law defining continuous sexual assault of a minor[.]

See Complaint at 2, ¶ 2.² Plaintiffs contend that this bill was not validly adopted because its title was insufficient and because the constitutional amendment did not receive three readings in each house of the legislature. Plaintiffs thus seek: a declaratory judgment that H.B. 2789, H.D. 1, S.D. 1 was not validly passed and, therefore, should not have been signed by Defendant Governor Linda Lingle (Governor Lingle) or submitted to the voters in the November 2, 2004 general election; an injunction prohibiting Governor Lingle and Defendant Dwayne D. Yoshina, Chief Elections Officer (collectively, Defendants) from certifying any votes cast on Question 1 (pertaining to H.B. 2789, H.D. 1, S.D. 1) in the November 2, 2004 general election; an injunction prohibiting Defendants from allowing Question 1 to be printed or published as part of the Hawai'i Constitution; attorneys' fees and costs; and such other relief as this court may deem just and proper.

² Because this is an original proceeding, there is no record on appeal. The basic facts are not disputed by the parties.

Defendants respond that H.B. 2789, H.D. 1, S.D. 1 was properly enacted because the legislature followed the procedure set forth in articles III and XVII of the Hawai'i Constitution. Article III, entitled "The Legislature," provides in pertinent part:

BILLS; ENACTMENT

each senatorial district wherein such newspaper is published, within the two months' period immediately preceding the next general election.

At such general election the proposed amendments shall be submitted to the electorate for approval or rejection upon a separate ballot.

The conditions of and requirements for ratification of such proposed amendments shall be the same as provided in section 2 of this article for ratification at a general election.

(Emphasis added.)

Defendants also maintain that the process by which H.B. 2789, H.D. 1, S.D. 1 was approved was in conformity with the past practice of the legislature, which had not been previously challenged. They assert that Plaintiffs cannot show a "grave offense" to the constitution and, therefore, urge this court to give deference to the legislature's interpretation of the constitutional requirements for passing a constitutional amendment.

The legislature submitted an amicus brief echoing the arguments of Defendants. According to its brief, the legislature approved H.B. 2789, H.D. 1, S.D. 1 in compliance with the language of the Hawai'i Constitution and with this court's decision in *Wattland v. Lingle*, 104 Hawai'i 128, 140, 85 P.3d 1079, 1091 (2004), which held that clear and unambiguous constitutional provisions must be construed as they are written. The legislature further asserts that a decision favorable to the Plaintiffs in this case would "interfere with the Legislature's normal course of business[.]"

II.

H.B. 2789 was introduced in the legislature in response to this court's decision in *State v. Rabago*, 103 Hawai'i 236, 81 P.3d 1151 (2003). In that case, a majority of this court struck down Hawai'i Revised Statutes (HRS) § 707-733.5(2) (Supp.2002)³ because it infringed on a defendant's constitutional right to a unanimous jury verdict under article I, sections 5⁴ and 14⁵ of the Hawai'i Constitution, inasmuch as it did not require the jury to agree on which three specific acts constituted the "continuous sexual assault." *Id.* at 253-54, 81 P.3d at 1168-69.

Section 14. No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. The enacting clause of each law shall be, "Be it enacted by the legislature of the State of Hawai'i."

PASSAGE OF BILLS

Section 15. No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least forty-eight hours.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session. Before the carried-over bill is enacted, it shall pass at least one reading in the house in which the bill originated.

(Emphases added.) Article XVII, entitled "Revision and Amendment," provides in pertinent part:

AMENDMENTS PROPOSED BY LEGISLATURE

Section 3. The legislature may propose amendments to the constitution by adopting the same, in the manner required for legislation, by a two-thirds vote of each house on final reading at any session, after either or both houses shall have given the governor at least ten days' written notice of the final form of the proposed amendment, or, with or without such notice, by a majority vote of each house on final reading at each of two successive sessions.

Upon such adoption, the proposed amendments shall be entered upon the journals, with the ayes and noes, and published once in each of four successive **1191 *248 weeks in at least one newspaper of general circulation in

HRS § 707-733.5, entitled "Continuous sexual assault of a minor under the age of fourteen years," states, in pertinent part:

- (1) Any person who: (a) Either resides in the same home with a minor under the age of fourteen years or has recurring access to the minor; and (b) Engages in three or more acts of sexual penetration or sexual contact with the minor over a period of time, but while the minor is under the age of fourteen years, is guilty of the offense of continuous sexual assault of a minor under the age of fourteen years. (2) To convict under this section, the trier of fact, if a jury, need unanimously agree only that the requisite number of acts have occurred; the jury need not agree on which acts constitute the requisite number. (Emphasis added.)

4 Article I, section 5 of the Hawai'i Constitution, entitled "Due Process and Equal Protection," states:

No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.

5 Article I, section 14 of the Hawai'i Constitution, entitled "Rights of Accused," states:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against the accused, provided that the legislature may provide by law for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor or licensed mental health professional; to have compulsory process for obtaining witnesses in the accused's favor; and to have

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the assistance of counsel for the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment.

On January 28, 2004, H.B. 2789 was introduced in the House of Representatives as "A Bill for an Act Relating to Sexual Assault." **1192 *249 It passed its first reading on the same day. H.B. 2789 proposed to amend HRS § 707-733.5(2) to read, "To convict under this section, the trier of fact, if a jury, need not unanimously agree that all of the alleged acts have occurred; provided that the jury agrees on which acts constitute the requisite number."

The amendment was intended to harmonize HRS § 707-733.5(2) with the decision in *Rabago*. On February 23, 2004, H.B. 2789 was amended upon the advice of the House Committee on Judiciary and designated H.B. 2789, H.D. 1. These amendments did not affect the proposed changes to HRS § 707-733.5(2). On February 23, 2004, H.B. 2789, H.D. 1 passed its second reading in the House of Representatives. On February 25, 2004, H.B. 2789, H.D. 1 passed its third reading in the House of Representatives by a vote of forty-nine to zero with two members excused.

On February 26, 2004, H.B. 2789, H.D. 1 passed its first reading in the Senate. On March 31, 2004, the Senate Committee on Judiciary and Hawaiian Affairs submitted a report agreeing with the Attorney General's opinion that it was necessary to amend the Hawai'i Constitution in order for the legislature to effectuate the statutory amendment because the change proposed in H.B. 2789, H.D. 1 did not "do anything to avoid the *Rabago* decision." The committee recommended that the bill be amended by "[a]dding a constitutional amendment to allow the Legislature to define what behavior constitutes a continuing course of conduct in sexual assault crimes[.]" The bill was so amended and designated as H.B. 2789, H.D. 1, S.D. 1. As amended, the bill stated in pertinent part,

SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii to provide that the legislature may

define what behavior constitutes a continuing course of conduct in sexual assault crimes and to amend the Hawaii penal code to statutorily define the behavior.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

"SEXUAL ASSAULT CRIMES"

Section . The legislature may define what behavior constitutes a continuing course of conduct in sexual assault crimes."

2004 Haw. Sess. L. Act 60, §§ 1–2 at 301. On March 31, 2004, H.B. 2789, H.D. 1, S.D. 1 passed its second reading in the Senate. On April 2, 2004, H.B. 2789, H.D. 1, S.D. 1 passed its third reading in the Senate by a vote of twenty-three to zero with two members excused. On the same day, H.B. 2789, H.D. 1, S.D. 1 was certified by the Senate President and Senate Clerk as having passed the Senate and was sent back to the House of Representatives for consideration. On April 5, 2004, the House of Representatives informed the Senate that it disagreed with the amendments proposed by the Senate in H.B. 2789, H.D. 1, S.D. 1. 2004 Senate Journal at 508.

On April 6, 2004, the Senate sent notice of the final form of H.B. 2789, H.D. 1, S.D. 1 to Governor Lingle as required by article XVII, section 3 of the Hawai'i Constitution. On April 8, 2004, members from both the Senate and the House of Representatives were appointed to a conference committee to consider the amendments proposed in H.B. 2789, H.D. 1, S.D. 1. 2004 House Journal at 764, 793. As acknowledged by counsel at oral argument, the conference committee did not issue a report. On April 22, 2004, the House of Representatives (1) advised Governor Lingle that the conference managers on the part of the House of Representatives agreed to the amendments proposed by the Senate and (2) sent notice to Governor Lingle of the final form of H.B. 2789, H.D. 1, S.D. 1 to be considered for final reading by the House of Representatives as required by article XVII, section 3 of the Hawai'i Constitution. 2004 House Journal at 1063.

orally granted the request for judicial notice on behalf of the court without objection.

8 Lois Perrin, American Civil Liberties Union, argued for the Plaintiffs. Also present for the Plaintiffs was Earle A. Purlington, Mark J. Bennett, Attorney General, State of Hawai'i, argued for Defendants. Also present for Defendants was Charleen M. Ama, Deputy Attorney General.

IV.

[1] As mentioned previously, Plaintiffs challenge the validity of the passage of H.B. 2789, H.D. 1, S.D. 1 and its presentation to the electorate in the 2004 general election.⁹ The present case is not a typical "election contest" that is reviewed pursuant to HRS § 11-172 (1993). This court has jurisdiction over cases challenging the validity of constitutional amendments presented to the voters at a general election under HRS chapter 11, Part XI,¹⁰ HRS § 602-5(6) (1993),¹¹ and HRS § 602-5(7) (1993).¹² *Watland*, 104 Hawai'i at 133 n. 8, 135 n. 12, 85 P.3d at 1084 n. 8, 1086 n. 12; *Kohalekai v. Doi*, 60 Haw. 324, 330–31, 590 P.2d 543, 548–49 (1979). Because the basis for jurisdiction over this manner of election challenge is not HRS § 11-172, the burden of proof is different; the complaint does not need to allege that different action by Defendants would have affected the outcome of the election,¹³ nor are Plaintiffs required **1194 *251 to prove such an allegation in order to prevail. *Watland*, 104 Hawai'i at 134–36, 85 P.3d at 1085–87.

