

## FORTY-SEVENTH DAY

**Tuesday, April 8, 2014**

The House of Representatives of the Twenty-Seventh Legislature of the State of Hawaii, Regular Session of 2014, convened at 9:14 o'clock a.m., with Vice Speaker Mizuno presiding.

The invocation was delivered by Mr. Ryan Kalei Tsuji of O.C. Sports, after which the Roll was called showing all Members present with the exception of Representative Wooley, who was excused.

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

## SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 492 through 496) were received and announced by the Clerk:

Sen. Com. No. 492, transmitting H.B. No. 1579, entitled: "A BILL FOR AN ACT RELATING TO JUDGMENT LIENS," which passed Third Reading in the Senate on April 4, 2014.

Sen. Com. No. 493, transmitting H.B. No. 1846, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT COURT JURISDICTION," which passed Third Reading in the Senate on April 4, 2014.

Sen. Com. No. 494, transmitting H.B. No. 2262, HD 2, entitled: "A BILL FOR AN ACT RELATING TO REPORTING DEATHS TO STATE AGENCIES," which passed Third Reading in the Senate on April 4, 2014.

Sen. Com. No. 495, transmitting H.B. No. 2579, entitled: "A BILL FOR AN ACT RELATING TO LABOR," which passed Third Reading in the Senate on April 4, 2014.

Sen. Com. No. 496, transmitting H.B. No. 2243, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS," which passed Third Reading in the Senate on April 4, 2014.

Representative Saiki moved to disagree to the amendments made by the Senate to the following House Bill, seconded by Representative Cabanilla and carried: (Representative Wooley was excused.)

H.B. No. 2243, HD 1, (SD 1)

## INTRODUCTIONS

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

Representative Aquino introduced students, chaperones and teachers from Waipahu Elementary School; and James Suster, Shiloh Clark and Tiger Kahaunaale.

Representative Ward introduced former Representative Peter Apo, Trustee, Office of Hawaiian Affairs.

## 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 Senate Bills for Third Reading by consent calendar. (Representative Wooley was excused.)

## CONSENT CALENDAR

## UNFINISHED BUSINESS

At this time, the Chair stated:

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

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1525-14) recommending that S.B. No. 2853, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2853, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I am in support of SB 2853. This bill permits exemptions from the two-resident limit for certified adult foster homes for adults with developmental or intellectual disabilities (I/DD) by waiver, if an adult resident is related to the caretaker, and for foster children who turn 18. It also permits dual certification as child and adult foster home to accommodate children who turn 18 or for specific children.

"This bill allows a definition of 'related' to include relationships by blood, by marriage, legal guardians, and trustees of the foster adult. Family structures and familial relationships are a lot less strict than they once were. What constitutes a family today and how we define membership into one is not a fixed idea. In other words, a family is about more than blood, and this bill reflects this more nuanced way we define our families today.

"Furthermore, SB 2853 will have a positive impact, because it allows for a foster boarding home for minors with I/DD to be dually certified. This bill will enable the individual with disabilities to age in place and remain in the home. This is extremely beneficial for both the family and the individual with I/DD's because they can remain in a comfortable, familiar environment without breaking up already established caregiver/patient relationships.

"Beyond that, Mr. Speaker, the measure also restricts the total number of foster children with I/DD and adults with I/DD in a dually certified home. This will ensure that there is not too many I/DD individuals for caregivers to adequately care for. The bill states that a dually certified home shall not have more than two individuals. However, with the Director of Health's approval, not more than three individuals would be permitted. This is in order to be flexible to larger families while still ensuring a quality of care for these children and adults.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to note my support on SB 2853. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2853, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DEVELOPMENTAL DISABILITIES ADULT FOSTER HOMES," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1529-14) recommending that S.B. No. 2345, SD 1, 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. 2345, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE INVESTOR EDUCATION PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1535-14) recommending that S.B. No. 2821, SD 2, 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. 2821, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1541-14) recommending that S.B. No. 2981, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2981, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"I rise in support of SB2981, SD2, HD1 which amends the state plan policies, objectives, and priority guidelines to promote and encourage innovative activity in the economy. This bill encourages the development and implementation of joint federal and state initiatives to attract federal programs and projects that will support Hawaii's social, economic, physical, and environmental objectives. The lack of affordable housing on Oahu greatly hurts the state's economy and environment, and this bill is the stepping stone we need to address the crisis.

"According to a recent 2014 Construction Preview, basic housing on Oahu has become an unaffordable luxury to many families. I must disclose that the following article was written by my son, Greg Thielen, who is also the former president of the Building Industry Association. The article states that we have internally created this crisis by stifling incentives for creative building and by shrouding the permitting process with red tape. Attached, is the article in full."

Representative Thielen also submitted the following article:



## Addressing a Growing Housing Crisis on Oahu and Beyond

By Gregory Thielen, President  
Building Industry Association of Hawaii (BIA-Hawaii)

Bill Clinton made the phrase "It's the economy, stupid," a cornerstone of his successful run for the U.S. presidency. It clearly made the point that the economy was in crisis and that this was the most important issue facing the country. Those people that didn't understand it were out of touch—or, more bluntly, stupid. Oahu is in a housing crisis that will be getting worse in the years ahead. This crisis is a self-inflicted wound brought about by good intentions gone wrong. Let's start by looking at some facts.

- In the 25 years from 1950 to 1975, we averaged approximately 7,000 to 8,000 new housing units authorized by building permit per year. In the last two decades we have averaged less than half that amount, despite the fact that our population has more than doubled during that time.
- The last time we exceeded 4,000 new housing units authorized by building permit in a single year was 20 years ago.
- The number of new housing units authorized by building permit in the last 4 years is the second-lowest amount since the great depression. The lowest was during World War II.
- We're facing near record-low inventories of homes for sale and appreciating prices—and these are, historically speaking, signs of a large run up in home prices. In my opinion, we'll see the median price for single-family homes reach \$1 million by or before the end of this decade.

While the statistical data is clear, we all know the housing problems through firsthand experience. Multigenerational living and multi-family house sharing have become the norm. In October of this year, a single-family house burned in Kalaheo and 18 people from three separate families were displaced from this one home. A neighboring house was also damaged and 10 people were displaced. Walk the streets in any working-class

neighborhood, and this is easy to see by the quantity of cars.

We've created a situation where housing is an unattainable luxury for too many people—and we have done it by making it too hard to build. How did this happen?

**We've created a situation where housing is an unattainable luxury for too many people—and we have done it by making it too hard to build.**

One only has to look at the cratering of housing production in the mid-1970s to trace the problem to reform in our environmental law and land-use process. Look no further than the recent experience of the Koa Ridge project. It took over a decade and three court challenges just to complete the state land use process before they could then start on the county level. The result of this process, coupled with government requirements for offsite improvements, is a per-housing unit cost in excess of \$100,000 before the house is started.

**BIA Mission Statement**  
BIA-Hawaii takes a leadership role in unifying and promoting the interest of the industry to enhance the quality of life for the people of Hawaii.

Whether or not you support this particular project, everyone has to acknowledge that this is a poor way to produce more housing, and no one can deny more housing is needed.

Another place to look for proof of the government's impact on housing is a recent analysis of market control in *Builder* magazine. In an analysis of all

U.S. metropolitan statistical areas, it was found that 97 percent of all homes built in the City & County of Honolulu were built by the top 10 production builders. This is the second-highest concentration in the entire country, and well above the 70 percent national average. Why do big-production builders dominate our market so much? Because the process to build housing has become so difficult and takes so long, only large companies with deep pockets can afford to do it. This reduction in potential competitors in the marketplace can only hurt the consumer in the long run.

These problems are not isolated to Oahu. Due to its size and density, Oahu is in a further state of decay than the other counties, but their anemic housing production numbers are just as bad or worse than Oahu.

So how do we restore ourselves to a balanced housing production process that provides for growth in housing units to match our growth in population? End the self-destructive policies that make it take so much time and cost so much money to develop new housing units. This should include limiting the purview of the LUC and bringing land classifications automatically into compliance with county growth plans. Acknowledge that the affordable housing system as it exists now has backfired, and reduce or eliminate Inclusionary Zoning Policies. Expanding its reach will only do more damage. Give housing an equal footing with the environment and agriculture, rather than letting it be the "whipping boy" of these other causes.

Most importantly, we need our elected officials to embrace these ideals for the future of our state. After all, what's the problem with housing? It's the government, stupid.

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2981, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ECONOMY," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1559-14) recommending that S.B. No. 2073, SD 1, 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. 2073, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1560-14) recommending that S.B. No. 2074, SD 1, 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. 2074, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1561-14) recommending that S.B. No. 2075, 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. 2075, HD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1566-14) recommending that S.B. No. 2305, SD 1, 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. 2305, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1568-14) recommending that S.B. No. 2315, 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. 2315, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DEPARTMENT OF PUBLIC SAFETY TO PROVIDE SUBSTANCE ABUSE TREATMENT SERVICES," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1571-14) recommending that S.B. No. 2042, 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. 2042, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CULTURAL EXCHANGES BETWEEN HAWAII AND PUERTO RICO," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1576-14) recommending that S.B. No. 3125, SD 2, 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 S.B. No. 3125, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FOUNDATION ON CULTURE AND THE ARTS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1577-14) recommending that S.B. No. 2598, SD 1, 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. 2598, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CULTURAL EXCHANGES BETWEEN HAWAII AND AFRICAN AMERICANS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1580-14) recommending that S.B. No. 2368, SD 1, 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. 2368, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROTECTION OF CHARITABLE ASSETS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1582-14) recommending that S.B. No. 2657, SD 2, 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. 2657, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1583-14) recommending that S.B. No. 2467, 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. 2467, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PODIATRISTS," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1584-14) recommending that S.B. No. 2491 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. 2491, entitled: "A BILL FOR AN ACT RELATING TO NURSING," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1587-14) recommending that S.B. No. 3023, SD 2, 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. 3023, SD 2, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR RESEARCH, DEVELOPMENT, AND MARKETING OF THE ULU BREADFRUIT," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1624-14) recommending that S.B. No. 2492, SD 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. 2492, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ADVANCED PRACTICE REGISTERED NURSES," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1628-14) recommending that S.B. No. 2296, SD 2, 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 S.B. No. 2296, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE DISPOSITION OF LANDS MANAGED BY THE STATE DEPARTMENT OF AGRICULTURE," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1629-14) recommending that S.B. No. 2343, 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. 2343, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR INVASIVE SPECIES PREVENTION, CONTROL, OUTREACH, RESEARCH, AND PLANNING," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1636-14) recommending that S.B. No. 2434, SD 2, 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. 2434, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1641-14) recommending that S.B. No. 2421, SD 2, 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. 2421, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1642-14) recommending that S.B. No. 2469, SD 2, HD 2, as amended in HD 3, 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. 2469, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO TELEHEALTH," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

Representatives McKelvey and Rhoads, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1663-14) recommending that S.B. No. 2898, SD 2, as amended in HD 1, pass Third Reading.

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the report of the Committees was adopted and S.B. No. 2898, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER'S LICENSING," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

**THIRD READING****S.B. No. 2411, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 2411, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUBSIDIES," passed Third Reading by a vote of 50 ayes, with Representative Wooley being excused.

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

S.B. No. 2853, SD 2, HD 2  
 S.B. No. 2345, SD 1, HD 1  
 S.B. No. 2821, SD 2, HD 1  
 S.B. No. 2981, SD 2, HD 1  
 S.B. No. 2073, SD 1, HD 1  
 S.B. No. 2074, SD 1, HD 1  
 S.B. No. 2075, HD 1  
 S.B. No. 2305, SD 1, HD 1  
 S.B. No. 2315, SD 1, HD 1  
 S.B. No. 2042, HD 1  
 S.B. No. 3125, SD 2, HD 2  
 S.B. No. 2598, SD 1, HD 1  
 S.B. No. 2368, SD 1, HD 1  
 S.B. No. 2657, SD 2, HD 1  
 S.B. No. 2467, HD 1  
 S.B. No. 2491  
 S.B. No. 3023, SD 2, HD 1  
 S.B. No. 2492, SD 1  
 S.B. No. 2296, SD 2, HD 2  
 S.B. No. 2343, HD 1  
 S.B. No. 2434, SD 2, HD 1  
 S.B. No. 2421, SD 2, HD 1  
 S.B. No. 2469, SD 2, HD 3  
 S.B. No. 2898, SD 2, HD 1  
 S.B. No. 2411, SD 1, HD 1

At this time, the Chair stated:

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

At 9:22 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:24 o'clock a.m.

**ORDINARY CALENDAR****UNFINISHED BUSINESS**

At this time, the Chair stated:

"Members, please note that the Chair will be moving one item to the end of the calendar. On page 26, Standing Committee Report Number 1666-14, Senate Bill 2194, Senate Draft 1, House Draft 2, will be moved to the end of the calendar."

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1666-14) recommending that S.B. No. 2194, SD 1, HD 1, as amended in HD 2, pass Third Reading.

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

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1520-14)

recommending that S.B. No. 1236, SD 1, 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 S.B. No. 1236, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FIBER OPTICS," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1521-14) recommending that S.B. No. 2682, SD 1, 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 S.B. No. 2682, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL DISCLOSURE STATEMENTS," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1522-14) recommending that S.B. No. 2869, SD 2, 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. 2869, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVACY OF HEALTH CARE INFORMATION," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1523-14) recommending that S.B. No. 2901, 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. 2901, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR CARRIER SAFETY," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1524-14) recommending that S.B. No. 2726, SD 2, 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. 2726, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Third Reading by a vote of 51 ayes.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1526-14) recommending that S.B. No. 2032, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2032, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I stand in support with reservations on SB 2032, SD2, HD2.

"This measure amends the offense of Assault in the Second Degree as it applies to medical professionals by expanding the types of medical services providers protected under this offense.

"There is a strong and cohesive consensus amongst the medical community regarding this bill. Testimony from The Queen's Health

System, Hawaii Pacific Health, Hawaii State Center For Nursing, and Kaiser Permanente, to name a few, have come forward with the same observations and concerns. It has become apparent that health care workers have faced an increased risk of job related violence in recent years. Moreover, healthcare workers are four times more likely to be victims of workplace violence than other private sector jobs, and 60 percent of healthcare workers are victims of nonfatal workplace assaults. What we have been asked to do as lawmakers, is to expand Second Degree Assault charges to cover and protect a larger area of medical professionals. Right now, the Second Degree Assault application only covers emergency personnel.

"Details regarding a rise in workplace violence in the healthcare profession are discomfoting. These professionals work tirelessly to ensure the welfare of Hawaii's people and there is no doubt that an increase in workplace related assaults needs to be addressed. However, if signed into law, SB 2032, SD2, HD2 would elevate these assaults from Assault in the Third Degree to Assault in the Second Degree. This means that current conduct punishable up to one year in prison would be punishable up to five years in prison, with a reclassification to a Second Degree Assault level. This may be viewed as draconian considering that some patients may be suffering from mental illnesses. Additionally, expanding the definition of Assault in the Second Degree to include 'medical services provider,' does not ensure that the occurrence or frequency of workplace assaults will be reduced or properly addressed. However, it does mean that patients who slap or punch a professional in charge of his or her care, for example, may now be subject to a five year prison sentence, even if serious injury hadn't occurred as a result of the violent act.

"The health care profession is filled with dedicated men and women who selflessly provide care for others. It is unfortunate that they have seen an increase in job related violent incidences. Action must be taken to help alleviate this growing trend. However, because of the aforementioned concerns, I stand in support with reservations on SB 2032, SD2, HD2. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2032, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO VIOLENCE AGAINST HEALTH CARE PERSONNEL," passed Third Reading by a vote of 51 ayes.

At 10:26 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1236, SD 1, HD 2  
 S.B. No. 2682, SD 1, HD 2  
 S.B. No. 2869, SD 2, HD 1  
 S.B. No. 2901, SD 1, HD 1  
 S.B. No. 2726, SD 2, HD 1  
 S.B. No. 2032, SD 2, HD 2

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1527-14) recommending that S.B. No. 2175, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2175, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I stand in opposition to this bill. I realize industrial hemp and marijuana are two separate things, but on this particular issue I'm going to side with law enforcement. They have enough headaches as it is. I don't want to add to their burden. So for those reasons, I'll stand in opposition. Thank you."

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

"Thank you, Mr. Speaker. In opposition. This bill changed from the Ag Committee, Mr. Speaker, which I'm a member of, in the next committee

after that, and for the changes that were made, I'm in opposition to this bill. Thank you, Mr. Speaker."

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

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

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

Representative Thielen's written remarks are as follows:

"I rise in support of SB 2175, SD2, HD2 which authorizes the Dean of the College of Tropical Agriculture and Human Resources at the University of Hawaii at Manoa to establish a two-year industrial hemp remediation and biofuel research program, requires a final report to the Legislature prior to the convening of the Regular Session of 2016, and defines industrial hemp.

"This language of the House Draft 2 version of the bill was changed from the first House Draft in the House Judiciary Committee to reflect what is written in the Federal Agricultural Act of 2014. This Act exempts all industrial hemp research overseen by State Department of Agriculture or institutions of higher education from the Controlled Substances Act and any other Federal law. This Federal law is now reflected in SB 2175, SD2, HD2.

"To address the concerns of the few Members who voted against industrial hemp research, industrial hemp now can be legally grown in such projects in the United States under Federal law and no longer requires permits from the Drug Enforcement Administration.

"Furthermore, to address the reservations from the Member representing the Laie area, a Hemp Times article titled, 'The Promised Land' by Pete Brady notes that the Mormon's path to the promised land in Salt Lake City, Utah was 'cultivated, in part, with the seeds of hemp.' The article expands on this point by describing the extremely harsh conditions Mormon settlers endured, and how Church elders including founder Brigham Young himself stated, 'Clothes or no clothes. We must make our own woolens, flax, hemp and cotton, or we must go naked.' Young also mandated all members to grow at least a quarter acre of hemp, and, when other crops failed in the unsuitable soils in the Salt Lake Valley, to repair the soil with a hemp crop which 'had a reputation for leaving soil in better condition, relative to nutrient content, than other crops.'

"Thank you, Mr. Speaker."

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

"Mr. Speaker, with very strong reservations. May I have the words of the Representatives from Manoa and Lihue adopted as my own," and the Chair "so ordered." (By reference only.)

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2175, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INDUSTRIAL HEMP," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Awana, Choy, Har, Oshiro and Tokioka voting no.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1528-14) recommending that S.B. No. 2687, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2687, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I have reservations on this measure. I will not talk about those, but I'd just like to acknowledge the good work of the Judiciary Chair who allowed the counties and the state to be sued. That's a very forehanded vision because of the potential with all the preschool activity we're going to be involved in the future. At least it looks that way. He has made the state accountable, and although I disagree with him a lot, I think he did a great job on that. So I thank him for that. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2687, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1530-14) recommending that S.B. No. 2481, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2481, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. May I request a ruling on a potential conflict? At my law firm I represent timeshare interests. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2481, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARES," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1531-14) recommending that S.B. No. 2486, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2486, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2486, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE GUARDS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fale and McDermott voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1532-14) recommending that S.B. No. 2581, SD 2, 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. 2581, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUILDING CODE," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1533-14) recommending that S.B. No. 2758, SD 1, 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. 2758, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HURRICANE RESERVE TRUST FUND," passed Third Reading by a vote of 51 ayes.

At 10:31 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2175, SD 2, HD 2  
S.B. No. 2687, SD 1, HD 2  
S.B. No. 2481, SD 1, HD 1  
S.B. No. 2486, SD 1, HD 1  
S.B. No. 2581, SD 2, HD 1  
S.B. No. 2758, SD 1, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1534-14) recommending that S.B. No. 2809, SD 1, 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. 2809, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UTILITIES REGULATION," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fale and McDermott voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1536-14) recommending that S.B. No. 2948, SD 1, 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. 2948, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1537-14) recommending that S.B. No. 718, SD 2, 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. 718, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1538-14) recommending that S.B. No. 2399, SD 2, 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. 2399, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1539-14) recommending that S.B. No. 2079, SD 2, 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. 2079, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTION PICTURES, DIGITAL MEDIA, AND FILM PRODUCTION INCOME TAX CREDIT," passed Third Reading by a vote of 51 ayes.

At 10:32 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2809, SD 1, HD 1  
 S.B. No. 2948, SD 1, HD 1  
 S.B. No. 718, SD 2, HD 1  
 S.B. No. 2399, SD 2, HD 1  
 S.B. No. 2079, SD 2, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1540-14) recommending that S.B. No. 2583, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2583, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I rise in strong support. Thank you, Mr. Speaker. This bill appropriates funds for our international space center on the Big Island. Its purpose is to conduct an engineering study. It's for an engineering study for a proposed laser ground station. Now, no one has ever heard about one of those before, because there's never been one before. But they've chosen Hawaii, NASA has chosen Hawaii, to build a \$20 million ground station, to basically do what the internet does with radio waves, which are very slow and are very conducive to interruption by clouds and other cosmic issues.

"The ground station will actually transmit up to 100 times faster and more data. Imagine that, Mr. Speaker. While you're watching YouTube you can have just everything, instead of buffering, it will be instant. Now that's for, not our purposes, but for NASA to track its satellites, and like the internet, if it works in that government sector, it will likely be passed off to the private sector. That means that this is going to create jobs. In fact, just to do this \$20 million experiment that this bill calls for us to put our fair share in, which is just a few hundred thousand, then becomes a \$200 million investment on the point of NASA.

"The bottom line, Mr. Speaker, is that this is going to create jobs. It's an investment bill. It's a job creation bill. And quite frankly, it's part of the diversification of our economy from living off of our good looks to using our brains. And, Mr. Speaker, this is a very inexpensive investment that NASA is going to pick up and run with as long as we pass this. And I make notice that the bill is to go into effect in 2050. By 2050, there will be many, many nations ahead of us. So I think this is imperative for our economy and for the future of communications that we pass this post haste. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2583, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PACIFIC INTERNATIONAL SPACE CENTER FOR EXPLORATION SYSTEMS AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LASER COMMUNICATIONS GROUND STATION INITIATIVE," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1542-14) recommending that S.B. No. 2134, 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. 2134, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1543-14) recommending that S.B. No. 2516, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2516, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

Representative Say rose and asked that the Clerk record an aye vote with reservations for him, 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 S.B. No. 2516, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FACILITIES FUNDING FOR CHARTER SCHOOLS," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1544-14) recommending that S.B. No. 2517, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2517, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

Representative Say rose and asked that the Clerk record an aye vote with reservations for him, 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 S.B. No. 2517, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1545-14) recommending that S.B. No. 2768, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2768, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

Representative Fukumoto 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 Fukumoto's written remarks are as follows:

"Thank you, Mr. Speaker. With reservations. I'm completely in support of mandatory kindergarten, but I do have concerns with Part II of this bill, which is an assessment and an aggregation of all the assessments into a state pool. I think it's disconcerting. Thank you."

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

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

"Thank you, Mr. Speaker. In support, Mr. Speaker, and remarks to the Journal. In support of Part I, still with concerns on the other part. Thank you."

Representative Thielen's written remarks are as follows:

"I rise in support of Part 1 of SB 2768, SD2, HD2 which establishes mandatory Kindergarten for students turning five on or before July 31 of the school year. This language was adopted from HB 14, which I introduced in 2013 and was passed in the House in 2014.

"Early learning is vital for a student's future academic success, and most school districts across the nation require mandatory kindergarten. Since most brain development occurs in a child's first five years, it is crucial that our youngest students benefit from a jump start on their education.

"It has been said that the single largest impact on the success of our K-12 system is access to early childhood education. This is especially important to low- income families. We must provide an equitable learning system to all our children in order to give upcoming generations every opportunity for college and career success.

"In Part 2, SB 2768 also establishes a new individual student assessment system which replaces Hawaii's state school readiness assessment. While educators report that this is an invaluable tool which will significantly help teachers and families better address each student's individual needs, I am concerned about students being 'branded' by testing results. There is an 'opt out' clause for parents not wishing to take part in the proposed assessment system, however those remaining would be required to participate fully."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2768, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO KINDERGARTEN," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1546-14) recommending that S.B. No. 2288, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2288, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

At this time, Representative McDermott offered Floor Amendment No. 5, amending S.B. No. 2288, SD 2, HD 1, as follows:

"SECTION 1. Senate Bill No. 2288 S.D. 2 H.D. 1, is amended by placing Sections 1 through 20 under the header "PART I".

SECTION 2. Section 1 of Senate Bill No. 2288 S.D. 2 H.D. 1, is amended by amending page 1, line 7 (which was line 6, before the aforementioned header was added) to read as follows:

The purpose of this part is to continue to amend or repeal

SECTION 3. Sections 21 through 22 of Senate Bill No. 2288 S.D. 2 H.D. 1, are amended by placing them under the header "PART II", and replacing their contents to read as follows:

## PART II

SECTION 21. The legislature finds that the department of education is utilizing "Pono Choices", a medically questionable and age-inappropriate curriculum for children aged eleven to thirteen years old. The materials contradict definitions found in medical dictionaries, the statistics from the Centers for Disease Control and Prevention, and a clear warning from the Food and Drug Administration. The materials also encourage sexual behavior among children who are too young to legally consent to sexual intercourse. Ironically, while the curriculum introduces children to risky sexual behavior, it fails to fully inform those same children of those risks.

