

## NINETEENTH DAY

Thursday, February 14, 2013

The House of Representatives of the Twenty-Seventh Legislature of the State of Hawaii, Regular Session of 2013, convened at 12:05 o'clock p.m., with Vice Speaker Mizuno presiding.

The invocation was delivered by Representative Linda Ichiyama, after which the Roll was called showing all Members present with the exception of Representative Ing, who was excused.

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

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 15 and 16) were received and announced by the Clerk:

Sen. Com. No. 15, transmitting S.B. No. 1014, SD 1, entitled: "A BILL FOR AN ACT RELATING TO FORENSIC IDENTIFICATION," which passed Third Reading in the Senate on February 13, 2013.

Sen. Com. No. 16, transmitting S.B. No. 1015, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PRODUCTION OF RECORDS," which passed Third Reading in the Senate on February 13, 2013.

On motion by Representative Awana, seconded by Representative Fukumoto and carried, the following Senate Bills passed First Reading by title and further action was deferred: (Representative Ing was excused.)

S.B. No. 1014, SD 1  
S.B. No. 1015, SD 1

**KA HUA 'ŌLELO O KA LĀ  
HAWAIIAN WORD FOR THE DAY**

Representative Hanohano presented *Ka Hua 'Ōlelo O Ka Lā*, the Hawaiian Word for the Day, as follows:

*"Mahalo ho'omalū 'ōlelo,  
Ka hua 'ōlelo o ka lā – Pu'uwai.  
Pu'uwai – Heart. A center of emotion. Probably a western concept.  
Note: In a chant dated 1853 – Ke hō'eu'eu nei i ka Pu'uwai. Stirring now the heart.  
Hauoli Lā Pu'uwai Himene Kakou.  
Mahalo."*

## INTRODUCTIONS

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

Representative Yamane introduced students and their chaperones visiting from Japan and the Philippines, who were participating in a three-week seminar sponsored by the Univers, Na Lei Aloha Foundation. They were accompanied by Mr. Joe Tassill, Mrs. June Tassill, Ms. Ruby Maunakea, Mr. Ron Matayoshi and interpreter Ms. Keiko Grant.

Representative Awana introduced Ms. Ruby Maunakea, a community supporter of Native Hawaiian culture and language.

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

The House of Representatives reconvened at 12:40 o'clock p.m.

## ORDER OF THE DAY

## REPORTS OF STANDING COMMITTEES

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 413) recommending that H.B. No. 197, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 197, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 414) recommending that H.B. No. 410, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 410, HD 1, entitled: "A BILL FOR AN ACT RELATING TO JURY DUTY," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 415) recommending that H.B. No. 109, HD 1, as amended in HD 2, be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 109, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE," was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Tsuji, for the Committee on Economic Development & Business, presented a report (Stand. Com. Rep. No. 416) recommending that H.B. No. 1123, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 1123, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR TAX LAW," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Tsuji, for the Committee on Economic Development & Business, presented a report (Stand. Com. Rep. No. 417) recommending that H.B. No. 1374, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1374, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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. 1374, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Brower, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 418) recommending that H.B. No. 955, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 955, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Har and Tokioka being excused.

Representative Brower, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 419) recommending that H.B. No. 1339, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1339, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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. 1339, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Brower, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 420) recommending that H.B. No. 332 pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 332 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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

"I request a ruling on a potential conflict. My wife's company is contracted by HTA. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 332, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Brower, for the Committee on Tourism, presented a report (Stand. Com. Rep. No. 421) recommending that H.B. No. 963, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 963, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, I have an uneasy conscience about the broken promise that's in this bill. We promised the industry that if we raised the TAT Tax by 2%, we would sunset it. And this takes away the sunset, therefore taking away our promise.

"The subculture, the word is, you guys always do that, you put in a tax, you never take it away. That belittles the profession, it makes us less credible. And I would say this is probably a good warm up, a good training wheel for what's going to be a real big decision by this Body when the increase on Oahu of 5% for the rail expires in a number of years. I think the public will really see how we keep our word or we don't. I think this is just the beginning. For those reasons, Mr. Speaker, I have some serious doubts about this. Thank you."

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

"Mr. Speaker, I rise against this measure. I'd like to have the words of the Representative from Hawaii Kai inserted as if they were my own, and echo the fact that we gave our word to the industry a few years ago that this would be temporary. Now we've gone back on that, and Mr. Speaker, as was pointed out to me in the past few weeks in a very difficult set of negotiations with a friend of mine, that once you give your word in this Body, you keep it, even if you have a change of heart. So I was willing to stick by that. I didn't like it, but I stuck by it. Now, we gave our word as a public institution, now we're going back on it.

"What I also find troubling was the floating of a potential increase, Mr. Speaker. It was all out there. Let people draw their own assumptions as to why that was done. But I think, my view is, it left the folks who are paying this tax with the idea that, you'd better take this because this is the best deal you're getting. So I find that very troubling. I think this tax is a symptom of a failure on our part to get our spending in control. Revenue is going up, why are we going back on our word? We can't control our spending. And whether it's this tax or the myriad of fees, we have a problem, Mr. Speaker.

"Now, the bill does do a few good things, it removes the tax on complimentary rooms. Boy, that was mighty nice of us to remove the tax on complimentary rooms. And it does remove the cap on the monies that will go into the funds, so those are two good things. But we didn't keep our word to the industry, Mr. Speaker, and this is our key industry, our primary industry. And so for those reasons, I am against it."

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

"Mr. Speaker, in opposition, with the same sentiment that has been spoken by the two speakers before me, Mr. Speaker. I bring my family into this building every now and then, and I want them, I want my little brothers and sisters to be able to look up to me and to be able to say, 'my older brother always kept his word.' Now this is something that we set as a standard as Representatives of the great State of Hawaii.

"If we tell somebody that we're going through hard times, we need you to help out, and then when we're through the hard times we'll cut back, we'll give you back what we had taken from you. Whether this goes through or not, the fact that we are actually contemplating it, to even send out that message that we're thinking about breaking our word, I think is very bad as a public statement, Mr. Speaker."

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

*"Ke ku nei au me ka kanalua, no ka mea o ka 'ōlelo oia ka mea nui no na po'i me na pilina.*

"I'm rising with strong reservations. Our word is our word when we create our relationships. So we should all remember that. *Mahalo.*"

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

"Mr. Speaker, in support. It's one of the fundamental principles of a legislature that we cannot bind a future legislature. So, this idea of going back on our word is tempered by the fact that there's going to be a new legislature after this one that can undo everything that we've done if they choose to. So, I don't see it in the same terms.

"I would also say that, I guess it was two or three years ago now when we passed a law that temporarily increased the TAT. The assurance and warning from the tourism industry that this increase, I think it was a 2% increase, was going to have just absolutely catastrophic effects on the tourism industry. Though I don't take raising taxes lightly, those predictions were 180 degrees off base. On the contrary, the tourism industry has grown by leaps and bounds, and if my recollection is correct, in 2012 they had a record year for revenue and I believe for visitors as well. So, there's also some question about whether what we were being told two years ago was actually accurate information or not. Thank you."

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

"Thank you, Mr. Speaker. In support with slight reservations. Thank you very much. Reservations are to the permanency of the 9.25%. Although the previous speaker was correct, however for the neighbor islands, the RevPAR for the rooms decreased quite significantly because of this and as a result the visitor industry on the neighbor islands is still trying to play catch-up. So, I'd like to see maybe another sunset or something, so we can come back and look at this, but it has had an effect on the neighbor islands. That's my only concern. Thank you."

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

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

"Thank you, Mr. Speaker, in support. Thank you. Reading the testimony of the Hawaii Tourism Authority, they show concerns, like a lot of people in the House have concerns about this. But we're maintaining a tax which we can in the future decide to decrease or increase depending on what the situation is. And we are at a pivotal point with new incoming travelers, because hopefully the new business will be repeat business in the future. And also checking the testimony of the counties, they have concerns, like legislators, but they also want what they feel is their share of the TAT. So to keep promotions and the county share of the TAT coming, I think for now we should maintain this tax where it is. Thank you."

Representative McDermott rose to respond, stating:

"Mr. Speaker, second time. Mr. Speaker, I remember 26 years ago, we didn't have this tax. Now we're addicted to it and we keep raising it. We're like a crack addict, we can't get enough. And we tell them how lucky they are that we're only taking 9%, Mr. Speaker. Mr. Speaker, supporters of this measure were the Hawaii Tourism Authority, and they cautiously supported 9.2% with amendments."

"Opponents: Department of Finance; Country of Kauai; Gladys Baisa, Council Chair, Maui County Council; Don Couch, Robert Carroll, Riki Hokama, Council Members, Maui County Council; Hawaii Council of Mayors; Hawaii Lodging and Tourism Association; Chamber of Commerce Hawaii; Maui Hotel and Lodging Association; Waikiki Improvement Association; Maui Chamber of Commerce; Outrigger Hotels."

"One person, one entity as far as I can see, was in support of this measure. We're addicted to the money, we have to let Finance Committee make the hard decisions with the revenue we have coming in. Thank you."

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you. I rise in support for two reasons. Number one is, if many of you look at your hotel bills in various places throughout the mainland, you'll notice that they have hotel room taxes quite similar to the one that we're discussing today. It is not uncommon for tourist destinations, or business destinations for that matter, to levy these taxes on hotel users or people who purchase hotel rooms. That's quite common."

"But you may not notice, if you take a look at the bill, it removes a \$10 a day surcharge that we're charging hoteliers when they give complimentary rooms, that's removed. So you should take note of that because that's a 'give back.'"

"But the second reason why I stand in support of this is, many of you may not know, because Waikiki is in our backyard and not too many of us go to Waikiki, but just recently most of the hotels in Waikiki started what they call the resort fee. It's like a \$20 to \$30, sometimes \$35 a day resort fee. No one's complaining about that. But the hoteliers are getting it and the reason for them doing it is because everybody else is. You take a look at all of the resort destinations, the tourist destinations throughout the world, and lo and behold, you see this resort fee. This daily resort fee. It

may give you free parking, it may give you free Internet, but the fact is, it's \$25 to \$30 more per day. We're doing it."

"So, we can remove this tax and remove or put back the levy on the daily surcharge for free rooms, but everybody else is doing this. So why not do it? Because this revenue not only enhances the visitor experience for our visitor friends coming to Hawaii, but also helps us as a state. So, I stand in support of this measure. Thank you."

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

"Mr. Speaker, in strong support. I would like the words of the previous speaker as if they were my own. Thank you."

Representative Ward rose to respond, stating:

"Second time, with just a couple of footnotes. Number one, I think it's really dangerous to assume that tourism is always going to be gangbusters. The rest of the world is developing top rate hotels at top rate prices. We have really got global competition going, so I think it's naïve to think that we can keep pressing the tax button on these guys and expect them to be surviving."

"Secondly, we are a leisure destination, we're not a business destination. When you go to San Francisco or New York and pay those high taxes, that's when your company or your agency is going to pick up that stuff. Here we have families, we have leisure destination. You come here primarily for leisure, not business. So it's a different deductibility."

"And thirdly, there is a bill that's floating for the previous speaker's edification, to tax those 'resort fees' that are being attached to the bill. So there'll be a TAT tax on what he just said now is a free ride."

"And lastly, let's be realistic, we held a 2% increase over the heads of the hotel executives. If you don't want this 2% increase, you better agree to a non-sunset to the 2%. Mr. Speaker, that's the reality of the political hard ball that this bill plays with. But I think it's again, it's a warm up for the game when we have the rail tax increase on Oahu of 0.5%, are we going to keep our word to the people of Hawaii or are we not going to keep our word. To me that's the essence of this bill, too. Thank you."

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

"Mr. Speaker, I'm standing in strong support. Thank you. Mr. Speaker, as we all know, tourism, if not one of the strongest economies in our state, is maybe the top two or three. So it's extremely competitive and the money from the TAT does in turn go to support the necessary infrastructure improvements in the Waikiki District and other resort areas, as well as throughout our state in which our tourists do utilize. As well as the sales and marketing cost to continue having our tourism market boom as it has in this past year. And even the Hawaii Tourism Authority is dependent upon the TAT money to have their department thrive."

"So, again, in support and I hope that the Members see the relevance and the extreme need to continue our tourism the way we're moving in the right direction. Thank you."