9 Because this is an original proceeding, there is no standard of review.

10 HRS chapter 11, Part XI governs elections.

11 HRS § 602-5(6) confers the authority upon this court to "make or issue any order or writ necessary or appropriate in aid of its appellate or original jurisdiction, and in such case any justice may issue a writ or an order to show cause returnable before the supreme court."

12 HRS § 602-5(7) authorizes this court to "make and award such judgments, decrees, orders and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to it

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by law or for the promotion of justice in matters pending before it."

13 A "typical" election challenge, which would be reviewed pursuant to the standards set forth in HRS § 11-172, would be one in which a candidate contended that the election procedure was flawed in some way as to cause that candidate to lose. HRS § 11-172 states, in pertinent part, that "[t]he complaint shall set forth any cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results." (Emphasis added.) *See, e.g., Akaka v. Yoshida*, 84 Hawai'i 383, 384–85, 935 P.2d 98, 99–100 (1997) (candidates for Office of Hawaiian Affairs Trustee positions contended that ballots were mishandled). This court has determined that such suits are inapposite to cases like the one at bar, in which a constitutional amendment that has been presented to the voters at a general election is disputed. *Watland*, 104 Hawai'i at 134–35, 85 P.3d at 1085–86.

[2] This court has stated that constitutional amendments that have been approved by the voters "will be upheld unless they can be shown to be invalid beyond a reasonable doubt." *Kahalekai*, 60 Haw. at 331, 590 P.2d at 549 (citing *Keenan v. Price*, 68 Idaho 423, 195 P.2d 662 (1948); *City of Raton v. Sproule*, 78 N.M. 138, 429 P.2d 336 (1967)). "The burden of showing this invalidity is upon the party challenging the results of the election." *Watland*, 104 Hawai'i at 133, 85 P.3d at 1084. "[T]he infraction should be plain, clear, manifest, and unmistakable." *Blair v. Cayetano*, 73 Haw. 536, 541–42, 836 P.2d 1066, 1069 (1992) (brackets in original) (quoting *Schwab v. Ariyoshi*, 58 Haw. 25, 31, 564 P.2d 135, 139 (1977)). Thus, Plaintiffs must prove beyond a reasonable doubt that the process by which H.B. 2789, H.D. 1, S.D. 1 was passed in the legislature was a "plain, clear, manifest, and unmistakable" violation of article III, sections 14 and 15 and article XVII, section 3 of the Hawai'i Constitution. *State ex rel. Bronster v. Yoshida*, 84 Hawai'i 179, 186, 932 P.2d 316, 323 (1997).

[3] In this regard, constitutional provisions regarding constitutional amendments are not directory, but mandatory, and "strict observance of every substantial requirement is essential to the validity of the proposed amendment." *Blair*, 73 Haw. at 543,

836 P.2d at 1070 (quoting *Andrews v. Governor of Maryland*, 294 Md. 285, 449 A.2d 1144, 1146 (1982) (citations omitted)). Therefore, if Plaintiffs can show that even one "substantial requirement" was violated, they have satisfied their burden of proof. Plaintiffs need not demonstrate that the results of the election would have been different if the requirement had been fulfilled.

V.

[4] "In interpreting constitutional provisions, the general rule is that, if the words used in a constitutional provision ... are clear and unambiguous, they are to be construed as they are written." *Watland*, 104 Hawai'i at 139, 85 P.3d at 1090 (internal quotation marks, citations and brackets omitted). We believe the words in article III, sections 14 and 15 and article XVII, section 3 are clear and unambiguous. Because these provisions regulate the procedure by which the constitution is amended, failure to strictly comply with the requirements of these sections invalidates a proposed constitutional amendment. The plain and unambiguous language of article XVII, section 3 requires that a constitutional amendment first be proposed by the legislature. The clear and unambiguous language of article III, section 15 requires that a proposal for a constitutional amendment be subjected to three readings on different days in each house.

We conclude that H.B. 2789, H.D. 1, S.D. 1 did not conform to the procedures set forth in the Hawai'i Constitution for two reasons. First, the proposed amendment was not titled as a constitutional amendment pursuant to article XVII. Second, the proposal to amend the constitution was not subjected to three readings in each house as article XVII, section 3 requires.

VI.

As indicated before, article XVII, section 3 provides that "[t]he legislature may propose amendments to the constitution [.]". (Emphasis added.) Given its ordinary meaning, "propose" means "to put forward for consideration." *Merriam Webster's Collegiate Dictionary* 936 (10th ed.1993). Under article XVII, section 3, such proposals must be "adopt[ed] ... in

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On April 26, 2004, H.B. 2789, H.D. 1, S.D. 1 passed its final reading in the House of Representatives by a vote of forty-four to zero with seven members excused. Thereafter, the House informed the Senate that it had agreed to the amendments made and that the bill had passed final reading in the House of Representatives. 2004 Senate Journal at 715. On April 27, 2004, H.B. 2789, H.D. 1, S.D. 1 was sent to Governor Lingle.

**1193 *250 H.B. 2789, H.D. 1, S.D. 1 was presented to the voters as Question 1 at the November 2, 2004 General Election. It was one of four proposed constitutional amendments submitted to the electorate. A total of 282,852 voters (65.6%) voted in favor of Question 1. On the other hand, 148,152 voters (34.4%) voted against Question 1 or left the question blank.

III.

On October 15, 2004, eight Plaintiffs involved in this case filed a related suit⁶ in the Circuit Court of the First Circuit (circuit court case).⁷ The circuit court case sought, *inter alia*, (1) a declaration that the final bill was not properly adopted by the legislature and, therefore, should not have been signed by Governor Lingle and submitted to the voters at the November 2, 2004 general election and (2) an injunction prohibiting Defendants from placing Question 1 on the November 2, 2004 ballot, disseminating voter information concerning Question 1, and tabulating or certifying any votes cast on Question 1. Plaintiffs also filed a motion for a temporary restraining order, which was denied on October 26, 2004.

6 *See Taomae v. Lingle*, Civ. No. 04-1-1889-10.

7 The Honorable Victoria S. Marks presided.

On November 22, 2004, Plaintiffs filed their complaint in this matter. On November 23, 2004, Defendants filed their answer. On January 21, 2005, Plaintiffs filed their opening brief. On March 4, 2005, Defendants filed their answering brief. On March 17, 2005, the legislature filed its amici brief. On March 18, 2005, Plaintiffs filed their reply brief. On July 12, 2005, Plaintiffs filed a request for judicial notice of several undisputed facts. On July 14, 2005, this court heard oral argument⁸ and, at that time, Chief Justice Moon

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the manner required for legislation." One of the requirements for the passage of legislation is that the subject of the bill "shall be expressed in its title." Haw. Const. art. III, § 14 (emphasis added). The term "shall" is ordinarily used in a mandatory sense. *See Coon v. City & County of Honolulu*, 98 Hawai'i 233, 256, 47 P.3d 348, 371 (2002) ("The use of the word 'shall' in the context of [Revised Ordinances of Honolulu § 38-5.2's] award of 'actual out-of-pocket expenses' is clearly mandatory."); *Scheffe v. Reliable Collection Agency, Ltd.*, 96 Hawai'i 408, 451–52, 32 P.3d 52, 95–96 (2001) ("HRS §§ 388-11(c) and 378-5 ... mandate an award of attorney's fees to the prevailing party by employing the word 'shall' [.]").

**1195 *252 However, as noted in this case, the title of H.B. 2789 was "A Bill for an Act Relating to Sexual Assault" and did not refer to a proposal to amend the constitution. Hence, despite the mandates in article XVII, section 3 and in article III, section 14, the title did not announce that a proposal for an amendment to the constitution was the subject of the bill. In the absence of an indication in the title that the bill set forth an amendment to be made to the constitution, the constitutional amendment was not properly "put forward for consideration," *i.e.*, "propose[d]" by the legislature within the meaning of that term as employed in article XVII, section 3.

While the title given H.B. 2789 upon its introduction was sufficient under article III, section 14 with respect to a statutory amendment, such a title was insufficient to "propose" that the constitution be amended by H.B. 2789, H.D. 1, S.D. 1, the final form of the bill. The bill failed, therefore, to meet the first requirement of article XVII, section 3, that is, that the legislature "propose" the amendment as one to the constitution.

VII.

Manifestly, there is no more effective or adequate manner in which the legislature can fulfill its obligation to "propose" to the electorate changes to the constitution than by designating its action in the title of the bill as required under article XVII, section 3 and article III, section 14. It is essential that constitutional amendments be proposed as such before they are considered in the legislature and presented to the public for approval because "[p]rovisions of our Constitution are of a higher order of law than

statutes. Constitutional provisions are more basic and permanent than statutes." *Gafford v. Pemberton*, 409 So.2d 1367, 1373 (Ala.1982) (per curiam). It is imperative then that in the case of constitutional amendments the purpose of a bill's title to "apprise the people of proposed matters of legislation [.]". *Schwab*, 58 Haw. at 30–31, 564 P.2d at 139, is effectuated.

To that end, it is noteworthy that the other three constitutional amendments proposed by the legislature and ratified by the electorate in 2004 stated in their titles that the bills were proposed constitutional amendments, thus adhering to the directives of article XVII, section 3 and article III, section 14. The bills were entitled, "A Bill for an Act Proposing an Amendment to Article I of the Constitution of the State of Hawaii," "A Bill for an Act Proposing Amendments to Article I, Section 14, of the Hawai'i Constitution," and "A Bill for an Act Proposing an Amendment to Article I of the Constitution of the State of Hawaii." (Emphases added.) The titles of those bills provided the public with clear notice concerning the nature and content of the legislation and, thus, alerted the citizenry to the opportunity to legislatively comment and debate those bills in a meaningful way. These bills attracted fifty, thirty-four, and twenty pieces of written testimony, respectively.