The legislature finds that the questionable program:

- (1) Includes the anus among the body parts defined as "genitals", in spite of a lack of support from medical dictionaries;
- (2) Describes penile-to-vaginal sexual intercourse with a condom as a "low risk" activity, in spite of gynecologist and physician warnings that condoms fail to protect against human papillomavirus and herpes;
- (3) Describes anal sex with a condom as a "low risk" activity, in spite of the fact that the Food and Drug Administration's website warns that anal sex, even with a condom, is "too dangerous to practice";
- (4) Informs eleven-to-thirteen year-old children that it is "their choice" to engage in sexual activity, in spite of sexual assault law, which

criminalizes the penetration of a child under the age of fourteen, regardless of consent; and

- (5) Fails to teach about human reproduction, in spite of the fact that the perpetuation of the human race is the most important reason for sexual intercourse.

The legislature further finds that despite the cries of protest from parents and numerous members of the public, the department of education has failed to remedy this problem.

The purpose of this part is to improve sexuality health education in the State of Hawaii by:

- (1) Stating specific circumstances under which sexuality health education programs funded by the State may not be deemed "medically accurate" or "age appropriate"; and
- (2) Affirming the importance of teaching students about human reproduction.

SECTION 22. Section 321-11.1, Hawaii Revised Statutes, is amended to read as follows:

"[H]§321-11.1[~~]~~ **Medically accurate sexuality health education.** (a) Sexuality health education programs funded by the State shall provide medically accurate and factual information that is age appropriate and includes education on abstinence, contraception, human reproduction, and methods of disease prevention to prevent unintended pregnancy and sexually transmitted disease, including human immunodeficiency virus.

(b) For the purposes of this section:

"Age appropriate" means suitable to a particular age or age group based on developing cognitive, emotional, and behavioral capacity typical for that age or age group[~~-~~], and does not include any statement or implication that it is acceptable to engage in sexual penetration before the age of consent established in section 707-730.

"Factual information" means medical, psychiatric, psychological, empirical, or statistical information that is verified or supported by research conducted by recognized medical, psychiatric, psychological, and public health professionals or organizations.

"Medically accurate" means verified or supported by research conducted in compliance with accepted scientific methods and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists[~~-~~], and therefore does not include:

- (1) The term "anus", "anal opening", or similar term within any definition of the term "genitals", "genitalia", "sexual organ", or similar term;
- (2) Any statement or implication that penile-to-vaginal intercourse with a condom is a "low risk" activity; or
- (3) Any statement or implication that anal intercourse, even with a condom, is a "low risk" activity.

"Sexuality health education" means education in any medium regarding human development and sexuality, including education on pregnancy, family planning, and sexually transmitted diseases."

SECTION 4. Senate Bill No. 2288 S.D. 2 H.D. 1, is amended by inserting new Sections 23 through 25, under the header "Part III", to read as follows:

SECTION 23. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 25. This Act shall take effect on July 1, 2050; provided that the amendments made to section 36-27(a), Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 36-27, Hawaii Revised Statutes, is reenacted pursuant to section 34 of Act 79, Session Laws of Hawaii 2009."



Representative McDermott moved that Floor Amendment No. 5 be adopted, seconded by Representative Fale.

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

"Thank you, Mr. Speaker. This is the Pono Choices amendment, Mr. Speaker, because we seek to amplify this Body's previous statements through statute that sex education information presented in the classroom must be medically accurate. And what's going on right now with the department is they are ignoring our previous statements through statute that sex education must be medically accurate. So the purpose of this is to reinforce what we previously stated, and to amplify this Body's feelings.

"If you go to page 19 of the bill, you'll see that currently they teach that the anus is part of genitalia. It is not. Now I'm not a doctor, but we do have one in this Body who can confirm that if he chooses to do so. All medical literature says that genitalia are sexual reproductive organs. The anus is not. Why are we teaching 11-year-old children about that? Mr. Speaker, why are we teaching 11-year-old children factually inaccurate information? I brought it to their attention, but it seems this Body must need to act.

"Mr. Speaker, they also are providing inaccurate information. Again, this amendment goes to the point to amplify what this Body has previously stated, that the information provided to students must be medically accurate. On page 20 of the bill, which the amendment, it says, 'Pono Choices describes anal sex with a condom as low-risk.' Well, this amendment will fix that because the FDA says it should never be practiced, period. Condoms weren't invented for that. So here's an opportunity for the Body to tell the Department of Education to provide medically accurate information.

"The program also fails to teach about human reproduction. This amendment will fix that. This amendment will say when you talk about sex education, you need to talk about the miracle of life, that nine months, what takes place. This amendment will tell the department that when you talk about sex education, you must involve the critical biological functions that take place and how the child is developed.

"As I said, we have a statute that says medically accurate and age appropriate. This will affirm our belief that the anus is not a genitalia, number one. The amendment makes that change. It will say the information must be medically accurate, which it's not. Mr. Speaker, by the way, just a side bar, I'd like to insert comments into the Journal.

"It must teach human reproduction, and this amendment will add language that, when you talk to 11-year-old children, you do not make any statement or implication that it is permissible to engage in sexual activity before the age of 14. You see, we reaffirm that in this amendment, Mr. Speaker, because that's the current law. In fact, what the department is telling the students is that it's their decision, at 11 years old. And this amendment will tell them that it's not their decision. In fact, with all this talk about anal sex, and sex before 13 and 14, there's no predatory admonitions, and this amendment will fix that as well.

"Mr. Speaker, I could go on for days but it's early and we have a lot of work ahead of us. I thank you for your indulgence in letting me drift a little bit. I appreciate that. At the appropriate time I would like to ask for a roll call on this Pono Choices amendment. Thank you."

Representative McDermott's written remarks are as follows:

"I wish to note that I have heard the concerns of many parents in the community. The Hawaii Department of Education has chosen to address the issue through a Pono Choices working group. The group has met three times, but in secret. I have also been informed that working group members were asked to sign non-disclosure agreements.

"Parents want an open process, with full discussion in the light of day.

"I am concerned about the makeup of the working group, to the extent that it is chaired by the Deputy Superintendent, and includes a participant

in one of the Pono Choices videos. There is a conflict of interest there. There are also some outspoken, politically active individuals, both left and right-leaning, in the group. The left-leaning folks outnumber the right-leaning ones. Am I saying that I want more right-leaning folks on the panel? No, I don't think that actually advances productivity. I actually believe that the administration should scrap the panel, and start over by installing a new working group with four doctors—one gynecologist, one pediatrician, one epidemiologist, and one proctologist—and nine parents. None of the participants should have any known overt political activities or views.

"The DOE seems to forget that it works for parents. I have received correspondence from the Superintendent, indicating the DOE's reluctance to do anything. She passed any responsibility for revision of the curriculum to the University of Hawaii, since the University owns the curriculum through copyright. So even if the current working group were to recommend changes, it appears that the DOE is willing to use a faulty program. It forgets that the University of Hawaii is owned by the taxpayers, and that the taxpayers really own the copyright.

"We want our kids to be safe. That includes being safe from risky or dangerous behavior. Among the information omitted from this program the real danger of HIV transmission via anal sex. Statistics from the Centers for Disease Control and Prevention show that male-to-male anal sex accounts for well over 50 percent of all new HIV cases in the United States, even though homosexuals comprise no more than 3 percent to 4 percent of the United States population. This grossly disproportionate risk is not even mentioned in Pono Choices, which is a program that implies that anal sex is an appropriate sexual practice.

"There is no excuse for telling children about risky behavior, yet also failing to disclose the risks of that same risky behavior. There is no justification for the curriculum in its current form.

"To further preserve this discussion, I am enclosing a copy of my 'McDermott Report', which I released earlier this year."

Representative McDermott also submitted the following:

**THE McDERMOTT REPORT**  
**The "Pono Choices" Curriculum: Sexualizing the Innocent**

January 31, 2014



**Bob McDermott, Hawaii State Representative**  
**(40th District – Ewa, Ewa Beach, Ewa Gentry, Iroquois Point)**



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### 1.0 - Executive Summary

Pono Choices is a sexual education curriculum currently taught in at least twelve Hawaii public schools,<sup>1</sup> and is designed for youth aged 11 to 13.<sup>2</sup> A review and analysis reveals that Pono Choices:

- Is a top-down, federally-dictated program and not an organic, community-developed curriculum—in spite of the name "Pono Choices".
- Is medically inaccurate regarding basic human anatomy.
- Normalizes anal sex, while failing to warn students of the extreme dangers of anal sex, even when condoms are used.
- References multiple sex partners, while failing to inform students about the health benefits of monogamy.
- Fails to warn students about the relative ineffectiveness of condoms against HPV and herpes.
- Fails to educate students on the stages of human reproduction.
- Fails to fully inform parents about the controversial aspects of the curriculum.
- Is contrary to state law and policies regarding abstinence-based sexual education.
- Is not age-appropriate for its intended students.
- Treats sexual activity before the age of fourteen as a viable "choice", in spite of state sexual assault law.
- The failures of the program stem largely from an ideological bias that naturally results from the involvement of the sources responsible for developing the program.

Given the various problems with the curriculum, Governor Neil Abercrombie, the state Board of Education (BOE), and the state Department of Education (DOE) should take steps to discontinue or reform Pono Choices. Regardless of how governmental bodies respond, however, parents should continue to take initiative regarding their children's educational and emotional needs, and have direct, one-on-one conversations regarding sexual information.

#### 1.1 - Rep. McDermott's Summation

Pono Choices, intended for young impressionable children, is clearly not age appropriate; it is inconsistent with state statutes and policies. Any talk of anal sex—which the curriculum does frequently—is instinctively repulsive for pre-pubescent children. Additionally, calling the anus a genital—as Pono Choices does—is just plain medically wrong. Redefining the term to suit the authors' preferences is inappropriate. The curriculum's definition of oral sex is also not consistent with the definition commonly found in medical literature. Further, the data on condom use and effectiveness is inaccurate with regard to HPV, herpes, and HIV; the curriculum also utterly ignores the Federal Drug Administration's warning regarding the astounding risks of condom use when engaging in anal sex.

This curriculum is presented to the students under the guise of STD prevention. Yet Pono Choices—whether by negligence or willful omission—fails to inform children of the exponentially increased risks of male on male anal sex. Such omission renders the entire document questionable at best and agenda-driven social engineering at worst.

The lessons depart from community norms by equating various sex acts. Under Pono Choices, oral, vaginal, and anal sex all have the same value and import—no meaningful distinction is made, contrary to reality. This is compounded by the wanton, disproportionately high number of fictional scenarios featuring homosexual characters—in spite of the fact that homosexuals are a strikingly small part of the population. "Gender ambiguous" fictional scenarios only aggravate this problem.

The term "abstinence based" is a misnomer for this program. While abstinence is covered, it is not the central message of the curriculum—which gives a mixed message on what is "Pono". The parental opt-out forms are woefully inadequate; they lack clarity and transparency by concealing some controversial aspects of the material.

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As a father of eight, I have reviewed this material—every page. If parents knew what was in it, and how it was presented, they would not walk away—they would run away. This material should be pulled from the schools now. Continued use of this curriculum could put the school system in legal peril, as students may detrimentally rely on the information contained therein.

Therefore, I have prepared the attached report. Extensive footnotes are included, and they confirm that my objections to the curriculum are based on the facts and the law.

Sincerely,



Bob McDermott  
State Representative

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### 2.0 - Relevant Hawaii Policies and Law

We made our analysis of the Pono Choices curriculum in light of policies, a regulation, and statutory laws, which we quote below. Further, on May 7, 2012, Superintendent of Education Kathryn S. Matayoshi issued a memorandum to DOE superintendents and teachers, reminding them of their need to follow BOE Policy 2110 and HRS §321-11.1, which address sex education. We are also including that letter as an attachment to this report.

#### 2.1 - Board of Education Policies

BOE Policy No. 2110, "ABSTINENCE-BASED EDUCATION POLICY", in place since September 1995, states in full:

In order to help students make decisions that promote healthy behaviors, the Department of Education shall instruct students that abstinence from sexual intercourse is the surest and most responsible way to prevent unintended pregnancies, sexually transmitted diseases such as HIV/AIDS, and consequent emotional distress. The abstinence-based education program shall:

- a. support abstinence from sexual intercourse and provide skill development to continue abstinence;
- b. help youth who have had sexual intercourse to abstain from further sexual intercourse until an appropriate time; and
- c. provide youth with information on and skill development in the use of protective devices and methods for the purpose of preventing sexually transmitted diseases and pregnancy.<sup>3</sup>

BOE Policy No. 2245, "PROPHYLACTICS IN THE PUBLIC SCHOOLS POLICY", in place since November 1994, states in full:

The Board of Education is committed to the health education of our students which may include, within its study of human reproduction, a discussion of birth control devices but the distribution of condoms and other prophylactic devices to students shall be prohibited in the classroom, on the school campus or at any school-related activities.<sup>4</sup>

#### 2.2 - Department of Education Regulation

DOE Regulation No. 2210.1 does not address sex education, but it does discuss controversial issues. It states in full:

DOE Regulation #2210.1 requires instructional staff or administration to notify parents or legal guardians of controversial issues that will be discussed in the classroom or through other school activities. This notification may be done through a general letter about the lesson or activity. Parents or legal guardians may also, on their own volition, write a letter to the school administrators or a teacher to have their child excluded from a specific lesson or activity. If such a letter is received, the student must be provided with an alternative learning activity. The parents or legal guardians have an obligation to notify the school administrator or teacher prior to the lesson or activity.

If parents and legal guardians receive notification from instructional staff or administration of controversial issues to be discussed in the classroom or through other school activities, that notification will include an area for the parent/legal guardian to sign in order to exclude their child from the event, instruction or activity. This signed opt-out must be sent even if the parent/legal guardian had previously written a letter to exclude the student from a specific lesson or activity.<sup>5</sup>

#### 2.3 - Hawaii Revised Statutes on Sex Education

Since 2009, Section 321-11.1 of the Hawaii Revised Statutes (HRS) has stated in full:

**Medically accurate sexuality health education.** (a) Sexuality health education programs funded by the State shall provide medically accurate and factual information that is age appropriate and includes education on abstinence, contraception, and methods of disease prevention to prevent unintended pregnancy and sexually transmitted disease, including human immunodeficiency virus.  
 (b) For the purposes of this section:

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"Age appropriate" means suitable to a particular age or age group based on developing cognitive, emotional, and behavioral capacity typical for that age or age group.  
 "Factual information" means medical, psychiatric, psychological, empirical, or statistical information that is verified or supported by research conducted by recognized medical, psychiatric, psychological, and public health professionals or organizations.  
 "Medically accurate" means verified or supported by research conducted in compliance with accepted scientific methods and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.  
 "Sexuality health education" means education in any medium regarding human development and sexuality, including education on pregnancy, family planning, and sexually transmitted diseases.<sup>9</sup>

**2.4 - Hawaii Revised Statutes on Sexual Assault**

In light of the above requirement that sexuality health education be "age appropriate", we find it also relevant to cite sexual assault law. HRS Section 707-730 states in full:

**Sexual assault in the first degree**  
 (1) A person commits the offense of sexual assault in the first degree if  
 (a) The person knowingly subjects another person to an act of sexual penetration by strong compulsion;  
 (b) The person knowingly engages in sexual penetration with another person who is less than fourteen years old;  
 (c) The person knowingly engages in sexual penetration with a person who is at least fourteen years old but less than sixteen years old, provided that:  
 (i) The person is not less than five years older than the minor; and  
 (ii) The person is not legally married to the minor;  
 (d) The person knowingly subjects to sexual penetration another person who is mentally defective; or  
 (e) The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless as a result of the influence of a substance that the actor knowingly caused to be administered to the other person without the other person's consent.  
 Paragraphs (b) and (c) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices.  
 (2) Sexual assault in the first degree is a class A felony.<sup>7</sup>

**2.5 - Why Policies and Laws Matter**

Laws and policies set standards regarding how and what their children will learn in school. Parents have every right to rely on the DOE to follow these standards. When DOE curriculum fails to do so, the State violates the faith and trust of Hawaii's parents.

As we will show, Pono Choices violates BOE policies, as it can hardly be described as abstinence-based. The curriculum also speaks of condom use *outside of* (not *within*) a true study of human reproduction. Pono Choices violates the sexuality education law, as an honest review of the curriculum will show that it is not medically accurate, and is not age appropriate for its target audience. Perhaps most strikingly, the authors of Pono Choices wrote the curriculum in a moral and legal vacuum with respect to sexual assault law: It improperly leaves it "up to the children" on the propriety of making sexual decisions. Worse, the letters of notice to parents regarding Pono Choices are vague regarding some controversial issues within the curriculum.

**3.0 - Medically Inaccurate**

**3.1 - Mischaracterization of the Human Anus**

The Pono Choices program defines the word "genitals" to include the anus,<sup>8</sup> and the term "oral sex" to include "mouth on genitalia", with the anus included among "genitalia".<sup>9</sup>  
 The anus, however, is not a genital. The anus has no role in human reproduction. A simple search on WebMD.com reveals an article that plainly states that the anus was designed for feces, and that it lacks the natural lubrication for intercourse.<sup>10</sup> Further, physician John R. Diggs, Jr. has noted the following about anal intercourse:

[H]uman physiology makes it clear that the body was not designed to accommodate this activity. The rectum is significantly different from the vagina with regard to suitability for penetration by a penis. The vagina has natural lubricants and is supported by a network of muscles. It is composed of a mucus membrane with a multi-layer stratified squamous epithelium that allows it to endure friction without damage and to resist the immunological actions caused by semen and sperm. In comparison, the anus is a delicate mechanism of small muscles that comprise an "exit-only" passage. With repeated trauma, friction and stretching, the sphincter loses its tone and its ability to maintain a tight seal. Consequently, anal intercourse leads to leakage of fecal material that can easily become chronic.<sup>11</sup>

**3.2 - Overemphasis on Alternative Lifestyles and Sexual Behaviors**

At various parts of the Pono Choices curriculum, students are instructed to consider and evaluate various ethical scenarios between different individuals.

In the module on "The Role of Communication in Healthy Relationships", four ethical scenarios are presented—three couples are heterosexual, while one couple is homosexual. The first two heterosexual scenarios end with a negative outcome. The homosexual scenario, however, is described in the following positive manner, and is described as a "healthy relationship":

Bill and James are just starting a relationship. On Thursday night at Bill's house, they kiss for the first time. The next day, they go to a party together. About an hour after they get there, Bill goes to kiss James. James moves away a bit. Their first kiss was in private, and James isn't sure he wants to "go public" with their relationship yet. Bill asks James if he still feels uncomfortable and James says, "yes." Bill asks James if he wants to leave the party, and James suggests they stay but maybe just have fun with their friends. Together, they go and join a group playing pool in the family room.<sup>12</sup>

Within the same section, the third heterosexual scenario results in a positive outcome, but that scenario is an exact clone of the above homosexual scenario.<sup>13</sup>

In the module on "Maintaining respect in relationships", four written ethical scenarios in this section do not present character names or genders, while two do. One scenario presents a heterosexual couple, Ty and Klara, in a healthy relationship. Another scenario, however, is the following, where "Person A" is speaking:

Person A: KC and Jo, Ryan and Kale, and Jordan and Sam, have all had sex. How bout us? Are you ready to do it? I know I am.<sup>14</sup>

The genders of several of the above names are ambiguous. It is impossible to determine whether any of the three couples are heterosexual or homosexual.

In the module on "Negotiation skills and Role Play", students are instructed to "role play" eight scenarios. Two of the scenarios are pre-scripted. Both of those scenarios are heterosexual, and presented in a negative light. For the remaining six scenarios, students are instructed to write their own scripts, based on information provided. One of these six scenarios describes the following:

Carla and her partner Sara have been secretly dating for 7 months because they don't want people at school to bully them for being lesbians. Carla doesn't want to have sex because she is very focused on her goal of getting a full-scholarship for soccer. Sara has been telling Carla that they don't have to worry about anything if they have sex, because they can't get pregnant. Carla and Sara are eating lunch outside together.<sup>15</sup>

According to a 2011 report from the Centers for Disease Control and Prevention (CDC), however, the percentage of individuals reporting their sexual identity as homosexual ranged from 1.5% to 4.2% for males, and 0.9% to 1.8% for females. The percentage reporting their sexual identity as bisexual ranged between 0.7% and 2.6% for males, and 1.5% to 4.9% for females.<sup>16</sup> These figures show that same-sex relationships are an anomaly among the general population.

Given the frequency, however, of romantic interactions in Pono Choice between same-sex couples, and between individuals of ambiguous gender, one might be under the impression that *homosexuality and lesbianism are quite common*.

**3.3 - Equivalence of Different Types of Intercourse**

The concept that male/female copulation is a remarkably different form of behavior from same-sex behavior appears nowhere. Penile-to-vaginal intercourse is consistently equated with anal sex and oral sex, at least fifteen times throughout the entire curriculum. For example, instructors are informed to state the following to students:

When we talk about STI transmission it's important for everyone to remember our definition of sex, which is:  
 • Vaginal Sex is when the penis enters the vagina.  
 • Anal Sex is when the penis enters the anus.  
 • Oral Sex is when the mouth is on the genitals.<sup>17</sup>

In the module on "Preventing Sexually Transmitted Infections", students are instructed to estimate the relative risk of HIV transmission for numerous varied activities, from hugging to anal sex. Both vaginal sex with a condom and anal sex with a condom are rated as low risk activities.<sup>18</sup> Unprotected vaginal sex is rated as high risk activity.<sup>19</sup> The risk level of anal sex without a condom, however, is not addressed.

Yet the risk of HIV transmission through unprotected anal sex is astronomically high. In 2010, a study of HIV statistics in the *International Journal of Epidemiology* (IME) found the respective risks of HIV transmission through different types of sexual activity.<sup>20</sup> That same year, London's National AIDS Manual Publications—which "exists to support the fight AIDS with independent, accurate, accessible and comprehensive information"<sup>21</sup>—highlighted the most glaring aspect of the IME study: That the risk of HIV transmission from receptive anal sex may be eighteen times greater than during vaginal intercourse.<sup>22</sup>

But even the IME numbers may underestimate the risk of HIV transmission through anal intercourse. In 2010, the New York City warn that the transmission risk for AIDS was thirty times greater than during vaginal intercourse.<sup>23</sup>

Sadly, this risk has greatly affected the health of the male homosexual population, who have a proclivity to engage in anal sex, far greater than the heterosexual population.<sup>24</sup> Further, according to the CDC:

Gay, bisexual, and other men who have sex with men (MSM) represent approximately 2% of the United States population, yet are the population most severely affected by HIV. In 2010, young MSM (aged 13-24 years) accounted for 72% of new HIV infections among all persons aged 13 to 24, and 30% of new infections among all MSM. At the end of 2010, an estimated 489,121 (56%) persons living with an HIV diagnosis in the United States were MSM or MSM-IDU [MSM-injection drug use].<sup>25</sup>

If we turn our focus to diagnoses of HIV infections among males aged 13 to 24, we find that, according to 2011 CDC statistics, male-to-male sexual contact (without any injection drug use) accounted for 90.8% of all HIV diagnoses for males aged 20-24, and 92.8% of all HIV diagnoses for males aged 13-19.<sup>26</sup>

Homosexual men have had to sacrifice much just to stay alive. A 1997 study estimated the life expectancy of gay men in Vancouver, Canada. The authors of the study found that men in general could expect to live, on average, up to 74.3 years. Gay men, on the other hand, could expect to live, on average, only up to 54 to 66.3 years.<sup>27</sup>

More recently, a 2013 study reported that among all carriers of HIV, the average life expectancy was 62.7 years. Further, gay men who are HIV positive can live an average of up to 77.3 years—about the same as the general male population.<sup>28</sup> However, even this news must be placed in context.

First, this increased longevity comes at a high price, as HIV treatments have alarming annual costs. Costs of HIV treatment (in 2010 dollars) average \$23,000 a year, and about \$379,668 over a person's lifetime.<sup>29</sup> Second, not everyone who has HIV receives treatment in time. The CDC reports that 1 out of every 4 people who contract HIV are diagnosed late—meaning that they are diagnosed stage-3 HIV infection—AIDS—within 3 months after HIV diagnosis.<sup>30</sup> Once a patient progresses from HIV to AIDS, that person's days are numbered. Late diagnosis can decrease life expectancy by 10 to 30 years.<sup>31</sup> The fact remains: When you play with HIV, you are playing Russian roulette.