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

"Thank you very much. Mr. Speaker, in support. Just a brief response to the Representative from Hawaii Kai, regarding the fact that Hawaii is a leisure destination. That is absolutely true, but you need only look at other leisure destinations in the country, for example Las Vegas. I think most people, except probably for you, Mr. Speaker, go to Las Vegas not for work. Their tax is 12%. Orlando, I think we all know where that is, has a 12.5% tax. Thank you very much, Mr. Speaker."

Representative Fale rose to respond, stating:

"Mr. Speaker, I was here when the tax was increased. I was just a regular guy running around outside. And I heard it was said, it's just for a short time. It's just until we get through the challenges that we have right

now. I'm a strong believer that your word is your bond. We have to be able to lay our foundation based upon that.

"It does all these great things, it does all this good stuff and everything, but more importantly, if we say we're going to sunset something, we've got to be able to garner the faith and trust of the people. Honestly, it's disappointing for me to say, 'well this Legislature can't bind any future Legislature.' Then don't say that. Because I heard it with my own two ears, that this is only for that short time. It's just disappointing to be able to, I hope it's a precedent that doesn't proceed into the future, Mr. Speaker."

Representative Awana rose to respond, stating:

"Thank you, Mr. Speaker, just a friendly rebuttal to the comments made by the Representative from Laie. Although we realize that our word is our bond, in times like these when the economy throughout the world is so, looking at particular market segments. And when we have a hold on tourism in our State of Hawaii and to the extent that we depend on it, it would behoove us not to look at this particular measure and to move it forward. Because in order for us to continue, the monies that were derived from that fund have actually lead us to where we are today, a leader in the tourism industry. Thank you."

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

"Reservations, in the interest of the economy of my home island. And a brief comment on keeping our word. I agree that it's vital that we do, as an institution, in order to keep the public trust. But when I say 'we,' that's, I think, where the misunderstanding may be. Because we as a Legislature, is not the same Legislature as a few years ago. As a matter of fact, when this measure was first passed I think I was a couple of years out of high school and that was a different Legislature representing a different body of people, a different public. And the decisions we make this year need to reflect our constituents, not the constituents of however many years ago."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 963, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," passed Second Reading and was referred to the Committee on Finance, with Representatives Fale and McDermott voting no, and with Representatives Har and Tokioka being excused.

Representative Cabanilla, for the Committee on Housing, presented a report (Stand. Com. Rep. No. 422) recommending that H.B. No. 935, HD 1, as amended in HD 2, be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 935, HD 2 be referred to the Committee on Finance, seconded by Representative Awana.

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

"Mr. Speaker, I'm going to rise in opposition to this one. Mr. Speaker, as a courtesy to you, I'm going to keep my remarks brief. But, I would like to say, this goes again to the fact that we are not prioritizing and not letting our esteemed Finance Committee do the tough work.

"We have employees who do not feel they are made whole yet. We have many other needs and here is a tax increase on families who are buying their first home, buying homes, buying condominiums, starter homes. We're going to charge them extra money for a program that I think is dubious at best and will absolutely have marginal or negligible impact on the environment. And so, I'm going to save the rest of my comments for another bill coming down relating to this in the future. Thank you."

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

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

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise in opposition to House Bill 935, HD2; a bill that increases the conveyance tax in our state. This bill will raise the price of real estate transactions valued at \$2 million or greater. Although I understand it is important to protect our watershed, control invasive species and also support the Rental Housing Trust Fund; I believe that these worthwhile projects should be funded through the general fund.

"The net effect of this bill will be that taxes will be increased and this will have a negative impact upon the economy. In addition, high taxes on property conveyance may have a chilling effect on the construction industry. This is something that will affect working class people negatively.

"It is notable that the Chamber of Commerce of Hawaii submitted testimony that stated, 'There is no rational nexus between the real estate transactions that are being taxed at conveyance, and the uses identified in HRS 247 as the beneficiaries of the tax.' The Hawaii Association of Realtors (HAR) also testified in opposition to this bill. HAR pointed out that the conveyance tax is applied 'whether or not a property is sold at a gain or a loss.'

"For these reasons, Mr. Speaker, I oppose HB 935, HD2."

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

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

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

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

Representative Johanson's written remarks are as follows:

"Mr. Speaker, I rise with reservations on HB 935, HD 2. This bill would seek to increase the conveyance tax on all properties over \$2 million dollars. While HB 935 has a noble purpose in aiding in Hawaii's watershed protection efforts as well as in funding invasive species control, the bill seems to be lacking a very clear nexus between the sale and improvement of real estate in Hawaii and the need for watershed protection. For that reason, I will be voting with reservations."

Representative Fukumoto 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. 935, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX," was referred to the Committee on Finance, with Representatives Fale and McDermott voting no, and with Representatives Har and Tokioka being excused.

Representative Choy, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 423) recommending that H.B. No. 657, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 657, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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

"Mr. Speaker, may I have a ruling on a potential conflict. My wife is a consultant with the UH Cancer Center," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker, in opposition. Mr. Speaker, taxation does change behavior. We have raised the taxes on prepackaged cigarettes so high that people will go out of their way to buy the raw tobacco to roll their own cigarettes to avoid the taxation of \$8 a pack. The retail cost is about \$8 to \$9 a pack, depending on where you buy them. That has been so burdensome for our community that some people actually go and do this. I don't smoke, so I don't do this, but it goes to the fact that taxation does affect behavior. Now these people are trying to get around it, so now we're chasing them for a couple extra bucks. We won't leave them alone.

"If it's that bad, let's outlaw it. You've heard that before. If tobacco is that bad, let's just be done with it. But let's not try and make money off these folks. And this is just another revenue grab, the way I look at it. And yeah, it goes to great causes, no doubt about that. But people are finding a way around it. Human beings are smart, this loophole will be closed and then there'll be another way around it. They're going to get there one way or another. Thank you."

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

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you, Mr. Speaker. I'd like to commend the Chair of Health for introducing this measure and for identifying what the Representative from Ewa Beach has identified as a loophole or leakage in our tobacco taxes. It is true, there are people that are buying loose tobacco and rolling their own. But they should be also paying taxes. Because we have, and proudly so, one of the highest cigarette taxes in the nation. And there's no reason why people that are smoking or using other tobacco products should not be partaking in the pleasure of providing our state with these taxes that seriously go to benefit some of the concerns that we have as it relates to cancer and tobacco usage.

"In the hearing we had a great discussion with the University of Hawaii Cancer Center, and made a few requests. I'd like to, with your permission, Mr. Speaker, enter into the Journal the response from the Cancer Center in regards to that discussion, if I may. Thank you.

"One of the concerns that was addressed in the hearing, was that all these funds coming in, even for the Tobacco Tax right now, goes to very important areas of state government, emergency management, the Cancer Center and the like. One of the things that it doesn't go to is into the cancer prevention efforts. We call them the tri-agencies: The American Heart, the American Lung, and the American Cancer Society. They used to partake in some seriously significant amounts of money through the Master Settlement Agreement, but over the years that support has eroded.

"So although they support, and the Coalition for Tobacco Free Hawaii supports House Bill 657 because it increases tobacco taxes, it provides a funding stream to areas that they support. One of the things that was highlighted in the discussion is it doesn't take care of the prevention efforts. I would like to see over the next few months an effort to provide some of this additional revenue to the American Heart Association, Cancer, Lung and the Coalition for a Tobacco Free Hawaii. Thank you, Mr. Speaker."

Representative Takai submitted the following:



UNIVERSITY OF HAWAII  
CANCER CENTER

February 5, 2013

The Honorable Isaac W. Choy  
Chair, House Committee on Higher Education  
Hawaii State Legislature  
State Capitol, Room 404  
415 South Beretania Street  
Honolulu HI 96813

The Honorable K. Mark Takai  
House Committee on Higher Education  
Hawaii State Legislature  
State Capitol, Room 426  
415 South Beretania Street  
Honolulu HI 96813

Re: House Bill 657, Relating to Tobacco Products

Dear Chair Choy and Representative Takai:

Thank you for taking the time to meet with UH Cancer Center Deputy Director Dr. Marcus Tius and me yesterday regarding House Bill 657. We appreciated the opportunity to discuss the Cancer Center's work with you.

At your request, we are providing the following documents:

1. Private Naming Opportunities at the University of Hawaii  
(This document was provided by the University of Hawaii Foundation.)
2. University of Hawaii Cancer Center Naming Matrix  
(This document was provided by the University of Hawaii Foundation.)
3. Summary of cigarette tax funds received and expended by the Cancer Center from January 1, 2010 to June 30, 2012.
4. Statement of net assets as of June 30, 2012
5. Statement of revenue and expenditures through June 30, 2012
6. Operating budget plan that we believe was provided to Representative Takai in April 2011, at his request. You also asked for an update on the Cancer Center's progress relating to this plan. We are working on an update and will provide it to you as soon as possible.

701 Ilalo Street, Honolulu HI 96813 | Tel (808) 586-3010 | Fax (808) 586-3052 | [www.uhcancercenter.org](http://www.uhcancercenter.org)  
A National Cancer Center Institute-designated Cancer Center

The Honorable Isaac W. Choy  
The Honorable K. Mark Takai  
February 5, 2013  
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If you have questions, please do not hesitate to contact me at 586-3010 or [lheirakuji@cc.hawaii.gov](mailto:lheirakuji@cc.hawaii.gov).

Very truly yours,

Lynn Heirakuji, DSW  
Associate Director for Administration

Attachments

This document was provided by the University of Hawai'i Foundation.

Private Naming Opportunity Guidelines at the University of Hawaii  
Revised June 28, 2007

Support	Minimum levels for UHM	Minimum levels for UHCUHHUHO	Level of Approval	
			Chancellor	Board of Regents
<b>Program Endowments</b>				
To name a School or College	\$25,000,000		X	X
To name a Center or Institute	\$10,000,000		X	X
To name a Department	\$5,000,000		X	X
<b>Facility Endowments</b>				
To name a Classroom (existing)	\$2,000,000	\$2,000,000	X	X
To name a Classroom (new)	\$2,000,000 to \$4,000,000	\$500,000 to \$5,000,000	X	X
To name a Chair (existing/new)	\$1,000,000 to \$2,000,000	\$500,000 to \$1,000,000	X	X
To name a Directorship	\$500,000 to \$1,000,000	\$250,000 to \$1,000,000	X	X
To name a Distinguished Professorship	\$250,000 to \$500,000	\$250,000 to \$500,000	X	X
To name a Fund for Faculty Research	\$150,000	\$150,000	X	X
To name a Post-Doctoral Fellowship	\$950,000	\$950,000	X	X
<b>Student Endowments</b>				
To name an Undergraduate Scholarship	\$100,000 - \$250,000	\$100,000 - \$250,000	X	X
To name a Graduate Fellowship	\$35,000	\$35,000	X	X
<b>Libraries Endowments</b>				
To name a Librarian or Curator	\$1,000,000	\$500,000	X	X
To name a Library Collection	\$1,000,000	\$500,000	X	X
To name a Library or Archival Fund	\$200,000	\$100,000	X	X
<b>Building</b>				
To name a Building	50% of total construction cost for new facility with endowment for maintenance; or 50% of total renovation cost for existing facility with endowment for maintenance	50% of total construction cost for new facility with endowment for maintenance; or 50% of total renovation cost for existing facility with endowment for maintenance	X	X
To name rooms within a building	Based on square footage total cost or total renovation cost with endowment for maintenance	Based on square footage total cost or total renovation cost with endowment for maintenance	X	X
<b>Campus Landscape Projects</b>	TBD through campus process	TBD through campus process	X	X

University of Hawaii Cancer Center  
Naming Matrix

5th Floor		
Mauka Conference Room		\$500,000
Suite	Dry Lab Wing	\$750,000
Makai Concourse or Balcony	Ocean-facing interaction space	\$200,000
6th Floor		
Board Room	Executive meeting room	\$1,000,000
Makai Concourse or Balcony	Ocean-facing interaction space	\$200,000

This document was provided by the University of Hawai'i Foundation.