In contrast, H.B. 2789, H.D. 1, S.D. 1 attracted only seven pieces of written testimony. Two of these pieces were virtually identical submissions from the Attorney General suggesting that the legislature add a constitutional amendment giving itself the power to enact the statutory amendment. Two other pieces of testimony were essentially verbatim submissions from the Office of the Public Defender conveying its belief that the statutory amendment did not remedy significantly the flaw upon which the decision in *Rabago* was based.

As counsel confirmed in oral argument, because of the manner in which the subject bill was amended and adopted, the general public had no opportunity to provide comment in the legislature on the proposed amendment itself. The procedure followed hereunder eliminated "the mature deliberation, amendment and compromise usually necessary to produce sound and lasting legislation" contemplated by the framers.¹⁴ Stand. Comm. Rep. No. 47 in 1 Proceedings **1196 *253 of the Constitutional Convention of Hawaii

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1950 at 184. The words "in the manner required for legislation" in article XVII, section 3 instruct that, at the least, as to a constitutional amendment, the framers intended that there must be public participation as ordinarily contemplated in the case of statutory legislation. See *infra* discussion.

14 The Committee on Revision, Amendments, Initiative, Referendum and Recall stated, "All good citizens must, to some extent, neglect their everyday affairs, their work and their business, to take part in these important processes[... elections and legislative sessions], whether it be to advocate good candidates or good laws, or oppose bad ones. This responsibility they must cheerfully accept as the price of liberty and efficient government." Stand. Comm. Rep. No. 47 in 1 Proceedings of the Constitutional Convention of Hawaii 1950 at 183.

VIII.

Furthermore, based on the constitutional amendments passed in 2004, it appears that the legislature's current practice is to designate in the title that a bill is a constitutional amendment. See *supra*. "[W]hile ... past practice is not conclusively determinative in interpreting the text of the constitution, it does factor into our analysis." *Bronster*, 84 Hawai'i at 190, 932 P.2d at 327. The predominant practice of the legislature has been to entitle proposed constitutional amendments with some version of the phrase, "Proposing an amendment to Article of the Constitution of Hawai'i."

As mentioned previously, the titles of the bills proposing the other three amendments ratified in the 2004 general election expressly referred to constitutional amendments. See text *supra* at 252–253, 118 P.3d at 1195–1196. In the 1996, 1998, 2000, and 2002 general elections, ten proposed constitutional amendments presented to the voters for ratification were also entitled as proposed constitutional amendments through the legislative process.¹⁵ Thus, based on our analysis of the constitutional requirements set forth in articles III and XVII, including the predominate legislative practice, we conclude that the failure to designate H.B. 2789, H.D. 1, S.D. 1 as a constitutional amendment in its title was a plain, clear, manifest, and unmistakable

violation of the constitution beyond a reasonable doubt.

15 Between 1996 and 2002, ten constitutional amendments presented to the electorate for ratification were entitled as follows: "A Bill for an Act Proposing an Amendment to Article VII, Section 11, of the Constitution of the State of Hawai'i," 1996 Haw. Sess. L. at 981, "A Bill for an Act Proposing an Amendment to Article VII, Section 12, of the Hawai'i Constitution, to Allow the use of Revenue Bonds for the Funding of a State Property Insurance Program Providing Hurricane Insurance Coverage [,"] *id.* at 982, "A Bill for an Act Proposing an Amendment to Article VII, Section 3, of the Constitution, to Provide for the Appointment of a Tax Review Commission Every Ten Years[,"] 1997 Haw. Sess. L. at 1246, "A Bill for an Act Proposing a Constitutional Amendment Relating to Marriage [,"] *id.*, "A Bill for an Act Proposing an Amendment to Article X, Section 6 of the Hawai'i Constitution to Provide the University of Hawai'i with Autonomy in All Matters Related to the University[,"] 2000 Haw. Sess. L. at 1178, "A Bill for an Act Proposing an Amendment to Article VII, Section 3, of the State Constitution to Provide for the Appointment of a Tax Review Commission Every Ten Years[,"] *id.* at 1179, "A Bill for an Act Proposing an Amendment to Article IV, Sections 7 and 8, of the Constitution of the State of Hawai'i, to Stagger Senate Terms After Reapportionment[,"] 2000 Haw. Sess. L. Act 1 at 1 (2d Special Sess.), "A Bill for an Act Proposing an Amendment to Article III, Section 6 of the Hawai'i Constitution, to Change the Eligibility to Serve as a Member of the Senate or House of Representatives[,"] 2002 Haw. Sess. L. at 1021, and "A Bill for an Act Proposing Amendments to Article VII, Section 12, and Article X, Section 1 of the Constitution of the State of Hawai'i to Authorize the State to Issue Special Purpose Revenue Bonds and use the Proceeds from the Bonds to Assist Not-For-Profit Private Elementary Schools, Secondary Schools, Colleges, and Universities." *Id.* at 1022. The only amendment not entitled as a proposal between 1996 and 2002 was an amendment proposed in 1996 which was entitled "A Bill for an Act Relating to School Construction Projects." 1996 Haw. Sess. L. at 980.

Of these ten proposed amendments between 1996 and 2002, the relevant House and Senate Journals are unclear as to whether two of

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sets forth one of the prerequisites that must be followed prior to any submission to the public for its vote. By incorporating the procedure for legislation set forth in article III, section 15 the framers plainly directed that any proposed constitutional amendment would be subject to the reading procedure.

In this instance, the constitutional amendment included in H.B. 2789, H.D. 1, S.D. 1 received only three readings in total. As previously stated, the bill in its final form, including the constitutional amendment, was read and passed in the Senate on March 31, 2004 and on April 2, 2004, and read and passed in the House of Representatives only once, on April 26, 2004. This was a patent violation of article III, section 15. Allowing constitutional amendments to be approved in this manner precludes the public from participating in the legislative process with respect to constitutional amendments as discussed previously, and also undermines the intent of the framers that the constitution not be "easily amended." Comment by Delegate Fukushima, **1198 *255 in 2 Proceedings of the Constitutional Convention of Hawaii 1950 at 744.

In the Committee Debates at the Constitutional Convention of 1950, Delegate Fukushima explained that the process for amending the State Constitution was to ensure that "the Constitution should not be easily amended and ... at the same time, the procedure of amending the Constitution should not be rendered practically prohibitive or impossible." *Id.* The Committee on Revision, Amendments, Initiative, Referendum and Recall instructed, "This framework [i.e., the Federal Constitution], which cannot be changed except with great effort and deliberation, produces an enduring stability not found in other types of government." Stand. Comm. Rep. No. 47 in 1 Proceedings of the Constitutional Convention of Hawaii 1950 at 183 (emphasis added).

As part of this framework, the Committee noted that

[t]he system of checks and balances between departments [which] tends to prevent excesses, abuses and usurpations, and the short but certain tenure of the legislators and governor insures that, by and large, the government will be responsive to

the true and enduring dictates and desires of the people, but will not necessarily follow the dangerous and often mistaken dictates of storms of lusty, temporary and changeable public emotion.

Id. With respect to the legislature and in evident consonance with such a framework, the Committee indicated that

[o]ne of the necessary features of laws adopted by the legislature is the opportunity for three readings and the opportunity for full debate in the open ... during the course of which the purposes of the measures, and their meaning, scope and probable effect, and the validity of the alleged facts and arguments given in their support can be fully examined and, if false or unsound, can be exposed, before any action of consequence is taken thereon.

Id. at 184 (some emphasis in original and some emphases added). These premises confirm that the three reading requirement in each house must be afforded to a proposed constitutional amendment.

The three-reading requirement not only provides the opportunity for full debate; it also ensures that each house of the legislature has given sufficient consideration to the effect of the bill. *Schwegmann Bros. v. Calvert Distillers Corp.*, 341 U.S. 384, 396, 71 S.Ct. 745, 95 L.Ed. 1035 (1951) (Jackson, J. concurring) (concluding that the three-reading requirement in the United States Constitution is intended to "make sure that each House knows what it is passing and passes what it wants"). Thus, the three-reading requirement serves a critical purpose in ensuring that constitutional amendments are adopted only after deliberate forethought. On the other hand, requiring a constitutional amendment to be read and passed three times in each house (i.e., "in the manner required for legislation") would not render the process for amending the constitution "practically prohibitive or impossible [,"] Comment by Delegate Fukushima in 2 Proceedings of the Constitutional Convention of Hawaii 1950 at 744. For as this case demonstrates,

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these proposed amendments were given three readings in both houses of the legislature. As to the two said amendments, the respective legislative journals indicate that they were given second and third readings in the house where the amendment originated. See 2000 Senate Journal 1531 (S.B. 539, "A Bill for an Act Proposing an Amendment to Article X, Section 6, of the Hawai'i Constitution, to Provide the University of Hawai'i with Autonomy in All Matters Related to the University") and 2002 House Journal 1849 (H.B. No. 1012, "A Bill for an Act Proposing an Amendment to Article III, Section 6 of the Hawai'i Constitution, to Change the Eligibility to Serve as a Member of the Senate or House of Representatives"). There is no indication of when these proposed amendments were introduced or when they received their first readings in the Senate or House of Representatives, respectively.

IX.

Defendants argue that there is no constitutional provision which expressly directs the legislature to entitle constitutional amendments **1197 *254 in a certain way. They rely on the language of article III, section 14 that the title of the bill must "express" the single subject of the bill, in this case, sexual assault. While that interpretation of article III, section 14 is appropriate when applied to ordinary legislation, it must be remembered that article XVII specifically governs constitutional amendments.