Pono Choices also fails to discuss anal cancer. Based on a 2004 study, 88% of all anal cancer was directly tied to human papillomavirus, a sexually transmitted disease.<sup>32</sup> That same study also reported:

[M]en who were not exclusively heterosexual were at increased risk of anal cancer. In this study, nearly half of the men with anal cancer (47.1%) were not exclusively heterosexual, compared with 6.0% of male controls.<sup>33</sup>

According to the National Cancer Institute, only 65.6% of people diagnosed with anal cancer live five years or more after a diagnosis of the cancer.<sup>34</sup>

Pono Choices also fails to warn about the dangers of oral-to-anal sex. As Dr. Diggs notes, however:

"Rimming" is the street name given to oral-anal contact. It is because of this practice that intestinal parasites ordinarily found in the tropics are encountered in the bodies of American gay men. Combined with anal intercourse and other homosexual practices, "rimming" provides a rich opportunity for a variety of infections.<sup>35</sup>

One of these parasites may very well be *Entamoeba histolytica*, which causes Amebiasis.<sup>36</sup> As another source warns:

Amebiasis is transmitted primarily by the fecal-oral route, most commonly from contaminated drinking water or by unsanitary food handling. *E. histolytica* is often found in the stool of homosexual men and is the most common intestinal parasite seen in gay communities throughout the world. Sexual behavior such as analingus or fellatio after anal-genital intercourse can lead to infection.<sup>37</sup>

If the authors of Pono Choices wanted to make a medically accurate representation of sexual behaviors, they would have chronicled the increased dangers of anal sex. By withholding information on such a risk—while simultaneously normalizing anal sex and homosexual behavior—the curriculum fails the very students it is intended to help. This is either the result of gross negligence or agenda-driven, willful omission. We have every reason to believe that it is the latter: Given the sheer plethora of medical information available from reliable sources, the designers of the curriculum should have known better than to shortchange Hawaii students.

**3.4 - Condom Ineffectiveness against HPV and HSV not Addressed**

Pono Choices cautions students about the existence of human papillomavirus and herpes, which cannot be cured.<sup>38</sup> The curriculum, however, fails to mention that condoms are not effective against those sexually transmitted diseases. As Dr. Ricki Pollycove, an obstetrician and gynecologist, reported in January of last year:

Unfortunately, condoms do not do an adequate job of protecting against human papilloma or herpes simplex virus infections. Women diagnosed with HPV are often mystified and frustrated, having been "super careful," or picky, in choosing intimate partners and faithfully using condoms for intercourse.

But UCSF researchers have shown these viruses to be present on genital skin with no symptoms that might prompt diagnosis and treatment. That means HPV and HSV can be deposited on the condom's outer surface from viral particles living on the scrotum, penis shaft not covered by the condom or vaginal/vulvar tissues.<sup>39</sup>

Further, as noted above, Pono Choices describes anal sex with a condom as a "low risk" activity. As it stands, however, the Federal Drug Administration's current policy on the infection risk of anal sex with a condom is as follows, as stated on the FDA website:

Are condoms strong enough for anal intercourse? The Surgeon General (C. Everett Koop, Surgeon General 1982-1989) has said, "Condoms provide some protection, but anal intercourse is simply too dangerous to practice". Condoms may be more likely to break during anal intercourse than during other types of sex because of the greater amount of friction and other stresses involved. Even if the condom doesn't break, anal intercourse is very risky because it can cause tissue in the rectum to tear and bleed. These tears allow disease germs to pass more easily from one partner to the other.<sup>40</sup>

If the FDA still deems anal intercourse "simply too dangerous to practice", even with condoms, how can Pono Choices teach differently?

**3.5 - Monogamy**

While students are informed that "limiting the number of sexual partners a person has can greatly reduce their risk of getting an STI [sexually transmitted infection]", the concept of monogamy is not discussed.<sup>41</sup> Yet the health benefits of monogamy are noted on the CDC website, which states:

Mutual monogamy means that you agree to be sexually active with only one person, who has agreed to be sexually active only with you. Being in a long-term mutually monogamous relationship with an uninfected partner is one of the most reliable ways to avoid STDs. But you must both be certain you are not infected with STDs. It is important to have an open and honest conversation with your partner.<sup>42</sup>

Further, as psychiatrist Miriam Grossman has noted:

The ideal is for two people to delay sexual behavior and then remain in a monogamous union. Students must understand that the closer they can get to that ideal, the lower their risk of any STDs.<sup>43</sup>

How long should they delay sexual behavior? Dr. Grossman asserts:

We must make teens understand that sex is a very serious matter and that a single encounter can change their lives forever. Our message must be consistent and firm: the only responsible choice is to delay sexual behavior until adulthood. We must provide students with an ideal to strive for, one that offers them the healthiest option physically and emotionally. The healthiest ideal is to postpone sexual activity until adulthood, and, ideally, until marriage. Of course, students must be told, it's not easily achieved. You, or some of your peers, might make mistakes. But just as in other areas of education, where the ideal is presented as the point of excellence towards which we encourage young people to strive, the same holds true with our sexual activity and choices. Keeping the ideal in front of young people and supporting them in achieving this should be the first priority of sexual education programs.<sup>44</sup>

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**3.6 - The Stages of Reproduction – Markedly Absent**

Perhaps most notably, this sexual education curriculum places little emphasis on human reproduction. Students do receive information about sperm, the human egg, fertilization, and pregnancy. Other terms regarding reproduction, however, are noticeably absent. A student relying on this curriculum would be able to understand anal and oral sex, but would not be able to identify the length of the standard human gestation period, nor be able to define what a gestation period is. After reading the Pono Choices curriculum packet that we received from the University of Hawaii, we scanned the entire packet into a computer, and created a searchable PDF file. We created the list below, to identify the frequency of terms used (and not used) throughout the curriculum:

| Occurrences of Terms in Pono Choices |     |
|--------------------------------------|-----|
| Pregnancy or Pregnant                | 275 |
| Vagina or Vaginal                    | 90  |
| Sperm or Spermicide                  | 59  |
| Penis or Penile                      | 49  |
| Egg                                  | 44  |
| Anal or Anus                         | 37  |
| Breast or Breastfeeding              | 17  |
| Fallopian                            | 5   |
| Cervix                               | 3   |
| Zygote                               | 0   |
| Blastocyst                           | 0   |
| Embryo                               | 0   |
| Fetus                                | 0   |
| Umbilical                            | 0   |
| Gestation                            | 0   |

**4.0 - Not Age Appropriate**

The term "age appropriate", under its definition in the current statute, should have been a signal to the Pono Choices authors to proceed with extreme caution when writing for middle school students. The curriculum, however, never makes any attempt to explain or justify why children as young as the age of eleven need to openly discuss homosexual relationships, or why they need to learn about anal sex, which are, at best, extraordinarily uncommon behaviors among young children. The authors of the curriculum apparently believe that sexual activity among these young children is frequent.

**4.1 - Sexually Active 11 Year-Olds?**

According to 2011 DHHS statistics, only 6% of American children engaged in sex before age 13.<sup>45</sup> Further, the same statistics show that only 5% of Hawaii children had sex before age 13.<sup>46</sup> We can conclude that sexual behavior among 11 year-olds, especially in Hawaii, is an anomaly. According to a 2011 CDC report, only 7.0% of 15 year-old girls and only 2.8% of 15 year-old boys have engaged in opposite-sex anal sex. (The same report did not categorize the different sexual activities between same-sex couples.)<sup>47</sup> Based on these numbers, we can also say that anal sex among 11 to 13 year-olds (outside of sexual abuse) is infinitesimally small. As we noted previously, "age appropriate" sex education curriculum, by law, must be "suitable to a particular age or age group based on developing cognitive, emotional, and behavioral capacity typical for that age or age group" (emphasis added).<sup>48</sup> Treating all Hawaii 11 year-olds as if they are part of that small 5% runs contrary to this standard.

**4.2 - Legal Ramifications For Children Are Ignored**

In Pono Choices, the decision to have sex is ultimately left up to the student, as if in a moral vacuum. For example, instructors are informed to tell the students:

Make Pono Choices! You can use many of these [STI] prevention methods, whether you choose abstinence, or choose to have sex. Take responsibility for your sexual health.<sup>49</sup>

Such instructions are nonsense. As we have seen, under HRS Section 707-730(b), a person commits the offense of *sexual assault in the first degree* if "the person knowingly engages in sexual penetration with another person who is less than fourteen years old".<sup>50</sup> The consent of the minor is not a defense. The language of the statute makes it plain that the legislature has already made a policy determination that children under the age of fourteen lack the legal ability to make a "choice" regarding whether or not to engage in sexual activity.

Yet, Pono Choices fails to warn students that underage sexual intercourse is contrary to law. Worse, in the ethical scenarios presented throughout the curriculum, the ages of the characters are unknown. Overt, adult sexual predators of children exist in the world, yet children are not warned about them, in spite of the need to fight against such predators, as expressed in sexual assault law.

Further, based on the advice in the curriculum, children could easily conclude that it is "pono" for an 11 year-old girl to receive sexual intercourse from a 13 year-old boy, so long as they both freely "choose" to have sex and use a condom. We personally know, however, more than a few parents who would not hesitate to press charges against any such boy.

Yet, while endangering the physical or mental welfare of a child is a criminal act under HRS Section 709-904 (2), conviction of a Pono Choices teacher would be difficult, since a defendant must "knowingly" endanger the child's welfare.<sup>51</sup> A teacher would argue that he or she has a defense, claiming that he or she reasonably relied upon administrators and professors to follow the law in designing the curriculum. And even if one could argue that the teacher's instruction somehow made the State vicariously liable for sexual assault, the State could argue it has immunity under HRS Section 662-15(4).<sup>52</sup> The State and its teachers, therefore, might rest easy regarding legal consequences. Lucky them? Perhaps not. As we are not legal counsel for the State or its teachers, we cannot and

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should not guarantee that the State or its employees would be free of legal peril. Therefore, state employees may wish to consult with their own attorneys regarding legal liability.

**4.3 - Girls are not Physically Ready for Sexual Activity**

Pono Choices also fails to warn young girls that they are not physically ready for sex. As Dr. Grossman has noted:

Overlooked is the fact that girls have unique biological sensitivities that increase their vulnerability to the negative consequences of sexual activity. For example, the adolescent cervix is a way biology tells girls to wait to become sexually active. It's immature and vulnerable to infection due to a delicate area called the transformation zone. The T-zone is covered by only one layer of cells, so bacteria and viruses, especially HPV, can take up residence with ease. With time, the T-zone is replaced by many layers of cells that are more difficult to penetrate, making infection less likely.<sup>53</sup>

**4.4 - Parents Kept Out of the Conversation**

As noted above, one of the role-playing scenarios in Pono Choices involves two lesbians who are afraid of bullying. While no student should suffer bullying under any circumstance, implicit endorsement of homosexuality could swing the pendulum too far the other way. As columnist—and psychologist—Charles Krauthammer has commented:

You are liberal. You strongly favor gay rights. You also have young children. Are you indifferent to their ultimate sexual orientation, or do you wish them to grow up to be heterosexual? . . . It is one thing to teach children that homosexuals must be treated with respect. It is quite another to teach that there is no difference between homosexual and heterosexual life.<sup>54</sup>

The Pono Choices program includes a "Parent Night". This, among other matters, does disclose to parents that demonstration of condom use is involved in Pono Choices.<sup>55</sup> However, the materials on homosexual relations are notably absent. Parents have the right to make moral decisions regarding the raising of their children, and they cannot make an informed choice on Pono Choices without full and accurate disclosure.

**4.5 - "Age Appropriate" Pono Choices Does Not Treat Children As Individuals**

So what is the "right age" for kids to learn about sex education? The simplest answer may be the best, as noted on the American Academy of Child Adolescent Psychiatry website:

Talking about sex may be uncomfortable for both parents and children. Parents should respond to the needs and curiosity level of their individual child, offering no more or less information than their child is asking for and is able to understand. Children have different levels of curiosity and understanding depending upon their age and level of maturity. As children grow older, they will often ask for more details about sex.<sup>56</sup>

In other words, the best sex education should best address the unique needs of each individual child, with constant parental involvement. (And if parents cannot be involved, we encourage aunts, uncles, clergy, physicians or trained school nurses to be involved.) Instead, Pono Choices fails: it treats kids with a broad brush, and assumes they are all ready to learn about advanced concepts of sexuality...without full disclosure of the negative consequences.



**5.0 - The Root of the Problem**

**5.1 - Input Bias**

The University of Hawaii designed Pono Choices, and claims its copyright.<sup>57</sup> Planned Parenthood is a Pono Choices "project partner", which means that its staff "is heavily involved with the creation of medically accurate reproductive and sexual health lessons, training of teachers and providing technical assistance on the curriculum."<sup>58</sup> On the Pono Choices website, Advocates for Youth is officially listed as a "resource."<sup>59</sup>

We note that in response to the 2013 Special Legislative Session, supporters for same-sex marriage included both the University of Hawaii Professional Assembly<sup>60</sup> and Planned Parenthood.<sup>61</sup> Advocates for Youth has also expressed support for same-sex marriage.<sup>62</sup> On the other hand, no opponent organizations of same-sex marriage are listed as authors, partners, or resources for the curriculum.

Planned Parenthood has actively played a part in condom distribution at American schools,<sup>63</sup> and has opposed parental notification laws regarding abortion.<sup>64</sup> Surprisingly, Dr. Monica Cullins, a Vice President for Medical Affairs, Planned Parenthood Federation of America, announced this falsity via an official video: "Expect to get HPV once you become sexually intimate. All of us get it."<sup>65</sup> Not surprisingly, the organization's now-defunct Teenwire.com website also misleadingly deemed "anal intercourse with a latex or female condom" as a "low risk" activity.<sup>66</sup> On the other hand, no organizations with a socially conservative perspective on these issues were participants in creating the curriculum.

**5.2 - Federal Funding**

The State receives \$969,936 in funding from the United States Department of Health and Human Services (DHHS) for the program.<sup>67</sup> Hawaii—like all states—is concerned about budgetary matters. If the state were to employ an outright abstinence-only program, the State would need to fund 43% of the costs (and the federal government would provide 57%).<sup>68</sup> On the other hand, the State faces the temptation of added federal funding for "comprehensive sexual education"—which does not require any emphasis on abstinence.<sup>69</sup> Thus, the State faces the conundrum between complying with state BOE bylaws, state statutes, and federal funding requirements. The result is the mixed-message "Pono Choices".

While all state agencies should be concerned about fiscal responsibility, however, the State cannot automatically approve "rubber stamp" a one-size fits all model into Hawaii schools.

**6.0 - Conclusion: Addressing the Problem**

As we have seen, Pono Choices is factually misleading, medically inaccurate, and inappropriate for young children. It presents homosexual behavior as the equivalent of male-to-female relationships, while failing to mention the increased health risks of male-to-male homosexual behavior, and the ineffectiveness of condoms against HPV and herpes. While positive portions of "Pono Choices" make informative references to natural changes during puberty and teach respect for others, an ideological bias nonetheless taints and pollutes the remainder of the program. Most ironically, this sexual education curriculum fails to inform students about the stages of human reproduction.

The material in the program treats all sexual behavior as the same. The State of Hawaii does a disservice to students by equating various sexual behaviors as equal when—medically speaking—they are not. It is outrageous that anal intercourse is presented as a normal and wholesome activity on par with standard vaginal intercourse. The medical evidence unambiguously identifies this as an unhealthy behavior at best and lethal at worst. Worst of all, the curriculum fails to meet the standards established by sex education policy and law, and is written in reckless disregard of sexual assault law.

**6.1 - How the State Can Address the Problem**

Rep. McDermott spent forty-five days attempting to acquire a complete copy of Pono Choices—which is a public document, funded by taxpayer funds. We finally obtained a complete copy on January 3, 2014 from the University of Hawaii. We submit that the DOE's refusal to release the document resulted from that department's belief that the curriculum could not withstand the "smell test" of public scrutiny.

The Abercrombie administration should immediately pull the curriculum, since the offending material detracts from an otherwise helpful document. If it is not significantly revised, it should not return to public schools. We suggest that:

- **First and foremost, parental input should be key.** All public servants should remember whom they serve. Given the sensitive nature of sexual education, schools should reach out to parents and fully disclose all aspects of the curriculum, and make thorough parental notification letters that allow parents to "opt in" to Pono Choices, rather than "opt out". Most importantly, however, the state should actively seek input from everyday parents regarding the creation and development of the curriculum.
- **The State stop pretending that sexual intercourse is a valid activity for children under 14.** It would be ludicrous to tell underage children that they have a "choice" regarding alcohol or tobacco use. In light of sexual assault law, children should be warned that sexual activity before 14 is legally off-limits.
- **Children need to be warned about sexual predators.** The ethical scenarios presented in the curriculum are unclear regarding characters' ages. The curriculum should make it clear to the 11 to 13 year-old students that it is legally and morally wrong for an adult to try to have sex with them, and that such adults are criminals and predators.
- **The curriculum should focus more on reproduction and the miracle of life.** Sex is a positive thing, in the right context. We all exist as the result of heterosexual intercourse. Sex is enjoyable because humans need the incentive to engage in it, so that we may survive as a species. Yet Pono Choices emphasizes lifestyle choices over the most basic reason for sex.
- **References to alternative forms of sex be eliminated, except to defend against sexual predators.** With a newfound emphasis on reproduction, there would remain little reason to discuss anal and oral sex, which do not share the same functional purpose as vaginal intercourse.
- **Risks should be disclosed.** Students should be informed that condoms are not effective against HPV and HSV. Further, as we have seen, unprotected anal sex is incredibly hazardous, and the FDA even advises that anal sex with a condom should not be practiced. If anal sex is ever mentioned in the curriculum, its true risks regarding infection and disease should be exposed.
- **Discussion of homosexual relationships be left to parents.** In a letter dated November 2013, Rep. Karl Rhoads and Rep. Takumi announced: "Let us be very clear on this: The legislation we passed on marriage

equality does not amend, address, mention or discuss the curriculum in public schools or any other schools."<sup>70</sup> Their letter did not tell the whole story, however: That Pono Choices was already taking a step normalizing homosexuality among children as young as age 11. In an ideologically diverse state like Hawaii, opinions will vary regarding how and when children should be taught about the subject of homosexuality. Parents—whether conservative or liberal—should be presumed to have their own child's best interests in mind on this sensitive topic, and should be the sole determinants of when school employees should inform their children about it. Schools should only depart from this general principle in cases where parents are actually proven to be abusive or negligent toward their children.

- **Abstinence and monogamy be encouraged.** The curriculum rightfully teaches that it is wrong to manipulate another person into having sex. The dangers of sexual intercourse remain even in consensual sexual encounters, however, and this needs more emphasis.
- **Flexibility in sex education may be necessary.** Given the varied needs of Hawaii's children, lawmakers should consider changing the law to clearly allow "abstinence only" curriculum as an alternative for at least some students. One such curriculum is "Heritage Keepers", which qualifies for federal funding.<sup>71</sup>
- **The State review the title "Pono Choices".** The State should consult with a broad range of opinions among Hawaiian laypeople regarding the propriety of the use of the word "pono", which can mean "[g]oodness, uprightness, morality, moral".<sup>72</sup> Given the controversial aspects of the program, the State should consider the possibility that a sizeable number of Hawaiians may disagree with the use of the term.

**6.2 - How Parents Can Address the Problem**

We encourage parents to consider exercising their rights under BOE Policy No. 2210, which states in relevant part:

Parents or legal guardians may...on their own volition, write a letter to the school administrators or a teacher to have their child excluded from a specific lesson or activity. If such a letter is received, the student must be provided with an alternative learning activity.<sup>73</sup>

Most importantly, however, Rep. McDermott encourages all parents to do what many parents are already doing. They are actions that no governor, no BOE board member, no teacher, and no legislator can do: Talk to, love, embrace, and "be there" for your kids. As famed psychologist and Harvard Medical School instructor John Chirban has noted:

[S]udies confirm that the quality and importance of our communications at home strongly influences our children's life and often has far-greater impact than sex ed programs. Parents who discuss sex in a loving and honest way actually decrease the likelihood that their child will engage in sexual activity.<sup>74</sup>

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May 7, 2012

TO: Complex Area Superintendents and Principals

FROM: Kathryn S. Matayoshi, Superintendent

SUBJECT: Medically Accurate "Abstinence-Based" Sexuality Health Education

This memo serves as a reminder to all schools that the Department of Education has followed Board of Education (BOE) Policy 2110, an abstinence-based policy for HIV Prevention Education and Reproductive Health since 1995, and the Hawaii Revised Statute [§321-11.1] regarding medically accurate sexuality health education.

BOE Policy 2110 - Abstinence-Based Education (Approved: 9/95) states:

*In order to help students make decisions that promote healthy behaviors, the Department of Education shall instruct students that abstinence from sexual intercourse is the surest and most responsible way to prevent unintended pregnancies, sexually transmitted diseases such as HIV/AIDS, and consequent emotional distress. The abstinence-based education program shall:*

- support abstinence from sexual intercourse and provide skill development to continue abstinence;
- help youth who have had sexual intercourse to abstain from further sexual intercourse until an appropriate time; and
- provide youth with information on and skill development in the use of protective devices and methods for the purpose of preventing sexually transmitted diseases and pregnancy.

Hawaii Revised Statute [§321-11.1] Medically Accurate Sexuality Health Education states:

- Sexuality health education programs funded by the State shall provide medically accurate and factual information that is age-appropriate and includes education on abstinence, contraception, and methods of disease prevention to prevent unintended pregnancy and sexually transmitted disease, including human immunodeficiency virus.

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- For the purposes of this section:

"Age-appropriate" means suitable to a particular age or age group based on developing cognitive, emotional, and behavioral capacity typical for that age or age group.

"Factual information" means medical, psychiatric, psychological, empirical, or statistical information that is verified or supported by research conducted by recognized medical, psychiatric, psychological, and public health professionals or organizations.

"Medically accurate" means verified or supported by research conducted in compliance with accepted scientific methods and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.

"Sexuality health education" means education in any medium regarding human development and sexuality, including education on pregnancy, family planning, and sexually transmitted diseases.

[LSp 2009, c 27, §2]

The following abstinence-based curricula have been reviewed and evaluated as appropriate resources by the Department of Education:

- *Draw the Line, Respect the Line*, Grades 6<sup>th</sup>-8<sup>th</sup>, ETR Associates, University of California, San Francisco Center for AIDS Prevention Studies, 2003.
- *Family Life and Sexual Health (F.L.A.S.H.)*, Grades 5<sup>th</sup>-12<sup>th</sup>, Seattle & King County, Family Planning Program, Author: Elizabeth Reis, MS, 2005.
- *Healthteacher.com, Grades K - 12<sup>th</sup>*, Development Team: Kathleen Middleton, MS, CHES, Project Director/Instructional Designer; Anita Davis, BSN, MEd; Netha Thacker, Project Editor; Sarah Brown, MEd; Michael Cleary, PhD, CHES; Iris Dorfman; Betty M. Hubbard, EdD, CHES; Cheryl Miller, 1999-2003.
- *Making a Difference (MAD)*, Grades 5<sup>th</sup>-8<sup>th</sup>, Select Media, Authors: Loretta Jemmont, Ph.D., R.N. F.A.A.N.; John Jemmont III, Ph.D.; Konstance McCaffree, Ph.D., C.S.E.
- *Positive Prevention*, American Red Cross, Primary Authors: Kim Robert Clark, Dr., CHES; Christine Janet Ridley, RN, MS; Department of Health, Science and Human Ecology, California State University, San Bernardino, California, 2004.
  - Level A, Grades 6<sup>th</sup>-8<sup>th</sup>
  - Level B, Grades 9<sup>th</sup>-12<sup>th</sup>
  - Special Populations, grades 7<sup>th</sup>-12<sup>th</sup>, Revised 2011
- *Reducing the Risk*, Grades 9<sup>th</sup>-12<sup>th</sup>, ETR Associates, Author: Richard P. Barth, MSW, PhD, 4th Edition 2004.



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The following curricula **do not meet** the Board of Education's policy for Abstinence-Based Education:

- *Making Proud Choices*, Grades 5<sup>th</sup>- 8<sup>th</sup> (provides youth with information and skill development in the use of protective devices and methods for the purpose of preventing sexually transmitted diseases and pregnancy, but provides youth with little emphasis on abstinence), Select Media, Authors: Loretta Sweet Jemmott, Ph.D., R.N., F.A.A.N.; John Jemmott III, Ph.D.; Konstance McCaffree, Ph.D.
- *Try Wait*, Catholic Charities (abstinence-only), New Life Styles, Inc., 2008-2009.

Teachers shall comply with BOE Policy 2110 by using **abstinence-based curricula** in their classroom. If a teacher elects to invite an outside agency into his/her classroom to present an abstinence-only curriculum, he or she must present an abstinence-based curriculum in order to reflect all points of view. These actions will ensure that the teacher is in compliance.

BOE Policy 2210 - Controversial Issues states:

*Student discussion of issues which generate opposing points of view shall be considered a normal part of the learning process in every area of the school program. The depth of the discussion shall be determined by the maturity of the students.*

*Teachers shall refer students to resources reflecting all points of view. Discussions, including contributions made by the teacher or resource person, shall be maintained on an objective, factual basis. Stress shall be placed on learning how to make judgments based on facts.*

Former Code No. 6126  
Former Policy Approved: 1947  
Amended: 7/60, 10/70, 3/88 (renumbered)

If there are any questions, please contact Ms. Donna Ede, Acting Educational Specialist for Health and Physical Education, at 203-5542 or via Lotus Notes.

KSM:DE:pd

c: Assistant Superintendents  
Superintendent's Office Directors  
Charter School Administrative Office  
Office of Curriculum, Instruction and Student Support

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

"Mr. Speaker, in support of the amendment. Mr. Speaker, the reason why I'm supporting the amendment is that this is a reflection of the voices of tens of thousands of parents across the state who want medically accurate information taught to their children, Mr. Speaker. And they don't want anything going into the minds or into the hearts of 11-year-olds across the state, Mr. Speaker, that not only is inappropriate but also inaccurate and untrue.