University of Hawaii Cancer Center  
Naming Matrix

Rooms	Description	Permanent Naming (Minimum Levels)
<b>Overall</b>		
Building, Faculty & Program		\$20,000,000
<b>Ground Floor</b>		
Conference Center		\$4,000,000
Fitness Center		\$1,000,000
Clinical Trials Study Lab	Houses fitness and kitchen facilities	\$1,000,000
Ka hua launa	A place for social gatherings (outdoor area fronting conf center)	\$1,000,000
Imaging & Technology Lab		\$2,000,000
'Aha kukakuka	Makai garden	\$500,000
Makai Garden	Reflection Bench in 'Aha kukakuka Garden	\$50,000
'Puku'i	Mauka garden	\$500,000
Mauka Garden	Reflection Bench in 'Puku'i Garden	\$50,000
Fitness Analytics Room		\$200,000
Kitchen and Food Demo		\$500,000
Memorial Arcade	Wall along entry	\$50,000 each; \$450,000 total
Below entry feature wall	Bench	\$50,000
Clinical Studies Waiting Area	Near Labs	\$50,000
<b>2nd Floor</b>		
Mauka Terrace	Covered outdoor meeting room	\$1,000,000
Indoor Lounge	Internal Interaction Space	\$250,000
Suite	Wet lab wing	\$2,000,000
Makai Concourse or Balcony	Ocean-facing informal meeting space	\$100,000
<b>3rd Floor</b>		
Mauka Conference Room		\$500,000
Makai DH Conference Room		\$300,000
Suite	Wet Lab Wing	\$2,000,000
Makai Concourse or Balcony	Ocean-facing interaction space	\$100,000
<b>4th Floor</b>		
Mauka Conference Room		\$500,000
Suite	Wet Lab Wing	\$2,000,000
Suite	Dry Lab Wing	\$750,000
Makai Concourse or Balcony	Ocean-facing interaction space	\$100,000

Cigarette Tax Revenue  
Received by UH Cancer Center  
01/01/2012 to 6/30/2012

POSTED DATE	PERIOD	AMOUNT
1/6/2012	Nov-11	\$ 1,295,400.00
2/3/2012	Dec-11	\$ 1,622,492.38
3/5/2012	Jan-12	\$ 1,302,324.63
4/25/2012	Feb-12	\$ 1,349,077.77
5/2/2012	Mar-12	\$ 1,662,739.75
6/5/2012	Apr-12	\$ 1,091,455.57
6/29/2012	May-12	\$ 1,712,689.77
<b>TOTAL</b>		<b>\$ 10,036,179.87</b>

Cigarette Tax Expenditures  
01/01/2012 to 6/30/2012

CATEGORY	AMOUNT	EXPLANATION
New Building Expenses	\$2,738,241.50	Capital Expenditures for new Cancer Center Building at Kaka'ako: architecture costs, engineering costs, insurance costs, RCUH service fee costs, and salary costs for OCI personnel
Personnel	\$3,160,830.66	Research and Operating Expenditures: support for administration, fiscal, communications, facilities, IT, and faculty
Materials & Supplies	\$205,776.42	Research and Operating Expenditures: lab supplies, office supplies, and facilities/maintenance supplies
Travel & Faculty Relocations	\$195,470.49	Research and Operating Expenditures: travel expenses for EAB (External Advisory Board) Members, travel expenses for faculty through their start-up funds, and relocation expenses for new research faculty recruits
Printing & Publications	\$7,144.20	Research and Operating Expenditures: printing, blinding, and signage costs for the NCI Site Visit in February 2012, and costs for the UH/CCC Opening Campaign Book
Utilities & Communications	\$313,389.63	Research and Operating Expenditures: electric costs, gas costs, water costs, and telephone costs
Rentals	\$541,646.03	Research and Operating Expenditures: rental expenses for the Gold Bond Building, and rental expenses for liquid nitrogen and other gases needed for research purposes
Repairs & Maintenance	\$62,236.99	Research and Operating Expenditures: repairs and maintenance for machinery, equipment, buildings, structures, and grounds
Equipment	\$17,921.37	Research and Operating Expenditures: computers and computer equipment for new faculty
Services Fees	\$99,163.30	Research and Operating Expenditures: RCUH mandatory service fees, and honorarium payments to EAB (External Advisory Board) Members and guest lecturers
Other Costs	\$965,158.43	Research and Operating Expenditures: advances to RCUH for FY12 expenses (Facilities/Maintenance, IT, Faculty Start-Up Accounts, Bridge Funds, Program Allocations), and freight, delivery, and postage costs
Bond Repayment	\$2,525,581.19	Capital Expenditures: Building Bond Repayment for the new Cancer Center Building
<b>TOTAL</b>	<b>\$10,832,560.21</b>	

**Cigarette Tax Revenue  
Received by UH Cancer Center  
07/01/2011 to 12/31/2011**

POSTED DATE	PERIOD	AMOUNT
7/5/2011	May-11	\$ 1,521,840.00
8/2/2011	Jun-11	\$ 1,538,400.00
9/6/2011	Jul-11	\$ 1,592,580.00
10/5/2011	Aug-11	\$ 1,242,600.00
12/8/2011	Sep-11	\$ 1,608,600.00
12/8/2011	Oct-11	\$ 1,134,000.00
10/17/2011	Interest	\$ 30,788.03
<b>TOTAL</b>		<b>\$ 8,668,808.03</b>

**Cigarette Tax Expenditures  
07/01/2011 to 12/31/2011**

CATEGORY	AMOUNT	EXPLANATION
New Building Expenses	\$1,977,822.25	Capital Expenditures (for new Cancer Center Building at Kaka'ako): architecture costs, engineering costs, insurance costs, RCUH service fee costs, and salary costs for OCI personnel
Personnel	\$494,906.34	Research and Operating Expenditures: support for administration, fiscal, communications, facilities, IT, and faculty
Materials & Supplies	\$258,620.67	Research and Operating Expenditures: lab supplies, office supplies, and facilities/maintenance supplies
Travel & Faculty Relocations	\$116,018.69	Research and Operating Expenditures: travel expenses for EAB Members, travel expenses for faculty through their start-up funds, and relocation expenses for new research Faculty recruits
Printing & Publications	\$ 634.89	Research and Operating Expenditures: printing costs for the Hawaii Science Teachers Association Conference and publication of public notices in the Star Advertiser
Utilities & Communications	\$363,959.29	Research and Operating Expenditures: electric costs, gas costs, water costs, and telephone costs
Rentals	\$490,836.23	Research and Operating Expenditures: rental expenses for the Gold Bond Building, and rental expenses for liquid nitrogen and other gases needed for research purposes
Repairs & Maintenance	\$75,042.43	Research and Operating Expenditures: repairs and maintenance for machinery, equipment, buildings, structures, and grounds
Equipment	\$571,116.81	Research and Operating Expenditures: mouse racks, mouse cages, cryostat machine, and computers for new faculty
Services Fees	\$122,348.82	Research and Operating Expenditures: RCUH mandatory service fees and honorarium payments to EAB (External Advisory Board) Members
Other Costs	\$1,193,597.56	Research and Operating Expenditures: advances to RCUH for FY12 expenses (Facilities/Maintenance, IT, Faculty Start-Up Accounts, Bridge Funds, Program Allocations), and freight, delivery, and postage costs
Bond Repayment	\$5,198,581.19	Capital Expenditures: Building Bond Repayment for the new Cancer Center Building
<b>TOTAL</b>	<b>\$10,853,485.17</b>	

**Cigarette Tax Revenue  
Received by UH Cancer Center  
01/01/2011 to 06/30/2011**

POSTED DATE	PERIOD	AMOUNT
1/5/2011	Nov-10	\$ 1,312,200.00
1/31/2011	Dec-10	\$ 1,612,200.00
2/28/2011	Jan-11	\$ 1,965,000.00
4/5/2011	Feb-11	\$ 1,420,200.00
4/30/2011	Mar-11	\$ 1,637,400.00
6/1/2011	Apr-11	\$ 1,370,400.00
6/30/2011	Interest	\$ 252,180.25
<b>TOTAL</b>		<b>\$ 8,969,580.25</b>

**Cigarette Tax Expenditures  
01/01/2011 to 06/30/2011**

CATEGORY	AMOUNT	EXPLANATION
New Building Expenses	\$6,466,391.44	Capital Expenditures (for new Cancer Center Building at Kaka'ako): architecture costs, engineering costs, insurance costs, RCUH service fee costs, and salary costs for OCI personnel
Personnel	\$3,842,220.70	Research and Operating Expenditures: support for administration, fiscal, communications, facilities, IT, and faculty
Materials & Supplies	\$117,331.64	Research and Operating Expenditures: lab supplies, office supplies, and facilities/maintenance supplies
Travel & Faculty Relocations	\$178,018.84	Research and Operating Expenditures: travel expenses for faculty and relocation expenses for new research Faculty recruits
Printing & Publications	\$5,745.00	Research and Operating Expenditures: printing and publication costs
Utilities & Communications	\$201,018.95	Research and Operating Expenditures: electric costs, gas costs, water costs, and telephone costs
Rentals	\$492,553.71	Research and Operating Expenditures: rental expenses for the Gold Bond Building, and rental expenses for liquid nitrogen and other gases needed for research purposes
Repairs & Maintenance	\$33,767.74	Research and Operating Expenditures: repairs and maintenance for machinery, equipment, buildings, structures, and grounds
Equipment	\$92,343.83	Research and Operating Expenditures: lab equipment and IT equipment
Services Fees	\$156,726.18	Research and Operating Expenditures: RCUH mandatory service fees and honorarium payments to EAB (External Advisory Board) members
Other Costs	\$1,966,262.68	Research and Operating Expenditures: advances to RCUH for FY11 expenses (Facilities/Maintenance, IT, Faculty Start-Up Accounts, Program Allocations), Shared Resource expenses, and freight, delivery, and postage costs
Bond Repayment	\$2,473,295.15	Capital Expenditures: Building Bond Repayment for the new Cancer Center Building
<b>TOTAL</b>	<b>\$16,045,676.86</b>	

**Cigarette Tax Revenue  
Received by UH Cancer Center  
07/01/2010 to 12/31/2010**

POSTED DATE	PERIOD	AMOUNT
7/30/2010	Jun-10	\$ 1,847,640.00
9/1/2010	Jul-10	\$ 1,521,000.00
9/30/2010	Aug-10	\$ 1,170,000.00
11/8/2010	Sep-10	\$ 1,583,400.00
12/2/2010	Oct-10	\$ 1,443,600.00
<b>TOTAL</b>		<b>\$ 7,565,640.00</b>

**Cigarette Tax Expenditures  
07/01/2010 to 12/31/2010**

CATEGORY	AMOUNT	EXPLANATION
New Building Expenses	\$2,001,778.11	Capital Expenditures (for new Cancer Center Building at Kaka'ako): architecture costs, engineering costs, insurance costs, RCUH service fee costs, and salary costs for OCI personnel
Personnel	\$63,328.90	Research and Operating Expenditures: support for administration, fiscal, communications, facilities, IT, and faculty
Materials & Supplies	\$140,896.57	Research and Operating Expenditures: lab supplies, office supplies, and facilities/maintenance supplies
Travel & Faculty Relocations	\$170,651.28	Research and Operating Expenditures: travel expenses for faculty and relocation expenses for new research Faculty recruits
Printing & Publications	\$1,850.28	Research and Operating Expenditures: printing and publication costs
Utilities & Communications	\$157,262.07	Research and Operating Expenditures: electric costs, gas costs, water costs, and telephone costs
Rentals	\$478,074.19	Research and Operating Expenditures: rental expenses for the Gold Bond Building, and rental expenses for liquid nitrogen and other gases needed for research purposes
Repairs & Maintenance	\$114,924.22	Research and Operating Expenditures: repairs and maintenance for machinery, equipment, buildings, structures, and grounds
Equipment	\$197,191.52	Research and Operating Expenditures: lab equipment and IT equipment
Services Fees	\$44,716.55	Research and Operating Expenditures: RCUH mandatory service fees and honorarium payments to EAB (External Advisory Board) Members and others
Other Costs	\$2,569,425.63	Research and Operating Expenditures: parking expenses, Townsend Hawaii LLC expenses, and freight, delivery, and postage costs
<b>TOTAL</b>	<b>\$5,940,099.32</b>	