Under article III, sections 14 and 15, statutes are amended in the manner required for ordinary legislation. A statutory amendment must be introduced, read three times in each house, and passed by a simple majority. Haw. Const. art. III, §§ 13¹⁶–15. In contrast, under article XVII, section 3, while the legislature has the authority to propose a constitutional amendment in a single session, the legislature cannot make that amendment law. In the single session process, a constitutional amendment can only be effected if it is proposed as such, given three readings in each house, and meets the other requirements set forth in article XVII. Haw. Const. art. XVII, § 3. The critical distinctions between "enacting" ordinary legislation pursuant to article III, section 14 and

"proposing" a constitutional amendment under article XVII are exemplified by the fact that constitutional amendments are governed by a separate article.

16 Article III, section 13 of the Hawai'i Constitution, entitled "Quorum, Compulsory Attendance," states, in pertinent part, "the final passage of a bill in each house shall require the vote of a majority of all the members to which such house is entitled, taken by ayes and nos and entered upon its journal."

Defendants cite to *Schwab* to support their proposition that the title of H.B. 2789, H.D. 1, S.D. 1 "embraced" the subject matter of the entire bill. They rely on the proposition that the single subject requirement means that a bill's parts are "so connected and related to each other either logically or in popular understanding as to be parts of or germane" to the subject expressed in the title. *Schwab*, 58 Haw. at 32–33, 564 P.2d at 140. However, as presaged above, *Schwab* is distinguishable from the case at bar. In *Schwab*, this court considered the requirements embodied in article III alone, *id.* at 30–39, 564 P.2d at 139–44; in this case, we construe the requirements of article III as incorporated in the specific and separate provisions of article XVII. There was no constitutional amendment at issue in *Schwab*; therefore, it is not dispositive in the case at bar.

X.

Additionally, in considering H.B. 2789, H.D. 1, S.D. 1, the legislature failed to satisfy the requirement set forth in article XVII, section 3, that a proposed constitutional amendment be passed "in the manner required for legislation" because the constitutional amendment, see §§ 1 and 2 of the bill, did not receive three readings in each house as required by article III, section 15. The plain reading of article XVII, section 3 requires that a proposed constitutional amendment advance through the processes set forth in article III, section 15, including the requirement that "[n]o bill shall become law unless it shall pass three readings in each house on separate days." Haw. Const. art. III, § 15 (emphasis added).¹⁷

17 Defendants' contention in oral argument that the term "propose [d]" in article XVII refers to a proposal of the constitutional amendment to the public is incorrect inasmuch as article XVII

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three of the four constitutional amendments adopted in the 2004 legislative session were passed in this manner. See *supra*. In light of the foregoing reasons, we also conclude that the failure to give the proposed constitutional amendment three readings in each house on separate days was a plain, clear, manifest, and unmistakable violation of the constitution beyond a reasonable doubt.

XI.

Because the requirements of article XVII, section 3 and article III, sections 14 and 15, were not fulfilled, as discussed above, H.B. 2789, H.D. 1, S.D. 1 was not constitutionally adopted. Based on the foregoing, we grant Plaintiffs' request for (1) a declaration that H.B. 2789, H.D. 1, S.D. 1 was invalidly passed and should not have been signed by Governor Lingle or presented to the voters in the 2004 general election and (2) an injunction prohibiting Defendants from allowing H.B. 2789, H.D. 1, S.D. 1 to be printed or published as part of the Hawai'i Constitution.

XII.

Defendants contend that: (1) any bright line rule adopted by this court regarding the **1199 *256 requirements of articles III and XVII "apply only to bills or amendments the Legislature considers in future legislative sessions" (emphasis omitted); (2) invalidation of H.B. 2789, H.D. 1, S.D. 1 will violate the separation of powers doctrine established in article IV, section 4 of the United States Constitution; and (3) voiding the amendment would violate the fourteenth amendment to the United States Constitution.

A.

As to its first argument, Defendants contend that any other course of action would be unfair because the legislature and the voters did not have a bright line rule to follow regarding the application of article XVII, section 3 and its relationship to article III, section 14. Defendants rely on the holding in *Jenkins v. Cades Schutte Fleming & Wright*, 76 Hawai'i 115, 869 P.2d 1334 (1994) (per curiam), in which this court established a bright line rule regarding the strict application of Hawai'i Rules of Civil Procedure (HRCP) Rule 58. In that case, we noted,

rigid enforcement of HRCP 58 and application of our holdings in this opinion to cases currently pending before this court and the Intermediate Court of Appeals would work an unnecessary hardship on those who have relied upon our prior case law. We will not rigidly apply the Rule 58 requirement of a separate judgment or our holdings in this opinion to appeals currently pending. However, for all appeals from circuit courts filed after March 31, 1994, we will enforce strict compliance with the separate document requirement of HRCP 58.

Id. at 119, 869 P.2d at 1338. Defendants argue that it would be wrong to invalidate a constitutional amendment which received nearly two-thirds of the votes in the general election. However, in oral argument, counsel acknowledged that the vote margin has no legal significance in the determination of this case. The legislature has the opportunity to propose identical constitutional and statutory amendments in compliance with the Constitution. Thus, the legislature will suffer no permanent hardship comparable to the threat of losing the opportunity to appeal an adverse ruling of the court that was present in *Jenkins*.

Furthermore, the requirements of HRCP Rule 58 were not plain and clear before the decision in *Jenkins*, *id.* On the other hand, the requirements for adopting a constitutional amendment are established in the plain and unambiguous language of articles III and XVII; the legislature fulfilled the requirements of article XVII, section 3 and article III, sections 14 and 15 with regard to the three other proposed constitutional amendments that were presented to and ratified by the voters in the 2004 general election, and the framers of the constitution manifestly contemplated public participation in the legislative procedure that was precluded in this case. See discussion *supra*.

B.

[5] [6] As to the second argument, Defendants assert that if this court invalidates H.B. 2789, H.D. 1, S.D. 1, we will intrude upon the province of

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the legislature, a co-equal branch of government, thus violating the separation of powers doctrine. The separation of powers doctrine is embodied in the Guarantee Clause, article IV, section 4 of the United States Constitution, which reads:

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Questions arising under the Guarantee Clause are nonjusticiable because they are "political, not judicial, in character, and thus are for the consideration of the Congress and not the courts." *Ohio v. Akron Metro. Park Dist. for Summit County*, 281 U.S. 74, 79–80, 50 S.Ct. 228, 74 L.Ed. 710 (1930) (citations omitted).

Defendants' arguments that this is a political, and not judicial, question are unconvincing. It is well settled that the courts, not the legislature, are solely vested with the responsibility to determine whether a constitutional amendment has been validly adopted.

"The power to ascertain the validity of changes in the constitution resides in the courts, and they have, with practical uniformity, exercised the authority to determine *1200 *257 the validity of proposal, submission, or ratification of change in the organic law. *The question of the validity of the adoption of an amendment to the constitution is a judicial and not a political question.*"

Kahalekai, 60 Haw. at 330–31, 590 P.2d at 548–49 (quoting 16 Am.Jur.2d, Constitutional Law, § 43) (emphasis added). Thus, this court does not improperly encroach upon the legislature's power by invalidating H.B. 2789, H.D. 1, S.D. 1.

C.

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of fees or costs, together with a statement of authority for each category of items... Requests for non-indigent attorney's fees and costs allowed by statute or contract shall be submitted in a form that substantially complies with Form 8 in the Appendix of Forms.
(2) A request for fees and costs must be filed with the appellate clerk, with proof of service, no later than 14 days after entry of judgment. An untimely request for fees and costs may be denied... If oral argument is had or additional work is performed thereafter, the attorney may submit a request for additional fees and costs.
(3) Objections to requests for fees and costs must be filed with the appellate clerk, with proof of service, within 10 days after service on the party against whom the fees and costs are to be taxed unless the time is extended by the appellate court. A reply to the objections must be filed with the appellate clerk, with proof of service, within 7 days after service of the objections on the initiating party.

19 HRS § 11–175, entitled "Powers of supreme court, costs," provides:

[7] As to the third argument, Defendants contend that invalidation of H.B. 2789, H.D. 1, S.D. 1 would violate the fourteenth amendment to the United States Constitution, which provides in pertinent part that "[n]o state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law[.]" However, Defendants present no discernible argument regarding the alleged violation of this amendment. This court may "disregard [a] particular contention" if the appellant "makes no discernible argument in support of that position [.]"
Norton v. Admin. Dir. of the Court, 80 Hawai'i 197, 200, 908 P.2d 545, 548 (1995) (citing Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(7)), *recon. denied*, 80 Hawai'i 357, 910 P.2d 128 (1996). See HRAP 28(b)(7) ("Points not argued may be deemed waived.").

The entirety of Defendants' argument that invalidation of H.B. 2789, H.D. 1, S.D. 1 would violate the fourteenth amendment is this: "For similar reasons tied to notions of fundamental fairness [referring to the argument that invalidation would violate the Guarantee Clause, *supra*], we also respectfully submit that invalidating the amendment would also violate the due process clause contained in the [fourteenth amendment] of the United States Constitution." This argument does not contain any reasoning, supported by citations to case law or authority to constitute a discernible argument; thus we decline to decide the issue.

XIII.

Plaintiffs' prayer for relief requested that this court award them attorneys' fees and costs because "this case presents a novel issue of constitutional significance." We order that any request for attorneys' fees and costs be submitted in accordance with the procedure set forth in HRAP Rule 39(d) (2005).¹⁸ See also HRS § 11–175 (1993).¹⁹

18 HRAP Rule 39(d), entitled "Request for fees and costs, objections," states, in pertinent part:

(1) A party who desires an award of attorney's fees or costs shall request them by submitting an itemized and verified bill

The supreme court may compel the attendance of witnesses, punish contempts, and do whatsoever else may be necessary fully to determine the proceedings, and enforce its decrees therein. The court may make such special rules as it may find necessary or proper. The costs shall be as provided by the supreme court by rule.