"Mr. Speaker, the very fact that this information is part of our education system completely baffles me, and that I think it would be extremely appropriate for this Body to take measures to support our parents throughout the state, the thousands who have made their voices and concerns heard in regards to this measure, Mr. Speaker. And that we make sure that the Department of Education is executing the laws that we have passed for them to follow.

"When this Body says, Mr. Speaker, that we expect medically accurate information to be in taught in our schools, it's pretty simple to me, but I think that expectation is very reasonable. And it's very unfortunate that we have to go through a process to underscore, I believe, what they should already know. And this is something that's important for our children, Mr. Speaker, and for the parents across the State of Hawaii who find it very disturbing, the things that are currently being taught in our schools, Mr. Speaker.

"I hope that with the passage of this amendment, that this Body will support and reinforce what our parents, who carry the primary responsibility for the care of the children, who are the future of Hawaii, Mr. Speaker. And this is one way that we can express our support to those parents. For those reasons, Mr. Speaker, I support the amendment."

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

"Mr. Speaker, I rise in support of the amendment. Mr. Speaker, this amendment can serve reconciliation and peacekeeping purposes. Reconciliation for the fact that what we've said and we've codified in law, I think this amendment will do that.

"Secondly, I think it will draw a ceasefire to what otherwise the mama bears are out there very upset with the school system, and there's going to be a constant agitation until we codify that some of these things are not going to be taught. And for those reasons, I think it's going to be better for all students that that be a ceasefire. Thank you, Mr. Speaker."

Representative McDermott rose to respond, stating:

"Mr. Speaker, I think I made a mistake earlier. I said the age of consent was 14, I think it's 16. However, the state statute says, another statute says, that penetration with anyone under 14 is illegal regardless of their consent because we don't allow, this Body has determined previously, we don't allow 12 and 13 and 11-year-olds to make that decision on their own, because they're not psychologically ready for that. So, it is a distinction with a difference. I just want to clarify that. Thank you."

Representative Evans rose to a point of order, stating:

"Thank you, Mr. Speaker. Point of order. I have a question if this floor amendment is a substantial change and it didn't have three hearings in the House, three hearings in the Senate, and if it is actually not following the House rules that you have to have that, and that you're introducing something that's a substantial change? I'd like to have a ruling on that."

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

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

Representative Evans rose, stating:

"Mr. Speaker, I withdraw my question. Thank you."

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

"Thank you very much, Mr. Speaker. In opposition. Yes, it is true that we have codified in statute, because we have dealt with this issue a number of times over the years, as to what should be the content of sex education in our schools. And the statute reads, it's pretty obvious, anybody can read it, that it has to be medically accurate and age appropriate. The department also believes it should be abstinence based, Mr. Speaker. Not just abstinence only, but abstinence based.

"And why do we need this type of education in our schools, Mr. Speaker? Because we do know, according to the Centers for Disease Control and Prevention, 1,700 girls just gave birth last week. Every week in this country, girls 15 through 17 years old give birth. Why? Ignorance. They're not talking to their parents. They're not being properly educated about birth control, and when they do try to use it, they use the least effective methods, such as condoms alone.

"Let me get to the points that are being raised in this floor amendment. First point about the age of consent. According to the Hawaii School Health Survey, the last one done in 2011, they do it every other year, we don't have 2013 numbers, 37 percent of students in high school have had sex, 13 percent have had or engaged in anal sex. When it comes to middle school students, Mr. Speaker, 12 and 13-year-old children, 10 percent have engaged in sex. And I suppose we could codify that into law and say to these children, 'What you're doing is breaking the law. Stop.'

"But you know, Mr. Speaker, it would be very similar to saying to anyone under the age of 21, 'Do not drink. Stop. Just say no.' Well, I have a feeling, Mr. Speaker, that many, many people, maybe some of us sitting on this floor, imbibed in alcohol prior to the legal drinking age. And that's why it's all the more important not to encourage it, but to merely point out what drinking does. Particularly if you are underage, and drive or do things

that are inappropriate and risky. I think it's critical that we engage in that kind of education.

"Second point I want to point out, Mr. Speaker, is the department's opt-out policy. Regulation 2210.1, you can just look it up on the Board of Education website. That policy clearly states that on any controversial topic that a school engages in, and this is one, that parents have the right to opt out.

"And by the way, Mr. Speaker, you don't even have to wait until you get notified from the school. As I mentioned earlier several times on the Floor, that if a parent, if a family believes that they do not want their child to be taught whatever it may be that parent or family deems controversial, that's their choice. That's their decision. That's their value system. All they have to do is notify the school, that if and when this topic that they deem controversial comes up in the curriculum, they want their child out of that classroom. And the department is obligated to provide alternatives to that curriculum. So it's not just simply about sex education or a part of that sex education, but any part of the department's curriculum.

"Last point I'll make, Mr. Speaker, because I don't want to belabor the point, but this floor amendment is premature. The department, as a result of some of the concerns expressed, and by the way let me mention this, in the six schools that currently offer Pono Choices, of the six available approved curriculums for sexuality study, the vast majority of parents who come and watch the presentation of what their children will be exposed to, the vast majority decide they want their child to be educated through Pono Choices. Some parents have opted out, and once again, Mr. Speaker, that's their right.

"But let me just make one last point. The department has convened a working group. They met in February, they are continuing to meet, and they will come up with a public report and recommendations regarding this particular program in the department. That working group is made up of members of the community, parents, health educators, members of the clergy, and members including the Department of Health people.

"I believe, Mr. Speaker, we should allow them to convene, to meet, and to come up with what recommendations they would like to. I do believe if we go down the path of legislatively determining what is medically accurate, what is age appropriate, not just on this particular topic but on anything that is taught in our schools, it's a slippery slope. Thank you."

Representative Wooley rose, stating:

"Thank you, Mr. Speaker. Point of personal privilege. I made an informal request to the Representative from Hawaii Kai previously. I'd like to make a formal request that he not put himself out as speaking for the 'mother bears' in this room. Thank you."

At 10:54 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:56 o'clock a.m.

Representative Fale rose to respond, stating:

"Mr. Speaker, in brief rebuttal. Mr. Speaker, I believe what's medically accurate is pretty clear as when it comes to the definitions that have been laid out by the medical community, Mr. Speaker. And it's very clear that the content of part of the education program that we're putting out is not medically accurate, Mr. Speaker. I would be hard pressed to believe that anybody in this room would believe that the anus, Mr. Speaker, is a sex organ. That's pretty unbelievable. It's pretty amazing. That is amazing, Mr. Speaker, that anybody would believe that that were the case.

"Also, Mr. Speaker, it was stated that parents have the opportunity to opt out. And one of the very interesting things, Mr. Speaker, and that the parent night orientation guide that is given to parents, and that's what's discussed, does not include any of the controversial components of the program that's currently being used. None of it, Mr. Speaker. I find that severely problematic. So when parents look at it, they're like, okay, I'm

okay with that. And then they find out that there's actually something else being taught other than what was actually shared with the parents.

"Mr. Speaker, I would like to submit into the Journal a copy of parent night orientation guide which is currently being shared with parents and being told to parents which is not, just like the definition of the anus, Mr. Speaker, as a sex organ. So it is very clear that it's missing from the parent night orientation guide, that the controversial components are also very misleading, and also absent of the controversial parts that are actually being taught to 11-year-olds in our school, Mr. Speaker.

"So with those reasons, Mr. Speaker, I support the amendment and I think that we shouldn't just arbitrarily allow certain individuals to define what is medically accurate, and what is not medically accurate, Mr. Speaker. I think those lines are very clear, and we should stick with those. So for those reasons, Mr. Speaker, I still support the amendment."

Representative Fale submitted the following:

[Note: Cover only included for reference.  
Please refer to original document for full content.]



# Pono Choices Parent Night

Representative McDermott rose, stating:

"I'd like to call for the vote. And remember, I asked for a roll call vote."

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

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

"Thank you, Mr. Speaker. In opposition to the floor amendment. Mr. Speaker, I welcome the proponent of this floor amendment saying that he'd like to see medically accurate and factual information. This was a statute that was hard fought for by the Women's Legislative Caucus. And we're in agreement, we want medically accurate, factual information. But I think



what the proponents of this measure leave out is that we're talking about sexuality health education.

"As the statute currently is, sexuality health education is more than just the specific sex acts that are mentioned in this floor amendment. In fact, sexuality health education is much broader. It focuses on human development and sexuality. It includes education on pregnancy, family planning and STDs. It is a broader approach to sex education than just the simple discussion of sex acts.

"I think the level of specificity in this amendment that seems to focus perversely on these very specific sex acts misses the point. In all of the curriculum that this Department of Education is looking at."

Representative McDermott rose, stating:

"Point of personal privilege, Mr. Speaker. My amendment, which is a reflection of me, is being called perverse. I'm not perverse. Pono Choices is perverse. That's what this is all about. I take that as an insult, and I'd ask the lady to withdraw it."

At 11:00 o'clock a.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:02 o'clock a.m.

Representative Belatti continued, stating:

"Thank you, Mr. Speaker. I withdraw the term 'perversely.' So the level of specificity in this amendment focus specifically on specific sex acts that I think misses the point of the statute, which talks about broadly educating about medically accurate factual information about sexuality health education.

"As a 'mama tiger' of two young girls, one 8 years old and one 3 years old, who I know are exposed to issues of sex, even in their young lives, I think that it's important that the programs that we are looking at, whether they are Pono Choices or the five other curriculum that the DOE currently has, is that this is a curriculum that broadly looks at human sexuality, that teaches our daughters to have self confidence in themselves and teaches them what are the proper kinds of relationships they should have with their peers, whether they are boys or girls. And that we have confidence instilled in our children to deal with these very real issues that we know, based on the youth based risk surveys, that 37 percent of our children under the age of 18 are having sex. That by the time 5.2 percent of them are 13 years old, they will have engaged in some kind of sexual intercourse.

"We need to protect our children, and I look forward to the conversations of what is medically accurate, what is factual information, when the DOE finishes with their working group report. Thank you, Mr. Speaker."

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

The request of roll call was put to vote by the Chair and upon a show of hands, the request was denied.

The motion that Floor Amendment No. 5, amending S.B. No. 2288, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Belatti and Takumi voting no, and with Representative Cachola being excused.

(Main Motion)

Representative Jordan 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 S.B. No. 2288, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

At 11:05 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2583, SD 1, HD 1  
S.B. No. 2134, SD 1, HD 1  
S.B. No. 2516, SD 2, HD 1  
S.B. No. 2517, SD 2, HD 1  
S.B. No. 2768, SD 2, HD 2  
S.B. No. 2288, SD 2, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1547-14) recommending that S.B. No. 2057, SD 2, 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. 2057, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE NURSING FACILITY SUSTAINABILITY PROGRAM," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1548-14) recommending that S.B. No. 702, SD 2, HD 2 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. 702, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD ABUSE," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1549-14) recommending that S.B. No. 2009, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2009, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in support of SB 2009. The intent of this bill is to provide more funding to our community health centers so they can continue to provide all the necessary services and work they do for our state's population.

"Mr. Speaker, these community health centers are nonprofit, community-based organizations whose purpose and expertise lie in providing quality person-centered health care to underserved populations and regions. They also operate in medically-underserved areas where people have limited access to other health care providers because of geographic and socio-economic barriers. These health centers contribute greatly to the economies and livability of the communities they serve and exist as cost-effective quality health care providers whose care results in healthier patients and decreased use of emergency, specialty and inpatient services.

"The Legislature further finds that community health centers save the health care system \$1,263 per patient per year due to timely, effective care and care management that reduces unnecessary emergency room, inpatient and specialty utilization. This measure does not just benefit the underserved, underinsured, and those completely uninsured. It also

benefits everyone in the state, by lifting some of the stress imposed on our health care system caused by unnecessary utilization of medical services.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to vote in support of SB 2009. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2009, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1550-14) recommending that S.B. No. 1249, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1249, SD 2, HD 1 pass Third Reading, 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 Awana rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1249, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF TRUSTEES," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Hanohano, Oshiro and Say voting no, and with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1551-14) recommending that S.B. No. 2120 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. 2120, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1552-14) recommending that S.B. No. 2118, 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. 2118, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1553-14) recommending that S.B. No. 2249, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2249, SD 1, HD 1 pass Third Reading, 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 Oshiro rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2249, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Carroll voting no, and with Representative Cachola being excused.

At 11:08 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2057, SD 2, HD 1  
S.B. No. 702, SD 2, HD 2  
S.B. No. 2009, SD 2, HD 1  
S.B. No. 1249, SD 2, HD 1  
S.B. No. 2120  
S.B. No. 2118, HD 1  
S.B. No. 2249, SD 1, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1554-14) recommending that S.B. No. 2629, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2629, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I request a ruling on a potential conflict. My wife is a lobbyist. Thank you," and the Chair ruled, "no conflict."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2629, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LOBBYISTS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1555-14) recommending that S.B. No. 2246, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2246, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I ask to be recused from this vote because one of the claimants that would be compensated under this bill is a personal friend of mine, and at Second Reading I asked for a recusal, and was granted it. Thank you."

The Chair addressed Representative Rhoads, stating:

"You are recused."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2246, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES,"

passed Third Reading by a vote of 50 ayes, with Representative Rhoads being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1556-14) recommending that S.B. No. 2634, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2634, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I just need a ruling on a potential conflict. My wife is a lobbyist. Thank you, sir," and the Chair ruled, "no conflict."

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

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

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

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

"Mr. Speaker, I rise with reservations. Let me state and share with the Members why. If you look at the definition of lobbying materials, it states as follows, 'items used for the purpose of lobbying, including letters, reports, posters, pamphlets, brochures, bumper stickers, postcards, videotapes, and audiotapes; provided that this shall exclude written testimony and exhibits for a hearing before a legislative or administrative agency.'

"So obviously, the idea was to carve out an exemption from those previously described items in the legislative process or the administrative hearing. That makes sense, because you want to encourage and not chill anyone's right to petition their government for redress at a public hearing, for them to participate at the legislative hearing process. But the concern I have is that as currently drafted it may have chilled some of our constituents communicating with us, by the definition or inclusion of having letters included in this definition of lobbying material. I don't know if that would mean strictly hard copy letters or would also mean email communications or telephonic communications.

"But it just gives me some concern that it might be so broad and expansive as an interpretation or application by the Ethics Commission, that it would chill the participation of our constituents. So that's my basis of reservations.

"I understand that the Ethics Commission, in speaking to the executive director, is seeking further guidance as they interpret the current law and the current rules in place. But again, I think this might need a little bit more work as it goes through the process. Thank you."

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

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

"Same request, Mr. Speaker. As the Representative from Wahiawa was speaking, the thing I could think about is all of the people that came to this Capitol this session with red shirts. Now is that part of the \$750? Is the airfare from the neighbor islands part of that \$750? So those things haven't been clarified, in my opinion, in that bill yet. So for those reasons, I'm with strong reservations, Mr. Speaker. Thank you."

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

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

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

"Mr. Speaker, I rise in support of this measure. What we need to do is to look at what the legal definition of a lobbyist is, and that is made clear in materials provided by the State Ethics Commission. I will just read it for the edification of Members. 'Who must register as a lobbyist? An individual must register as a lobbyist if the individual is paid or otherwise receives consideration or compensation for his or her lobbying services, whether by fee, retainer, or salary (or portion thereof), and also meets either of the following two criteria: (1) Spends more than \$750 in any reporting period lobbying, or (2) Spends more than 5 hours in any month of any reporting period lobbying.'

"The memo also makes clear that, 'If an individual lobbies but receives no compensation for the lobbying services rendered, the individual is not required to register as a lobbyist.' This legal definition would preclude members of our respective communities who volunteer to monitor the Legislature from any reporting requirements. Thank you very much."

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

"Mr. Speaker, ruling on a conflict. I think my daughter is a lobbyist. Thank you," and the Chair ruled, "no conflict."

Representative Oshiro rose to respond, stating:

"Thank you, Mr. Speaker. Still in reservations. Just for further edification and clarification. I agree with the Majority Leader's recitation of the current law, but what concerns me is based upon a recent telephone conversation I had with the Ethics Commission's Director, Mr. Kondo. According to his interpretation of the current law and rules in place, one need not be compensated to be deemed, quote, unquote, 'a lobbyist', nor spend five hours or more during the applicable time period. Merely spending \$750 in a six-month period involved in the lobbying process would force someone, or compel someone, or require someone, to go and file a disclosure of expenditures and contributions for that endeavor with the Ethics Commission.

"That person may or may not be deemed a lobbyist, but I think the fact that that person would have to submit these documents and provide both expenditures and contributions involved in that activity certainly strikes me as being very close to being a lobbyist or falling under the laws and rules in place. Mr. Kondo and I had a lengthy discussion on the telephone regarding this, because it seems to be a new area where the Ethics Commission is attempting to address right now. Especially when you have more activity coming from unassociated, unaffiliated community groups getting involved.

"It even went to the point, Mr. Speaker, just so everyone understands the extent of the reach of our current law and rules. It even goes to the extent of communicating with one another in the community. Not necessarily with a legislative member or in a public hearing or in an administrative agency, but merely speaking about, at let's say the community meeting on a topic, is enough to trigger the requirement. And that's the concern that I have.

"This bill has an effective date of July 1, 2030, so there's still a chance for us to further refine the law, but as it reads today, I have concerns about how it may chill one's First Amendment right to petition their government for redress. Thank you."

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

"Mr. Speaker, in support. I would just note that the bill before us does not change the definition of lobbyist at all. This is just about what lobbyists have to report. So if there are questions or concerns about what lobbying is or a belief that we need to change the definition of lobbyist, that really wasn't the intent of this bill and it is not addressed here. We're keeping the definition of lobbyist exactly as it was before. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2634, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LOBBYISTS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1557-14) recommending that S.B. No. 1038, SD 2, 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 S.B. No. 1038, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1558-14) recommending that S.B. No. 1065, SD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1065, SD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I'd like to request a ruling on a potential conflict. My husband is a firefighter. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1065, SD 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1562-14) recommending that S.B. No. 2365, SD 2, HD 2 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. 2365, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE CLAIMS," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Tokioka voting no.

At 11:17 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2629, SD 1, HD 1  
S.B. No. 2246, SD 2, HD 2  
S.B. No. 2634, SD 1, HD 2  
S.B. No. 1038, SD 2, HD 2  
S.B. No. 1065, SD 1  
S.B. No. 2365, SD 2, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1563-14) recommending that S.B. No. 3039, SD 2, 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. 3039, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fale and McDermott voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1564-14) recommending that S.B. No. 3099, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3099, SD 1, HD 1 pass Third Reading, 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 Oshiro rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3099, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1565-14) recommending that S.B. No. 1179, SD 1, 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 S.B. No. 1179, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES AND DETAINEES IN CORRECTIONAL FACILITIES," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1567-14) recommending that S.B. No. 2308, 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. 2308, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1569-14) recommending that S.B. No. 2884, SD 2, 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. 2884, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PAROLE," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1570-14) recommending that S.B. No. 3024, SD 2, 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. 3024, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSIENT ACCOMMODATIONS TAX," passed Third Reading by a vote of 51 ayes.

At 11:19 o'clock a.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:19 o'clock a.m.

At 11:20 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 3039, SD 2, HD 1  
 S.B. No. 3099, SD 1, HD 1  
 S.B. No. 1179, SD 1, HD 2  
 S.B. No. 2308, SD 1, HD 1  
 S.B. No. 2884, SD 2, HD 1  
 S.B. No. 3024, SD 2, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1572-14) recommending that S.B. No. 2431, 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. 2431, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1573-14) recommending that S.B. No. 3053, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3053, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, strong support. This is a bill that's about unmanned aerial systems. It's basically advanced technology, that which is technology without a driver or a pilot. Whether it's under the water, above the sea, in the air, on the ground, *et cetera*.

"Mr. Speaker, Hawaii's been honored to be chosen as one of the six test sites in the nation. Basically, as a nation we've decided that we want to integrate UAV's or UAS's into our national air space. That means we're going to have pilots and pilotless airplanes taking off and landing, as an inevitable development of technology. Mr. Speaker, I see this as an inevitable development from the Industrial Revolution to now, where men and machines and machines started making everything, now machines are making machines, and now machines still with man directly, though remotely behind, are now with these transportation mechanisms.

"Mr. Speaker, as we speak, an unmanned submarine is now searching for the Malaysia Flight 370 in the Indian Ocean. Can you imagine people being able to do that, and the expense? These are cost savings and investments that Hawaii, as a test site, are going to make.

"Inevitably, the UPS planes are going to be flying here, probably not too far in the future. FedEx also with pilotless crews. And, Mr. Speaker, some of you have been seeing the Spitting Caves incident where a young man jumped in at China Walls, Spitting Caves. And quite frankly, a UAV could get to that site to sight where he is faster than we can drive one of our rescue fire trucks.

"So, search and rescue, first responders, they're going to be using this a lot. Later on we have a bill regarding red fire ants, finding out where they are, detecting them. There's multiple uses that we are going to be using at this test site. But this bill essentially puts a small appropriation out, so it creates a chief operating officer for this test site, and it has a test site advisory board that's going to watch over this test site, so what they do is closely monitored.

"Mr. Speaker, the bottom line is, this is a billion dollar investment that our nation is going towards. We are one of the first pioneers to do that. And I think for the small amount of money that this bill puts into it, it's a great investment and a great bang for our buck. Thank you, Mr. Speaker."

Representative Fukumoto 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 Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise today with reservations to SB 3053, SD2, HD1. This bill would create approximately 103,776 new jobs by 2025 and will consequently greatly impact the growth of Hawaii's economy. In addition, this bill will support state initiatives such as emergency search and rescue operations, wildfire detection, and hazardous spills monitoring. There are very evident benefits to this bill that will significantly help Hawaii.

"However, I have reservations about potential safety issues. There have been a few reported unmanned aerial systems accidents. For example, on April 25, 2006 an unmanned aircraft crashed in Arizona, because a ground operator accidentally shut off the aircraft's engine. The bill should ensure the safety of the people working with the unmanned aerial systems and around the test site. For these reasons, I support this bill with reservations for SB 3053, SD2, HD1. Thank you, Mr. Speaker."

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

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

"Thank you. Mr. Speaker, I have serious reservations about this. The federal government has established an unmanned surveillance system. We're now going down the same path. I think there should be better protections in it for the privacy of people in our state. Thank you."

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

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

Representative Ward rose to respond, stating:

"Mr. Speaker, not so much a retort or a defense, but just for an explanation. These are not drones, and I know the popular media and what's going on in Afghanistan has unmanned aerial, weaponized planes going here, there and everywhere. Mr. Speaker, that is not what this is about. Right now it is illegal to have any unmanned aerial vehicle other than a model airplane in the State of Hawaii. The federal laws in Congress now are being made as we speak.

"This is something where I feel like I'm talking about the horseless carriage, when the steam engine was going to take everybody's pony and saddle away. And this is like, scary. Admittedly, there are things that are going on that are scary in technological, particularly privacy issues. But, Mr. Speaker, this is the future, it's going to happen, it's inevitable, and we are using it now.

"Another case in point is the train that's going to go to Kapolei and back does not have a driver, Mr. Speaker. That is an unmanned train. It's technology. Google has a driverless car that's gone over 400,000 miles in California and Nevada. They're safer, they're cheaper. In the future, mass transit is going to be based upon that. So, Mr. Speaker, lest the drone stereotype preoccupy people so their eyes are clouded by this, this is the future, this is technology. It's no different than when the Industrial Revolution started out with all of its machinery and scared people, and there became, what did they call the guys who would throw wrenches into the machine? The Luddites.

"Well, Mr. Speaker, the present day Luddites need to open their eyes and look back historically and project into the future, which now is an inevitable thing. Hawaii has the opportunity to be a pioneer, to be one of the first pioneers, one of the first advocates, one of the first progenitors, if you will, of this new technology. And, Mr. Speaker, that's going to attract

new businesses, new air and other sea related investments. And it's going to, again, as I said earlier, keep us from this lack of diversification, where we just live on our good looks and we stop using our brains. It's time to use our brains, it's time to get behind these kinds of innovative areas. Thank you, Mr. Speaker."

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

"Mr. Speaker, I speak in favor. Since my good looks have passed, I wish to incorporate the speech from my friend from Hawaii Kai, I'm very impressed with the zeal that he has for the future, and I urge the Members to support this measure. Thank you," and the Chair "so ordered." (By reference only.)

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. The Hawaii Kai Representative mentioned Google. That doesn't particularly make me feel comfortable. If it hadn't been for our Representative from Waimanalo, Kailua still would've been confused with the Big Island, Kailua-Kona. And thanks to our Waimanalo Representative's resolution, Google corrected it.

"This is a surveillance system, and I think we should be very aware of that. And when you have a surveillance system, unmanned or manned, you have to look out for the privacy of the residents. So I still stand with reservations, I think this needs to be more defined as to what can and cannot occur with these surveillance systems. And unfortunately, this measure doesn't do that. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3053, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNMANNED AERIAL SYSTEMS TEST SITES," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1574-14) recommending that S.B. No. 2902, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2902, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. In support with comments. This bill will allow the Department of Transportation to adjust fees through rules, which will definitely make it easier and quicker to implement. These fees, however, have been escalating to keep up with the cost to computerize the process and allow some compensation to station operators.