**Cigarette Tax Revenue  
Received by UH Cancer Center  
01/01/2010 to 06/30/2010**

POSTED DATE	PERIOD	AMOUNT
1/11/2010	Nov-09	\$ 1,409,580.00
1/28/2010	Dec-09	\$ 1,684,920.00
2/26/2010	Jan-10	\$ 1,539,240.00
4/13/2010	Feb-10	\$ 1,206,240.00
4/30/2010	Mar-10	\$ 1,496,880.00
6/1/2010	Apr-10	\$ 1,712,400.00
6/30/2010	May-10	\$ 1,368,240.00
6/30/2010	Interest	\$ 371,498.75
<b>TOTAL</b>		<b>\$ 10,788,998.75</b>

**Cigarette Tax Expenditures  
01/01/2010 to 06/30/2010**

CATEGORY	AMOUNT	EXPLANATION
New Building Expenses	\$3,692,913.57	Capital Expenditures (for new Cancer Center Building at Kaka'ako): architecture costs, engineering costs, insurance costs, RCUH service fee costs, and salary costs for OCI personnel
Personnel	\$275,875.37	Research and Operating Expenditures: support for administration, fiscal, communications, facilities, IT, and faculty
Materials & Supplies	\$220,038.17	Research and Operating Expenditures: lab supplies, office supplies, and facilities/maintenance supplies
Travel & Faculty Relocations	\$121,254.25	Research and Operating Expenditures: travel expenses for faculty and relocation expenses for new research Faculty recruits
Printing & Publications	\$ 4,157.15	Research and Operating Expenditures: printing costs
Utilities & Communications	\$247,258.84	Research and Operating Expenditures: electric costs, gas costs, water costs, and telephone costs
Rentals	\$471,530.80	Research and Operating Expenditures: rental expenses for the Gold Bond Building, and rental expenses for liquid nitrogen and other gases needed for research purposes
Repairs & Maintenance	\$75,108.08	Research and Operating Expenditures: repairs and maintenance for machinery, equipment, buildings, structures, and grounds
Equipment	\$1,161,460.86	Research and Operating Expenditures: lab equipment, mouse racks, and IT equipment
Services Fees	\$808,635.82	Research and Operating Expenditures: legal fees and RCUH mandatory service fees
Other Costs	\$3,978,951.14	Research and Operating Expenditures: storage expenses, parking expenses, Shared Resource expenses, legal settlement expenses, and freight, delivery, and postage costs
<b>TOTAL</b>	<b>\$11,066,183.85</b>	

**UNIVERSITY OF HAWAII CANCER CENTER  
STATEMENT OF NET ASSETS  
as of 6/30/12  
(prepared 2/5/13)**

<b>ASSETS</b>	
Current Assets	
General Funds	\$ -
Tuition Funds	\$ -
RTRF Funds	\$ 274,664
P30 Grant	\$ 119,542
Consortium Funds	\$ -
Cigarette Tax	\$ 38,317,302
<b>Total Current Assets*</b>	<b>\$ 38,711,508</b>
Fixed Assets**	
Furniture, Fixtures, Equipment	
Major Equipment	
Buildings	
<b>Total Fixed Assets</b>	<b>\$ -</b>
<b>TOTAL ASSETS</b>	<b>\$ 38,711,508</b>

<b>LIABILITIES &amp; EQUITY</b>	
Current Liabilities	
Accounts Payable	\$ 35,984
<b>Total Current Liabilities</b>	<b>\$ 35,984</b>
Non-Current Liabilities	
Construction Accounts Payable	\$ 8,269,000
Bonds Payable	\$ 223,928,116
<b>Total Non-Current Liabilities</b>	<b>\$ 232,197,116</b>
Equity	
Retained Net Assets***	
<b>Total Equity</b>	<b>\$ -</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>\$ 232,233,100</b>

\*Current Assets do not include Philanthropic Contributions. The UH Foundation was not able to report asset information before this report was submitted.  
 \*\* The Cancer Center does not track the value of these assets.  
 \*\*\* Because the Cancer Center does not track Fixed Asset value, we are unable to provide Retained Net Asset value.

**University of Hawaii Cancer Center**  
  
**Operating Budget Plan**

The University has carefully reviewed the construction and operation of a new cancer center to produce a realistic operating budget plan.

The plan is based on assumptions and projections as explained in this presentation and is being monitored as we move forward.

It is a living document which will be adjusted as future circumstances require.

**UNIVERSITY OF HAWAII CANCER CENTER  
STATEMENT OF REVENUE AND EXPENDITURES  
for fiscal year ended 6/30/12  
(prepared 2/5/13)**

<b>Revenues:</b>	
General Funds	\$ 2,426,102
Tuition Funds	\$ 753,253
RTRF Funds	\$ 2,821,395
P30 Grant	\$ 720,185
Consortium Funds	\$ 2,200,000
Philanthropic Contributions	\$ 1,886,055
Cigarette Tax	\$ 17,183,148
<b>Total Revenues</b>	<b>\$ 27,990,138</b>
<b>Expenditures:</b>	
New Building Expenses	\$ 4,716,064
Personnel	\$ 8,606,194
Materials & Supplies	\$ 2,082,044
Travel & Relocations	\$ 311,489
Printing & Publications	\$ 7,779
Utilities & Communications	\$ 677,349
Rentals	\$ 1,032,482
Repairs & Maintenance	\$ 155,166
Equipment	\$ 632,636
Services Fees	\$ 221,512
Other Costs	\$ 2,443,896
Bond Repayment	\$ 7,721,162
<b>Total Expenditures*</b>	<b>\$ 28,607,775</b>
<b>EXCESS OF REVENUE OVER EXPENDITURES</b>	<b>\$ (617,637)</b>

\*Total Expenditures do not include expenditures on Philanthropic Contributions. The UH Foundation was not able to report expenditure information before this report was submitted.

- Revenue Sources**
- Cigarette tax revenue
  - Philanthropy
  - Percentage of research grant awards provided to support research operation infrastructure (Indirect cost return)
  - Revenue from the following sources are applied to reduce operating expenses and thus are not listed separately as revenue sources in the budget plan
    - General funds
    - Grant and contract revenue (except for the indirect cost return)
    - University of Hawaii Cancer Consortium contributions

- Expenditures**
- Construction of new building
    - Initial cash expenditure
    - Debt service for construction revenue bond
    - Owner occupancy expenses
  - Operating expenditures
    - Salaries
    - Specialized research infrastructure
    - General building operation



### Projected Budget Plan (Millions of Dollars)

Fiscal Year	2011	2012	2013	2014	2015	2016	2017	2018
Beginning Cash Balance	46	27	32	5	3	2	3	3
Revenues	22	22	22	22	24	24	24	24
Cigarette Tax	18	17	17	17	17	17	17	17
Philanthropy	2	2	2	3	3	3	3	3
Indirect Cost Return	2	3	3	2	4	4	4	4
Expenditures	41	37	38	26	23	23	24	24
Operating	28	23	23	14	13	13	13	13
Building	13	14	15	12	10	10	11	11
Ending Cash Balance	27	12	9	3	2	3	3	3

- ### Budget Plan Revenue Assumptions
- Cigarette tax revenue declined 4% last year and is projected to decline 4% this year. We assume another 4% drop before stabilization.
  - Indirect cost return is projected from current grant revenue of \$30M. Increase in revenue would result from addition of funded investigators and a higher percentage indirect cost return to be negotiated for new facility.
  - Philanthropy is expected to increase in conjunction with new building construction and decline after completion.

- ### Budget Plan Expenditure Assumptions
- Salary expenditures based on typical compensation packages for biomedical researchers
  - Facility operating expenses based on medical school Kakaako research facility expenses

- ### Challenges
- Loss of General Funds or reductions in special or revolving funds would negatively impact budget
  - Indirect cost return revenue dependent on successful researcher recruitment and availability of biomedical research funding
  - Philanthropy may be negatively impacted by the economy and other competing needs such as the Sendai earthquake and tsunami
  - Cigarette tax revenues may decline further than estimated in this operating budget plan

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

"Mr. Speaker, in opposition. As a little kid growing up, this is the kind of tobacco that my grandfather used. In a country where dollars are a very rare thing to come by, this is the only tobacco that he could afford.

"As one of the Members that live the furthest from the State Capitol Building, when I would ride the public buses to and from Honolulu, I would sit next to the people who would sit and roll their own cigarettes because they couldn't afford the bigger ones. Small little farmers, guys who would, as they approached the Windward Mall, put on their jacket, their uniform jacket to go to work at one of the stores inside the mall. So, I know who is going to get hit by this the most. I sit next to them very often. They go to work on our farms, they go to work in our small shops.

"I don't think, Mr. Speaker, that I could support any measure that would take any more nickels or dimes from that community, because I know they're struggling and I know they're hurting. So with that, Mr. Speaker, I'll be voting no on this measure."

Representative McDermott rose to respond, stating:

"Mr. Speaker, the way I read the Committee report, only 37% of this new revenue will go to cancer related programs. My math might not be correct. I didn't do that well in school in math, but 37%. Additionally, Mr. Speaker, it taxes Skoal, Copenhagen, things of that nature, the same as cigarettes, and they don't have the same impact as cigarettes. They're not as bad for you. Still not good for you of course, but they're still not as bad for you. So we're treating them the same.

"So that means, if you want to buy a can of Copenhagen dip, it's now \$9. There are people who use that, and we're just sticking it to the little guy. We throw one-third of it to cancer research and we say, 'yeah, it's for cancer.' But it's really for the general fund. That's the problem."

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

"Reservations, along the lines of the previous speaker. I fully, 100% support the intent of this measure. I'm not aware of how much we fund the cancer research through our general fund, and I just want to make sure that if we move this forward, that whatever special fund increase we'll make or whatever special fund we're allotting this to, isn't going to be taking from the general fund. If we're going to say that this tax is going to be used for the Cancer Research Center, let's make sure it's used for that and not replacing whatever's in the general fund, using it for something else. Because it's those types of practices that really, I think, destroys the public trust of our institution."

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

"Thank you, Mr. Speaker, in support with reservations. I just want to highlight that I agree with the Representative from Ewa Beach that previously spoke. What always concerns me when we increase taxes on cigarettes and tobacco products is it really looks like we're trying to get more money, like we really want people to smoke because we want the money.

"Because if you look at the way they wrote the bill, clearly the money is being put towards a trauma special fund, community health centers, emergency medical services. Is this really about changing people's behavior because we think smoking is a bad thing.

"If this Body really goes down this path and finds the nexus of increasing taxes because they want to stop people's behavior, then we have other bills, I believe, about taxing soda pop. Maybe we should tax sugar because clearly there's a nexus between diabetes and kidney disease and other things that have high sugar. So we can start using that as a reason to start taxing those products if it's really health related. So I just have concerns that this is really about raising money. For that reason I have reservations. Thank you."

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

"Thank you very much, Mr. Speaker. In support with reservations, and just an observation. If we're looking for revenue and we're looking at taxing plants by the ounce that people are going to roll into their own, we should cut to the chase and dump this for House Bill 150. Thank you very much."

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

"In support with reservations. I do share some of the concerns that the Representative from Aiea raised about where the money is going. I do think it would make more sense to plow it straight back into smoking cessation programs.

"But previous speakers have indicated that they feel like this is nickel and diming people who can't afford it. But the problem with that argument is that, according to the Center for Disease Control, each pack of cigarettes causes \$10 worth of damage, \$10 worth of damage to society. Currently our taxes are at \$3.20. So until that gap is closed between \$3.20 and \$10, we're essentially subsidizing smokers because of all the damage they do to themselves and those around them that we all end up paying for. 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. 657, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO PRODUCTS," passed Second Reading and was referred to the Committee on Finance, with Representatives Fale and McDermott voting no, and with Representatives Har and Tokioka being excused.

Representative Choy, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 424) recommending that H.B. No. 1073, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1073, HD 1 pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Awana.

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

"Thank you, Mr. Speaker. I rise in support of this measure. Thank you very much. We had a really great discussion in Committee and I wanted to thank the Chair of Higher Ed for allowing for this discussion. One of the things we asked the University for was some information as to how much they're spending for outside legal counsel. They provided us with information and I think it's important to note that this information is quite significant. I believe that the cost to operate the general counsel's office per year is about \$800,000. But we learned through the discussions at the hearing and subsequently to that, the information provided by the University, that the University is spending about \$2 million a year in outside counsel.

"This particular measure attempts to address that and other things, and I do think that that information is noteworthy. And as such, I would like to request inserting that into the Journal if I may. Thank you."