XIV.

Therefore, IT IS HEREBY ORDERED that Plaintiffs' requests for (1) a declaration that H.B. 2789, H.D. 1, S.D. 1 is invalid, (2) and an injunction prohibiting Defendants from printing or publishing Question 1 as part of the Hawai'i Constitution are granted and judgment thereon shall be entered upon proper submission by Plaintiffs. It is further ordered that Plaintiffs shall submit their *1201 *258 claim for attorneys' fees and costs pursuant to HRAP Rule 39(d).

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The Chair recognized Representative Har, stating:

"Representative Har, this is your third time up. For what purpose do you rise?"

Representative Har responded, stating:

"I realize that, but I'm rising to rebut for thirty seconds."

Speaker Say: "You are allowed to rebut. Please."

Representative Har: "Thank you, Mr. Speaker. Mr. Speaker, again I think it's important. There's been a lot of talk, and I think that that is great."

Representative Ward rose, stating:

"Point of information Mr. Speaker. I recall the Minority standing up to rebut and that was not allowed. I don't understand. You can stand up three times?"

Speaker Say: "No, but on point of rebuttal. You have two times to stand on giving your statements and your position. This is a point of rebuttal which the Chair will allow her."

Representative Ward: "We will remember that. Thank you very much for the lesson."

Representative Chang rose, stating:

"Mr. Speaker, I yield my time."

Speaker Say: "There is no need to yield your time."

Representative Thielen rose, stating:

"Point of inquiry Mr. Speaker. Yes, are we now going to be allowed three times to speak? Because I would like that privilege on Thursday, when I'll be fighting against some of the really bad bills."

Speaker Say: "Representative Thielen, the Chair will allow you to stand twice. On the third point, maybe you will be granted the opportunity on the point of rebuttal, to state that, for the record."

Representative Thielen: "And I will just turn in, in advance, that I will be rebutting a lot on Thursday."

At 2:04 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:06 o'clock p.m.

At this time, the Chair announced:

"The Chair stands corrected. Representative Har, you're out of order on your third time."

Representative Fontaine rose, stating:

"Yes, Mr. Speaker. I would like to change my reservations vote to a no vote on this one."

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

"Mr. Speaker, in strong support, written comments."

Representative Chong's written remarks are as follows:

"Mr. Speaker, I stand in support. I disagree with the Representative from Moiliili/McCully and his interpretation of the Supreme Court case. I do not think it applies to this piece of legislation. Thank you, Mr. Speaker."

Representative Takai rose, stating:

"Yes, Mr. Speaker. I just have a request for permission to insert into the Journal, a letter written by the United States Department of Interior regarding this bill. Thank you."

Representative Takai submitted the following letter:



United States Department of the Interior

NATIONAL PARK SERVICE
Kaloko Honokohau National Historical Park
73-1486 Kanalani Street, #14
Kailua Kona, Hawaii 96740



IN REPLY REFER TO:
L7621 (2012-4)

April 30, 2012

To: Senator Shan S. Tsutsui, Senate President
Calvin K.Y. Say, Speaker of the House
Members of the Legislature

Subject: A BILL FOR AN ACT RELATING TO LAND USE ON THE ISLAND OF
HAWAII, HB 2398 HD2 SD1

Dear President Tsutsui, Speaker Say and Members of the Legislature:

I am providing comments on behalf of the National Park Service regarding HB 2398, HD2 SD1, Relating to Land Use on the Island of Hawaii. This bill proposes to transfer development rights of specific parcels of land to the public land development corporation near Honokohau Harbor. The parcels of land proposed in this bill include approximately twenty-five acres of State lands (a portion of TMK (3) 7-4-008:071 and all of TMK (3) 7-4-008:041) in the Kealakehe ahupuaa within Kaloko-Honokohau National Historical Park (National Park) and Honokohau Settlement National Historic Landmark (NHL), and is immediately adjacent to the National Park/NHL's southern boundary. Perhaps the inclusion of these two TMKs in this bill was an inadvertent oversight. Included inadvertently or not, there should be no development on lands within the National Park boundary or NHL. All of TMK (3) 7-4-008:041, and the portion of TMK (3) 7-4-008:071 that is within the National Park/NHL, should be excluded from this bill.

Any large-scale development project on lands within or adjacent to the National Park/National Historic Landmark will significantly impact its cultural landscape, traditional and customary practices by Native Hawaiians in the Park, and cultural and natural resources. The National Park Service remains supportive of infrastructure and operational improvements to the existing Honokohau Harbor for health and safety reasons, traffic management, and access, but for the reasons set out below, we are highly concerned about the appropriateness of development in the area within the National Park boundary and NHL. Given the significance of the area and National Historic Landmark designation, the public, Native Hawaiian Organizations, and the local community must be allowed every opportunity to fully participate in environmental and cultural review and analyses of any and all proposed development or "improvement" projects in this area.

Kaloko-Honokohau National Historical Park is part of the National Park System and was established by Congress to protect its nationally significant cultural and natural resources. The National Park Service and the State of Hawaii share a commitment to care for and preserve

public trust resources including cultural and natural resources, and associated values, for the people of Hawaii and the United States. Congress has mandated that the National Park Service preserve and protect the resources and values of the National Park in an unimpaired condition in order to perpetuate their inherent integrity for the benefit and inspiration of present and future generations. (16 USC §1 et seq.) Kaloko-Honokohau National Historical Park was created in 1978, through the efforts of the local community to preserve, interpret, and perpetuate traditional Hawaiian activities and culture. In particular, residents of Kona were concerned that this place of great significance to Hawaiians would be lost to urban development.

Congress's decision to create the Park came primarily from the 1974 Hono-kohau Study Advisory Commission Report ("The Spirit of Ka-loko Hono-kohau") that recommended that the existing Honokohau Settlement National Historical Landmark (designated in 1962) and its adjacent waters be preserved for the benefit of the Hawaiian people and the nation as part of the National Park System. Even at the time of the Spirit Report in the early 1970's, the Advisory Commission was concerned about future land use adjacent to the National Park. They stated:

"Furthermore, since most of the land in the ahupuaa of Ke-ala-kehe is owned by the state, its use will have direct impact on Ka-loko, Hono-kohau. Finally, lands that are designated or owned by the state in the area should be given special zoning limiting their uses to activities compatible to a cultural park. The County General Plan and zoning ordinances of the area should limit the uses of the lands immediately surrounding Ka-loko, Hono-kohau to compatible activities. Lands further mauka should be restricted in density in order to preserve the integrity of the park and protect its water resources." (p.54)

The Spirit Report and the 1994 General Management Plan for the Park point out that Kaloko Honokohau is a small and fragile portion of the larger environment that has influenced the history of the entire area and that continues to affect the Kona community today. In creating the National Park, Congress stated that it shall be administered generally in accordance with the guidelines provided in the Spirit Report and that management "shall to the maximum extent feasible utilize the traditional Native Hawaiian ahupuaa concept of land and water management." (16 USC § 396d). The Spirit Report reminds us:

"Each ahupuaa 'a developed around a recognition that all of its elements were interdependent. What affected the mauka regions, affected the makai. What affected the neighboring ahupuaa affected it. What affected the land affected the fishponds and the sea. What affected the water cycle affected the total environment. This is the way it was and is at Ka-loko, Hono-kohau." (p. 51)

The urban expansion foreseen by the Advisory Commission in 1974 is now underway. The direct and cumulative impacts of development projects on lands adjacent to the National Park are leading to the long term degradation of the National Park, threaten the integrity of the Honokohau Settlement NHL, and are further diminishing the rapidly disappearing Hawaiian cultural landscape. Large-scale development adjacent to the National Park will fundamentally alter the water, air, sounds, sights, and traditional and customary practices by native Hawaiians in the National Park and the NHL. Water quality and quantity will be altered forever by fresh and brackish groundwater withdrawals, and non-point source pollution inputs.

3

As currently drafted, the bill transferring development rights to the public land development corporation is inconsistent with the purposes of the National Park and with local land-use decisions. Development of the lands within the National Park boundary and NHL is fundamentally in conflict with reasons for establishing Kaloko-Honokohau National Historical Park identified in the Spirit Report and by Congress in the National Park's enabling legislation. In 2009, in response to a previously proposed development at Honokohau Harbor area, the Hawaii County Council unanimously passed an Amendment to the Hawaii County General Plan (Bill 156) changing the Land Use Designation from Urban Expansion to Open for the State-owned lands in the vicinity of and south of Honokohau Harbor.

As you are well aware, development of coastal lands has irreversible and far-reaching consequences. The National Park Service requests that you carefully review the need for transferring development rights on the parcels within the National Park boundary and NHL. Preservation of coastal open space and cultural landscape will benefit the quality of life in the Kona community, Native Hawaiian values and traditional and customary practices, and nationally significant natural and cultural resources. We appreciate your consideration of protecting these irreplaceable Hawaiian resources. If we can answer any questions or provide information, please contact me at (808) 329-6881, ext. 1201.

Sincerely,

Kathy Billings
Kathy Billings
Superintendent

The motion was put to vote by the Chair and carried, and H.B. No. 2398, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE," passed Final Reading by a vote of 29 ayes to 22 noes, with Representatives Awana, Belatti, Ching, Choy, Fontaine, Giugni, Hanohano, Jordan, Keith-Agaran, C. Lee, Luke, Marumoto, Morikawa, Nishimoto, Riviere, Saiki, Souki, Takai, Takumi, Thielen, Ward and Wooley voting no.

H.B. No. 2526, HD 2, SD 2:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2526, HD 2, on the following showing of Ayes and Noes:

Ayes, 4 (Yamane, McKelvey, Yamashita and Marumoto). Noes, none. Excused, 2 (Oshiro and Har).