"It was recently brought to my attention when we first started the new computerized system last November that some long-time station operators would not or could not participate, because of the lack of computer infrastructure, lack of computer literacy, cost of monthly subscription to broadband access, longer inspection time needed, and confrontations with customers.

"When you think about how many vehicles are out there, less access to stations will begin to cause backlogs and people's inability to obtain safety inspections on time. If you get cited for not having a current inspection, you get a hefty citation to pay in court. Is that fair, especially since your vehicle is not in an unsafe condition? How expensive will safety inspections become? Are they truly accomplishing the intent they were created for? The department will need to address these questions.

"Actually, I hope that the fees may decrease with less stringent criteria. Cars are made so much safer now, so review of the checklist is appropriate. Furthermore, electric cars and other newly developed vehicles may need different checking standards. Therefore, the department's authority through this bill should give them the opportunity to reevaluate the efficiency of the program. Thank you, Mr. Speaker."

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 S.B. No. 2902, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSPECTIONS," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Ohno voting no, and with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1575-14) recommending that S.B. No. 2731, SD 2, 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 S.B. No. 2731, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO A CAR-SHARING VEHICLE SURCHARGE TAX," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Fale and McDermott voting no, and with Representative Belatti being excused.

Representatives Lee and Evans, for the Committee on Energy & Environmental Protection and the Committee on Water & Land, presented a report (Stand. Com. Rep. No. 1578-14) recommending that S.B. No. 2658, SD 3, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committees be adopted, and that S.B. No. 2658, SD 3, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Thielen's written remarks are as follows:

"I rise in opposition to SB2658, SD3, HD2 which allows solar farms to be built on productive agricultural land (rated B or C) if the landowner also allows commercial farming and obtains a special use permit.

"I could strongly support this legislation if an amendment was made saying that the Land Use Commission may vacate, void, modify or amend any special permit if it reasonably finds that there has been a 'failure to substantially conform to the conditions or requirements of the order granting the special permit'. Although I am a strong supporter of alternative energy, I also believe that as an island state we cannot arbitrarily change our well-considered land use laws without careful deliberation and oversight.

"According to the State Department of Agriculture, 75 percent of Hawaii's 1.9 million acre Agricultural District has 'D' or 'E' ratings. Current state law does not impose limits on the acreage of 'D' and 'E' rated lands to be used for solar farms. The Department of Agriculture believes that these lands should be used first for siting solar energy facilities. I strongly agree.

"Also, according to the Department of Agriculture, 'B' and 'C' rated agricultural lands make up 21 percent of Hawaii's Ag lands and are more likely to be considered and designated as important agricultural lands. We need to preserve these more productive resources for farming and crop production. I believe that if allowed, landowners could choose to lease out their land for the highest profit, rather than the best use. This could mean that farmers would no longer be able to afford to lease those lands they have worked on for generations."

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and S.B. No. 2658, SD 3, HD 2, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY," passed Third Reading by a vote of 49 ayes to 1 no, with Representative Thielen voting no, and with Representative Belatti being excused.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1579-14) recommending that S.B. No. 2223, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2223, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

"Thank you. With reservations, Mr. Speaker. If I may just add on a few comments. My purpose for standing with reservations is it may become an issue when your name change is a genealogy issue. For some, it'll increase the difficulties in obtaining paperwork for benefits which may be necessary for one's survival. In addition, Mr. Speaker, in the committee report it states that, 'The purpose of this measure is to allow the family court to change a minor child's name in a divorce proceeding if the court determines that either parent has sexually abused the child and the change of name is in the best interest of the child.'

"However, in paragraph three it says, 'Your Committee has amended this measure by removing the sexual abuse requirement, but still allowing the family court to change a minor child's name in a divorce proceeding if at least one party to the divorce is the parent of that child and such a change is in the best interest of the child.'

"And then I went on to read the testimony that was provided by Dyan Medeiros, and she had made some good comments including that this particular measure is only in a divorce case. Also, 'the intent behind the bill is unclear. It appears to create a special status for parents in divorce cases of children who have been sexually abused,' which has been taken out. But, 'why should only parents of victims of sexual abuse be allowed to have their child's name changed? Why not a parent of a child who has suffered physical abuse? Or mental abuse? Or emotional abuse? Why should only parents in divorce cases be allowed to have their child's name changed?'

"Also, she went on to state that deleting the sexual abuse component of this bill doesn't solve the problem either, and goes on to say additional comments. 'I am also troubled by the fact that the bill does not require a conviction in a criminal court,' which that part is taken out.

"More importantly, Mr. Speaker, the family court already has the authority to change a child's name if it determines that doing so is in the best interest of the child. And whether the court chooses to do so or not is obviously up to the court. And if the court chooses not to do so, however, a child's name can be changed once he or she reaches 18 years of age. So, Mr. Speaker, I'd just like to add her testimony into the Journal, and for these reasons I rise in strong reservations. Thank you."

Representative Awana submitted the following testimony:

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**LATE**

TO: Representative Karl Rhoads, Chair  
Representative Sharon E. Har, Vice-Chair  
House Committee on Judiciary

FROM: Dyan M. Medeiros  
E-Mail: [d.medeiros@hifamlaw.com](mailto:d.medeiros@hifamlaw.com)  
Phone: 524-5183

HEARING DATE AND TIME: April 3, 2014 at 2:00 p.m.

RE: Testimony in Opposition to SB2223, HD1

Good afternoon Representative Rhoads, Representative Har, and members of the Committee. My name is Dyan Medeiros. I am a partner at Kleintop, Luria & Medeiros, LLP and have concentrated my practice in Family Law for fifteen (15) years. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I am submitting this testimony in opposition to SB2223, HD1.

This bill adds a subsection allowing a Family Court in a divorce case only the authority to change the name of a minor child if "the court determines that either parent has sexually abused the child and the change of name is in the child's best interest". While I recognize that this bill is well-intentioned, it is ill-advised and unnecessary.

The intent behind this bill is unclear. It appears to create a special status for parents in divorce cases of children who have been sexually abused. Why should only parents of victims of sexual abuse be allowed to have their child's name changed? Why not a parent of a child who suffered physical abuse? Or mental abuse? Or emotional abuse? Why should only parents in divorce cases be allowed to have their child's name changed? What paternity cases?

This bill seems intended to simply give "special treatment" to parents in a divorce case. My question is why? I believe this "special treatment" will only increase litigation in divorce cases by encouraging false allegations of sexual abuse. False allegations of abuse (all types of abuse) are already a problem in divorce cases because of the presumption created by HRS 571-46 that a parent who has committed family violence should not have custody (sole or joint). Some parents make false allegations of abuse in order

to obtain leverage in custody and visitation disputes. This bill will encourage this behavior even more by creating another "reward" – removing the parent's name from the child's name, presumably in the hope of removing the parent from the child's life as well.

Please note deleting "sexual abuse" as a component of this bill doesn't resolve the problem, either. There is still special treatment being given to parents in divorce cases to try and change the name of their children. While it is true that children's names are changed in adoption proceedings and paternity proceedings, that name change is done once and is done for obvious reasons. In an adoption proceeding, a child is being adopted by at least one and sometimes two (2) new parents. The child's last name should be changed to match his or her parent's last name(s). In a paternity proceeding, a child's paternity (i.e. relationship with his or her father) is being established. As with adoption proceedings, it makes sense that the child's last name reflect his or her father's last name, sometime hyphenated with his or her mother's last name.

SB2223, HD1 seeks to give the Court the authority to remove a parent's last name in a divorce proceedings, not termination of parental rights proceedings or adoption proceedings. It simply makes no logical sense to me. Parents in divorce proceedings are divorcing each other. They aren't divorcing their children. Children feel enough loss as a result of divorce proceedings, they shouldn't face the prospect of losing their last name too.

Assuming for the sake of argument that a child has been abused (sexually or otherwise) by a parent, that is tragic. That fact, however, doesn't necessarily mean that a child's last name should be changed. I understand that a child who has been traumatized by abuse will have many challenges to overcome. I have no idea whether one of those challenges is their last name. I would assume that varies from child to child. This bill, however, gives a parent, not a child the right to ask for a name change. Moreover, as a matter of public policy, our laws call for reunification of children with parents even after abuse and/or neglect. This bill seems to undermine that public policy and in fact encourage a different policy.

I am also troubled by the fact that the bill does not require a conviction in a criminal court of sexual abuse a minor. It simply requires that the Family Court "determine" that a parent has sexually abused a child. The burden of proof required is unclear. Whether a parent will be afforded appropriate due process rights is unclear.

Importantly, the Family Court already has the authority to change a child's name if it determines that doing so is in the child's best interest. Whether the Court chooses to do so or not is obviously up to the Court. If the Court chooses not to do so, however, a child's name can be changed once he or she reaches 18 years of age. There is simply no reason to allow such changes to be forced during a child's minority and only in the context of a divorce case.



For all of these reasons, I object to SB2223, HD1.

Thank you for the opportunity to submit this testimony in opposition to SB2223, HD1.

At 11:36 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2431, SD 1, HD 1  
 S.B. No. 3053, SD 2, HD 1  
 S.B. No. 2902, SD 1, HD 2  
 S.B. No. 2731, SD 2, HD 2  
 S.B. No. 2658, SD 3, HD 2  
 S.B. No. 2223, HD 2

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1581-14) recommending that S.B. No. 2078, SD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2078, SD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, may I get a ruling on a potential conflict please. At my law firm I represent AOAOs, as well as condominium owners, as well as developers of condominiums. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2078, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Kobayashi and Nishimoto being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1585-14) recommending that S.B. No. 2233 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. 2233, entitled: "A BILL FOR AN ACT RELATING TO BUREAU OF CONVEYANCES," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Hanohano voting no, and with Representatives Belatti, Kobayashi and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1586-14) recommending that S.B. No. 2110, SD 2, 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. 2110, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE REGULATION OF PESTICIDES," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Kobayashi and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1588-14) recommending that S.B. No. 2975, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2975, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Fukumoto: 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 Fukumoto's written remarks are as follows:

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

"Mr. Speaker, please note my reservations. Mr. Speaker, I don't understand the way this measure is drafted at this point in time, why it would be needed. Because as the previous Representative has just spoken, the court already has this ability at their discretion. I think the original intent of this measure was children of sexual abuse in a divorce proceeding. But now that that has been removed, this bill is really not warranted in the current form it's written in. So with that, I will have my reservations going forward, and I'll see what comes out of conference at the other end. Thank you, Mr. Speaker."

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

"Mr. Speaker, in support. The reason for taking out the references to sexual abuse was that the testimony we received in Judiciary was that, yes, if you went in for a separate proceeding you can get your child's name changed, but the family court judges were indicating in divorce proceedings that they did not have the authority in the divorce proceeding to change the name.

"The reason that sexual abuse was taken out was because we were concerned that people would be making allegations about sexual abuse just so that they could get the name change done, and we didn't feel like that was a desirable situation. So, the best interest of the child standard is one that's commonly used in family court and it can factor in many of the issues that have been raised here in the Floor debate. For example, being able to trace the genealogy, that the judge would have to determine that any problems that changing the name might create in that regard would be offset or overwhelmed by other considerations that would make a name change necessary. *Mahalo.*"

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2223, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CHANGE OF NAME," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.



"Mr. Speaker, I rise today with reservations to SB 2975, SD1, HD1. Although it is important for every child—no matter their parents' finances—to be able to receive an early education, this bill does not clearly define 'family-child interaction learning programs'. It is possible that the child might receive teachings that aren't in par with the public school system and would consequently make it difficult for them to keep up with their classmates. Unless the definition of 'family-child interaction learning program' is elucidated, we will not be able to ensure services provided through these programs are in the best interest of the child's foundational and future education.

"The HSTA has voiced their concern about this bill, as well. They believe private and subcontracted programs have the potential to reduce resources that could go to help public schools maintain a quality system of education. Appropriating funds to programs that may not properly educate children could potentially be very detrimental. For these reasons, I support this bill with reservations for SB 2975, SD1, HD1. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2975, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY LEARNING," passed Third Reading by a vote of 47 ayes to 1 no, with Representative Hanohano voting no, and with Representatives Belatti, Kobayashi and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1589-14) recommending that S.B. No. 3008, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3008, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. In strong support. Permission to enter written comments into the Journal."

Representative McKelvey's written remarks are as follows:

"Mr. Speaker, this measure directly addresses the landfill waste issue on Maui in an environmentally sustainable way. I believe that a zero organic waste future for Hawaii is possible and that this measure brings us one step closer toward attaining this noble goal.

"Anaergia is a worldwide expert in resource recovery, with a 20 year track record and proven technology most notably in the field of anaerobic digestion. Anaergia will design, build, own, operate and privately finance a renewable fuel facility that converts Maui's waste streams including municipal solid waste, food waste, sewage sludge, oils, and grease into renewable liquefied natural gas and refuse derived fuel. Mr. Speaker, these two renewable fuels can be used for energy generation locally in Hawaii as a replacement to imported fossil fuels. In addition to generating cost effective renewable fuel from local waste streams without the combustion of solid wastes, Anaergia's solution will divert roughly 85 percent of Maui's waste from landfill, reduce over 100,000 tons of greenhouse gases each year and create local permanent jobs.

"In striving to improve the quality of life for the people of Hawaii, I whole-heartedly embrace synergistic relationships with companies working toward solutions that increase renewable energy and reduces/recycles waste. Due to the fact that landfill space is limited in our island communities, I feel that projects such as Anaergia's proposed material recovery facility should be encouraged to reduce the need for future landfill space on Maui.

"Anaergia's second project is called the Maui Energy Park (MEP). This project is located in West Maui, where the plan is to grow an energy crop and process it into renewable natural biogas through anaerobic digestion. This project will revitalize almost 2,000 acres of high quality agricultural lands left fallow after the demise of sugar cane and pineapple in West

Maui. MEP will use recycled water for the majority of its irrigation needs, allowing the nutrients in this water to be returned to the soil. The renewable natural biogas can be used for power generation, household and commercial, and transportation. Mr. Speaker, Anaergia is also in discussions with MECO to take a portion of this gas and generate electrical power onsite. This has the potential to increase grid stability and reliability in West Maui.

"Both projects provide a number of environmental and socio-economic benefits to the state, county and residents of the State of Hawaii. These include reduced materials going in the landfill, putting fallow Ag lands back into production, and creating competitive renewable fuels which will provide energy cost stability and security for the state. These projects will create hundreds of short-term construction and long-term farming and operational jobs, thereby keeping millions of dollars a year in the economy here in Hawaii. I support this measure for it represents a bold investment by the state to reduce our carbon footprint, conserve energy and reduce our dependence on imported foreign oil."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3008, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST ANAERGIA INC.," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Kobayashi and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1590-14) recommending that S.B. No. 2905, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2905, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

Representative Har's written remarks are as follows:

"Mr. Speaker, I stand in support with reservations on SB 2905, SD1, HD2.

"The purpose of this bill is to remove program execution exception provisions that are specific to the University of Hawaii. In addition, this bill prohibits the sale or gift of land currently being used for the permanent campus of the UH-West Oahu without the prior consent of the Legislature. Part III of this bill appropriates moneys to fund positions in SEED, provides direct services relating to student affairs and higher education, and finally, Part IV repeals the authority of UH to issue revenue bonds.

"Let me begin by commending this bill's intent in Part III in recognizing the need to research and address Asian American and Pacific Islander underrepresentation in higher education. Part III of SB 2905, SD1, HD2 looks to appropriate moneys to fund five graduate assistant and student employee positions in the office of Student Equity, Excellence, and Diversity at the University of Hawaii Manoa for the purposes of conducting research and supporting students with a curiosity in Asian American and Pacific Islander educational issues. These demographics are particularly underrepresented in institutions of higher education. Asian Americans and Pacific Islanders are the two fastest growing racial groups in the United States. The highest proportion of these populations are right here in Hawaii, and represent the greatest majority in the state and the University of Hawaii.

"My concern with this measure stems from Part II that would prohibit the sale or gift of land at West Oahu's campus without prior consent of the Legislature. It is important to understand that the land upon which the UHWO sits was land gifted by what was formerly known as Campbell Estate. Campbell Estate conveyed the land for the express purpose of having a four-year campus built by the state. Accordingly, any land that UHWO deems necessary to be sold for revenue generating purposes, belongs to UHWO, not the University system, nor the state. Moreover, as

these lands were once Ali'i lands under Campbell Estate, by definition, they cannot be and are not ceded lands. As such, allowing UHWO to sell their own lands is not a matter of statewide concern, which is purported by this bill. These lands were given to the state for one purpose and one purpose only – for the benefit of a UHWO campus. Therefore, these lands belong to UHWO and we must give UHWO the flexibility it needs to do what they need for their campus – even if it means selling parcels for revenue.

"For these reasons, Mr. Speaker, I stand in support 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 S.B. No. 2905, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Kobayashi and Nishimoto being excused.

At 11:38 o'clock a.m., Representative Rhoads requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:42 o'clock a.m.

At 11:43 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2078, SD 1  
S.B. No. 2233  
S.B. No. 2110, SD 2, HD 1  
S.B. No. 2975, SD 1, HD 1  
S.B. No. 3008, SD 1, HD 1  
S.B. No. 2905, SD 1, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1591-14) recommending that S.B. No. 2266, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2266, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, please note my reservations. Mr. Speaker, my reservations on this measure is with the General Excise exemption, not the rest of the measure. Thank you, Mr. Speaker."

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

"Mr. Speaker, I would also like to enter a vote with reservations. For the same reason, just on the GET exemption. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2266, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Choy and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1592-14) recommending that S.B. No. 2265, SD 1, 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 S.B. No. 2265, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Choy and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1593-14) recommending that S.B. No. 2541, 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. 2541, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELDERLY HOUSING," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Choy and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1594-14) recommending that S.B. No. 2542, 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. 2542, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DISPOSITION OF THE CONVEYANCE TAX COLLECTIONS TO THE RENTAL HOUSING TRUST FUND," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Choy and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1595-14) recommending that S.B. No. 2533, 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. 2533, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Choy and Nishimoto being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1596-14) recommending that S.B. No. 2589, SD 2, 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 S.B. No. 2589, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT," passed Third Reading by a vote of 48 ayes, with Representatives Belatti, Choy and Nishimoto being excused.

At 11:44 o'clock a.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2266, SD 1, HD 1  
S.B. No. 2265, SD 1, HD 2  
S.B. No. 2541, SD 1, HD 1  
S.B. No. 2542, SD 1, HD 1  
S.B. No. 2533, SD 1, HD 1  
S.B. No. 2589, SD 2, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1597-14) recommending that S.B. No. 2391, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2391, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2391, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1598-14) recommending that S.B. No. 2876, SD 2, HD 2 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. 2876, SD 2, HD 2, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1599-14) recommending that S.B. No. 2877, SD 1, 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. 2877, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO USE PERMITS FOR SMALL BOAT HARBOR FACILITIES," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1600-14) recommending that S.B. No. 2082, SD 1, 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 S.B. No. 2082, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1601-14) recommending that S.B. No. 2953, SD 1, HD 2, as amended in HD 3, 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. 2953, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO STATE RESOURCES ON HAWAIIAN HOME LANDS," passed Third Reading by a vote of 50 ayes, with Representative Belatti being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1602-14) recommending that S.B. No. 3121, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3121, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise in opposition. Mr. Speaker, this bill essentially requires legislative approval of any exchange of public land for private land by a majority vote of both houses of the Legislature. This represents a major shift in policy. As we know, the current statute requires disapproval by the Legislature by two-thirds of either the House or the Senate. And instead, what we're doing now is we're requiring an approval by just a majority vote. Again, this represents a major shift.

"For me personally, Mr. Speaker, my concerns stem from the fact that this could get very political. We all know in this Body that sometimes some people don't agree with the Representative from that district or what not and it could end up being political. And that's the thing we want to avoid. By having it as a disapproval mechanism it allows the Legislature and the Bodies in the Legislature to have further discussion regarding

whether we need to disapprove the transaction. Now it requires a two-thirds, which is a higher standard on the disapproval side.

"But, here now what we're doing is we're actually shifting policy in a major way, and my concern really stems from the fact it could become highly politicized, it could become very petty. For those reasons, Mr. Speaker, I rise in opposition. Thank you."

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

"Thank you, Mr. Speaker. I'll be voting no on this measure. One of the things in the bill I think that maybe alleviates some people's concerns on this major policy shift is the effective date of July 1, 2050. So it has a ways to go. But my concern right now is that it could come back with a clean effective date, and that without much notice you would move to agree to this particular draft. And as the Representative of Kapolei expressed, this is a major policy shift. It is a front-end legislative approval of a land exchange or transfer of state public lands.

"This is a big shift from the current policy that has been in place all these years, where we have to come in, review the executive branch's work, their due diligence and their final decision on a land transfer. And then, and then, Mr. Speaker, only after going through the lengthy legislative process, we can disapprove that particular land transfer.

"This puts us at the front-end of it, and I don't know if that's the proper place for the Legislative Body, these kinds of land activities. So I'd like to adopt the words of the Representative from Kapolei as my very own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I rise in support. Thank you. I've been here for a while and I've always wondered why we go through disapproval. We don't see them very often. They only come once in a while. But when you come before the Legislature under a concurrent resolution in the House and the Senate where you have to get two-thirds vote, that's a lot of votes. And also it's at the end of the process.

"When you come to the Legislature with a disapproval, you've already gone to the board, you've probably already done your appraisals, you've really invested a lot of staff time and a lot of efforts into the process. In this Body, we can always say that everything and anything is political. There's always going to be people be for it or against it.

"But I think that what the bill is saying is if you take state land and you're negotiating with a private party and you want to do an exchange, it'd probably be really great for the community that's involved and for the Legislative Body and probably the Representative or the Senator from the district to understand what significant changes may be being put forth.

"I want to point out to my colleagues that it says in here that, 'The state department or agency shall submit for introduction to the legislature a resolution for review of action on any exchange to be consummated by the board wherein exchange deeds will be executed by the parties together with the following information.' And that's the important piece, the location and size, the value of the lands to be conveyed, the name or names of the appraiser or appraisers, the date of the evaluation, the purpose for which the lands are being exchanged, a detailed summary of any development plans for the land to be exchanged, and a statement of whether the land is or is not land that was leased, classed as government or crown lands previous to August 15th, 1895, or was acquired by the state in exchange for such lands, and a detailed explanation of how the state department or agency made this determination.

"If you do it by disapproval, that's the information you get after all that's done and after the agency has already gone to the path. And they've actually done it, and then we come back and ask for disapproval. I've always thought that's the wrong way, and I really think this is the right way to do it. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, land and power and anything that touches it should be done very circumspect, gently, thoroughly, positively, and with a consensus. Some of you will remember Gavan Daws who wrote 'Land and Power in Hawaii'. He basically said how you want to understand Hawaiian politics, look at the land, look at the ownership, look at the transfers, look at everything.

"This bill, Mr. Speaker, turns Gavan Daws on his head. This says we can loosey-goosey, just loosen the governance of our land and just let things go as they may. And one speaker previously said, 'well this rarely happens.' Mr. Speaker, there are 1.8 million acres that are being contested by the Office of Hawaiian Affairs. That's going to be a public transfer from the State of Hawaii corpus of land to the Office of Hawaiian Affairs. So to say we're not going to be transferring public lands, what's that 1.8 million acres all about?

"So, Mr. Speaker, loosening this at this time is not only bad policy, it forebodes not good future State of Hawaii land holding and responsible legislation by everybody in this Chamber. Thank you, Mr. Speaker."

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

"In support. Thank you. I agree with everything the previous speaker said, except for the fact that this is not a bill that loosens our control over public lands, it is a bill that tightens it and raises the threshold, so that we meet our obligation to hold public lands and public trust per our oaths we took to uphold this constitution.

"When we look at our ability to approve or disapprove a land sale, a disapproval process is very scary and very sketchy because it places the entire ability, the sole discretion, at the hands of one person, one particular committee chair. Because we have to take an affirmative action to pass something, to disapprove of that process, it means that one person can stop that from happening and allow a sale to go forward.

"By turning this into an approval process, it means that you have to have the affirmative action of a majority of both houses in order to prevent something bad from happening. And what this is going to do is make sure that there is far more discussion, that all of our votes collectively determine whether or not public land will be sold, as opposed to the votes of perhaps even just one person. Thank you."

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

Representative Ward rose to respond, stating:

"Mr. Speaker, point of clarification. What I meant by saying that this is really loosening the flood gates is, the approval process, big deal, that's what people are speaking about, oh well this goes from disapproval to approval. The point is, it's a simple majority that it's going to go to. It should be a super majority. Anything and anytime you transfer land, there should be a consensus among everybody here.

"The fact that you can do approval, but you only need to get a simple majority, does not rise to the occasion of the severity and the seriousness of the commodity that's being exchanged. That's the whole point, not whether it's approval or disapproval. It's taking away the super majority that was in the old method of disapproval, to now where it's now a simple majority. That's really the issue that I'm very concerned about. Thank you."

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

"Mr. Speaker, in opposition. I wasn't going to say anything this morning, but I would like to share with the Members of this Body why at this point I am in opposition, listening to the debate. The petitioner for any land exchange will be who? Probably it's going to be the state government petitioning the land board to see if we can do some land exchange with the private sector.