Representative Takai submitted the following:



UNIVERSITY  
of HAWAII\*  
SYSTEM

February 5, 2013

The Honorable Isaac W. Choy  
Chair, House Committee on Higher Education  
Hawaii State Legislature  
Hawaii State Capitol, Room 404  
Honolulu, HI 96813

Re: Office of the University General Counsel for the University of Hawaii System

Dear Representative Choy:

On behalf of the Board of Regents of the University of Hawaii System, we have provided herein general information regarding the Office of the University General Counsel ("OGC"). Please let us know if, after review of this letter, you require any further detail or specific information.

#### Executive Summary

- OGC's goal is to serve the University's legal needs in rendering quality legal services in a timely manner to support the University in meeting its mission "to provide all qualified people of Hawaii an equal opportunity for quality college and university education at both graduate and undergraduate levels."
- The OGC works on all areas of the law pertaining to state agencies and large companies in general, but also works on specialized areas of law unique to an institution of higher learning to support the core mission for the benefit of the citizens of the State of Hawaii.
- The budget allocation and actual expenses of the OGC has remained relatively constant since Fiscal Year 2008 despite tremendous growth experienced by the University.
- The retention of outside legal counsel to complement the work of the OGC is done only when it is deemed in the best interest of the University or if there is a legal conflict which prevents the OGC from rendering legal services in a particular matter.

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February 5, 2013  
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#### Operational Background

- What kinds of cases does the OGC focus on?

As background, the OGC was created by the Legislature in 1999 as a direct outgrowth of constitutional autonomy for the University. Prior to that, the University relied on the state Department of the Attorney General for legal counsel, just as the other state departments do. The Department of the Attorney General assigned one or two attorneys to the University to handle the University's entire legal services workload.

There are many reasons that the OGC is critical to the University's growth and future success:

The growth of the University system with 10 campuses statewide over the past ten years has been significant. This is evidenced by the University's record enrollments for several consecutive years and the increase in the University's workforce (faculty and staff) since the time the OGC was established. The University's growth, combined with issues that are unique to higher education (including such areas as research, academic programs, development, and collegiate athletics), required dedicated legal expertise to facilitate the attainment of the goals and mission of the University. The Legislature determined the creation of the OGC was to be an integral part of the University's success in its autonomy.

Operationally, the OGC monitors the number of legal matters handled by the office, status of those legal matters, and provides quality legal services to the University in a timely manner. The OGC reports directly to the Board of Regents and the President of the University.

#### OGC basic facts:

- Serves the University (a statewide "corporate body" having an annual operating budget of approximately \$1.4 billion per year, with approximately 8,000 to 10,000 employees statewide and approximately \$4 billion in net assets.)
- Staff: 1 General Counsel/6 Staff Attorneys/3 secretaries/1 secretary-legal assistant/1 legal assistant [1 staff attorney position and 1 secretary position currently vacant]
- Current number of active and open matters: approximately 1,625
- Average number of new matters opened per year: approximately 650-750
- OGC Operating Budget: approximately \$1.2 million per year (see table below)

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Areas of practice:

OGC covers all areas that are faced by one of the largest corporations in the State, but also does specialized work in the area of research, academic freedom, patents, copyright, trademark, licensing, academic ethics and other areas related to higher education - labor and employment issues, workplace injury, research grant applications, contracts, personal injury, sponsorship agreements, real estate development, land use issues, environmental issues, collections, student issues, collegiate athletics issues, financing and bond matters, risk management, equal employment, civil rights, Native Hawaiian issues, ceded lands issues, information technology, distance learning, etc., to name a few.

- What is the annual operating budget and expenditures for the OGC?

The numbers represented below are the OGC's annual budget allocation within the UOH900 appropriation.

Fiscal Year	Salary	Operating	Total
2008	\$1,131,499	\$120,512	\$1,252,011
2009	\$1,170,497	\$111,068	\$1,281,565
2010	\$1,108,357	\$75,984	\$1,184,341
2011	\$1,078,622	\$62,754	\$1,141,376
2012	\$1,088,199	\$75,638	\$1,163,837

**FY2013 (Projected budget allocation for this fiscal year)**

Salary - \$955,877 (Salary includes projection of currently filled positions to 6/30/2013.)  
Operating - \$207,960 (Operating funds include the allotted base budget for one (1) vacant AVP General Counsel position and one (1) vacant Legal Clerk position.)  
Total - \$1,163,837

**FY2014 (Projected budget allocation for next fiscal year)**

Salary - \$1,184,096 (Salary assumes the filling of one (1) AVP General Counsel position and one (1) Legal Clerk position. Salary also assumes that the temporary salary saving that expires 6/30/2013 is restored as scheduled for HGEA members.)  
Operating - \$75,000  
Total - \$1,259,096

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The numbers represented below are the OGC's actual expenditures for FY2008 – FY2012.

FY	Salary	Operating	Total
2008	\$1,092,193	\$95,803	\$1,187,996
2009	\$1,158,533	\$113,370	\$1,271,903
2010	\$1,110,951	\$44,593	\$1,155,544
2011	\$1,006,062	\$67,422	\$1,073,484
2012	\$1,136,396	\$74,323	\$1,210,719

- Why does the University retain outside legal counsel?

Outside legal counsel is retained when it is considered in the best interest of the University to do so. The retention of outside legal counsel to perform work for or on behalf of the University is an integral and critical part of handling and managing the University legal services workload, particularly given the high volume of matters that come into the OGC annually (ranges from an average of approximately 650 to 750 new matters per year with a current total of approximately 1,625 active matters) and the limited number of OGC attorneys (7 attorney positions at the present time, which includes one vacancy). Without outside legal counsel, the University and OGC would be hard pressed to maintain their current level of effectiveness and would not be placing themselves in the best position to succeed on behalf of the University or making the best use of its limited resources.

- How does the University make the decision to retain outside legal counsel to handle a matter? And how does the University decide which outside legal counsel to select?

The 7 staff attorney positions are a streamlined, concentrated core providing legal services to the University system statewide. It would be impossible for such a small staff to manage the volume of complaints, cases, actions, and matters that come in every year, particularly when many frequently require attorneys with specialized skills in a particular area. The specific instances in which the University would seek to hire outside legal counsel are as follows:

1. **Conflict of interest.** If there is a legal conflict of interest with the office being able to represent more than one party in the case (for instance, if an employee complains against another employee and UH and UH is the employer);
2. **Specialized knowledge required.** If there is a particular specialized field or area of knowledge that is not adequately covered by or represented on the current staff; or

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February 5, 2013  
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3. **Complex litigation.** It is a large, complex litigation case that would require dedication of significant attorney and staff time away from other priority legal matters and occupy an inordinate amount of attorney and staff time to properly supervise and monitor.

- What is the process for hiring outside legal counsel?

The process for selection of outside legal counsel involves the steps listed below and is followed as a regular practice consistent with the applicable procurement laws:

1. **Request for Qualifications.** Annual RFQ (Request for Qualifications) conducted through both advertising and internal industry communication. Names, expressions of interest, statements of qualifications, and resumes received by the University Procurement Office are forwarded to the OGC. One or more committees made up of members of the OGC reviews the submissions and determines whether the attorneys are qualified to perform legal services in the areas for which they applied (e.g., creates an "approved vendor" list).

2. **Need for outside counsel.** The OGC in consultation with the client (Board of Regents or UH Administration) determines whether outside counsel is needed in a particular case.

3. **Screening committee.** Three-member internal committee made up of staff attorneys, excluding the University General Counsel, evaluates the listing of qualified attorneys in the relevant field or fields of law. The screening committee ranks the top 3 attorneys as to suitability for a particular case and submits them to the University General Counsel for consideration. The screening committee frequently consults with clients regarding the type of attorney they seek to assist them, particularly if it is a specialized area of law.

4. **Selection.** The University General Counsel selects from the list submitted by the screening committee. Although the University General Counsel has the prerogative to choose an attorney not ranked first by the screening committee, the University General Counsel almost always selects the top ranked attorney, as recommended by the screening committee. Additionally, if it is discovered after the selection that the first ranked attorney has a legal conflict and is unable to accept the matter from the University, the University General Counsel may select another attorney from the recommended list submitted by the screening committee.

5. **Compensation.** Rates and specific attorneys who staff any matter are negotiated by the University General Counsel to obtain the optimum rates and results on behalf of the University. If no agreement can be reached, then the University

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General Counsel may select the next ranked attorney and commence negotiations toward a contract.

The Board of Regents hopes this information has been helpful in your review of the operations of the OGC. If you would like any further information, please do not hesitate to contact us.

Very truly yours,



Darolyn H. Lendio

Acting Executive Administrator and  
Secretary of the Board of Regents

Vice President for Legal Affairs and  
University General Counsel

c: Eric K. Martinson, Chair, Board of Regents  
M.R.C. Greenwood, President, UH System

Submitted January 24, 2013 in Response to Request from Special Committee on Accountability

Payments for Legal Services For the Period July 1, 2012 to June 30, 2013		
LAW FIRM	MATTER DESCRIPTION	TOTAL AMOUNT PAID July 1, 2012 to January 23, 2013
Ayabe Chong Nishimoto Sia & Nakamura	Christopher Lu v. UH litigation	\$96,473.68
Fukunaga Matayoshi Hershey Ching & Kop	HIPAA Compliance	\$1,068.06
Goodsill Anderson Quinn Stifel	Kilakila 'O Haleakala v. UH litigation	\$261,720.27*
Goodsill Anderson Quinn Stifel	Kilakila 'O Haleakala v. UH 92F matter	\$22,133.49
Goodsill Anderson Quinn Stifel	Henry Chang Wo, Jr. v. BUNR et al. litigation	\$13,437.50
Knobbe Martens Otton & Bear	Patent Prosecution	\$30,307.38
Knobbe Martens Otton & Bear	Patent Prosecution	\$18,043.45
Kobayashi Sugita Goda	Executive policy revisions	\$790.58
Kobayashi Sugita Goda	Michael D'Andrea v. UH litigation	\$13,940.35**
Kobayashi Sugita Goda	Judy Daniels v. UH litigation	\$79,537.09**
Kobayashi Sugita Goda	Shirley Daniel v. UH litigation	\$66,586.84**
McCorriston Miller Mukai MacKinnon	Renewable Energy Savings Project - UH Community Colleges	\$18,399.62
McCorriston Miller Mukai MacKinnon	Kapi'olani Community College (Hi-Tec Pbofing)	\$4,604.24
McCorriston Miller Mukai MacKinnon	Pacific Health Research Laboratory	\$1,819.86
Marr Jones & Wang	Grievance - Staff	\$1,676.84
Marr Jones & Wang	Grievance - Staff	\$16,847.09
Marr Jones & Wang	Grievance - Faculty	\$11,314.81
Marr Jones & Wang	Grievance - Faculty	\$38,235.26
Marr Jones & Wang	Grievance - Faculty	\$3,158.43
Marr Jones & Wang	Litigation	\$3,369.11
O'Connor Playdon & Guben	Beaupre v. Makauli; et al. litigation	\$6,881.13
Orisk Harrington & Sutcliffe	EES Loan Agreement	\$40,000.00
Robbins Meyer Rufo	Charles Boyd v. UH litigation	\$4,358.17
Robbins Meyer Rufo	Grievance Arbitration - Staff	\$19,757.87
Starn O'Toole Marcus & Fisher	Federal law issues (J&BOM)	\$1,420.96
Starn O'Toole Marcus & Fisher	Philippe Gross v. UH litigation	\$14,260.91
Starn O'Toole Marcus & Fisher	Conference alignment	\$12,442.49
Starn O'Toole Marcus & Fisher	Jones v. UH (U.S. Supreme Court)	\$1,067.17
Starn O'Toole Marcus & Fisher	FDI Investigation	\$18,257.69
Starn O'Toole Marcus & Fisher	Personnel Matters	\$14,460.66
Torkildson Katz Moore	Collective Bargaining	\$42,460.08
Torkildson Katz Moore	Grievance Arbitration - Faculty	\$41,813.13
	Total	\$891,254.20

\* Legal fees paid by federal funds  
\*\* Legal fees paid by insurance

\*\*\* OGC's computer server crashed in early May 2012 and quite a bit of data and information was lost. Our office manually recreated information as best as possible. In addition, the individual at the OGC who was primarily responsible for maintaining these records retired on August 31, 2012. We have been diligently recovering data and have tried to update and accurately report the matters and amounts in this updated table and will continue to verify and update the data.

