

ELEVENTH DAY

Monday, February 3, 2014

The House of Representatives of the Twenty-Seventh Legislature of the State of Hawaii, Regular Session of 2014, convened at 12:07 o'clock p.m., with Vice Speaker Mizuno presiding.

The invocation was delivered by Representative Ty J.K. Cullen, after which the Roll was called showing all Members present.

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

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 183 through 186) were received and announced by the Clerk:

Gov. Msg. No. 183, dated January 28, 2014, requesting the immediate passage of H.B. No. 2248, Making Emergency Appropriations for the Department of the Attorney General. This measure appropriates \$1,000,000 for retention of expert witnesses and specialized legal counsel in major litigation against the State of Hawaii.

Gov. Msg. No. 184, dated January 28, 2014, requesting the immediate passage of H.B. No. 2281, Making Emergency Appropriations to the Office of the Governor. This measure appropriates \$132,000 for the operations of the Office of the Governor.

Gov. Msg. No. 185, dated January 28, 2014, requesting the immediate passage of H.B. No. 2292, Making Emergency Appropriations to the Department of Human Services for the Med-QUEST Division. This measure appropriates \$6,020,727 in general funds to address the budget shortfall for the General Support Health Care Payments Program (HMS 902).

Gov. Msg. No. 186, dated January 28, 2014, requesting the immediate passage of H.B. No. 2353, Making Emergency Appropriations for Security at Honolulu International Airport. This measure appropriates \$5,000,000 from the Airport Revenue Fund to replenish security funds.

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

At this time, the Chair stated:

"Members, last year we passed Senate Bill 409, Senate Draft 1, which the Governor signed into law as Act 28, designating February as 'Ōlelo Hawaii month. To participate in this opportunity to promote and support Hawaiian language awareness, the House will be having a Hawaiian word for the day for the entire month of February."

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

"*Mahalo ho'omalu 'ōlelo.* Thank you, Mr. Speaker.

Ka hua 'ōlelo o ka lā – Mana'ō.

Mana'ō – Thought, idea, belief, opinion, theory, thesis, intention, meaning, suggestion, mind, desire, want, to think, estimate, anticipate, expect, suppose, mediate, deem, consider.

'Ōlelo No'eau (993, Kawena Pukui). *Hili hewa ka mana'o ke 'ole ke kākākūā.* Ideas run wild without discussion. Discussion brings ideas together into a plan.

Mana'o, 'ōia ka hua 'ōlelo o ka lā. *Mana'o* is the word of the day.

Mahalo."

At 12:13 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:30 o'clock p.m.

ORDER OF THE DAY

SUSPENSION OF RULES

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

UNFINISHED BUSINESS

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 62-14) recommending that H.B. No. 979, HD 1, as amended in HD 2, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 979, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 63-14) recommending that S.B. No. 1015, SD 1, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and S.B. No. 1015, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRODUCTION OF RECORDS," passed Third Reading by a vote of 51 ayes.

At 12:32 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 979, HD 2
S.B. No. 1015, SD 1, HD 1

REPORTS OF STANDING COMMITTEES

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 64-14) recommending that H.B. No. 1639 pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1639, entitled: "A BILL FOR AN ACT RELATING TO UNLICENSED CONTRACTOR FRAUD," passed Second Reading and was referred to the Committee on Judiciary, with Representative Say being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 65-14) recommending that H.B. No. 420, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 420, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION TO REQUIRE DISCLOSURE OF THE NAMES OF JUDICIAL NOMINEES," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 66-14) recommending that H.B. No. 2059, as amended in HD 1, pass Second Reading and be referred to the Committee on Housing.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2059, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Second Reading and was referred to the Committee on Housing, with Representative Say being excused.

Representative Takumi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 67-14) recommending that H.B. No. 1746, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1746, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Takumi, for the Committee on Education, presented a report (Stand. Com. Rep. No. 68-14) recommending that H.B. No. 1797, as amended in HD 1, pass Second Reading and be referred to the Committee on Human Services.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1797, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VOTING," passed Second Reading and was referred to the Committee on Human Services, with Representative Say being excused.