"Secondly, you have seen on this Floor of this House, legislation in regards to land exchange. And what the proponents are saying that, yes,

let's do it at the front-end approving it. Who's going to be doing the appraisal? Who's going to do the investigation in regards to the TMK? Who is going to be doing all of the requirements that are needed when we do this particular land exchange?

"The process that we have in place today, of the two-thirds and disapproval at the end, is because the Department of Land and Natural Resources is doing their due diligence in representing the people of the State of Hawaii, if we should go through with this land exchange or not. It is the petitioner who is petitioning that, can we do a land exchange? Okay, yes. But sometime it may be a private land owner who may need state lands for a particular purpose. It may be diversifying their agricultural crops. But more importantly, I see this as really stopping any future land exchanges of the state's corpus with the private sector.

"The private sector will not get involved in saying, 'I've got to go before the Legislature to get approval? All 76 members of the House and Senate?' Because the demands of each and every one of us will be so great insofar as saying this is what I want, this is what she wants, *et cetera*. Having the administration do it is a proper channel to take. They have the staffing, we here don't have any staffing.

"Finally, are we forgetting the organizational structure of the Department of Land and Natural Resources, the Division of Land Management, who's in charge of all state lands? The process that we have in place I truly believe is very proper for all of us at this point, because, are we going to be hiring those private consultants to do all of this that they're doing?"

"And if we, as far as this Body, wants more, does not have the faith and trust and confidence in the land board members, I would disagree. I've said to a lot of our colleagues, privately, all we have here is our trust in working with the administration. From the Land Use Commission to the Public Utilities Commission to the Hawaii Community Development Authority. And my gripe has always been this. This Chamber does not have the opportunity of the advise and consent, the confirmation, where these individuals would come before the subject committees to plead their case for why I should be considered a nominee. These individuals who had put their names up as nominees are well respected in the community.

"And that's why I am very much concerned about how you're going to do it at the front-end, where you want all 76 of us to get involved, and I said, it's not going to work. It's not going to work. And also, we have to realize this, which I think someday will have a constitutional amendment, Mr. Speaker, for a full-time Legislative Body, rather than a part-time Legislative Body. Thank you."

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

"Mr. Speaker, I rise in support of this measure. I'd just like to make two brief comments. First, it is not accurate to state that this bill will require a front-end approval from the Legislature. If we take a look at this legislation, it makes clear that legislative approval will kick in after the Board of Land and Natural Resources has approved in principle of the exchange. The communication that will be made to the Legislature by the BLNR is also addressed by this legislation. It will require seven criteria to be provided to the Legislature so that we can consider approving or disapproving this transaction.

"The second point that I wanted to make was that the current version of this law, actually, was enacted in 2003, and this was done as a result of the former Representative from Lihue, Representative Kanoho. In 2003, Representative Kanoho actually sought to enact a statute that would require legislative approval for these kinds of transactions. He was not successful, and the compromise is the legislation that is currently in law, which requires legislative disapproval by a two-thirds vote.

"So, this issue has come full circle in about 10 years, and it's time for us to take a hard look at whether or not the Legislature will provide a check and balance over these kinds of transactions, because it is our responsibility to ensure that public land is preserved for future generations. Thank you very much."

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

"Mr. Speaker, in support. Mr. Speaker, this is for legislative approval. I believe this is making it more difficult to have lands transferred, and we should put this in place. I've been here for four years. I'm still waiting to see our list of ceded and public trust lands. It hasn't been completed. We don't even know where the lands are currently. And I know of other legislators that have been asking for it for 10 years.

"Now I know they've been waiting for the system to get set up, and electronically, and somebody even put the data. I've seen that report for the last three years. And I'm still waiting for the list. In my short four years that I've been here, I've stood on this Floor and I've said 'no' to every sale and every transfer of public trust lands. And I may get funny looks on the Floor, but I believe we should not be transferring or selling any of the public lands. These are queen's lands and trust lands. We are obligated to hold these until such time there is another nation or an institution that will take on ownership and take care of them.

"For instance, last year this Body supported an exchange for four acres in Honolulu for one acre in Waipahu. And that one acre in Waipahu was commercial, industrial, within a flood zone. The Honolulu four acres was nice prime acreage next to a private school for their expansion. Was that right? Oh, must have been, because we supported it. I didn't.

"I distinctly remember hearing when I was on the neighborhood board, years gone by, in my neighboring district Nanakuli. Department of Hawaiian Home Lands got some land to build a place called Princess Kahanu. That was a land exchange for prime land in Maui. You know that land in Nanakuli is flood land. Today there's homes, my brother and my sister-in-law live there. Is that correct?

"So I think we should be looking at approval. And I think everybody that sits in this Body and our neighboring Body in the Senate should be more educated on these transfers, but I haven't seen that in the last four years. But I'm standing here supporting this measure, and I hope it does pass. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition. I agree with the previous speaker on all of her comments in regards to transparency, and that we should be updated on all of the public lands and ceded lands that are in our inventory. However, like the sale policy of any public or ceded lands that we created a couple years ago, I support a majority two-thirds on the approval. And that is why I am not in support of the simple majority of approval of this bill. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3121, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND," passed Third Reading by a vote of 40 ayes to 10 noes, with Representatives Carroll, Choy, Fale, Hanohano, Har, Ito, Oshiro, Say, Tokioka and Ward voting no, and with Representative Belatti being excused.

At 12:06 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2391, SD 2, HD 1  
 S.B. No. 2876, SD 2, HD 2  
 S.B. No. 2877, SD 1, HD 1  
 S.B. No. 2082, SD 1, HD 2  
 S.B. No. 2953, SD 1, HD 3  
 S.B. No. 3121, SD 1, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1603-14) recommending that S.B. No. 2742, SD 1, 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. 2742, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ESTABLISHMENT OF THE PACIFIC-ASIA INSTITUTE FOR RESILIENCE AND SUSTAINABILITY," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1604-14) recommending that S.B. No. 2920, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2920, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I rise in strong support. Mr. Speaker, this is all about the little red fire ant and getting some money to get it out. Mr. Speaker, I want to first commend the Chair of Agriculture for her persistence, her commitment, and insisting that we do something and we do it now. And yes, Mr. Speaker, I forgive her for her previous attack that was as hot as a fire ant. I just wanted you to know I forgive her for that.

"Having said that, Mr. Speaker, the fire ant and the damage that it can do is actually, if we don't mitigate it, is going to be worse than the coqui frog, and we lost the coqui frog battle, Mr. Speaker. These ants can cause a sting that not only creates welts on humans, but it also can make pets and livestock blind. Mr. Speaker, it can also distill, if not just kill, all nesting birds on the ground. It threatens agriculture production, *et cetera*. The bottom line is, this is a clear and present danger that we have to act and we've got to act now.

"The other thing I wanted to commend the Ag Chair for was using the innovative creation of a dog detection force. Mr. Speaker, these little ants are all over our flowers, our plants, even in the air. The chair brought a sample of what these little things, they're really small, what these little things look like. They're very small.

"The fact that Australia uses dogs to detect at a 100 percent detection rate, I wanted to commend her for the innovativeness of putting that in the bill. At the same time noting that the training of any dog, in other words, a farmer's dog can be trained to do this. Mr. Speaker, how many farmers have dogs? Probably maybe 120 percent of them. Meaning that this is something that we can use, it's something that's practical, and the amount of the investment that this bill calls for is small compared to the hundreds of thousands of dollars that we lose every year in our agriculture production.

"For those reasons, Mr. Speaker, this is the third bill that I've spoken positively on. I have not spoken against any bill yet, except for the last one. Having said that, Mr. Speaker, I hope everyone will, in the Finance Committee and in the negotiations that are starting shortly, to be sure to make sure that this is not a coqui frog oversight the way we did in the past. And we were inundated by, because we were caught off guard and our timing was not right by putting the funding in. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support. I'm really hoping that the report that we're asking for that will come back to the Legislature will really look at how you do major response when you identify a problem. We've known about these fire ants for a while now. We've had money for the ant lab to try to look at how to combat them. But to actually put together a rapid response team and really get a handle across agencies, across departments, it's so critical, and I see this as the real example of how we can tackle a problem that's identified.

"The big issue is that when people finally call the state to say there's an infestation, normally it's a big infestation by the time they call. So a big part of this may be how do we really educate people on intervention at an early stage? Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2920, SD 2, HD 1, entitled: "A

BILL FOR AN ACT RELATING TO INVASIVE SPECIES," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1605-14) recommending that S.B. No. 2294, SD 2, 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. 2294, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO IRRIGATION," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1606-14) recommending that S.B. No. 2540, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2540, SD 2, HD 2 pass Third Reading, 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2540, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1607-14) recommending that S.B. No. 2424, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2424, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I stand in strong support of this. I wish it was not just kind of a study type methodology. Let's move forward, there is a problem. But let's kind of figure it out and then we'll move forward. I think we know how to do it. I think the facilities director at the department has the grasp and the capabilities to execute already. And so with regard to the air conditioning, I think he can do it, we just need to give him the ample funding. In fact, they do have a prioritized list already. And, of course, Campbell High School in our district is one of them. I believe in the top three. So, I support this. I just wish we would have done a little bit more. Thank you."

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

Representative Cullen's written remarks are as follows:

"Mr. Speaker, I rise in support of Senate Bill 2424, SD2, HD1.

"Mr. Speaker, this measure is the right and responsible direction that we should take as a Legislative Body on addressing the air conditioning needs we have in our public schools based on the discussions Members have had with all of the respective parties and their concerns over the \$200 million backlog on repairing our educational facilities. Because overcrowding is a serious issue in our schools, the cost appropriated for the installation of the air conditioning would allow for the prioritization of related projects, thus expressing to the Department of Education and all respective parties that infrastructure upgrades and roofing are all equally important. This measure gives us the ability to look at all of the needs that are being considered and provide to the Legislature with a report on how we can assist in fulfilling these needs.

"Mr. Speaker, I stand in support because this bill will create a plan that will support the investment in our communities through our support for our students and the future of our state."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2424, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AIR CONDITIONING IN PUBLIC SCHOOL FACILITIES," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1608-14) recommending that S.B. No. 2397, SD 2, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2397, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2397, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC DEVELOPMENT," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1609-14) recommending that S.B. No. 2198, SD 1, 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. 2198, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE FUELS," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Fale and McDermott voting no, and with Representatives Belatti and Oshiro being excused.

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

The House of Representatives reconvened at 12:13 o'clock p.m.

At 12:14 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2742, SD 1, HD 1  
S.B. No. 2920, SD 2, HD 1  
S.B. No. 2294, SD 2, HD 1  
S.B. No. 2540, SD 2, HD 2  
S.B. No. 2424, SD 2, HD 1  
S.B. No. 2397, SD 2, HD 1  
S.B. No. 2198, SD 1, HD 1

#### LATE INTRODUCTIONS

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

Representative Saiki introduced various residents of the Save Kewalo organization.

#### ORDINARY CALENDAR

#### UNFINISHED BUSINESS

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1610-14) recommending that S.B. No. 2663, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2663, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2663, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NATURAL RESOURCES," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1611-14) recommending that S.B. No. 2039, 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. 2039, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE UNIVERSITY OF HAWAII COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES COOPERATIVE EXTENSION SERVICE," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1612-14) recommending that S.B. No. 3092, SD 2, 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. 3092, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1613-14) recommending that S.B. No. 2472, SD 2, HD 2, as amended in HD 3, 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. 2472, SD 2, HD 3, entitled: "A BILL FOR AN ACT RELATING TO OCCUPATIONAL THERAPY PRACTICE," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Fale and McDermott voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1614-14) recommending that S.B. No. 2442, 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. 2442, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1615-14) recommending that S.B. No. 2799, SD 2, 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. 2799, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

At 12:15 o'clock p.m., Representative Johanson requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:16 o'clock p.m.

At 12:16 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2663, SD 2, HD 2  
S.B. No. 2039, HD 1  
S.B. No. 3092, SD 2, HD 1  
S.B. No. 2472, SD 2, HD 3  
S.B. No. 2442, SD 1, HD 1  
S.B. No. 2799, SD 2, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1616-14) recommending that S.B. No. 2916, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2916, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise with reservations. I certainly understand the importance of the information and the necessity for it. I do have reservations on this bill mainly because it's largely elicited by the ERS for a county and one other state entity, when all others are complying. So for those reasons, I rise with reservations. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2916, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1617-14) recommending that S.B. No. 3036, SD 2, 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. 3036, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO BEACH MANAGEMENT FOR THE NORTH SHORE OF OAHU," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1618-14) recommending that S.B. No. 3103, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3103, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Please note my reservations on this fee increase. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3103, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENHANCED 911 SURCHARGES," passed Third Reading by a vote of 41 ayes to 8 noes, with Representatives Fale, Fukumoto, Hanohano, Har, Ing, Lowen, McDermott and Ohno voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1619-14) recommending that S.B. No. 2968, SD 2, 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 S.B. No. 2968, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO

TOURISM STIMULUS INITIATIVES," passed Third Reading by a vote of 47 ayes to 2 noes, with Representatives Cabanilla and Jordan voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1620-14) recommending that S.B. No. 3026, SD 2, 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. 3026, SD 2, HD 1, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR THE WAIMEA-PAAUULO WATERSHED PROJECT," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1621-14) recommending that S.B. No. 3063, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3063, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

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

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

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

Representative Har rose and asked that the Clerk record an aye vote with reservations for her, 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 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 a no vote for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3063, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DISPOSITION OF LANDS IN WAIPIO VALLEY," passed Third Reading by a vote of 46 ayes to 3 noes, with Representatives Carroll, Fale and Takumi voting no, and with Representatives Belatti and Oshiro being excused.

At 12:20 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2916, SD 2, HD 1  
S.B. No. 3036, SD 2, HD 1  
S.B. No. 3103, SD 2, HD 1  
S.B. No. 2968, SD 2, HD 2  
S.B. No. 3026, SD 2, HD 1  
S.B. No. 3063, SD 2, HD 2

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1622-14) recommending that S.B. No. 3065, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3065, SD 1, HD 1 pass Third Reading, 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 Say rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, with strong reservations now that you see the conflict of the other bill before this."

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

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

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

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

"Strong reservations, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3065, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND EXCHANGE," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representatives McKelvey and Rhoads, for the Committee on Consumer Protection & Commerce and the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1623-14) recommending that S.B. No. 2913, SD 1, as amended in HD 1, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2913, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2913, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1625-14) recommending that S.B. No. 2577, SD 2, 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 S.B. No. 2577, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO NATUROPATHIC PHYSICIANS," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.



Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1626-14) recommending that S.B. No. 2729, SD 2, 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. 2729, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MOBILE ELECTRONIC DEVICES," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Jordan voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1627-14) recommending that S.B. No. 2241, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2241, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, thank you. I rise in opposition, brief comment. I just noted the testimony of the Land Use Research Foundation, which opposed the HD 1 version of this bill, noting that the HD 1 version was a gut and replace of a bill that the Senate Committee had deferred. They noted that the Senate Draft 1, the Senate committee's report included the concerns of the Senate committees and the issues to be addressed if the bill were to be passed.

"LURF respectfully requested that the House Finance Committee put the bill back to the SD 1 form because of this gut and replace, and because previous language had been deferred. In any event, for those reasons, Mr. Speaker. Thank you."

Representative Jordan rose and asked that the Clerk record an aye vote with reservations for her, 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 Awana 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 the remarks of Representative Har be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2241, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE PROTECTION OF TARO," passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Fale, Hanohano, Har and Say voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1630-14) recommending that S.B. No. 2250, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2250, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"I request a ruling on a potential conflict. I work for a nonprofit. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2250, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE SOLICITATION," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

At 12:24 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 3065, SD 1, HD 1  
S.B. No. 2913, SD 1, HD 1  
S.B. No. 2577, SD 2, HD 2  
S.B. No. 2729, SD 2, HD 1  
S.B. No. 2241, SD 1, HD 2  
S.B. No. 2250, SD 2, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1631-14) recommending that S.B. No. 3094, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3094, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3094, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Third Reading by a vote of 48 ayes to 1 no, with Representative Awana voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1632-14) recommending that S.B. No. 2832, SD 2, 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. 2832, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1633-14) recommending that S.B. No. 3066, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3066, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3066, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC-PRIVATE FINANCE INITIATIVE," passed Third Reading by a vote of 45 ayes to 4 noes, with Representatives Ing, Lowen, McDermott and Thielen voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1634-14) recommending that S.B. No. 2858, SD 1, HD 1 pass Third Reading.

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

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

"Please note my strong reservations on this."

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

Representative Awana rose and asked that the Clerk record a no vote for her, 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 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 SB 2858, SD 1, HD 1. This measure establishes an Office of Environmental Information Management within the Department of Health.

"Mr. Speaker, this measure seems duplicative of what other departments within the State of Hawaii and the Department of Health are currently doing. In addition, there is a lack of clarity regarding the specifics of this new position.

"Testimony on the bill indicates that the Department of Health (DOH) is requesting the creation of a Senior Information Technology Specialist. The bill as written seems to address a much broader scope of work than what would be required by a Senior Information Technology Specialist.

"For these reasons, Mr. Speaker, I rise in opposition to SB 2858, SD 1, HD 1."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2858, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ESTABLISHMENT OF AN ENVIRONMENTAL INFORMATION MANAGEMENT OFFICE," passed Third Reading by a vote of 43 ayes to 6 noes, with Representatives Awana, Fale, Hanohano, Har, McDermott and Tokioka voting no, and with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1635-14) recommending that S.B. No. 3093, 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. 3093, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII AT HILO," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1637-14) recommending that S.B. No. 2054, SD 3, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2054, SD 3, HD 3 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, thank you so very much. I'd like to acknowledge the hard work of the Health Chair on this measure. She has been a champion in this regard. A leader everywhere, raising public awareness for autism. It affects many members of our community and although it may be a tiny, tiny increase in the cost, for these families it will have an exponentially greater impact for their coverage because it's a medical issue and they're not able to get the medical treatment. So I want to salute her for hard work on this issue. Thank you very much."

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

"Thank you, Mr. Speaker. In support. And to shock the world, let me adopt the words of the previous speaker as if they were my own. Thank you very much," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2054, SD 3, HD 3, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 49 ayes, with Representatives Belatti and Oshiro being excused.

At 12:29 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 3094, SD 2, HD 2  
S.B. No. 2832, SD 2, HD 1  
S.B. No. 3066, SD 2, HD 1  
S.B. No. 2858, SD 1, HD 1  
S.B. No. 3093, SD 1, HD 1  
S.B. No. 2054, SD 3, HD 3

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1638-14) recommending that S.B. No. 2346, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2346, SD 1, HD 2 pass Third Reading, 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 Awana rose to speak in support of the measure, stating:

"Strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2346, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO AGING," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1639-14) recommending that S.B. No. 2866, 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. 2866, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1640-14) recommending that S.B. No. 2436, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2436, SD 2, HD 1 pass Third Reading, 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:

"Thank you, Mr. Speaker. I am rising to speak against Stand Com. 1640. Thank you. Senate Bill 2436 relates to transit-oriented development, and what this does is it creates a Transit-Oriented Development Advisory Committee. This section is placed into the section of the law that is governed by the HCDA. It also, I think, has a great deal to do with the PLDC that we repealed last year.

"If you take a look at the law, it says consideration of the land use and zoning requirements, to see whether they are consistent with the county's transit-oriented development program. In other words, the transit-oriented development will trump county zoning and land use.

"I think it's a dangerous way to move ahead, because by placing it in HCDA, which we know has kind of run rampant recently, by placing it in HCDA we're going to create this Transit-Oriented Development Advisory Committee that's just going to go ahead, work with HCDA, and ignore the land use rules and regulations that we have worked so hard to put into place on the Island of Oahu.

"I think it's uncomfortably like the Public Land Development Corporation, and introduced by the same introducer on the Senate side of PLDC. But in this case it's a creating a TOD committee that can move ahead. And I don't like it.

"I'm very concerned about it. I'm voting no because of that. I think we should not go down that path again, that we'll later regret and need to pull back. Thank you."

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

"Thank you, Mr. Speaker. I rise in support. The thing about this bill that I like is its advisory committee. And I know that having looked at all the state lands that go down the transit corridor, there is just so much acreage that goes down that transit corridor.

"And I believe that we need to build some expertise and capacity, and this is really nice to see it in an advisory form, where they can actually look at how any decisions that are being made impacts the greater community. And I see we have the Kakaako people up in the audience, and they're a reflection of people that really care that these decisions do take into consideration what the real impacts are on the community.

"Because if you look at the purpose of the advisory committee, they're to create vibrant communities through public and private partnerships, investments and incentives for development projects located near transit, provide support for alternative forms of transportation such as walking, biking. Also, they shall assist and advise to make sure that a transit stop is at the center of a neighborhood, creates an activity center, reflects the character of the surrounding community, includes engaging public spaces, promotes pedestrian connections, facilitates a round-the-clock activity.

"Consideration of economic industry, commercial and retail components, consideration of economic analysis for the project, consideration of land use and zoning requirements as they relate to infrastructure and capacity. Identification of similar development plans such as the City and County of Honolulu, social and economic effects of the project including expected population growth, available jobs, potential industries, potential compatibility.

"Transit analysis that considers proximity of transit to the project, quality of the pedestrian connectivity, whether the planned densities are sufficient to support transit. Preservation and expansion of workforce housing around the transit to accommodate housing for individuals, single families, senior citizens and persons who are aging in place. Identification and application of partnerships the public sector may provide.

"And it goes on and on. I mean, this is really good planning. It's good. This is where this advisory committee can really build capacity, which is what we really need if we're going to build a transit project that clearly is smart growth in our community. With that, Mr. Speaker, I strongly support it. Thank you."

Representative Thielen rose to respond, stating:

"Thank you, Mr. Speaker. That just sounds so much like HCDA, and it sounds so much like PLDC. This area that's going to be covered is a one-mile circumference. That's a huge distance in our communities, and I think that we've got to be very cautious about this. People on this island, on the Island of Oahu, have worked very hard for a very sound land use scheme that protects our areas. And this could ride roughshod over it, carving out a PLDC-like operation to go in and take over land one-mile circumference around TODs. I think it's a bad step, and I do not support it."

Representative Lowen rose to respond, stating:

"Thank you. Still with reservations, and maybe I can just clarify a couple things. I think transit-oriented development is great, and I agree with all the things that the Representative from Kohala just read that I'm guessing were in the preamble of the bill. But I have some concerns with the bill in that, according to the AG's testimony, it may actually put everything within one mile of a transit stop under the jurisdiction of Hawaii Community Development Authority.

"The testimony from Hawaii Community Development Authority testified that this advisory committee would be redundant. They already have developed transit-oriented development overlay, which is posted online and extensive work has gone into it.

"So my reservations, I think, are just that it seems that there's been some issues with HCDA, and the county has done a really good job of looking at transit-oriented development, and it seems to me like the intention of the bill is to go in and take this out of the county jurisdiction. Thanks."

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

"Thank you, Mr. Speaker. In strong support. May I please have the words of the Chair of Water & Land entered into Journal as if they were my own. Thank you," and the Chair "so ordered." (By reference only.)

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

"Mr. Speaker, I stand in strong support. First, may the words of the Chair of the Water & Land Committee be entered into the Journal as my very own? I think people need to understand that if there's any redundancy, it's a redundancy for more participation by our constituents, by the citizens of this county. So I think that's what it achieves here. If it's redundant, I think it will achieve its goal of including people, especially those who are attentive to this matter today. So I support it very strongly. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2436, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY PLANNING," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Thielen voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1643-14) recommending that S.B. No. 632, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 632, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise in opposition. Thank you, Mr. Speaker. What this bill attempts to do is to create an Environmental Court with separate rules in Circuit Court. I think it's important to note the testimony of the Judiciary Branch of government, which made it clear that while other jurisdictions have established environmental courts after increases in environmental violations, housing/safety code violations, and/or an increase of abandoned residences or littered properties. We do not believe the same issues are present in Hawaii. However, if the legislature identifies particular areas of concern, it would be beneficial if the bill could be narrowed to focus on those areas as a pilot program. We further suggest that an environmental calendar be considered in place of an environmental court. Considering this alternative takes into account the present workload of our sitting judges and the reality that the addition of a separate environmental court may require expenditures for additional court staff, including another judge, a judicial assistant, a court clerk and a law clerk for the environmental court, as well as possible training costs. Having an environmental calendar, rather than an environmental court, would allow a judge assigned to the calendar to hear other types of cases during those periods when there are no environmental cases."

"Moreover, Mr. Speaker, I think this is extremely important to note. In a year-and-a-half period from July 1st, 2011, to December 31st, 2013, there were only 69 violations that rose to the level of being in Circuit Court. The majority of the violations actually were Administrative Rules under Title 12 violations. Those 1,697 cases of administrative violations, Title 12 cases, are petty misdemeanors, and so they're handled by the District Court, not the Circuit Court.

"So if anything, we would want to create an Environmental Court in the District Court level, not in the Circuit Court level. Again, you had only 69 cases in Circuit Court. So creating a whole other level of bureaucracy, a whole other layer of an environmental court specifically for environmental cases just simply isn't warranted. So for those reasons, Mr. Speaker, I rise in opposition. Thank you."