On motion by Representative Chong, seconded by Representative Evans and carried, H.B. No. 2526, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO REPORTING REQUIREMENTS FOR TELECOMMUNICATIONS AND CABLE TELEVISION PROVIDERS," passed Final Reading by a vote of 51 ayes.

H.B. No. 2553, HD 2, SD 2:

In accordance with the Conference Committee Procedures agreed upon by the House of Representatives and the Senate, the managers on the part of the House recommended that the House agree to the amendments proposed by the Senate to H.B. No. 2553, HD 2, on the following showing of Ayes and Noes:

Ayes, 5 (Chang, Yamane, M. Lee, Morikawa and Riviere). Noes, none. Excused, none.

On motion by Representative Chong, seconded by Representative Evans and carried, H.B. No. 2553, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES," passed Final Reading by a vote of 51 ayes.

At 2:08 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2398, HD 2, SD 1
H.B. No. 2526, HD 2, SD 2
H.B. No. 2553, HD 2, SD 2

END OF CALENDAR**H.B. No. 468, HD 1, SD 2:**

By unanimous consent, action was deferred one legislative day.

SUSPENSION OF RULES

At this time, the Chair announced:

"Please note that the Chair has discharged the House Conferees previously appointed to H.B. No. 2681 HD 1 SD 1. So at this time the Chair will now proceed to reconsider its disagreement to the Senate Amendments to certain House Bills including the aforementioned measure."

Representative Takai rose, stating:

"Point of information, Mr. Speaker. Is this a motion to give notice as well?"

The Chair responded, stating:

"This is the motion to reconsider on our disagreement."

"Representative Riviere, what is the motion before this Body, so that everyone knows what this first motion is?"

Representative Riviere responded, stating:

"Thank you, Mr. Speaker. I believe this motion is that we will be reconsidering a former disagreement with Senate version of the bills, and to put them back into play."

Speaker Say: "You are absolutely correct."

Representative Riviere: "But it's okay if we leave them where they are at this point. Thank you."

On motion by Representative Chong, seconded by Representative Evans and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments made by the Senate to certain House Bills.

RECONSIDERATION OF ACTION TAKEN

Representative Chong moved that the House reconsider its action previously taken in disagreeing to the amendments made by the Senate, and give notice of intent to agree to such amendments for the following House Bills, seconded by Representative Evans and carried:

H.B. No. 302, HD 1, (SD 2)
H.B. No. 2113, HD 1, (SD 1)
H.B. No. 2257, HD 1, (SD 1)
H.B. No. 2258, HD 2, (SD 1)
H.B. No. 2409, (SD 1)
H.B. No. 2601, HD 3, (SD 1)
H.B. No. 2681, HD 1, (SD 1)

DISPOSITION OF MATTERS PLACED ON THE CLERK'S DESK

Representative Chong moved to agree to the amendments made by the Senate to the following House Concurrent Resolutions, seconded by Representative Evans and carried:

H.C.R. No. 50, HD 1, (SD 1)
H.C.R. No. 51, HD 1, (SD 1)

H.C.R. No. 50, HD 1, SD 1:

Representative Chong moved that H.C.R. No. 50, HD 1, SD 1, be Adopted, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support. In support of this Resolution requesting the Governor to recognize local Koreans by directing the placement of commemorative plaques designating the former sites of the Korean Christian Institute. I wanted, as I've mentioned my support for this before. My own district, Liliha, is very much intertwined with the wonderful history of Dr. Syngman Rhee, who was sort of the Abraham Lincoln of Korea, as is my understanding. And it's nice to acknowledge these historical things. Thank you."

The motion was put to vote by the Chair and carried, and H.C.R. No. 50, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO RECOGNIZE LOCAL KOREANS BY DIRECTING THE PLACEMENT OF COMMEMORATIVE PLAQUES DESIGNATING THE FORMER SITES OF THE KOREAN CHRISTIAN INSTITUTE," was Adopted, with Representative McKelvey being excused.

H.C.R. No. 51, HD 1, SD 1:

On motion by Representative Chong, seconded by Representative Evans and carried, H.C.R. No. 51, HD 1, SD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE GOVERNOR TO RECOGNIZE LOCAL KOREANS BY DIRECTING THE PLACEMENT

OF A COMMEMORATIVE PLAQUE DESIGNATING THE FORMER SITE OF THE KOREAN BOARDING SCHOOL FOR BOYS AND THE KOREAN METHODIST CHURCH," was Adopted, with Representative McKelvey being excused.

ANNOUNCEMENTS

Representative Choy: "Yes, Mr. Speaker. Usually we wear bowties on Wednesdays, but tomorrow we don't have a session. I was requested to ask everyone to wear bowties on Thursday so we can have a picture taking on Thursday. Thank you, Mr. Speaker."

Representative Awana: "Thank you, Mr. Speaker. With your indulgence, and as Chair of the House Committee on International Affairs, I would like to invite the Members of this Body to a Hong Kong reception. Unfortunately, I'm not speaking of a trip to Hong Kong, but an opportunity to meet with some pop stars from Hong Kong.

"On behalf of the Hawaii State Legislature, Speaker Say, Senator Chun Oakland, and myself, will be hosting these pop stars at the State Capitol tomorrow at 3:00 p.m. in Conference Room 325. As I understand, Mr. Speaker, our Senate colleagues will be performing for the singers, and those in attendance. There will be refreshments and everyone's invited. Thank you, Mr. Speaker."

Representative Ward: "And speaking of refreshments, Mr. Speaker, I want to thank everyone, you, and all those who organized a real cornucopia of a potluck. In fact we could have stopped our arguments after eating so much food because of that. But secondly, I just want to remind the Members, at least on this side of the aisle, that we'll caucus at 10:00 a.m. tomorrow in the Caucus Room. Thank you."

Speaker Say: "I think, Members of the House, credit should be given to Representative Marilyn Lee for coordinating today's potluck."

Representative Ching: "Thank you, Mr. Speaker. Besides being May Day, today, the first of May, it is also the first day of National Historic Preservation Month across the nation, remembering our nation's history and heritage. So the entire month of May is dedicated to historic preservation. Thank you."

COMMITTEE REASSIGNMENTS

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

H.R.
No. **Re-referred to:**

124 Committee on Human Services

S.C.R.
Nos. **Re-referred to:**

84, Committee on Housing
SD1

89, Committee on Agriculture
SD1

156, Committee on Transportation
SD1

SUPPLEMENTAL CALENDAR #1

REPORTS OF CONFERENCE COMMITTEES

Representatives Rhoads and Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 1269, SD 2, HD 2, presented a report (Conf. Com. Rep.

No. 107-12) recommending that S.B. No. 1269, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 107-12 and S.B. No. 1269, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEFINITION OF COMPENSATION FOR PURPOSES OF THE EMPLOYEES' RETIREMENT SYSTEM," was deferred for a period of 48 hours.

Representatives Rhoads and Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2214, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 108-12) recommending that S.B. No. 2214, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 108-12 and S.B. No. 2214, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," was deferred for a period of 48 hours.

Representatives Mizuno, Keith-Agaran and Har, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2576, SD 1, HD 3, presented a report (Conf. Com. Rep. No. 109-12) recommending that S.B. No. 2576, SD 1, HD 3, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 109-12 and S.B. No. 2576, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROSTITUTION," was deferred for a period of 48 hours.

Representatives Chang, Tsuji and Har, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2378, SD 1, HD 1, presented a report (Conf. Com. Rep. No. 110-12) recommending that S.B. No. 2378, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 110-12 and S.B. No. 2378, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LEGACY LANDS," was deferred for a period of 48 hours.

Representatives Yamane and Morikawa, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2664, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 124-12) recommending that H.B. No. 2664, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 124-12 and H.B. No. 2664, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE COORDINATION," was deferred for a period of 48 hours.

Representatives Yamane, Mizuno and Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2275, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 125-12) recommending that H.B. No. 2275, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 125-12 and H.B. No. 2275, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOSPITALS," was deferred for a period of 48 hours.

Representatives McKelvey and Choy, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2739, SD 2, HD 1, presented a report (Conf. Com. Rep. No. 126-12) recommending that S.B. No. 2739, SD 2, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 126-12 and S.B. No. 2739, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD," was deferred for a period of 48 hours.

Representatives McKelvey, Coffman and Choy, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2239, SD 1, HD 1, presented a report (Conf. Com. Rep. No. 127-12) recommending that S.B. No. 2239, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 127-12 and S.B. No. 2239, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," was deferred for a period of 48 hours.

Representatives Chang, Cabanilla, McKelvey, Souki and Har, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2927, SD 2, HD 1, presented a report (Conf. Com. Rep. No. 128-12) recommending that S.B. No. 2927, SD 2, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 128-12 and S.B. No. 2927, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY PLANNING," was deferred for a period of 48 hours.

Representatives Yamane, Mizuno and Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2466, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 129-12) recommending that S.B. No. 2466, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 129-12 and S.B. No. 2466, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM CARE FACILITIES," was deferred for a period of 48 hours.

Representatives Aquino, Keith-Agaran and Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2515, HD 3, SD 2, presented a report (Conf. Com. Rep. No. 130-12) recommending that H.B. No. 2515, HD 3, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 130-12 and H.B. No. 2515, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," was deferred for a period of 48 hours.

Representative Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2012, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 131-12) recommending that H.B. No. 2012, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 131-12 and H.B. No. 2012, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," was deferred for a period of 48 hours.

Representatives Keith-Agaran and Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1800, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 132-12) recommending that H.B. No. 1800, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 132-12 and H.B. No. 1800, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," was deferred for a period of 48 hours.

Representative Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1838, SD 1, presented a report (Conf. Com. Rep. No. 133-12) recommending that H.B. No. 1838, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 133-12 and H.B. No. 1838, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," was deferred for a period of 48 hours.