Representative Choy, for the Committee on Higher Education, presented a report (Stand. Com. Rep. No. 69-14) recommending that H.B. No. 1653, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1653, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 70-14) recommending that H.B. No. 2033, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2033, HD 1, entitled: "A BILL FOR AN ACT RELATING TO JURY DUTY," passed Second Reading and was referred to the Committee on Judiciary, with Representative Say being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 71-14) recommending that H.B. No. 1742, as amended in HD 1, pass Second Reading and be referred to the Committee on Higher Education.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1742, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION PRIMARY CARE TRAINING PROGRAM," passed Second Reading and was referred to the Committee on Higher Education, with Representative Say being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 72-14) recommending that H.B. No. 2052 pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2052, entitled: "A BILL FOR AN ACT RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT," passed Second

Reading and was referred to the Committee on Consumer Protection & Commerce, with Representative Say being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 73-14) recommending that H.B. No. 1748, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1748, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 74-14) recommending that H.B. No. 1749, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1749, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Belatti, for the Committee on Health, presented a report (Stand. Com. Rep. No. 75-14) recommending that H.B. No. 1740, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1740, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LANGUAGE ACCESS," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 76-14) recommending that H.B. No. 1702, 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. 1702, HD 1 pass Second Reading and be referred to the Committee on Finance, seconded by Representative Cabanilla.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1702, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CAPITAL INFRASTRUCTURE TAX CREDIT," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 77-14) recommending that H.B. No. 1586, as amended in HD 1, pass Second Reading and be referred to the Committee on Water & Land.

Representative Saiki moved that the report of the Committee be adopted, and that H.B. No. 1586, HD 1 pass Second Reading and be referred to the Committee on Water & Land, seconded by Representative Cabanilla.

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

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

"Mr. Speaker, I'm rising to speak against this measure. In opposition, strong opposition. Thank you. Mr. Speaker, here comes Department of Transportation again asking for a very broad exemption. And this time, the exemption is for its harbors and its transportation divisions.

"Mr. Speaker, the language of the bill specifies, 'notwithstanding any law or provision to the contrary, the Department of Transportation is authorized to plan, design, construct,' and I'll say construct again, 'operate, and maintain structures and improvements to land,' and this time it's to be used for either airport purposes or highway purposes, 'without the approval of county agencies.'

"Mr. Speaker, there are neighbor islanders in this Body that have seen what Department of Transportation has done when they have done a project poorly and without the required review by the county and the community. So, what we're doing now is saying to the counties, 'you're out, you're not going to be part of this.'

"What maybe for Oahu, maybe Members here that represent various portions of Oahu, won't be as concerned. I think some will be. I am. But neighbor islanders definitely. They want their counties to be involved in this process, involved in the special management permit process. They want them to be able to have a say, and equally as important, they want the public to be involved and be able to have a say.

"Department of Transportation acts like Darth Vader against the environment. And it's many times the community groups that are out there speaking and saying, 'wait a minute, DOT. Don't put the highway right along here on the shoreline. You're going to erode away a beach,' that the people on Maui wanted to use and had used. And now the beach is gone. There are other things that they do without the input from the community that will be detrimental to our islands.

"I would like to have Members note the testimony and opposition to this bill from the Sierra Club. One of the main things they're saying is that it eliminates the balance, the series of checks and balances. Because, with the county approval there are public notification requirements. And this bill will eliminate public hearings and participation. Mr. Speaker, I would like to have permission to have this one page of testimony from the Sierra Club of Hawaii entered into the Journal, following my remarks. Thank you.

"Mr. Speaker, this bill should be stopped before it even moves ahead to Water & Land Committee. It's a bad idea. It's bad policy. And I would encourage those who believe in home rule to at least vote with reservations to signal their concern about a measure like this that says to the DOT, 'you're exempt. Not only can you plan, you can construct without going to the county or the public.' Thank you."

Representative Thielen submitted the following:

"SIERRA CLUB OF HAWAII
MALAMA I KA HONUA, Cherish the Earth.

HOUSE COMMITTEE ON TRANSPORTATION

January 29, 2014, 10:00 A.M.
(*Testimony is 2 pages long*)

TESTIMONY IN OPPOSITION TO HB 1586

Aloha Chair Yamane and Members of the Committees:

The Sierra Club of Hawai'i, with over 12,000 members and supporters, *strongly opposes* HB 1586, which would allow the Department of Transportation to ignore the Coastal Zone Management act/special management area guidelines and requirements. It would also exempt DOT from most county approval.