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

"Mr. Speaker, in support. I would just say that we made an attempt to address the concerns raised by the Judiciary in the Judiciary Committee by specifying that if there's an inadequate number of environmental cases to keep an Environmental Court busy, that the judge from that court would be specifically allowed to work on other cases as well.

"So I think there are a number of advantages to having a court specific to environmental concerns, but if there are not enough cases to keep that judge busy then so be it, they can work on other things as well. The case load, of course, will remain exactly the same as it is now. The creation of a court itself does not affect the number of cases brought. It wouldn't be expected to, in any case. So I think the concerns raised have been addressed. Thank you."

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

"Mr. Speaker, I rise in support with reservations. My reservations are similarly along the lines of the Representative from Kapolei, the Vice Chair of the Judiciary Committee, as far as the need to create a specialized court like this.

"I would prefer that additional monies to the Judiciary would go to the Drug Court, or the Girls Court, or the Veterans Court. I think those newer courts that we have set up ourselves should first receive some money. I think the number of cases under the purview of this Environmental Court is too small.

"The second point, Mr. Speaker, in reviewing the testimony, I think it is a better approach, a more effective approach, to try and develop a cadre of

judges with expertise in land use or environmental laws. To have the Judiciary start right now with designating a docket or a calendar of these types of cases, in the respective circuits and district courts, I think that might be more effective in trying to address what this measure seems to do.

"I've seen these types of cases in the District Court out in the Wahiawa-Waiialua District Court, Mr. Speaker. And for the most part they're more administrative than anything else. So I think if you're trying to do this to address the types of cases coming up in the Judiciary and to develop the cadre of judges with the expertise in these areas, which is a good intention. I think they can do it right now, and we should encourage them to do so, but without establishing a standalone court in and of itself.

"Again, any additional monies can probably go to the Family Court, or the Veterans Court, or the Girls Court, or the Drug Court, even the Mental Health Court that we've been looking at over all these years. Thank you."

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

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

"In support. I'd just like to very briefly note that the Department of Land and Natural Resources did support this measure for the express purpose that this would allow the consolidation of cases, which would, in that sense, provide a more timely, fair and equitable disposition of such cases. Because it's important that the judges trying these cases and reviewing them possess adequate experience and expertise in environmental and natural resource laws, which putting these in one place would help facilitate. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 632, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENTAL COURTS," passed Third Reading by a vote of 47 ayes to 4 noes, with Representatives Fale, Hanohano, Har and McDermott voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1644-14) recommending that S.B. No. 1043, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1043, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I need to disclose a potential conflict of interest. I am a shareholder of Hawaiian Electric stock. Thank you," and the Chair ruled, "no conflict."

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

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

"Thank you, Mr. Speaker. I too have a potential conflict I'd like to disclose. I'm a ratepayer of Maui Electric," and the Chair ruled, "no conflict."

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

"In support then, Mr. Speaker. Thank you very much."

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

Representative Thielen's written remarks are as follows:

"I rise in support of SB 1043, SD1, HD1 which establishes the Legislative Utility Review Task Force to review franchises held by investor-owned electric utilities. This bill acknowledges that Hawaii ratepayers currently pay the highest rate for electricity in the nation and asserts that the utilities continued dependence on oil-based fuels is the reason for the discrepancy in rates. Hawaii's green energy goals are meant to free the state of its dependence on oil-based fuel and lower the cost to ratepayers. The language of this bill creates a task force to ensure utilities are acting to best service customers and to ensure that utilities work to meet Hawaii's green energy goals.

"Currently, the utilities prevent PV connection to the grid under the assumption that influx of solar power may result in damaged lines, circuits and substations. However, in a recent Forbes Magazine article, former Energy Secretary Steven Chu asserts that HECO has an outdated business model and will do anything to slow down solar power. Instead of preventing PV connections, Chu insists that utilities should adopt a better business model where they buy rooftop panels and batteries and work with PV contractors to lease solar products to consumers.

"This bill will prevent utilities from ignoring ratepayers, and instead force them to adapt the rapidly emerging green technology."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1043, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRICITY PRODUCERS," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1645-14) recommending that S.B. No. 2196, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2196, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. In support with reservations. Thank you. I'll make it brief because it echoes some of the comments I've made on similar bills at the last crossover. I think all of us fundamentally support the uses that are explicated in this bill of the monies. What my primary concerns rest on is the extension for 15 years of the Barrel Tax. I have several reasons that those are of significant concern to me, and I think to our constituents.

"One, that at some level it does, while maybe not continuing to actually perpetuate dependence on fossil fuels, in order for these worthy objectives to be achieved it is somewhat dependent on fossil fuels. And I think at some level, if we're going to make this transition, we have to actually transition to monies that are more stable and not the actual problem that we're trying to remedy.

"Furthermore, and I think also significantly given the incredibly high cost of living that most of our constituents bear, this is an opportunity, by letting this sunset, this is an opportunity for us to be able to decrease their cost of living. So extending it for another 15 years keeps, at some level, the cost of living high. I wish it was a shorter time frame. I do understand the

uses, and I think they are worthy uses, but for those reasons I do have concerns with this measure. Thank you."

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

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

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

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

"Mr. Speaker, with reservations. The previous remarks by the Minority Leader are very accurate. Mr. Speaker, one other issue that I'm very concerned about, this was slated as a temporary tax. It was slated as something that would go away, and it was going to go away. I think this is one more issue that the public, when they say that we've got a temporary tax, they're never going to believe us again, because every time we put it in place we never let it sunset.

"Regardless of the great causes, if we're serious about it, we should say this is a tax and it stays permanent, not that it's going to sunset. It's like a sucker-punch. So, Mr. Speaker, this, with its passage, is just simply going to convince the people that when we say it's a temporary tax, they're never going to believe us. Because the memories about this cost of living that were so high, increasing already, is not just going to go away. For those reasons, Mr. Speaker, strong reservations."

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

"Thank you, in support. I just want to note, I'll try and keep it brief since we had discussion on this in a prior reading. For 100 years, we've had the same energy model here in the state. For 100 years, we have bought imported energy, burned it, and consumed it. That's an incredibly expensive endeavor, and it subjects our prices that we pay and our cost of living to events that happen far around the globe that we have absolutely no control over.

"The only progress we've made in the last few decades has come because of decisive state leadership, because of the Legislature, because of the Executive, moving forward and setting goals that take us off of our dependence on imported fuels. The funding that this bill extends has funded many of the efforts to allow solar photovoltaic, to allow renewable portfolio standards that have achieved incredible levels of clean energy here in the state, that have to date saved consumers already, through last year, over \$60 million. Looking at individual ratepaying households, that's hundreds of dollars per household saved. And that trajectory is only accelerating.

"If we want to continue this progression, if we want to continue to save money, if we want to continue to transition off of the fuels that cost us most. Saving a few cents today may be great, but we want to save dollars, tens of dollars, hundreds of dollars for our families down the road. And the only way that we're going to do that is by funding these programs, funding our energy office, funding the end of our dependence on imported fuels, and ultimately moving ahead.

"I also note that this bill does more than just fund these programs, but it also brings in federal match through the reestablishment of a special fund here in this bill, which will allow more money to come in to reach these goals. So just noting those reasons, I stand in strong support."

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

Representative Fale rose to respond, stating:

"Mr. Speaker, still in opposition. First, may I have the words of the Representative from Hawaii Kai adopted as my own? And I just want to kind of underscore what he said, Mr. Speaker, is that we told the people of Hawaii this would go away. You know, it's wonderful. We'll get off fossil fuels, we'll do all this stuff.

"But first and foremost, let's just do what our parents have always told us to do, is be honest. If it's not going to go away, let's say it is not going to go away. It bothers me when the credibility of this Body is put out there where you say, this is only temporary, this is only temporary, this is only temporary. When inside, there is no intention for it to be temporary, and there's no intention to stop taking the money that we have started taking in the first place.

"It simply comes down to a matter of integrity, Mr. Speaker, and a matter of honesty with the people of Hawaii. People come in and sit in the gallery everyday expecting us to be honest and forthright with what we do. If we tell them it's going to go away, Mr. Speaker, let's just keep our word and let it go away. And if it needs to come back, let's re-approach the people of Hawaii and make that same request. But let's not string them along and let's not do anything that would further undermine any credibility that we have, Mr. Speaker."

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

"In support, just brief comments. My recollection, during the recession we passed a number of temporary taxes to try to minimize the cuts that were going into effect. Furlough Fridays, for those of you who remember those, cuts to the Department of Health, and there's a whole number of things that we tried to minimize those cuts by raising taxes. And I believe that almost all of them, I believe all of those tax increases have sunsetted out or are about to. And one of them was even sunsetted out early, which was the one on charitable giving.

"But I think there's also a fundamental misunderstanding on what it means to raise taxes temporarily. That means that that Legislature chose to put a tax on the table for however long length of time. But it's not their decision. The next Legislature or the new Members, since I've been a Member here, eight years, approximately half the Body is new. We, back then in 2006 when I was first elected, '07 was my first session, we can't bind what this new Body does.

"So you have to keep the word to yourself if you've promised your constituents you're not going to raise taxes, then you shouldn't vote to raise taxes. But other than that, saying somehow that the Legislature of 2006 is speaking for the Legislature of 2014, from a legislative point of view is just nonsense. *Mahalo.*"

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

"Mr. Speaker, in opposition. Brief comments. My concern and problem with this measure is the fact that we're asking for this funding source to continue for another 15 years, for a good purpose. Don't get me wrong, Mr. Speaker, supporting these valuable measures looking forward to save energy is a valid and honorable thing. However, Mr. Speaker, the process should be, is that just like other valuable programs, that they go through the legislative process and ask for the funding that other programs and competing issues deal with.

"Mr. Speaker, when this measure did pass, I was here at the Legislature, and we were informed at that time that this measure was temporary to deal with the current state fiscal situation. Extending it for another 15 years is going back on what we were told. So, I'm still in opposition."

Representative Ward rose to respond, stating:

"Mr. Speaker, I would request that the Chair of the EEP Committee submit to a question to explain how the \$60 million dollars that he claims that we have saved actually has appeared on our constituents' electrical bills that they arrive at, and that they have every month received.

"Just let me make the point. If we have saved \$60 million, where's the proof of that? My constituents tell me about the electrical bill. The more that we talk on this Floor about renewable energy, the higher their bills go. So they want to see what the effect of this is, and the gentleman said that we have saved \$60 million for our constituents.

"I want to go back to my constituents and say, 'hey, we saved you \$60 million.' Before they throw tomatoes at me, I'd better have some sufficient evidence that this is true. So that's why I ask for the gentleman to respond with what the truth is."

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

Representative Cullen's written remarks are as follows:

"Mr. Speaker, I rise in opposition to Senate Bill 2196, SD2, HD1.

"Mr. Speaker, it is well known that residents from the west side of Oahu pay the most on fuel, electricity, and transportation because many work in town. I completely understand the possible positive results for food and energy security that this tax may bring. However, I also understand that this tax and allocation have not been shown to reduce the cost of living to residents. Because of it, we are paying higher prices for fuel, energy, and food. By extending the sunset date, we essentially create a new tax; thus adding to the fuel and electricity costs to our constituents. The extension produces a negative impact rather than a positive impact.

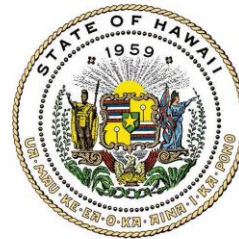
"Mr. Speaker, this measure will hurt our residents and that is why I am in opposition."

Representative Lee rose to respond, stating:

"Thank you. I just ask to insert into the Journal a report noting our savings based on our renewable portfolio standards. Thank you."

Representative Lee submitted the following:

[Note: Please refer to the original document for the full report.]



PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII

REPORT TO THE 2014 LEGISLATURE  
ON THE  
PUBLIC UTILITIES COMMISSION  
REVIEW OF  
HAWAII'S RENEWABLE PORTFOLIO STANDARDS

ISSUED PURSUANT TO  
SECTION 269-95(5), HAWAII REVISED STATUTES

December 2013

Table 1. Estimated Annual Cost Savings From Renewable Energy Purchases

| Utility | Estimated Annual Cost Savings From Purchases of Renewable Energy From Independent Power Producers (IPP)<br>Hawaii Public Electric Utility Companies Calendar Year 2012 |  |   |                                 |                                  |  |                                       |
|---------|--|--|---|---------------------------------|----------------------------------|--|---------------------------------------|
|         | Average IPP Renewable Generation Energy Price  | Average Utility Fossil Fueled Generation Energy Cost | Renewable IPP Generation Energy Cost Margin | Renewable IPP Energy Generation | Renewable IPP Generation Savings | Renewable IPP Generation Savings       | Renewable IPP Generation Energy       |
|         | Cents/kWh  | Cents/kWh  | Cents/kWh                                   | GWh                             | \$ Millions                      | Percentage of Total System Energy Cost | Percentage of Total System Generation |
| HECO    | 19.5   | 22.6   | 3.0   | 383                             | 11.7                             | 0.9%                                   | 5.2%                                  |
| HELCO   | 16.9   | 25.4   | 8.5   | 451                             | 38.4                             | 15.8%                                  | 38.5%                                 |
| MECO    | 16.2   | 23.8   | 7.6   | 208                             | 15.9                             | 5.8%                                   | 17.1%                                 |
| KIUC    | 20.9   | 22.9   | 2.1   | 41                              | 0.8                              | 0.8%                                   | 9.1%                                  |

The favorable economics of renewable generation are not without exception or limit, however, regarding the ultimate extent to which renewable generation can be feasibly and economically implemented on Hawaii's utility systems. A large fraction of the renewable generation resources used and planned for implementation in Hawaii are variable or intermittent<sup>17</sup> and require support from "dispatchable" resources to assure grid stability and suitable power quality. Dispatchable resource support can be provided by fossil-fueled generation or some types of renewable generation resources, such as geothermal, waste-to-energy, biomass or biofueled generation resources, as well as by energy storage technologies or demand response resources. As substantially higher percentages of intermittent renewable generation are implemented, there are expected to be increased costs for the measures necessary to maintain system reliability.

For the purposes of this Report, the implementation of renewable resources is presumed to promote Hawaii's energy policies to the extent that the RPS requirements promote cost-effective renewable energy generation. The effectiveness of the RPS is evaluated as to the extent to which the RPS is an effective driver of the implementation of renewable

increased energy costs by \$14.1 million above fossil fuel energy costs, more than offsetting the savings from utilization of purchased renewable energy.

<sup>17</sup>Variable or intermittent resources, such as wind and solar generation are available only when the source of energy (e.g., wind or sun) is available and may vary in output during the course of each day.

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

Representative Har rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered." [Note: Representative Har later changed her vote to a no vote.]

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

Representative Fukumoto's written remarks are as follows:

"Mr. Speaker, I rise in opposition to Senate Bill 2196, SD2, HD1. This bill would re-establish the energy systems development special fund, under UH System, by extending Hawaii's current Barrel Tax.

"First, while this tax extension has good intentions for positive future outcomes, it is an extension of law we originally told the people would be temporary. When the Barrel Tax was introduced and passed into law, the people were informed the tax had an end date, and I believe we, as the trusted governing body of Hawaii, should keep our word.

"Secondly, there are accountability issues with no updated data on progress with previous funds, direct plans for increasing security, and where we are at with food security. For these reasons, I stand in opposition to SB 2196, SD2, HD1. Thank you, Mr. Speaker."

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

"Mr. Speaker, I stand in support. First, may I have the words of the Chair of the Energy & Environmental Protection Committee be entered into the Journal as my very own. I was there back I think in 2009 when we increased the Barrel Tax from \$.05 to \$1.05. There were a couple of reasons for that.

"Number one, and my friend from Kailua always reminded me of that. Part of the reason why was that we were going to embark upon some bold mission. And the bold mission was to do two things. One was to develop a program of energy security, and also food security. I think the Chair at that time was the current PUC Chairwoman from Kauai, Representative Morita. The Chair of the Agriculture Committee at that time was the current EDB Chair. And I think those two dual purposes was one of the reasons why we did raise the Barrel Tax from \$.05 to \$1.05. I was the Chair of the Finance Committee at that time.

"And to the chagrin of several other people who supported the measure, we had to take about 60 percent of that money just to balance the budget. Just to avoid the layoffs, the furloughs, the cuts, the decimation of important critical programs for our constituents. That's where most of the money went, 60 percent of it went to the General Fund, just to pay for these important essential programs and services.

"Since that time, my good friend from Kailua reminded me every year after that, when are we going to go back to the original intent of the measure, to fund food security programs, to incentivize the development of food security on all our islands? When are we going to use the money to develop alternative non-fossil fuel resources, like photovoltaic, solar, energy conversion, geothermal, *et cetera*? So we did it for six years, to 2015, to coincide with the financial plan, for us to review.

"But I never, Mr. Speaker, made any promise to my constituents that it was temporary. I told them what we were doing, and why we were doing it, and why we're using so much of the money to go into the General Fund to cover the expenses of critical essential programs for our citizens.

"Well, here we are. This is the time when we need to evaluate the program's effectiveness. And I think that's what we are debating today and discussing today. But let me be clear, Mr. Speaker, I never made any promise to any of my constituents that this is a temporary increase. I think, for the record, Mr. Speaker, for the record, I believe that every single Member who supported that back in 2009 won the approval of their constituents and came back in 2010. Thank you."

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

"Thank you, Mr. Speaker. In support, and I would like the very powerful and poignant words of previous speaker entered into the Journal as if they were my own, except for the Finance Chair part," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2196, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 39 ayes to 12 noes, with Representatives Aquino, Awana, Cabanilla, Carroll, Cullen, Fale, Fukumoto, Hanohano, Har, McDermott, Tokioka and Yamane voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1646-14) recommending that S.B. No. 2934, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2934, SD 2, HD 1 pass Third Reading, 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 Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I need to disclose a potential conflict of interest. I own shares of stock in Hawaiian Electric Company," and the Chair ruled, "no conflict."

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

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

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

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

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

"Mr. Speaker, this is one of my measures that I will be voting no. My reason is very simple. It's another tariff upon our ratepayers at this point in time mandating the PUC. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2934, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Third Reading by a vote of 44 ayes to 7 noes, with Representatives Awana, Fale, Fukumoto, Hanohano, Har, McDermott and Say voting no.

At 1:05 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2346, SD 1, HD 2  
 S.B. No. 2866, SD 1, HD 1  
 S.B. No. 2436, SD 2, HD 1  
 S.B. No. 632, SD 2, HD 1  
 S.B. No. 1043, SD 1, HD 1  
 S.B. No. 2196, SD 2, HD 1  
 S.B. No. 2934, SD 2, HD 1

At this time, the Chair stated:

"Members, we are going to take a 30 minute lunch break."

At 1:05 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:00 p.m., with Speaker Souki presiding.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1647-14) recommending that S.B. No. 1233, 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. 1233, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LEAVES OF ABSENCE," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1648-14) recommending that S.B. No. 2470, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2470, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise with reservations. Because of the defective date, currently I'll be voting with reservations and it's my hope

that the necessary enhancements will be made when this bill is in its final version. Thank you, Mr. Speaker."

Representative Jordan rose in support of the measure with reservations and asked that the remarks of Representative Awana be entered into the Journal as her own, 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 Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, may I have a no vote and a few comments, please. This is about the Hawaii Health Connector, but I think it's more about a bailout or a cover-up of the embarrassment that the Health Connector has created. Mr. Speaker, how much does it cost to enroll 8,000 people? Well, that's what they've enrolled, in fact less than 8,000 people, and it's cost them \$57 million. That's \$7,000 a pop.

"Mr. Speaker, we have probably been suckered by the feds to take the \$205 million, but I'd say the \$205 million was really a temptation we didn't avoid. And Mr. Speaker, I put that parenthetically in the fact that the budget that we're going to be passing on this House Floor is almost 30-some, almost 40 percent federal money. The feds seemed to suck us in. We had quick and easy money, but I see that as even quoting the executive director, this is not a sustainable health connector. The executive director said that we cannot afford to do \$15 million a year, which it's going to take to operate this.

"So, Mr. Speaker, I think it's a safety net that this bill is going to create, and basically it's going to cover the embarrassment that we've caused through our state doing this. But we're kind of trapped into it. We're trapped in the sense that, some of us have said that, well, if we don't do this, we're going to be not given our exemption.

"Mr. Speaker, how many times have we been promised in the State of Hawaii, because we have the prepaid health care, that don't worry about it, Hawaii. And we're still leading on the people of Hawaii that there's not an exemption. Therefore we've got to go through this process, probably make a surcharge or an assessment, which is going to make already skyrocketing health plans' premiums even more expensive.

"So Mr. Speaker, we should watch what we say, watch what we do with this bill, and this is a dangerous step that we're going to take, because if we institutionalized this, this is not going to go away. Just like those taxes that we talked about earlier. Thank you, Mr. Speaker."

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

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

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

"Mr. Speaker, in support. Just briefly. There's obviously been a lot of problems with the rollout of this as there was with the national system. It's unfortunate, but I think it's important to keep our eyes on the prize, and the prize in this case is that Hawaii can, with the extension of Medicaid and the exchange, when the exchange works fully, like it will eventually. We could get very, very close to universal health care coverage in Hawaii, and that is a prize that is worth going through a lot of hassle for, fighting for, because it's within our grasp. *Mahalo.*"

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

"Mr. Speaker, right now with reservations. Something to read real quick here. Mr. Speaker, for those who don't have insurance, but with the \$200 million that we threw at this and nothing's come of it, Mr. Speaker, except a whole bunch of headaches. We could've bought insurance for everybody in the State of Hawaii that didn't have insurance. And just in the paper today, Mr. Speaker, it says, 'HMSA pursues 12.8% rate hike for small



businesses.' The Affordable Care Act is responsible for most of the increase that small businesses will face. That's all I have to say Mr. Speaker." [Note: Representative Fale later changes his vote to a no vote.]

Representative Rhoads rose to respond, stating:

"Mr. Speaker, in support still. I think what the previous speaker described is what liberals call a single-payer system. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2470, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH CONNECTOR," passed Third Reading by a vote of 45 ayes to 6 noes, with Representatives Fale, Fukumoto, McDermott, Thielen, Tokioka and Ward voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1649-14) recommending that S.B. No. 2820, SD 2, HD 2 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2820, SD 2, HD 2 pass Third Reading, 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 Har rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

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

"Mr. Speaker, in support. I think people need to understand that the effective date on this draft is July 1, 2012. So there's a ways off before it becomes effective. I think more importantly, Mr. Speaker, is tomorrow, I believe the Committees on Health and Consumer Protection & Commerce will be having an informational briefing, I think at 2 o'clock in the afternoon. I think everyone should attend that briefing. As this bill moves forward, this is probably going to be one of the more important decisions that we make this session. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2820, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Third Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1650-14) recommending that S.B. No. 2348, SD 2, 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. 2348, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 51 ayes.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1651-14) recommending that S.B. No. 2495, SD 3, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2495, SD 3, HD 1 pass Third Reading, 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 Har rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2495, SD 3, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC SMOKING

DEVICES," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fale, McDermott and Wooley voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1652-14) recommending that S.B. No. 2496, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2496, SD 2, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, with reservations, because the dollar amounts or the percentage amounts are blank. If it turns out that we're raising taxes on tobacco products, I'll be in support. If it turns out we're lowering taxes on tobacco products, I will be in opposition. Thank you."

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

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

"Mr. Speaker, may I have a ruling on a possible conflict? My wife is helping represent the UH Cancer Center," and the Chair ruled, "no conflict."

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

"With reservations, Mr. Speaker. Thank you. True that this might be an increase on tobacco. I don't personally smoke, never took it up as a child. My father is a smoker. But at what point in time do we continue to increase a sin tax on one segment of the populace? And this measure, Mr. Speaker, will be putting those dollars into a tobacco trust fund for a program in the University of Hawaii. So, at what point in time do we start taxing a populace to support a great program at the University? But we should all be cognizant as we develop these beautiful projects at the University of Hawaii, if they're sustainable or not, Mr. Speaker. Thank you."

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

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

"Mr. Speaker, I rise in support with reservations. I'd like the words of the Chair of Judiciary to be entered into the Journal as my own. I also need to remind Members that we collect about \$330 million a year in tobacco taxes, and we spend about \$30 million, I believe, in prevention or cessation programs. Thank you."

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

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

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

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

"Mr. Speaker, in opposition. Kind of on the opposite end of what the Judiciary Chair said, if this decreases taxes, Mr. Speaker, I'm for it, if it increases taxes, Mr. Speaker, then I'm against it. And the main reason is that this measure has the potential of putting taxes on loose and roll-your-own tobacco products, Mr. Speaker, and this is something that we covered last year. As I've seen those who roll your own cigarettes, and they are the poorest in our community, Mr. Speaker. To squeeze more money out of their pockets, the most vulnerable and least fortunate financially in our community, I can't support taking any more money from them. For those reasons, I'm opposed."

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

"Thank you very much, Mr. Speaker. In support with some slight reservations. More for the record and as I sit back and listen to the comments of the bill, what gets me is the funding mechanism seems to be creating almost a vicious cycle. To wit, you have a tax on tobacco products, which funds the cancer school, but then the tax is supposed to make the product more expensive, so people don't smoke or use tobacco products, which then reduces the funding to the cancer school. And around and around we go. Where we stop, nobody knows, Mr. Speaker.