Representatives Souki and Ichiyama, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2684, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 134-12) recommending that H.B. No. 2684, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 134-12 and H.B. No. 2684, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ZIPPER LANE," was deferred for a period of 48 hours.

Representatives Tsuji and Hashem, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 283, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 135-12) recommending that H.B. No. 283, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 135-12 and H.B. No. 283, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," was deferred for a period of 48 hours.

Representatives Tsuji and Hashem, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1942, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 136-12) recommending that H.B. No. 1942, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 136-12 and H.B. No. 1942, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," was deferred for a period of 48 hours.

Representatives Tsuji and Hashem, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1943, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 137-12) recommending that H.B. No. 1943, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 137-12 and H.B. No. 1943, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," was deferred for a period of 48 hours.

Representatives Tsuji, Nishimoto and Hashem, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2100, HD 2, SD 1, presented a report (Conf. Com. Rep. No. 138-12) recommending that H.B. No. 2100, HD 2, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 138-12 and H.B. No. 2100, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BEES," was deferred for a period of 48 hours.

Representatives Yamane and Morikawa, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1953, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 139-12) recommending that H.B. No. 1953, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 139-12 and H.B. No. 1953, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL CARE," was deferred for a period of 48 hours.

Representatives Keith-Agaran and M. Lee, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 246, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 140-12) recommending that H.B. No. 246, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 140-12 and H.B. No. 246, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF THE PROSECUTING ATTORNEY OF THE CITY AND COUNTY OF HONOLULU," was deferred for a period of 48 hours.

Representatives Keith-Agaran and Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1755, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 141-12) recommending that H.B. No. 1755, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 141-12 and H.B. No. 1755, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VOTER REGISTRATION," was deferred for a period of 48 hours.

Representatives Keith-Agaran and Tokioka, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2251, SD 1, presented a report (Conf. Com. Rep. No. 142-12) recommending that H.B. No. 2251, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 142-12 and H.B. No. 2251, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," was deferred for a period of 48 hours.

Representatives Chang and Har, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2883, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 143-12) recommending that H.B. No. 2883, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 143-12 and H.B. No. 2883, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MAKAHA VALLEY," was deferred for a period of 48 hours.

Representatives Hanohano, Chang and Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2806, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 144-12) recommending that H.B. No. 2806, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 144-12 and H.B. No. 2806, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NATIVE HAWAIIANS," was deferred for a period of 48 hours.

Representatives McKelvey and Choy, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2319, HD 2, SD 1, presented a report (Conf. Com. Rep. No. 145-12) recommending that H.B. No. 2319, HD 2, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 145-12 and H.B. No. 2319, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING

TO ECONOMIC DEVELOPMENT," was deferred for a period of 48 hours.

Representatives McKelvey, Nishimoto and Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2873, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 146-12) recommending that H.B. No. 2873, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 146-12 and H.B. No. 2873, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PACIFIC INTERNATIONAL SPACE CENTER FOR EXPLORATION SYSTEMS," was deferred for a period of 48 hours.

Representatives Coffman and Kawakami, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1726, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 147-12) recommending that H.B. No. 1726, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 147-12 and H.B. No. 1726, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," was deferred for a period of 48 hours.

Representatives Cabanilla, McKelvey, Yamashita and M. Lee, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2302, HD 2, SD 1, presented a report (Conf. Com. Rep. No. 148-12) recommending that H.B. No. 2302, HD 2, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 148-12 and H.B. No. 2302, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," was deferred for a period of 48 hours.

Representatives Mizuno and Jordan, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2540, HD 2, SD 1, presented a report (Conf. Com. Rep. No. 149-12) recommending that H.B. No. 2540, HD 2, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 149-12 and H.B. No. 2540, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FEES FOR CHILD CARE LICENSING AND REGISTRATION," was deferred for a period of 48 hours.

Representatives Mizuno, Keith-Agaran and Jordan, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2448, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 150-12) recommending that H.B. No. 2448, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 150-12 and H.B. No. 2448, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," was deferred for a period of 48 hours.

Representatives Mizuno and Jordan, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2415, HD 2, SD 1, presented a report (Conf. Com. Rep. No. 151-12) recommending that H.B. No. 2415, HD 2, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 151-12 and H.B. No. 2415, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," was deferred for a period of 48 hours.

Representatives Keith-Agaran and Tokioka, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2404, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 152-12) recommending that H.B. No. 2404, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 152-12 and H.B. No. 2404, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC INFORMATION," was deferred for a period of 48 hours.

Representatives Oshiro, Yamane, Mizuno and Takumi, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 304, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 153-12) recommending that H.B. No. 304, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 153-12 and H.B. No. 304, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," was deferred for a period of 48 hours.

Representatives Belatti and Yamashita, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2116, SD 2, HD 1, presented a report (Conf. Com. Rep. No. 154-12) recommending that S.B. No. 2116, SD 2, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 154-12 and S.B. No. 2116, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," was deferred for a period of 48 hours.

Representatives Yamane and Morikawa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2778, SD 1, HD 1, presented a report (Conf. Com. Rep. No. 155-12) recommending that S.B. No. 2778, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 155-12 and S.B. No. 2778, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR EARLY CHILDHOOD HEALTH," was deferred for a period of 48 hours.

Representatives Rhoads, McKelvey, Herkes, Ito and Yamashita, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2424, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 156-12) recommending that S.B. No. 2424, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 156-12 and S.B. No. 2424, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS," was deferred for a period of 48 hours.

Representatives McKelvey and Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2780, SD 1, HD 2, presented a report (Conf. Com. Rep. No. 157-12) recommending that S.B. No. 2780, SD 1, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 157-12 and S.B. No. 2780, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES," was deferred for a period of 48 hours.

Representatives Yamane and Morikawa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2939, SD 1, HD 1, presented a report

(Conf. Com. Rep. No. 158-12) recommending that S.B. No. 2939, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 158-12 and S.B. No. 2939, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST ST. FRANCIS HEALTHCARE SYSTEM OF HAWAII," was deferred for a period of 48 hours.

Representatives Yamane and Morikawa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2827, SD 1, HD 1, presented a report (Conf. Com. Rep. No. 159-12) recommending that S.B. No. 2827, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 159-12 and S.B. No. 2827, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAUMA SYSTEM SPECIAL FUND," was deferred for a period of 48 hours.

Representatives Yamane, Mizuno and Morikawa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2536, HD 2, presented a report (Conf. Com. Rep. No. 160-12) recommending that S.B. No. 2536, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 160-12 and S.B. No. 2536, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CLEAN AND SOBER HOMES AND HALFWAY HOUSES," was deferred for a period of 48 hours.

Representatives Mizuno, Yamane and Jordan, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2435, SD 1, HD 1, presented a report (Conf. Com. Rep. No. 161-12) recommending that S.B. No. 2435, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 161-12 and S.B. No. 2435, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION ACCESS," was deferred for a period of 48 hours.

Representatives Mizuno, Yamane and Jordan, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2779, SD 2, HD 1, presented a report (Conf. Com. Rep. No. 162-12) recommending that S.B. No. 2779, SD 2, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 162-12 and S.B. No. 2779, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGING AND DISABILITY RESOURCE CENTERS," was deferred for a period of 48 hours.

Representatives Aquino, Rhoads, Har and Cullen, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2261, HD 1, presented a report (Conf. Com. Rep. No. 163-12) recommending that S.B. No. 2261, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 163-12 and S.B. No. 2261, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEED AND SEED PROGRAM," was deferred for a period of 48 hours.

Representatives McKelvey, Brower and Choy, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 112, SD 1, HD 1, presented a report

(Conf. Com. Rep. No. 164-12) recommending that S.B. No. 112, SD 1, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 164-12 and S.B. No. 112, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," was deferred for a period of 48 hours.

Representatives Aquino, Keith-Agaran and Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2776, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 165-12) recommending that S.B. No. 2776, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 165-12 and S.B. No. 2776, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," was deferred for a period of 48 hours.

Representatives Yamane, Mizuno and Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2320, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 166-12) recommending that S.B. No. 2320, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 166-12 and S.B. No. 2320, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGING," was deferred for a period of 48 hours.

Representatives Brower, Awana and Oshiro, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 490, SD 3, HD 1, presented a report (Conf. Com. Rep. No. 167-12) recommending that S.B. No. 490, SD 3, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 167-12 and S.B. No. 490, SD 3, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," was deferred for a period of 48 hours.

Representatives Rhoads, McKelvey and Yamashita, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2220, SD 1, HD 2, presented a report (Conf. Com. Rep. No. 168-12) recommending that S.B. No. 2220, SD 1, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 168-12 and S.B. No. 2220, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOILER AND ELEVATOR SAFETY LAW," was deferred for a period of 48 hours.

Representatives Tsuji and Hashem, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2695, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 169-12) recommending that S.B. No. 2695, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 169-12 and S.B. No. 2695, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LIVESTOCK FEED," was deferred for a period of 48 hours.

Representatives Aquino and Cullen, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 1968, HD 1, SD 2, presented a report (Conf. Com. Rep. No. 170-12) recommending that H.B. No. 1968, HD 1, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 170-12 and H.B. No.

1968, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CIGARETTES," was deferred for a period of 48 hours.

Representatives Aquino, Keith-Agaran and Cullen, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2226, HD 2, SD 2, presented a report (Conf. Com. Rep. No. 171-12) recommending that H.B. No. 2226, HD 2, SD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 171-12 and H.B. No. 2226, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AN AUTOMATED VICTIM NOTIFICATION SYSTEM," was deferred for a period of 48 hours.

Representatives Aquino and Oshiro, for the Committee on Conference on the disagreeing vote of the House to the amendments proposed by the Senate in H.B. No. 2599, HD 1, SD 1, presented a report (Conf. Com. Rep. No. 172-12) recommending that H.B. No. 2599, HD 1, SD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 172-12 and H.B. No. 2599, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REENTRY INTAKE SERVICE CENTERS," was deferred for a period of 48 hours.