Submitted in 2012 in Response to Request from the Special Committee on Accountability

(AMENDED) Payments for Legal Services For the Period April 1, 2011 to March 31, 2012		
LAW FIRM	MATTER DESCRIPTION	TOTAL AMOUNT PAID April 1, 2011 to March 31, 2012
Ayabe Chong Nishimoto Sia & Nakamura	Christopher Lu v. UH litigation	\$28,912.21
Ayabe Chong Nishimoto Sia & Nakamura	Grievance Arbitration - Faculty	\$42,495.89
Carlemith Ball	Mauna Kea litigation	\$1,078,034.63
Fletcher Heald & Hildreth	FCC licensing and leasing	\$2,700.00
Fukunaga Matayoshi Hershey Ching & Kop	Hawai'i State Cancer Consortium	\$27,762.66
Goodsill Anderson Quinn Stifel	ATST litigation	\$317,500.30
Goodsill Anderson Quinn Stifel	Mauna Kea CMP	\$26,737.85
Goodsill Anderson Quinn Stifel	Protest Award of Contract - UHH Wentworth Hall	\$27,559.60
Katten Muchin Rosenman	Hawai'i Institute of Marine Biology Renewable Energy Project	\$39,500.00
Kobayashi Sugita Goda	Residence/Immigration Matter	\$1,042.40
Kobayashi Sugita Goda	Michael D'Andrea v. UH litigation	\$1,183.47
Kobayashi Sugita Goda	Judith Daniels v. UH litigation	\$141,596.34
Kobayashi Sugita Goda	Residence/Immigration Matter	\$11,757.11
Kobayashi Sugita Goda	U.S. China Center	\$3,400.11
Kobayashi Sugita Goda	Executive policy revisions	\$5,583.77
Kobayashi Sugita Goda	Executive policy revisions	\$2,940.31
McCorriston Miller Mukai MacKinnon	Development of Cancer Research Center of Hawai'i	\$981.66
McCorriston Miller Mukai MacKinnon	Renewable Energy Savings Project - UH Community Colleges	\$147,096.53
Marr Jones & Wang	Grievance - Staff	\$6,846.00
Marr Jones & Wang	Judith Daniels v. UH litigation related matters	\$3,618.22
O'Connor Playdon & Guben	Beaupre v. Makauli; et al. litigation	\$11,966.25
Robbins Meyer Rufo	Charles Boyd v. UH litigation	\$5,869.11
Robbins Meyer Rufo	James Bolla v. UH litigation	\$21,883.68
Robbins Meyer Rufo	Grievance Arbitration - Staff	\$12,748.77
Robbins Meyer Rufo	Willie Laney v. UH litigation	\$72,307.82
Robbins Meyer Rufo	Hawai'i Institute of Marine Biology - Seawall	\$1,620.47
Starn O'Toole Marcus & Fisher	Federal law issues	\$16,619.71
Starn O'Toole Marcus & Fisher	Philippe Gross v. UH litigation	\$105,970.86
Starn O'Toole Marcus & Fisher	Gregory Carter v. UH litigation	\$1,099.72
Starn O'Toole Marcus & Fisher	Compliance matter	\$4,515.70
Starn O'Toole Marcus & Fisher	Grievance Arbitration - Faculty	\$11,514.33
Starn O'Toole Marcus & Fisher	universityofhawaii.xxx litigation*	\$3,408.39
Starn O'Toole Marcus & Fisher	Conference alignment*	\$27,305.47
Torkildson Katz Moore	Collective Bargaining	\$8,519.59
Torkildson Katz Moore	Potential litigation claim - Faculty	\$903.14
Torkildson Katz Moore	Patent Prosecution	\$250.00
Weaver Austin Villeneuve & Sampson		
	TOTAL	\$2,223,556.06

\* OGC's computer server crashed in early May 2012 and quite a bit of data and information was lost. Our office manually recreated information as best as possible. In addition, the individual at the OGC who was primarily responsible for maintaining these records retired on August 31, 2012. As a result, information that should have been included in the initial chart provided to Senator Kim on September 19, 2012 was inadvertently omitted.

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. 1073, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Har and Tokioka being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 425) recommending that H.B. No. 907 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 907, entitled: "A BILL FOR AN ACT RELATING TO VACCINATION GUIDELINES," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Har and Tokioka being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 426) recommending that H.B. No. 404, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 404, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WARNING SIGNS," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representatives Har and Tokioka being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 427) recommending that H.B. No. 407, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 407, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CANCER," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 428) recommending that H.B. No. 1324, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 1324, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOPEDS," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 429) recommending that H.B. No. 364, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 364, HD 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 430) recommending that H.B. No. 977, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 977, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 431) recommending that H.B. No. 1080, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1080, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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

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

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support. Currently, infrastructural and housing developments have focused on how much money can be made for investors. Land is scarce and building is expensive in our beautiful island state. HB 1080, HD1 forces developments to take a serious look at alternative modes of commuting besides the traditional vehicular traffic. In doing so, we also take into consideration healthy options for residents, and for this reason I stand in support. Thank you."

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

"In strong support. 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. 1080, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BICYCLES," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 432) recommending that H.B. No. 690, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 690, HD 1 pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, seconded by Representative Awana.

Representative Fale 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. 690, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 433) recommending that H.B. No. 982, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 982, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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. 982, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UTILITY FRANCHISES," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 434) recommending that H.B. No. 101, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 101, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FUEL TAX REVENUES," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 435) recommending that H.B. No. 591, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 591, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SAFE ROUTES TO SCHOOL," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Wooley, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 436) recommending that H.B. No. 508, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 508, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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

"Ruling on a potential conflict. My family has an egg farm and this bill would affect it. Thank you," and the Chair ruled, "no conflict."

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

"Mr. Speaker, ruling on a potential conflict. My family does operate a farm, Mr. Speaker," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 508, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROCUREMENT CODE," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Wooley, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 437) recommending that H.B. No. 1264, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 1264, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LOANS," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representatives Wooley and Brower, for the Committee on Agriculture and the Committee on Tourism, presented a report (Stand. Com. Rep. No. 438) recommending that H.B. No. 1266, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Representative Saiki moved that the report of the Committees be adopted, and that H.B. No. 1266, HD 1 pass Second Reading and be referred to the Committee on Consumer Protection & Commerce, seconded by Representative Awana.

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

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

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

"Mr. Speaker, please note my serious reservations."

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

Representative Fale 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:

"Mr. Speaker, I rise with reservations on HB 1266, HD 1. While this bill laudably seeks to expand potential streams of revenue by establishing agricultural tourism activities as a permissible use of state agricultural districts, there are a number of concerns that are inherent in this particular bill. I would note the concerns brought up by the City and County of Honolulu that 'provisions are already in place to allow agricultural tourism as an accessory use in state agricultural districts.' Additionally, I am also concerned with the potential modification of zoning regulations to support tourism which may come at the expense of purely agricultural uses of land."

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

"Thank you, Mr. Speaker. May I make a brief comment with reservations. I think we're flirting with a questionable policy for putting visitor or tourism accommodations on agricultural land. I know we discussed it at length last time and it went down. It's come back again. I think it's questionable. We really need to discern and adjudicate this with wisdom. Thank you."

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

"Mr. Speaker, please note a reservations for me. On Kauai County we have actually capped the amount of overnight accommodations and I would just be hesitant to instill an act that would override that. Thank you, Mr. Speaker."

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

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

"Thank you, Mr. Speaker, in support. I just want to clarify because it sounds like there's a little confusion. There is already a law that is in place, so this bill is trying to clarify and make sure that we don't allow it in counties where they would not permit it. And this has some language that allows the counties to ultimately determine how it will be regulated or if it will be allowed. So just look at the language closely if you have concerns. We are trying to make sure that the counties have the ultimate control. *Mahalo.*"

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. I believe that the former speaker is talking about Senate Bill 2341, Senate Draft 2, House Draft 2, Conference Draft 1. And just to be consistent, I voted no on that measure. I'm just responding to what the former speaker said about a law already on the books, and I'm referring to the 2012 Senate Bill and the Conference Draft. And I voted no on that measure."

"There were a number of us that did vote no on that measure, I think there were 21 of us. And I would refer the Members to the legislative website to go look at the names of those that did. Thank you. I'm still in opposition to the measure before us, the overnight accommodations on agricultural land. Thank you."

Representative Wooley rose to respond, stating:

"Thank you. Just to clarify for the previous speaker, if she goes to Section 205-2 HRS. *Mahalo.*"

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and H.B. No. 1266, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OVERNIGHT ACCOMMODATIONS ON AGRICULTURAL LANDS," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representative Thielen voting no, and with Representatives Har and Tokioka being excused.

Representatives Nakashima and Wooley, for the Committee on Labor & Public Employment and the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 439) recommending that H.B. No. 749, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committees was adopted and H.B. No. 749, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKFORCE DEVELOPMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representatives Nakashima and Aquino, for the Committee on Labor & Public Employment and the Committee on Public Safety, presented a report (Stand. Com. Rep. No. 440) recommending that H.B. No. 1172, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committees be adopted, and that H.B. No. 1172, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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

"Thank you, Mr. Speaker, in strong support. I would just like to insert comments in the Journal. Thank you very much."

Representative McKelvey's written remarks are as follows:

"On June 14, 1925, in Newport Beach, California, Duke Kahanamoku rescued eight men from a fishing vessel that capsized in heavy surf while attempting to enter the city's harbor. Twenty-nine fishermen went into the water and seventeen perished. Using his surfboard, he was able to make quick trips back and forth to shore to increase the number of sailors rescued. Thus was born the tradition of lifeguards having rescue surfboards at the ready."

"It is only fitting that today's Ocean and Water Safety officers continue Duke's legacy of innovation through jet-ski rescues. As first responders, they are highly trained in all areas of emergency response, including medical cases, natural disasters, and search and rescue. Furthermore, they risk their lives daily to protect our most valuable resource, our *keiki*, our *kupuna*, our *kama'aina*, and our *malihini*."

"Lifeguards have to be vigilant, in shape and ready to respond at all times. This measure gives our bravehearts of the sea the recognition that they deserve.

"These professionals have long served our state and saved thousands of lives through skillful training and attention. It is appropriate for Ocean and Water Safety officers to have a bargaining unit that recognizes their dramatically different skill sets and job requirements. While this will be the smallest bargaining unit in the state, this profession is unique and deserving of an appropriate bargaining unit."

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and H.B. No. 1172, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 441) recommending that H.B. No. 194, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 194, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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. 194, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 442) recommending that H.B. No. 1106, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1106, HD 1 pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Awana.

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

Representative Fale 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. 1106, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PROPERTY NUISANCE," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Har and Tokioka being excused.

Representatives Evans and Hanohano, for the Committee on Water & Land and the Committee on Ocean, Marine Resources, & Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 443) recommending that H.B. No. 509, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

Representative Saiki moved that the report of the Committees be adopted, and that H.B. No. 509, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Awana.

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

"Thank you, Mr. Speaker. I'd like to speak in support of this measure, HB 509, HD 1. I would like to thank, first of all, the Chairs of the House Committees on Water & Land and Ocean, Marine Resources & Hawaiian Affairs, for hearing this measure and for their commitment to moving this bill forward.

"However, I humbly ask that the Chairs consider keeping the measure more in line with the first draft, which created statutes in line with the Kahoolawe Island Reserve Commission rather than the Aha Moku Advisory Committee, which was established last year. As shared at the hearing on this measure, this bill is a culmination of many years of effort to ensure community involvement in the preservation and restoration activities in Makua Valley.

"One of the key provisions in the original measure of this bill was to involve interim activities of the commission that provides as follows: 'Prior to the return of the valley reserve from the United States Army to the state, the commission may enter into discussions with the United States Army to facilitate the expedient return of the valley reserve upon the expiration of the United States Army's lease.'

"This and other provisions of the original bill are critical components for this measure that were left out in the new amended version. I am committed to working with the Chairs for the Water & Land and Ocean, Marine Resources & Hawaiian Affairs Committees, as well as the Finance Committee, where this measure will move to, on a draft of the bill that would accomplish the original vision of this measure. Thank you very much, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and H.B. No. 509, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MAKUA VALLEY," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

Representative Lee, for the Committee on Energy & Environmental Protection, presented a report (Stand. Com. Rep. No. 444) recommending that H.B. No. 378, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Awana and carried, the report of the Committee was adopted and H.B. No. 378, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BEACH NOURISHMENT," passed Second Reading and was referred to the Committee on Finance, with Representatives Har and Tokioka being excused.