This is a perennial bill. It is disappointing DOT consistently focuses on getting around environmental regulations, rather than attempting to improve its environmental stewardship. The wrong lessons are being learned from situations like the molasses spill at Honolulu Harbor, the

failure to conduct an EIS when trying to expand the Maui Airport, and the failure to properly remove asbestos from the Honolulu International Airport. For example, the Department of Transportation attempted to issue a series of "finding of no significant impacts" with the Kahului Airport until the environmental community successfully sued. It's frankly ludicrous that any agency would contend that the construction or expansion of an airport would have no significant environmental impacts ... but DOT did, and now this bill proposes to avoid these types of bothersome regulations in the future.

Because of the fear that agencies would fail to objectively analyze all relevant factors, our legal system created a series of checks and balances (state and county approval) and public notification requirements. This measure proposes to eliminate this balance. It would eliminate public hearings and participation. It would remove regulations that ensure:

- the public is well informed of projects before they are authorized;
- that community members -- your constituents -- are able to participate in the planning process;
- that the public and the counties can suggest ways to improve projects to save money, protect natural resources, or satisfy community concerns; and
- save money in the long-term by preventing fool-hardy and short-sighted decisions.

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Emailed correspondence reduces paper waste. If you do print this letter, please recycle. Mahalo."

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

"Mahalo ho'omalū 'ōlelo. Kako'o 'ole. In opposition. Makemake au ka ha'i 'ōlelo 'o ka Luna Maka'āinana mai Kailua mai. I would like to have the words of my colleague from Kailua entered into the Journal as my own. Mahalo," and the Chair "so ordered." (By reference only.)

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

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

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

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

Representative Wooley's written remarks are as follows:

"I have strong reservations about this bill specifically and DOT's constant requests for exemptions from environmental laws. Every session we see DOT propose these kinds of bills and many times they are successful. As a result, we keep making bad laws even worse. DOT is the biggest special fund with the least oversight of any agency, and every year their special fund gets bigger. Combined with the ever increasing elimination of regulations and oversight, this Legislature is paving the way for corruption and the trampling of our environment by our own State DOT. If this bill becomes law, we will usurp the county's regulatory authority in special management areas not just to harbors, but to airports.

"Why should the State DOT be exempt from these county rules? The preamble of the bill claims that this bill is a result of a task force that wanted to promote the construction industry to create jobs. That is a silly justification. What is wrong with creating jobs the right way? This bill, if law, would actually decrease the number of jobs created and cause confusion and uncertainty – which is just not good for our local economy.

"Out of respect for the chair and the current discussion that may lead to a reasonable bill, I will vote yes with reservations."

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

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

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

Representative Creagan 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 Oshiro 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. 1586, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was referred to the Committee on Water & Land, with Representatives Hanohano and Thielen voting no, and with Representative Say being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 78-14) recommending that H.B. No. 2147, 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 Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2147, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONCESSIONS," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representative Say being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 79-14) recommending that H.B. No. 1706, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1706, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ILLEGAL PARKING UPON BIKEWAYS," passed Second Reading and was referred to the Committee on Judiciary, with Representative Say being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 80-14) recommending that H.B. No. 1509, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1509, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Second Reading and was referred to the Committee on Judiciary, with Representative Say being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 81-14) recommending that H.B. No. 1771, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1771, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL AIR PATROL," passed Second Reading and was referred to the Committee on Finance, with Representative Say being excused.

Representative Yamane, for the Committee on Transportation, presented a report (Stand. Com. Rep. No. 82-14) recommending that H.B. No. 1667,

as amended in HD 1, pass Second Reading and be referred to the Committee on Veterans, Military, & International Affairs, & Culture and the Arts.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1667, HD 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS," passed Second Reading and was referred to the Committee on Veterans, Military, & International Affairs, & Culture and the Arts, with Representative Say being excused.