Representatives Takumi, Mizuno and Jordan, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2545, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 173-12) recommending that S.B. No. 2545, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 173-12 and S.B. No. 2545, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," was deferred for a period of 48 hours.

Representatives Chang and Har, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2933, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 174-12) recommending that S.B. No. 2933, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 174-12 and S.B. No. 2933, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO OCEAN SAFETY," was deferred for a period of 48 hours.

Representatives Yamane and Morikawa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2344, SD 2, HD 1, presented a report (Conf. Com. Rep. No. 175-12) recommending that S.B. No. 2344, SD 2, HD 1, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 175-12 and S.B. No. 2344, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE HAWAII HEALTH AUTHORITY," was deferred for a period of 48 hours.

Representatives McKelvey, Keith-Agaran and Choy, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2947, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 176-12) recommending that S.B. No. 2947, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 176-12 and S.B. No. 2947, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred for a period of 48 hours.

Representatives Chang and Har, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2678, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 177-12) recommending that S.B. No. 2678, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 177-12 and S.B. No. 2678, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HONOULIULI," was deferred for a period of 48 hours.

Representatives McKelvey and Yamashita, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2236, HD 2, presented a report (Conf. Com. Rep. No. 178-12) recommending that S.B. No. 2236, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 178-12 and S.B. No. 2236, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION TECHNOLOGY," was deferred for a period of 48 hours.

Representatives Yamane and Morikawa, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2958, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 179-12) recommending that S.B. No. 2958, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 179-12 and S.B. No. 2958, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred for a period of 48 hours.

Representatives Cabanilla and Kawakami, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2804, SD 2, HD 2, presented a report (Conf. Com. Rep. No. 180-12) recommending that S.B. No. 2804, SD 2, HD 2, as amended in CD 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 180-12 and S.B. No. 2804, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII INTERAGENCY COUNCIL ON HOMELESSNESS," was deferred for a period of 48 hours.

ADJOURNMENT

At 2:18 o'clock p.m., on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 9:00 o'clock a.m., Thursday, May 03, 2012. (Representative McKelvey was excused.)

HOUSE COMMUNICATIONS

House Communication dated May 1, 2012, from CJ Leong, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered its action taken in disagreeing to the amendments made by the Senate on April 12, 2012, and gives notice of intent to agree to the following House Bills:

H.B. No. 302, HD 1, SD 2
 H.B. No. 2113, HD 1, SD 1
 H.B. No. 2257, HD 1, SD 1
 H.B. No. 2258, HD 2, SD 1
 H.B. No. 2409, SD 1
 H.B. No. 2601, HD 3, SD 1
 H.B. No. 2681, HD 1, SD 1

House Communication dated May 1, 2012, from CJ Leong, Chief Clerk of the House of Representatives, to the Honorable President and Members

of the Senate, informing the Senate that the House has this day agreed to the amendments made by the Senate and passed the following House Bills on Final Reading:

H.B. No. 2314, HD 1, SD 1
 H.B. No. 2375, SD 2
 H.B. No. 2398, HD 2, SD 1
 H.B. No. 2491, HD 1, SD 1
 H.B. No. 2526, HD 2, SD 2
 H.B. No. 2529, HD 1, SD 1
 H.B. No. 2553, HD 2, SD 2

House Communication dated May 1, 2012, from CJ Leong, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has this day passed the following bills on Final Reading:

H.B. No. 280, HD 1, SD 2, CD 1
 H.B. No. 609, HD 2, SD 2, CD 1
 H.B. No. 679, HD 1, SD 1, CD 1
 H.B. No. 1054, HD 1, SD 1, CD 1
 H.B. No. 1295, HD 3, SD 2, CD 1
 H.B. No. 1398, HD 1, SD 1, CD 1
 H.B. No. 1543, SD 1, CD 1
 H.B. No. 1617, HD 2, SD 2, CD 1
 H.B. No. 1666, HD 1, SD 1, CD 1
 H.B. No. 1705, HD 1, SD 1, CD 1
 H.B. No. 1788, HD 1, SD 1, CD 1
 H.B. No. 1791, SD 1, CD 1
 H.B. No. 1875, HD 2, SD 2, CD 1
 H.B. No. 1879, HD 2, SD 1, CD 1
 H.B. No. 1892, SD 1, CD 1
 H.B. No. 1925, HD 1, SD 1, CD 1
 H.B. No. 1972, HD 2, SD 1, CD 1
 H.B. No. 1974, HD 2, SD 1, CD 1
 H.B. No. 1984, SD 1, CD 1
 H.B. No. 2004, HD 2, SD 2, CD 1
 H.B. No. 2078, HD 2, SD 2, CD 1
 H.B. No. 2099, HD 1, SD 1, CD 1
 H.B. No. 2175, HD 2, SD 1, CD 1
 H.B. No. 2232, HD 2, SD 1, CD 1
 H.B. No. 2244, HD 1, SD 2, CD 1
 H.B. No. 2265, HD 2, SD 2, CD 1
 H.B. No. 2290, HD 1, SD 2, CD 1
 H.B. No. 2320, HD 2, SD 2, CD 1
 H.B. No. 2326, HD 1, SD 1, CD 1
 H.B. No. 2328, HD 1, SD 1, CD 1
 H.B. No. 2347, SD 1, CD 1
 H.B. No. 2487, HD 1, SD 2, CD 1
 H.B. No. 2502, HD 2, SD 2, CD 1
 H.B. No. 2513, HD 1, SD 2, CD 1
 H.B. No. 2568, HD 2, SD 1, CD 1
 H.B. No. 2569, HD 2, SD 1, CD 1
 H.B. No. 2589, HD 2, SD 2, CD 1
 H.B. No. 2593, HD 2, SD 1, CD 1
 H.B. No. 2594, HD 2, SD 1, CD 1
 H.B. No. 2595, HD 2, SD 2, CD 1
 H.B. No. 2623, HD 1, SD 1, CD 1
 H.B. No. 2644, HD 2, SD 1, CD 1
 H.B. No. 2685, HD 2, SD 2, CD 1
 H.B. No. 2686, HD 1, SD 1, CD 1
 H.B. No. 2740, HD 1, SD 1, CD 1
 H.B. No. 2776, HD 2, SD 2, CD 1
 H.B. No. 2848, HD 3, SD 2, CD 1
 H.B. No. 2871, HD 1, SD 1, CD 1
 S.B. No. 243, SD 2, HD 1, CD 1
 S.B. No. 596, SD 2, HD 1, CD 1
 S.B. No. 1276, SD 2, HD 2, CD 1
 S.B. No. 1382, SD 2, HD 1, CD 1
 S.B. No. 1500, HD 1, CD 1
 S.B. No. 2001, SD 1, HD 2, CD 1
 S.B. No. 2056, HD 2, CD 1
 S.B. No. 2103, SD 2, HD 2, CD 1

S.B. No. 2158, HD 1, CD 1
S.B. No. 2221, SD 1, HD 1, CD 1
S.B. No. 2222, SD 2, HD 1, CD 1
S.B. No. 2238, SD 1, HD 2, CD 1
S.B. No. 2277, SD 2, HD 2, CD 1
S.B. No. 2318, SD 1, HD 2, CD 1
S.B. No. 2335, HD 2, CD 1
S.B. No. 2375, SD 3, HD 2, CD 1
S.B. No. 2402, SD 1, HD 1, CD 1
S.B. No. 2486, SD 1, HD 1, CD 1
S.B. No. 2508, SD 2, HD 1, CD 1
S.B. No. 2540, SD 2, HD 2, CD 1
S.B. No. 2632, SD 1, HD 1, CD 1
S.B. No. 2640, SD 1, HD 1, CD 1
S.B. No. 2646, SD 1, HD 2, CD 1
S.B. No. 2655, SD 2, HD 3, CD 1
S.B. No. 2737, SD 1, HD 2, CD 1
S.B. No. 2742, SD 1, HD 2, CD 1
S.B. No. 2745, SD 1, HD 2, CD 1
S.B. No. 2746, SD 1, HD 3, CD 1
S.B. No. 2748, SD 1, HD 1, CD 1
S.B. No. 2763, SD 2, HD 2, CD 1
S.B. No. 2765, SD 2, HD 2, CD 1
S.B. No. 2766, SD 2, HD 2, CD 1
S.B. No. 2767, SD 2, HD 1, CD 1
S.B. No. 2769, SD 2, HD 3, CD 1
S.B. No. 2773, SD 1, HD 1, CD 1
S.B. No. 2787, SD 2, HD 1, CD 1
S.B. No. 2797, SD 1, HD 1, CD 1
S.B. No. 2800, SD 1, HD 1, CD 1
S.B. No. 2810, SD 1, HD 1, CD 1
S.B. No. 2813, SD 1, HD 1, CD 1
S.B. No. 2816, SD 1, HD 1, CD 1
S.B. No. 2821, HD 3, CD 1
S.B. No. 2825, SD 1, HD 1, CD 1
S.B. No. 2833, SD 1, HD 2, CD 1
S.B. No. 2858, SD 1, HD 2, CD 1
S.B. No. 2871, SD 1, HD 2, CD 1
S.B. No. 3001, SD 2, HD 2, CD 1
S.B. No. 3002, SD 2, HD 1, CD 1
S.B. No. 3006, SD 2, HD 2, CD 1
S.B. No. 3008, HD 3, CD 1
S.B. No. 3062, SD 1, HD 2, CD 1

House Communication dated May 1, 2012, from CJ Leong, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has agreed to the amendments made by the Senate and has this day adopted the following House Concurrent Resolutions:

H.C.R. No. 50, HD 1, SD 1
H.C.R. No. 51, HD 1, SD 1