## SUSPENSION OF RULES

On motion by Representative Awana, seconded by Representative Fukumoto and carried, the rules were suspended for the purpose of considering certain House Bills for Third Reading by consent calendar. (Representatives Har and Tokioka were excused.)

## THIRD READING

### H.B. No. 622, HD 1:

Representative Saiki moved that H.B. No. 622, HD 1 pass Third Reading, seconded by Representative Awana.

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

"Mr. Speaker, I rise with reservations on HB 622, the Media Shield Law. Mr. Speaker, the purpose of this bill was to take out the sunset date, which is good. But I think the Committee went a little beyond that and started nuancing what otherwise was a perfectly good bill that has been in effect and protects our media. And my fear is that as we drill down into it and pierce some of the shield, if you will, that our media now, that is already as you can see never around here anymore, the media is polarized. The media is buying up and getting so small, that this may even discourage them further.

"And I know sitting behind me is a former member of the media who is now a Representative. And the way we had treated his profession in the past, we even wanted him to give us his assets. If some of you who didn't

recently graduate from high school remember, we required that media give us a disclosure. It didn't pass, but it was requiring people from the media to disclose their assets, thinking they had an axe to grind because they were after us.

"So, Mr. Speaker, this is not a paranoid bill, but it does look like we're not really ready to give the 'fourth estate' the status that they had when they established this nation, because they were the ones who kept all of us honest. The ones who kept businesses honest. The ones that, if you will, Jefferson said, 'if I had to choose between government and the media, I would choose the media.' They were the watch dogs, the ones who kept us truthful and forthright. So, whether it's worth watering down, I'm not sure that that's the case, but it may be on a bit of a slippery slope that we've already pushed them down. As you can see, they're nowhere around. Thank you."

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

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

"Mr. Speaker, in support. As the Representative from Hawaii Kai noted, I am a former news reporter and I have on occasion used sources, and some of them are sitting here in this Chamber today. I assured them that I would protect their identities, but I could not protect their identities against a court order, which the current law and proposed law does in most cases.

"Now, I appreciate the efforts of the House Judiciary Chair on this measure which would remove the sunset date of the current law, which is considered a model for the nation. I understand his reasons for incorporating some of the proposals suggested by the State Judiciary. As the Legislature continues to consider this measure, I ask that he keep an open mind towards possibly including more of the protections that are afforded by the current law.

"Finally, I would like to remind our colleagues, Mr. Speaker, that the real beneficiaries of this law are not reporters, nor their sources. The people who really benefit from this law is the public, which benefits from a free press, free from the threat of intimidation and reprisal. *Mahalo.*"

Representative Oshiro rose in support of the measure with reservations and asked that the remarks of Representative Takayama 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 H.B. No. 622, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EVIDENCE," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Hanohano voting no, and with Representatives Har and Tokioka being excused.

#### **H.B. No. 160:**

On motion by Representative Saiki, seconded by Representative Awana and carried, H.B. No. 160, entitled: "A BILL FOR AN ACT RELATING TO VETERANS," passed Third Reading by a vote of 49 ayes, with Representatives Har and Tokioka being excused.

#### **H.B. No. 1412:**

On motion by Representative Saiki, seconded by Representative Awana and carried, H.B. No. 1412, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Coffman voting no, and with Representatives Har and Tokioka being excused.

#### **H.B. No. 189:**

Representative Saiki moved that H.B. No. 189 pass Third Reading, seconded by Representative Awana.

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

"Thank you, Mr. Speaker. I rise in strong support of House Bill 189. Thank you. Hawaii has a long history of valuing diversity. With respect to gender diversity, I dare say that we are leaders. Our legislative branches of government in particular can be proud of the number and quality of women's voices we have in our decision making process. In our Congressional Delegation we are represented by three women who have risen from our very ranks.

"Together, the 16 women of this House and the 8 women of the Senate make up 31.6% of the Hawaii State Legislature, well above the national average of 24.1%. Looking more closely at this House, our track record is even better with 39% of Committee Chairpersons in this House being women, and two Committees, our Committee on Water & Land and our Committee on Health, led by two women.

"I have no doubt if you were to ask any of the women legislators in this Body how they came to this place, two things are true. They have been inspired by women leaders who came before them, and they were given opportunities to exercise their voice and develop valuable leadership skills. House Bill 189, which strives for equal gender representation on boards and commissions, will encourage various perspectives to be heard and considered. But more importantly, as enunciated in the testimony of the Women's Caucus of the Democratic Party of Hawaii, ensuring that women hold positions of respect and power helps to grow a new generation of young girls who will engage with and lead their communities. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and H.B. No. 189, entitled: "A BILL FOR AN ACT RELATING TO GENDER EQUITY," passed Third Reading by a vote of 49 ayes, with Representatives Har and Tokioka being excused.

#### **H.B. No. 1133:**

Representative Saiki moved that H.B. No. 1133 pass Third Reading, seconded by Representative Awana.

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

"Thank you, Mr. Speaker, I rise in support. Thank you, Mr. Speaker. I would first like to thank the members of the Water & Land and Finance Committees who met on February 9th for a very long hearing that we had on this particular measure. I also want to thank the public who wrote testimony and also came out to that hearing, and people who flew from around the state to come to that hearing.

"It was very clear after the hearing that overwhelmingly there was opposition to keeping the current status, which was keeping the Public Land Development Corporation. House Bill 1133 repeals Act 55, Session Laws of Hawaii 2011, which established the Public Lands Development Corporation.

"One of the problems I think that came about was clearly the way it was structured. The public really came to a point of understanding that the authority that we gave the Corporation in fact bypassed county plans and subdivision and zoning codes. And so what happened was, the public felt they had no say in what was going to happen in their community. So there was this outcry of, where's home rule.

"During this last year, many of us spoke to our constituents across the state. One of the things that always came up was, 'what are you going to do about the Public Land Development Corporation? We do not trust what in fact is in law.' When we had the hearing it became very obvious that the constituency across the state overwhelmingly said this Corporation is not a good idea.

"Some people thought we could amend it, some people thought we could fix it. There were actually bills on the agenda at our hearing that were amendments to the current law. And overwhelmingly people said, 'you can try as hard as you want to fix it, but the reality is, we don't trust what's going on, you just have to wipe it out.'



"Now the original idea of this law, I think, had some good intentions. And that is, we have some unused state land in locations where we have maybe some demand for services. And so that land has potential of providing things that the community wants, but we don't in-house have the expertise to do that.

"So this whole attempt of the Public Land Development Corporation was to have a public-private partnership so that we could actually go out and meet the needs and the demand that may be out there. And the state land happens to be in the right location. So I think conceptually it sounded good, but when the law itself came out, it came out in a manner that became very unacceptable to people.

"And so in closing, I want to point out what is democracy. Democracy allows eligible citizens to participate equally, either directly, or through elected representatives in the proposal, development and creation of laws. It encompasses social, economic and cultural conditions that enable the free and equal practice of political self determination. I believe the public spoke loudly through each one of our Members of this Legislative Body, and I think overwhelming through the Members they came out and said, we cannot have Public Land Development Corporation. I believe democracy was well served by passing House Bill 1133. Thank you."

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

"Thank you, Mr. Speaker. I'm rising in strong support of the bill that repeals the Public Land Development Corporation. Mr. Speaker, as the former speaker said, this really is a victory for the people of Hawaii. In 2011 this bill was changed in the final hours of the Legislature. A few Members caught it, but the majority of us didn't, and voted to establish the Public Land Development Corporation.

"As the public began to become aware of this, that this would allow private development of our precious state lands without the normal environmental and county oversight being in play, it worked out that the public really mobilized more than on any issue I've seen in the last 23 years, and spoke out loudly and said, 'repeal the PLDC, it's a bad law, we want to get rid of it.' And to our credit, this Body has done that. And I believe that we have held the trust and the faith with the public.

"I give a great deal of credit to the public that stepped forward and spent so much time on this issue. I also want to give special mention to the Sierra Club for its creativity with its site called, 'Grand Theft Aina.' Those three words said it all. It really is a wonderful day today, Mr. Speaker, to be able to stand up in strong support of repealing the PLDC, a law that never should have become enacted, and now we're correcting that problem. Thank you."

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

"Thank you, Mr. Speaker. I also rise in strong support. Mr. Speaker, I too was one of those who were hoodwinked by the PLDC covert operations that were in the middle of the night. They get that out and then in the next day in the rush to get everything through, we missed it. But fortunately, the public, and I think some of the media following the public, made that happen.

"My point of speaking forth, Mr. Speaker, is this. This is a teachable moment. Because there are sons and daughters of the PLDC still alive in this Body. There's a PLDC harbors, there's a PLDC DOE, which we are going to be taking up. So as we speak about, hey we're doing the right thing in killing the PLDC, there's some of its *keikis* that are still out there that we need to be alert to. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support, just with these comments. I definitely do admire the innovate effort that went into the thought processes that did bring about the PLDC. It's just kind of reminiscent of some times in class where you come out with a different way of solving a problem and it doesn't work out so well so you get whacked really hard on the head so nobody else wants to try and find a new innovative way to solve the problem.

"We have enormous challenges in this state. And I admire at least those who went out on a limb to try and solve some of the financial problems within our communities, within our state, without having to reach into the pockets of the working mothers and fathers that we have that are struggling out there, that I interact with on a daily basis.

"So even though I do support the repeal of the PLDC, I hope this doesn't discourage any legislator from leaving no corner, no stone unturned in search of new ways in which we can resolve the fiscal challenges we have within the great State of Hawaii in the service of our people.

"This was one way that didn't work out so well, but I certainly hope that this doesn't discourage anybody from latching on to that spirit of entrepreneurship and adventure to find some new way to serve our people and not hurt the working families that are out there, Mr. Speaker. Thank you very much."

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

"Thank you, Mr. Speaker, in strong support with just one short comment. I'd like to just quote the words of the Minority Leader Emeritus, that this is indeed a teachable moment where a future Legislature has undone the past promises of a past Legislature. Thank you very much."

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

"I rise in strong support with a quick comment. It was really clear when the public came out, especially in my district, that they said, no, '*a'ole*, try again. And I'm really proud to be a member of this Legislature that listened to them. I'm very proud and excited to cast my vote in the affirmative."

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

"Thank you, Mr. Speaker, in support. I likewise would like to thank the Water & Land and Finance Committee members and I also would like to thank the other Chairs who were willing to waive off or to make considerations so that we could make it a little bit more of an expedient hearing. We wanted to thank all the Members for showing up for a long hearing and thank the public for participating in this process. Additional written comments. Thank you."

Representative Luke's written remarks are as follows:

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

"First of all, I'd like to thank the Chairs of the House Committee on Water & Land and the House Committee on Education for their collaboration and insight as we prepared for the hearing on this measure, as well as numerous other PLDC related bills, on Saturday, February 9, 2013.

"I would also like to thank all three Committees' members for actively participating and asking very good questions of the testifiers. I'm sure the public appreciates the dedication to this issue that all our Members have shown.

"I thank the public and all those who came out to testify on this important issue. Active citizen participation in the numerous public hearings held by DLNR and the fledgling PLDC throughout the year, as well as the participation of all who came out to our hearing on February 9th, clearly indicated the will of the people in measures we heard.

"Repeal the PLDC.

"And that is exactly what we have done in this measure.

"Finally, Mr. Speaker, special thanks to the staffs of Chair Evans and Vice Chair Lowen, led by Terii Perez and Keanu Young. Together, they processed over 1600 individual pieces of testimony for the hearing, made sure testifiers were informed and organized, and ensured a flawless hearing for us."

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

Representative Takai's written remarks are as follows:

"Mr. Speaker, thank you for this opportunity to speak in support of this bill.

"There was an overwhelming show of support for the repeal the Public Land Development Corporation. Our offices were bombarded with emails in support of the repeal from across the state in addition to the hundreds of pieces of testimony that were submitted to the legislative committees.

"The people spoke loud and clear. The PLDC, they explained, undermines democracy by overriding existing procedures and safeguards, and cuts out participation by the public. In addition, many feel that the provision exempting the PLDC from court challenges is particularly dangerous and un-democratic.