Representative Hanohano, for the Committee on Ocean, Marine Resources, & Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 83-14) recommending that H.B. No. 1568, as amended in HD 1, pass Second Reading and be referred to the Committee on Housing.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1568, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING CREDITS," passed Second Reading and was referred to the Committee on Housing, with Representative Say being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 84-14) recommending that H.B. No. 2640, as amended in HD 1, be recommitted to the Committee on Water & Land.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2640, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE COMMISSION," was recommitted to the Committee on Water & Land, with Representative Say being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 85-14) recommending that H.B. No. 2639, as amended in HD 1, be recommitted to the Committee on Water & Land.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2639, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GEOTHERMAL RESOURCE DEVELOPMENT," was recommitted to the Committee on Water & Land, with Representative Say being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 86-14) recommending that H.B. No. 2281 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2281, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE OFFICE OF THE GOVERNOR," passed Second Reading and was placed on the calendar for Third Reading, with Representative Say being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 87-14) recommending that H.B. No. 2353 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2353, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR SECURITY AT HONOLULU INTERNATIONAL AIRPORT," passed Second Reading and was placed on the calendar for Third Reading, with Representative Say being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 88-14) recommending that H.B. No. 2248, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B.

No. 2248, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEPARTMENT OF THE ATTORNEY GENERAL," passed Second Reading and was placed on the calendar for Third Reading, with Representative Say being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 89-14) recommending that H.B. No. 2650, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 2650, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION," passed Second Reading and was placed on the calendar for Third Reading, with Representative Say being excused.

Representative Evans, for the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 90-14) recommending that H.B. No. 1903, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committee was adopted and H.B. No. 1903, HD 1, entitled: "A BILL FOR AN ACT RELATING TO OUTDOOR HERITAGE MONTH," passed Second Reading and was placed on the calendar for Third Reading, with Representative Say being excused.

THIRD READING

H.B. No. 1341:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1341, entitled: "A BILL FOR AN ACT RELATING TO ANTIQUE GAMBLING DEVICES," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Fukumoto, Johanson, Matsumoto and Ward voting no, and with Representative Say being excused.

H.B. No. 1650:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 1650, entitled: "A BILL FOR AN ACT RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS," passed Third Reading by a vote of 50 ayes, with Representative Say being excused.

H.B. No. 195, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.B. No. 195, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF THE PUBLIC GUARDIAN," passed Third Reading by a vote of 50 ayes, with Representative Say being excused.

H.B. No. 1660, HD 1:

Representative Saiki moved that H.B. No. 1660, HD 1 pass Third Reading, seconded by Representative Cabanilla.

Representative Oshiro rose in opposition to 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 am strongly opposed to House Bill No. 1660, House Draft 1. This bill would alter the conditions constituting the offense of 'obstructing' to include any person who obstructs any highway or public passage, or provides less than one meter of space for passage on any paved public sidewalk. 'Obstructing' is a petty misdemeanor if the person persists in the conduct after a warning by a peace officer. Otherwise, it is a violation. A person convicted of a petty misdemeanor or a violation may be fined an amount not to exceed \$1,000. According to SCR 61-14, the Pacific Alliance to Stop Slavery and a few individuals testified in opposition to this measure and the Department of Transportation provided comments. Conspicuously absent from the public hearing record are the other 'usual suspects' of government agencies and non-government organizations involved in law enforcement, criminal prosecution and defense, and civil and personal liberties and individual rights. The Democratic Party of Hawaii appears to also have not offered any comment.

"Let's not kid ourselves. This bill criminalizes being poor or homeless in urban Honolulu. This is just one of many bills that have been reported out of the Judiciary Committee that attacks some of the most vulnerable and politically helpless citizens of our state. As if we've gone through a time warp back to the 1900s, the House Judiciary Committee and this Body, the so called, 'People's House', has made it a priority to write a whole new set of Jim Crow laws to pander to businesses, middle-class voters, and the privileged who shudder every time they walk down a lane or an alley in urban Honolulu.

"That the Chair of the Judiciary Committee disregarded the testimony of State Department of Transportation -- noting that many of the walkways, especially those in rural areas, are not one meter wide -- shows how this bill is intended to specifically address urban areas of the state. Moreover, this substantive defect in this bill, if enacted into law, would make some walkways in our state and any person's use therein a per se violation. Imagine that, by mere presence alone, on these less-than-one meter sidewalks, a person could be told to move by a law enforcement officer or face sanction up to \$1,000. This is bad policy and does violence to the traditional notions of First Amendment rights and freedoms and Hawaii's unique 'Law of the Splintered Paddle' policy and Constitutional provision.