"Although the original intent of this law was to make optimal use of public land for the economic, environmental and social benefit of the people of Hawaii, it has instead given over-reaching powers to the PLDC.

"The PLDC should never have been made to allow it to be exempt from all statutes, ordinances, charter provisions, and rules of government agencies relating to special improvement district assessments or requirements; land use, zoning, and construction standards for subdivisions, development, and improvement of land; and the construction, improvement, and sale of homes thereon for development of public lands to generate revenues.

"The law allows the PLDC to ignore the expressed wishes of the counties as reflected in our adopted ordinances and plans. This trivializes the substantial time and resources invested by the counties in land-use planning and rule-making.

"Act 55 Section 4(b) appears to protect public trust land, but this section finishes with the words 'except as expressly provided in this chapter' and the chapter expressly gives the PLDC Board almost unlimited powers to develop public trust lands for what they deem private benefit at public expense.

"Article XI Section 1 requires public lands trustees to 'promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the state.' But Act 55 turns the words 'conservation' and 'furtherance of self-sufficiency' on their heads when it allows 'optimization projects' to use public lands to create revenue – generating centers or to exploit local, national and international markets.

"This 'public trust' has morphed into a developer's business plan, replete with uncontrolled opportunities to spend state funds and dispose of public land primarily for the benefit of private entities.

"I urge you to support the House Bill 1133 and repeal the PLDC. 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 support this bill.

"The bill, as introduced, would repeal the Public Land Development Corporation and transfer certain assets to the Department of Land and Natural Resources. I will not belabor this Body by repeating the many points previously raised. However, I will remind my colleagues that the Public Land Development Corporation Law was enacted by this Body in 2011 with 41 votes in the affirmative on Final Reading because this Body understood that there was and continues to be an overwhelming need for the state to better utilize its resources.

"The state is land rich and cash poor. As your Chair of the Committee on Finance during the 'Great Recession,' it was necessary for the state to make significant cuts in essential government services. The enactment of the PLDC Law was intended to provide the state with the means of developing state assets for the support of these essential state programs and services – the very same programs and services that are demanded by our constituents and important for a high quality of life.

"To a certain extent, the PLDC Law reflected the approach taken by the Bishop Estate during the 1960s. Then the largest private landowner in the state, the Bishop Estate raised very little revenue from its vast holdings. They were barely able to operate its Kapalama campus on their meager returns.

"But under the leadership of Matsuo Takabuki, the Bishop Estate began to diversify its holdings and develop the lands held in trust to make them more viable economically. This in turn greatly increased its wealth and prosperity. Today, the Kamehameha Schools/Bishop Estate is one of the richest privately-owned trusts in the world, and the institution has been able to build new campuses on the Islands of Maui and Hawaii.

"When Governor Burns appointed Takabuki to the Estate, it was an extremely controversial move. Native Hawaiians picketed and protested the appointment of a non-Hawaiian to the panel. The bells at Kawaiahao Church were rung in protest. Yet despite all of this controversy at the start, no one can deny today that Takabuki's influence was for the public good. The Kamehameha Schools saw its corpus grow and beneficiaries saw its programs expand. When Takabuki retired more than two decades later, the bells at Kawaiahao Church rang again, but this time in recognition and appreciation for all that Kupuna Takabuki did for Native Hawaiians. Only a few recognized the wisdom of Matsuo Takabuki's appointment initially, but all recognized the unmistakable blessing upon the trust many years later.

"Certainly, the PLDC Law raised many questions and brought thoughts of the worst in everyone's minds. Indeed, it has been my humble observation that we have demonstrated that we are an overly suspicious and cynical community with little trust among ourselves and our neighbors. It is as if we have forgotten that we are one people and it is our neighbors, our co-workers, and our fellow citizens that would be jointly involved in these kinds of enterprises. As such, from its enactment into law in 2011, the PLDC has had to battle a perception problem that had become a public relations nightmare. Furthering obfuscation and promoting misperception has been a lazy and biased media and poor and inarticulate PLDC leaders. Little was ever discussed of the tremendous win-win public-private partnerships that could be created.

"For example, I thought the community of Wahiawa could benefit from a public-private development of the state DLNR Wahiawa Freshwater Park and Public Fishery along with the sacred Birthing Stones of Kukaniloko. I envisioned the DLNR (State Parks, Na Ala Hele, Historic Preservation, etc.) along with the Office of Hawaiian Affairs and the Hawaii Chapter of the Boy Scouts of America as co-developers and also involving the DOE through the Wahiawa Middle School and Leilehua High School participating on issues of fishery development along with DOE's core S.T.E.M. curriculum. The City and County of Honolulu would also be a key stakeholder as operators of the Wahiawa Waste Water Treatment Plant and therefore, essential to the water quality in Lake Wilson.

"Similarly, the PLDC could have been the means to foster the public-private development of the Wahiawa Civic Center area with the Departments of Accounting and General Services, Health, Human Services, Education, Library, the Judiciary, and the non-profit Wahiawa General Hospital (Acute Care & Long Term Care). Furthermore, the City and County of Honolulu through the Satellite City Hall Office and Departments of Parks and Recreation, Transportation Services, and THE BUS, would also have been partners because of the proximity of adjacent lands and roads lending itself to codevelopment of mutually beneficial projects benefitting the residents of Mililani, Wahiawa, and the North Shore, Oahu.

"But, without the PLDC, it is uncertain whether the respective government jurisdictions and private parties will jointly be able to summon

common political and governmental focus on projects of mutual benefit for their constituents, albeit it may not be solely for the respective state and county political authorities. In this regard, I hope I am dead wrong. And, that given the strong community support for these types of public-private partnerships, we will see some movement on the ideas in the foreseeable future.

"Still, by these remarks let us not forget that the PLDC Law also had much promise and potential to do good and great things. Again, the measure passed with 'supermajority' or 41 ayes, and received strong bipartisan support in 2011. The projects listed above would be of the kind that would find support and favor from many, many stakeholders. They are consistent and complimentary to current and past community-based development plans and zoning allowances and supported by both public and community and business stakeholders.

"And equally importantly, we must not forget that we are still in the same situation of being land rich and cash poor. There are never enough CIP monies or appropriations to go around. And, our constituents still demand more and more services and more and more amenities to enjoy the public spaces and lands and features that we all seek to improve and enhance but for limited funds and other priorities, we are unable to address their endless but sincere desires.

"Finally, let me express my appreciation to the Chair of the Board of Land and Natural Resources, Mr. William Aila, and his staff for their tireless advocacy on behalf of the *kuleana* he oversees that has no voice and real presence at the public meetings. I wish him well as he continues to seek and find new and rational means for funding his critical programs and services that we all desire and are essential to high quality of life for our respective communities. And, last, but not least, *Mahalo Nui Loa* to Senators Dela Cruz and Solomon for their strong commitment to the people of Hawaii and their pursuit of a non-traditional means to sustain, protect and enhance our nature resources for all the people of Hawaii and those to follow. I hope that history will be kind to them as it was and is to Matsuo Takabuki.

"Thank you, Mr. Speaker."

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

"*Kāko'o loa*. In very strong support.

"*Ke ku nei au me ke kāko'o loa no keia pila. Mahalo no nā lala ma kēia Hale Luna Maka'āinana e Ho'oponopono ka pila hewa. Mahalo nui loa hou no ku'u lā lā no kēia Hale Luna Maka'āinana e holo mua kākou i nā mea pono. Mahalo.*

"I'd like to thank everybody in the House of Representatives for moving forward this bill and for doing the right thing that we need to do and to correct our mistake for what has been done in the past year on the Public Land Corporation. *Mahalo* again, thank you again. *Mahalo*."

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

"Thank you, Mr. Speaker, in strong support and I'd like to ask that the words of our insightful Chairs of Ocean, Marine Resources, & Hawaiian Affairs, and Water & Land be entered into the Journal as if they were my own. I also ask if additional written comments may be entered into the Journal. Thank you."

Representative Awana's written remarks are as follows:

"Mr. Speaker, I rise in support. This measure is an attempt at repealing the Public Land Development Corporation that was passed last year. Currently we have systems already in place when looking at the development of public lands, and I believe the existing bill – although the intention is good – needs a lot of work. Our land is too precious to take for granted. As stated in our state motto, '*Ua Mau Ke Ea O Ka 'Āina I Ka Pono*'. The life of the land is perpetuated in righteousness. Let us do the right thing and care for our lands. Thank you, Mr. Speaker. *Mahalo*."

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

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

"Thank you, Mr. Speaker. In support. First of all, I'd like to say thank you for everybody listening. Not only to the community, but listening to those, I think nine individuals, who voted no to this measure last year. So thank you for this Body for hearing the community's concerns as well as the individuals that supported with a 'no' last go around. Thank you very much."

The motion was put to vote by the Chair and carried, and H.B. No. 1133, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND," passed Third Reading by a vote of 49 ayes, with Representatives Har and Tokioka being excused.

At 1:45 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 622, HD 1  
H.B. No. 160  
H.B. No. 1412  
H.B. No. 189  
H.B. No. 1133

## INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolution (H.R. No. 26) and concurrent resolution (H.C.R. No. 44) were referred to Printing and further action was deferred:

H.R. No. 26, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF TAXATION, WITH THE COOPERATION OF THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM, TO CONDUCT A STUDY ON THE FEASIBILITY OF OFFERING A SOLAR WATER HEATING SYSTEM TAX CREDIT," was jointly offered by Representatives Takai and Lee.

H.C.R. No. 44, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TAXATION, WITH THE COOPERATION OF THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM, TO CONDUCT A STUDY ON THE FEASIBILITY OF OFFERING A SOLAR WATER HEATING SYSTEM TAX CREDIT," was jointly offered by Representatives Takai and Lee.

## ANNOUNCEMENTS

Representative Awana: "Thank you, Mr. Speaker. As you're aware my district is comprised of the largest concentration of Native Hawaiians in the world, where we are fortunate to have a Native Hawaiian language school in our community. I would like to request that our Members please take notice of the Valentine's Day cards which were made by our three and four-year old *keiki* from Pūnana Leo o Wai'anae, for each of you as a *mahalo* for all that we do to help perpetuate the Hawaiian language.

"Being that we are celebrating the Hawaiian language month and being that today is Valentine's Day, it was our hope that we would blend these two events for this very special day. The '*Olelo no'eau*' listed on the bottom of the card, '*I maika'i ke kalo i ka 'oha*', says that we as parents, or the *kalo*, are judged to be good by the actions of our *oha*, our offspring, our children. In other words, our children then become a reflection of the upbringing of those who raise us.

"I would also like to share with the Members that a fundraiser is being held to further support the Hawaiian language schools throughout the island of Oahu. And this will be held on Saturday evening at the Bishop Museum lawn from 4:30 to 8:30. Both Hawaiian and English are the two

official languages of our state, and therefore I would urge Members to support these efforts. Thank you, Mr. Speaker."

Representative Ward: "Mr. Speaker, today is a day of lovers – Valentine's Day and chocolate lovers. And just to remind those who are chocolate lovers, there is a chocolate festival on Saturday the 23rd of February, 5 p.m. at the Dole Cannery. Thank you."

Vice Speaker Mizuno: "The Chair would like to remind Committee Chairs that today is First Lateral filing deadline. For bills that need to move to their final Committee, please file your Committee Reports and drafts with the Chief Clerk's Office by 9 p.m. this evening."

#### COMMITTEE REASSIGNMENTS

The following measures were re-referred to committee by the Speaker:

<u>H.B.</u> <u>Nos.</u>	<u>Re-referred to:</u>
754, HD1	Committee on Energy & Environmental Protection, then to the Committee on Judiciary
849, HD1	Jointly to the Committee on Public Safety and the Committee on Veterans, Military, & International Affairs, & Culture and the Arts, then to the Committee on Judiciary
911, HD1	Jointly to the Committee on Energy & Environmental Protection and the Committee on Health, then to the Committee on Finance
938	Committee on Judiciary
1368, HD1	Committee on Economic Development & Business, then to the Committee on Finance
1469	Jointly to the Committee on Health and the Committee on Consumer Protection & Commerce

#### ADJOURNMENT

At 1:48 o'clock p.m., on motion by Representative Awana, seconded by Representative Fukumoto and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, February 15, 2013. (Representatives Har, Ito, Kobayashi and Tokioka were excused.)