"This bill outrages me because any rule against performing an act in a public place is tantamount to a comprehensive ban on that action so far as the homeless are concerned. If sleeping or putting up a tent on a sidewalk is illegal, where does a homeless person sleep? They can't sleep on the beach. They can't sleep in the parks. Where do they go? Again, there was no testimony in from local law enforcement or the City and County of Honolulu, and none of the neighbor island councils or Mayors submitted testimony in support for this measure.

"Certainly, there is nothing particularly dignified about sleeping on a sidewalk. If given a choice, no reasonable person would want to do this. But if there is no choice at all, what is a person to do?

"Criminalizing basic human actions such as sleeping, as proposed by the Judiciary Chair and condoned by House Leadership, is cruel because it breaks the human spirit. Forcing people to think twice of petty restrictions imposed on the necessities of human life is mean-spirited, plain and simple. As a lawmaker, I am ashamed that we are allowing our laws to reduce thousands of our citizens to something approaching this level of degradation.

"Furthermore, it is clear that these measures are reactive to the very real problems experienced in urban Honolulu. Many of our citizens merely want to operate their businesses or use our sidewalks in peace. But the enactment of measures like those proposed by the Judiciary Chair shifts the Legislature's guilt for not addressing homeless onto a group of citizens who have no voice in our political process. And for that, he should be ashamed.

"So why doesn't House Leadership do something about it? Why not make ending homeless a priority this session? After all, don't we have an \$800 million budget surplus?

"But the poor and homeless don't vote, nor are they wanted in any community, so let's just make it a crime to be poor or homeless and let the courts and jails deal with them.

"How sad for our citizens. So much for *Aloha* in our state.

"Accordingly, I oppose this bill and urge that my colleagues do likewise."

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

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

"Mahalo ho'omalu 'ōlelo. Kako'o 'ole. Makemake au ka ha'i 'ōlelo 'o ka Luna Maka'āinana mai Wahiawa mai i loko ka puke Hale Maka'āinana e like me ko'u mana'o. Mahalo.

"I would like to have the words in opposition of the Representative from Wahiawa entered in the Journal as my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I rise in opposition. Mr. Speaker, we have just passed Housing First, and I would suggest until Housing First goes into effect, it should be 'sidewalks first'. But this doesn't allow that. It targets the homeless to stay off the sidewalks, of which there are many other ways that they have been targeted.

"Secondly, I don't think that we need a sidewalk police to do this, which in effect, it would create. But I'm also fearful that when there are legitimate protests, whether it's something about or against a food issue or another issue. That when the obstruction of the sidewalk comes in, democracy is going to be diminished by these three feet that it says you've got to keep open.

"So, Mr. Speaker, this is I think a bit of an overkill. This is a sledgehammer against the homeless. No pun intended. That was something that was just a little bit, that this bill should avoid creating the impression of."

The Chair addressed Representative Ward, stating:

"Representative Ward, focus on the merits of the bill and not on any motive or intent of any of the Members here."

Representative Ward continued, stating:

"Exactly. That was never the intention. And apologies if there was any association with that. The point being here, Mr. Speaker, we don't need a sidewalk police, we don't need a diminished democracy, we don't need diminished movement on our sidewalks. And until Housing First, which is to get them shelter, is passed, this bill should not be passed. Let the sidewalks be open, and then when the Housing First opens, then yeah, if you want to move on something like this, okay. But right now it's not appropriate. That's why I am voting no. Thank you."

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

"Thank you, Mr. Speaker. I rise in support. If you've ever had a friend or someone in a wheelchair, and you've gone into large groups of people, sometimes stadiums, or sometimes where there's just a gathering of people, you find how difficult it is for people in wheelchairs. How people will push them out of the way. How people will not get out of the way.

"I view this bill as a way to give the enforcement officers clear ability to actually take some action, if in fact there's a problem with them encroaching into a sidewalk and someone in a wheelchair just cannot get through.

"I don't see this being in rural neighborhoods. I think this, probably, is looking at issues more in the urban core where lots of homeless people do maybe congregate together. And I think we should give the law enforcement officers clear directions, so that when they're dealing in these situations, they can go in and say, 'you have to clear a path.' We're saying, clear a path of one meter so people in wheelchairs can get through.

"I don't think it's against the homelessness. I think, in society we have rules. And we try to balance between different groups. And I think this tries to achieve it. Thank you."

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

"Thank you, Mr. Speaker. In support. Should this bill become a law, I hope it is similar to how I describe litter laws. That it's there on the books if you need it, but hopefully we never have to use it.

"This bill is a great solution to make room on the sidewalks, to clear sidewalks. But in some ways, it has nothing to do with homelessness. And the people who are against this bill, they need to provide a solution to where people can be.

"I know that a lot of people in this Chamber are against removing homeless from sidewalks. But tell us what you're for. Where would you like to put them? And those are my thoughts on it. Thank you."

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

"Mr. Speaker, I have reservations with the measure. My reservations stem, not dealing with homeless, but dealing with the unintended consequences where there has been a number of developments that have been made out in the central and Leeward Oahu area, in which, the driveways were made substandard.

"So actually, what ended up happening is that unintended consequences would result where people who lawfully park in their own driveways might stick out into the sidewalks, and then be ticketed or removed because of no fault of their own, because of the lack of parking, enough parking on the city streets. So that's my reservations. Thank you."

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

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

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

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

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

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

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

"Thank you, Mr. Speaker. Reservations. May I have the words of the Representative from Mililani entered into the record as if they were my own? Also just a real brief comment that, because of the effect that this bill would have on planned community associations, should it come back again

for further discussion, hopefully the Committee on CPC can be involved as well. Thank you."

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

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

The motion was put to vote by the Chair and carried, and H.B. No. 1660, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SIDEWALKS," passed Third Reading by a vote of 46 ayes to 4 noes, with Representatives Hanohano, Jordan, Oshiro and Ward voting no, and with Representative Say being excused.

At 12:53 o'clock p.m., the Chair noted that the following bills passed Third Reading:

H.B. No. 1341
H.B. No. 1650
H.B. No. 195, HD 1
H.B. No. 1660, HD 1

INTRODUCTION OF RESOLUTIONS

The following resolution (H.R. No. 14) was announced by the Clerk and the following action taken:

H.R. No. 14, entitled: "HOUSE RESOLUTION RELATING TO THE COMMITTEE ASSIGNMENTS OF THE HOUSE OF REPRESENTATIVES OF THE TWENTY-SEVENTH LEGISLATURE," was jointly offered by Representatives Souki and Saiki.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, H.R. No. 14 was adopted, with Representatives Ito, Oshiro and Say being excused.

By unanimous consent, the following resolutions (H.R. Nos. 12 and 13) and concurrent resolution (H.C.R. No. 30) were referred to Printing and further action was deferred:

H.R. No. 12, entitled: "HOUSE RESOLUTION HONORING KING KAMEHAMEHA THE GREAT AND HIS DESCENDANTS BY SHARING HIS STORY WITH A GLOBAL AUDIENCE, PROMOTING CEREMONIES AND ACTIVITIES THAT CELEBRATE HIS VISION AND HAWAII'S CULTURE AND HERITAGE, AND URGING ALL OF THE PEOPLE OF HAWAII TO DO THE SAME," was jointly offered by Representatives Mizuno and Hanohano.

H.R. No. 13, entitled: "HOUSE RESOLUTION RECOGNIZING FEBRUARY 26, 2014, AS THE 22ND ANNIVERSARY OF THE KHOJALY TRAGEDY IN AZERBAIJAN," was jointly offered by Representatives Takai and Cabanilla.

H.C.R. No. 30, entitled: "HOUSE CONCURRENT RESOLUTION HONORING KING KAMEHAMEHA THE GREAT AND HIS DESCENDANTS BY SHARING HIS STORY WITH A GLOBAL AUDIENCE, PROMOTING CEREMONIES AND ACTIVITIES THAT CELEBRATE HIS VISION AND HAWAII'S CULTURE AND HERITAGE, AND URGING ALL OF THE PEOPLE OF HAWAII TO DO THE SAME," was jointly offered by Representatives Mizuno and Hanohano.

ANNOUNCEMENTS

COMMITTEE REASSIGNMENTS

The following measure was re-referred to committee by the Speaker:

<u>H.B.</u> <u>No.</u>	<u>Re-referred to:</u>
2639, HD1	Jointly to the Committee on Energy & Environmental Protection and the Committee on Water & Land, then to the Committee on Finance

ADJOURNMENT

At 12:54 o'clock p.m., on motion by Representative Cabanilla, seconded by Representative Fukumoto and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Tuesday, February 4, 2014. (Representatives Ito, Oshiro and Say were excused.)