"I think if the cancer school is a compelling state interest, and I do believe it is, then we need to General Fund the cancer school, Mr. Speaker, so that we don't see, and the spreadsheet clearly shows that the declining revenue of this tax will have issues with their debt service as well as with the cancer center itself in the future. Thanks."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2496, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO PRODUCTS," passed Third Reading by a vote of 49 ayes to 2 noes, with Representatives Fale and McDermott voting no.

At 2:14 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1233, HD 1  
 S.B. No. 2470, SD 1, HD 1  
 S.B. No. 2820, SD 2, HD 2  
 S.B. No. 2348, SD 2, HD 1  
 S.B. No. 2495, SD 3, HD 1  
 S.B. No. 2496, SD 2, HD 1

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1653-14) recommending that S.B. No. 2855, SD 1, 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. 2855, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE DEVELOPMENTAL DISABILITIES DIVISION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1654-14) recommending that S.B. No. 3064, SD 2, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3064, SD 2, HD 1 pass Third Reading, 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 Woodson rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

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

Representative Ichiyama rose and asked that the Clerk record an aye vote with reservations for her, 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 Onishi rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'd like to register a no vote. Mr. Speaker, in regards to this bill, when I asked in our hearing, the last hearing that we had, to Hawaii Health Systems in regards to the need for this bill or the ability to go into an agreement and private-public partnership, they said that they didn't have any restriction in terms of doing this already. I really don't see the purpose of this, or even them moving into authorization to create another bargaining unit without discussions fully with the union. So, I'm opposed to this bill. Thank you."

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3064, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH SYSTEMS CORPORATION," passed Third Reading by a vote of 36 ayes to 15 noes, with Representatives Aquino, Awana, Choy, Cullen, Fale, Fukumoto, Hanohano, Johanson, Matsumoto, Morikawa, Ohno, Onishi, Oshiro, Takai and Yamane voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1655-14) recommending that S.B. No. 1007, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 1007, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I rise in opposition. Mr. Speaker, I think it's important to note on the committee report it says, 'The purpose of this measure is to increase liability protections for the state and counties by extending the conclusive presumption for legally adequate warning to include dangerous non-natural conditions on unimproved lands.'

"Also important to note is that all of the testimony, including testimony from the Hawaii Paragliding Association, Hawaii Trail and Mountain Club, Hawaii Bicycling League, Mountain Bike Hawaii LLC, Hawaii Trail and Mountain Club, Oahu Mountain Bike Ohana, 808 Caveman, Access Fund, Climb Aloha, Soutltrex, Inc., Oahu Weekend Hikers, and numerous individuals testified in support of this measure. The Department of Land and Natural Resources and the Department of the Attorney General provided comments. There was no testimony in opposition.

"Mr. Speaker, may I request permission to enter into the Journal an email that we received from a Ms. Kendall Raina Whiting? And I believe she did come and testify before the House Judiciary Committee.

"My opposition stems from the fact that the HD 2, the version that came out of House Finance, is drastically different from the HD 1. And I'm

going to read a portion of the email that was sent to all of the Members in this Body.

"It says, 'Dear Representatives, The previous draft of this bill, the HD 1, was the culmination of the concerted efforts of Hawaii's rock climbers, hikers, mountain bikers, and paragliders in conjunction with the House Judiciary Committee and the Senate Judiciary and Labor Committees over the past year and a half to resolve issues surrounding landowner liability in Hawaii.' The Finance committee inexplicably deleted the germane portions of the bill that would protect the state from liability, despite all the testimony being in support and no testimony in opposition, and essentially undid all the hard work put in by the aforementioned groups.

"SB 1007, HD 1, revises the original Act 82, which a portion of this bill intends to remove the sunset date, and it included the following language, 'A duty to warn of non-natural hazards in the case of unimproved land when the state has knowledge of said hazard. The duty follows the same procedure as that for natural hazards on improved public land.'

"The amendments were important to Act 82, because first and foremost the Chair of Judiciary was instrumental in constructing this language. This is a bill that came out of committee last year, Mr. Speaker. What had happened was we were at an impasse, and the House Judiciary Committee, along with all of the stakeholders, worked on this compromised language and quite frankly much of this stems from the closure of Mokuleia. As many of you know, Mokuleia was closed off because of the dangerous conditions of the rock falls.

"So what happened was the rock climbers essentially said, 'state, we don't want you to be liable. We understand that what we do is inherently dangerous as rock climbers and therefore we don't want there to be liability for the state.' And that's why they requested the amendments. And so with the hard work of the Judiciary Committee, he put that language in there and the Department of Land and Natural Resources and the Department of the Attorney General approved of that language.

"So I think what's more important here is, there are lawsuits that have been filed against the state without the Act 82 language in the bill. And so what we're talking about is protecting taxpayers from lawsuits. Any time the state is liable, who's paying those judgments? It's our taxpayers. And for example, Mr. Speaker, back in 2006 there were two individuals who were hikers. They did lose their lives on Kauai, and as a result the state ended up paying \$15.4 million on this settlement, which is why the Department of the Attorney General wanted this additional language if we were to reopen Mokuleia and protect, not only the state, but give access to the public.

"So really, with the amendments in this bill, it's a bit confusing. These are real substantive changes, and really the HD 1 represented a balance. It protected the state from additional liability while providing access to those outdoor enthusiasts who want to have every right to utilize our state parks and trails. So for those reasons, Mr. Speaker, I stand in opposition, and it's my sincere hope this bill will go to the original HD 1 based on much of the work that was put in from our House Judiciary Chair. Thank you, Mr. Speaker."

Representative Har submitted the following:

"From: K. Raina Whiting  
Sent: Tuesday, April 08, 2014 11:14 AM

Dear Representatives,

As one of your constituents, I'm reaching out to seek your support today during the third reading of SB 1007 HD2. The previous draft of this bill (HD1) was the culmination of the concerted efforts of Hawaii's rock climbers, hikers, mountain bikers, and paragliders in conjunction with the House Judiciary committee and the Senate Judiciary and Labor committee over the past year and a half to resolve issues surrounding landowner liability in Hawaii.

The Finance committee inexplicably gutted the bill and undid all the hard work put in by the aforementioned groups. But, as I'm sure you

know, according to House Rule 36.2, the bill can still be amended at the third reading.

36.2.

A bill on its third or final reading may be read by its title only and the Speaker shall then ask the House, "Shall this bill pass its third reading?" or "Shall this bill pass its final reading?" as the case may be. Such bill may be amended on its third reading. For the final passage of any bill, the Ayes and Noes shall be called or a vote shall be taken pursuant to Rule 51.3 and such passage shall require the affirmative vote of a majority of all members to which the House is entitled. The vote upon third reading shall be upon a motion that the bill pass third reading, rather than upon adoption of a committee report, so that amendments to the bill may be offered at third reading and voted upon.

We urge you to propose that the bill be passed out as SB 1007 HD1 (rather than HD2) for the following reasons.

SB 1007 HD 1 revises the original Act 82 language to include the following:

1. A duty to warn of non-natural hazards in the case of unimproved land when the State has knowledge of said hazard.
2. This duty follows the same procedure as that for natural hazards on improved public land.

These amendments to the original Act 82 are important because:

1. The House Judiciary Committee, with the help of Chair Rhoads, was instrumental in constructing the language of the amendments and the House Judiciary Committee passed the bill out unanimously.
2. The House Judiciary Committee attached a memo to the Finance Committee describing the intent of the amendments and the strong public and agency support for the amendments urging them to pass the bill as amended.
3. The user communities (including over 2,000 individuals both from Hawaii and potential visitors to islands) support the measure because it assures access to unimproved lands for recreational use.
4. These amendments better reflect the recreational use of Hawaii's public lands where individuals and groups hike, bike, paraglide, climb, and hunt on unimproved lands.
5. In each of these cases, user groups may have created or inserted ropes, bolts, mountain bike jumps, or launch ramps which can be construed as "non-natural" hazards. Thus, the State's signage system needs to accommodate these usages.
6. The bill as amended does not decrease the State's duty but rather helps clarify and balance the State's duty to warn with the individual's responsibility of risk assumption.

Sadly, for reasons that were not explained or justified in the committee report, the Finance committee chose to report out a different version (HD2) of the bill that made substantive changes that appear to be unrelated to financial considerations.

As representatives of many of the recreational groups that access the mountains, we respectfully request that SB 1007 HD 1 be the version passed at the third reading today; this version was carefully vetted by the Attorney General's office and provides a better protective balance for all involved.

Sincerely,  
Kendall Raina Whiting  
Honolulu, Hawaii"

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

"Mr. Speaker, with reservations. I thank the good Representative from Kapolei for bringing that to our attention, and that it be underscored, highlighted and otherwise brought to the conference committee meeting, because that's a very serious issue. Nobody wants to have a loophole or a slippage of what otherwise has been, a veil that has been pierced many times by the state, and the cost of that is tremendous. If we've just opened up another niche in our armor and another possible suit, I think we better fix it before the end of this session. Thank you, Mr. Speaker."

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

"Mr. Speaker, thank you very much. In support. I do agree with a lot of the parts that the Vice Chair of Judiciary, the Representative from Kapolei has stated. The concern that I have is since Act 82 was passed, the state continued to be sued by various members. And it is with misrepresentation that to add non-natural, man-made condition to Act 82 is going to somehow prevent lawsuit, so with discussion with both the DLNR and Attorney General's Office, what we are trying to do is provide complete immunity to the state by doing a permit system and a waiver. So any user of state land, if they're going to do any hazardous activity on state land, they need to provide and they need to waive any liability.

"So whether it's at Sacred Falls or Mokuleia, if you're going to use any state lands, you need to provide full liability, full immunity to the state by waiving your rights, and at the same time, if you are going to sue or if somebody you bring on to the land is going to sue the state, that you will defend the state and indemnify the state. Thank you very much."

Representative Har rose to respond, stating:

"Thank you, Mr. Speaker. Second time. I want to thank the Finance Chair for that explanation. And I don't disagree with her, but I think to request a waiver, to request that tourists and residents alike fill out a waiver form, essentially stating if they were to be injured, they would indemnify the state from liability, I think is somewhat impractical.

"But I do appreciate her comments, and unfortunately the comments she made were not put in the committee report. Had they been put in the committee report, I think that would have helped the matter along. But I still remain in opposition, but I know this is still a work in progress and I look forward to the bill going back to the original HD 1. Thank you, Mr. Speaker."

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

"Mr. Speaker, thank you very much. I'll be voting in opposition. I think the current draft that the bill is, is not the one I would've supported. I think the previous draft by the Judiciary Committee was the more appropriate vehicle to address what's going on right now. I live in Wahiawa, I frequent the North Shore area. And the Mokuleia rock crag is a very, very active, there's a lot of activity going on out there, especially over the last several years.

"To access the site where people are doing these rock climbing, sometimes free-style climbing, one has to access the Na Ala Hele trails and some of the trail systems. I don't know if this current draft will create problems for people getting onto the trail, which are properly noted and signage is properly placed for warning of any kind of dangers. Once they go to that place, at the end of the trail, when you get to the Mokuleia crag, where you start the rock climbing activities, whether or not that is going to open the state up for further liability because the state has enabled visitors and hikers to access that particular area.

"The second issue I think the speaker, Minority Leader Emeritus, should understand is that this current draft of the bill may not go to conference. The effective date on this is, this actually will take effect on June 29, 2014. So I think it's a clean effective date. Thank you, Mr. Speaker. "

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

"Mr. Speaker, with very strong reservations and may I have the words of the Representative from Kapolei, from the original portion adopted as my own, as well as the words of the Representative from Wahiawa," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 1007, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND LIABILITY," passed Third Reading by a vote of 46 ayes to 5 noes, with Representatives Hanohano, Har, Ito, Oshiro and Tsuji voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1656-14) recommending that S.B. No. 3122, SD 2, HD 2 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 3122, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, Standing Committee Report 1656, Senate Bill 3122, Senate Draft 2, House Draft 2. This is Relating to Hawaii Community Development Authority. Mr. Speaker, I'm standing in opposition to this measure. Let me explain to you why. I think the previous opportunity to debate and discuss this important issue in the House draft, I voted with reservations. And it was brought upon me, essentially because of the eloquent remarks of the Chair of the Ocean, Marine Resources, & Hawaiian Affairs Committee.

"But now that we are past the midway point of the session, going into the last quarter, or leaving the third quarter of the session, this is a Senate bill going back to the originating Body. And I think I've been privileged to have the opportunity to speak to various parties on both sides of this contentious and somewhat divisive and emotionally charged bill before us. But I think at this point in time, I'll be voting no, and let me explain to you why.

"See back in 2006, Mr. Speaker, along with you and 14 others of our colleagues, there were 16 of us, back in 2006. We made a policy decision back then to override the Hawaii Community Development Authority and its process of awarding a parcel of land to be used by Alexander & Baldwin, an old *kama'aina* company, to develop residential towers in Kakaako Makai.

"It wasn't a very pleasant experience, because at that time, like this time, the current Governor was somewhat ambivalent of the whole discussion. In fact, I remember the Governor back then, Governor Lingle, was neither committed to one way or the other of the discussion, but basically said she would remain non-committal and stay on the sidelines and not weigh in on this decision. Although, the HCDA, under her directorship had issued the RFP and had selected Alexander & Baldwin.

"So back then we made a decision Mr. Speaker. I think the policy call was that going forward in the area of Kakaako, we would draw the line on Ala Moana Boulevard that those lands *makai* or ocean side of Ala Moana forever in perpetuity would be developed without any residential units. And the idea there, and the fear that we had there, was once you allowed a single parcel to be developed for residential use, untold numbers of other residential developments would come into play. We're not only dealing with private landowners, but also the State of Hawaii, through HCDA, they had landholdings there.

"So we made that choice and we overturned the decision of the HCDA to select Alexander & Baldwin. In 2012, many of us were here. We entered into a historic settlement, long time in coming, well deserved. Something we should've done years ago, to settle the outstanding claims of the Office of Hawaiian Affairs going back to 1978, Mr. Speaker. 1978. Over various administrations, I think four or five administrations, various bills for consideration, various boards of trustees of the Office of Hawaiian Affairs, various iterations of land and/or money, money and/or land. We finally settled it, in simple terms for \$200 million in land, no cash. Going forward they would receive \$15.1 million for the proceeds and incomes of those city lands."

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

Representative Oshiro continued, stating:

"In 2012 the discussion came up, came before my committee, as Chair of Finance. Whether that time concurrent with the discussion to remove the restrictions upon the lands *makai* of Ala Moana to allow for residential, whether or not that should be brought to bear upon our decision to settle,

for once and for all, the outstanding claims to the Office of Hawaiian Affairs.

"I remember, Mr. Speaker, sitting down with various agents of the Office of Hawaiian Affairs, and asking them repeatedly, honestly, sincerely, whether they were really to accept the settlement, terms and conditions set forth in the bill before us, to settle, here and now, those outstanding claims. And the reason I did that, Mr. Speaker, is because after waiting over 30 years, three decades, I wanted to make sure that we all understood what we are buying.

"At that point in time, Mr. Speaker, I remember being told several times that, 'No, Representative Oshiro, we appreciate your concern very much, but we prefer that we move forward with this bill. With the current terms and conditions of the bill, we acknowledge the restrictions on the lands *makai* of Ala Moana Boulevard, we understand that. But please, please, move the bill along, have it pass from the House with an effective date upon approval, so that we can avoid conference.'

"And that's what I did, Mr. Speaker. So today when we're facing this issue to go back in time two years, to review again what was transferred and what was settled, I'm a little concerned on whether or not I did not do my due diligence. If I didn't maintain my fiduciary responsibility to the people of Hawaii, that maybe I should've changed the effective date, so we would have more time to discuss it or maybe put it aside.

"See, Mr. Speaker, two years is not a very long time, against 30 years of waiting for a settlement. And I'm wondering right now whether or not by moving this bill forward we would actually do justice to both proponents and opponents.

"For the proponents of this bill, Mr. Speaker, there is no guarantee that making this change will achieve the objectives of allowing them to derive the income that they so seek to serve the beneficiaries. For those in opposition, for those in opposition, the numbers are overwhelming at this point in time to have this bill pass this Chamber.

"Before I sit down, I think there's two items that we should consider, all of us. One is the Kakaako Makai Conceptual Master Plan, Final Report, April 2011. I would encourage every single Member of the Legislature to review this document. It's at the HCDA website. This might be a good starting point, Mr. Speaker, for compromise.

"Another document, go to the proponent's website, the Office of Hawaiian Affairs, and look at this report that's filed, Report on Public Land Trust Income and Proceeds Due OHA. By reading these documents, by studying these publications, one will appreciate the issues at stake, the passions at stake, and how we might find another way to resolve this important issue. I ask for permission, Mr. Speaker, to submit further written comments. Thank you very much."

Representative Oshiro's written remarks are as follows:

"Mr. Speaker, I respectfully rise in opposition to Senate Bill No. 3122, House Draft 2. But, in doing so, let it be perfectly clear and understood, that my vote on this bill is not a reflection of my deep personal and professional regard and affection for the Chairperson of the Office of Hawaiian Affairs. She is a woman of great integrity, conviction, and wisdom. The same regard is also true for other Trustees of whom I have the same respect and admiration. Especially, the Past Chairperson, who I consider a dear personal friend and part of my extended family. The Chairperson and Trustees are merely doing what duty calls them to do and that is to pursue and advance the interest of their beneficiaries. In this regard, we find no disagreement.

"Furthermore, my previous and current support for the mission and purpose of the Office of Hawaiian Affairs is self-evident and without question. In 2012, I was a key member of the Hawaii State Legislature that endorsed and approved the three decades long dispute and \$200 million settlement that conveyed certain parcels of Kakaako Makai lands to the Office of Hawaiian Affairs. In lay terms, 'I was at the table' to discuss the bill and recommend approval of the same with no objections or limitations.

"As such, the following remarks are solely limited to and pertains to only the debate and discussion of the policy choices found within Senate Bill No. 3122, Senate Draft 2, House Draft 2. It is here, that I regretfully part company with dear friends. For the aforementioned reasons, I respectfully although regretfully will be casting a vote in opposition of Senate Bill No. 3122, Senate Draft 2, House Draft 2, HSCR No. 1656-14.

"As I stated previously in opposition to Senate Bill No. 3122, House Draft 2, there can be another avenue for us and OHA to consider. It is found in the Kakaako Makai Conceptual Master Plan Final Report.

"If you haven't already, I urge every Member of this Body to go to HCDA's website and download the Kakaako Makai Conceptual Master Plan Final Report, dated April 2011. It represents the culmination of four years of direct public input through project team meetings, workshops, open houses, and focused discussions to depict a general framework of access and circulation, land uses with respective intensities, open space networks, and areas designed for future improvements. This plan represents the desires and recommendations of all of the interested stakeholders of Kakaako, including Kamehameha Schools and the Office of Hawaiian Affairs.

"The conceptual plan essentially contains three major approaches to developing Kakaako Makai and focuses on the HCDA controlled lands:

- (1) Designating land uses on currently unimproved state lands;
- (2) Proposing re-development of selected existing state lands with new land uses; and
- (3) Identifying and recommending improvements to existing park and public facilities in need of enhancement or expansion.

"There is a passage in the introduction that I would like to read, Mr. Speaker. I think it represents what we all want done for the area:

*"As the conceptual master plan estimates public facility development costs at approximately \$50 million, the current economic downturn, prohibition on residential activities in the area and a resistance to for-profit land uses, create a serious challenge to financing public facility improvements in the Makai Area. Accordingly, we must work to identify and secure funding for the proposed public facilities and improvements whether through grants, bond measures, private benefactors or through public/private development efforts. Despite the limitations for financing these public improvements, it is important that the Legislature, the HCDA, stakeholders, and the community at large continue to make the realization of this conceptual master plan a priority and not another plan that languishes on book shelves and coffee tables. As such, while construction of public facility improvements identified in the conceptual master plan for the Makai Area may occur in phases and appear protracted, the vision and objectives remain sound and must not be abandoned."*

"Mr. Speaker, the passage of this bill does much to undermine the larger vision for Kakaako's future. It undermines all the work done by HCDA – at our direction and at great cost – to collaborate with all of the stakeholders and find ways of advancing the policies established by this Body. That policy – that Kakaako Makai be an inviting place for Hawaii residents, comfortable and engaging, and a people-oriented place – reaffirms our commitment to ensuring that public lands be used for public purposes. I adopt the HCDA Staff Report dated May 18, 2011, as described below:

**Shall the Authority Adopt the Kakaako Makai Conceptual Master Plan Final Report as the Guiding Document for Reviewing and Approving any Future Projects in State-Owned Lands in Kakaako Makai?**

*Staff Report*  
May 18, 2011

**Background:** In November of 2006, pursuant to House Concurrent Resolution No. 30, the Hawaii Community Development Authority (“HCDA”) embarked on a community planning process for Kakaako Makai with the goal of engaging the public in a process that analyzed various development alternatives and identified a blueprint for development of the Kakaako Waterfront that enjoyed widespread community support and benefitted not only Kakaako stakeholders, but all the people of Hawaii.

Since then, the HCDA has developed a broad constituency and audience. The planning process has lasted more than four years and involved:

- 50+ one-on-one interviews and small group meetings in 2006 and 2007 involving 100+ individuals for the formation of the Kakaako Makai Community Planning Advisory Council (“CPAC”);
- 50+ CPAC meetings over a 3-year period attended by over 300 people;
- 50+ one-on-one interviews and small group meetings between 2009 and 2010 with 100+ stakeholders;
- A 3-day Community Workshop in January/February 2010 which was attended by 70 people/day;
- Eleven (11) “Focused Group” meetings with distinct stakeholder groups attended by 103 individuals;
- A 2nd Community Workshop convened in June 2010 and attended by 150+ people;
- A Community Open House from September 27 to October 2, 2010 attended by 90+ people;
- 10 + project team meetings attended by CPAC, other stakeholders, the HCDA and the HCDA consultants;
- A 3rd Community Workshop convened in October 2010 and attended by 90+ people; and
- The HCDA public participation web portal set up specifically to gather public input on the planning process (accessed on average of 156 times a month starting in March 2010).

After a result of this comprehensive public planning process, a conceptual master plan for Kakaako Makai that reflects land uses and activities supported by a broad spectrum of the community was prepared and presented.

**Discussion:** The conceptual master plan for Kakaako Makai is the product of a long and involved community participatory process. The nine components of the conceptual master plan are rooted in the vision and guiding principles developed by the CPAC and statutory requirements for development in Kakaako Makai and developed through stakeholder focused group meetings, project team meetings including the CPAC, and public comments from several community meetings. These nine components are:

- Park Expansion/Enhancement;
- Waterfront Access including Parking and Circulation;
- Kewalo Basin Harbor and Support facilities;
- Cultural Public Market Place;
- Arts and Cultural programming;
- Marine Science and Education;
- Life Science and Education;
- Civic Use; and
- Historic Preservation.

Each of these components has been presented, discussed, and vetted at stakeholder meetings, project team meetings, and community workshops. The conceptual master plan represents these nine components in a park like setting with expanded green space and public promenade along the shoreline from Kewalo Basin Park to Ewa boundary of Kakaako Waterfront Park and continuing Mauka to Ala Moana Boulevard along Keawe Street. The conceptual master plan also represents the density, height and approximate locations of these components without locking in the exact footprint of each component. The conceptual master plan is meant to remain flexible in locating and determining the exact footprint of each component as detailed plans are developed for each individual project. The conceptual master plan also provides an order of magnitude cost estimates for each component.

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The conceptual master plan includes expanded park, shoreline promenade, museums, performing venues, community center, farmer’s market, community garden, and limited commercial use. It is expected that most of the public facilities will have to be developed through legislative funding or private donations. A section in the conceptual master plan report discusses various funding options that may be available. Some elements in the conceptual master plan such as the Museum of Hawaiian Music and Dance already have strong legislative and community support and could attract funding more readily for development. The HCDA may also decide to seek legislative funding for public facility projects such as the shoreline promenade and park expansion. The CPAC in particular is exploring formation of a private non-profit conservancy that can raise funds for development, operation, and maintenance of public facility projects in Kakaako Makai.

The conceptual master plan report also includes a discussion on a potential location for a presidential library in Kakaako Makai. The possibility of a presidential library in the area was raised during the community workshop held in January/February 2010. Towards the end of the planning process, the HCDA received a request from the University of Hawaii at Manoa to consider inclusion of a presidential library in the conceptual master plan. Comments supporting a presidential library in the area have also been received from several individuals, organizations, and elected officials. The CPAC has expressed strong opposition to a presidential library in the area.

The conceptual master plan will become the guiding document for any future development in State-owned lands in Kakaako Makai. Privately owned lands in Kakaako Makai are excluded from the conceptual master plan.

**Recommendation:** Staff recommends that the Authority adopt the Kakaako Makai Conceptual Master Plan Report as the guiding document for reviewing and approving any future projects in State-owned lands in Kakaako Makai.

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"For these reasons, I regretfully must oppose this bill. For the record, I would also like included with my remarks a piece that I submitted to the Honolulu Star-Advertiser on this measure:

**OHA understood restrictions on development in Kakaako Makai**

By Marcus Oshiro

POSTED: 01:30 a.m. HST, Apr 20, 2014

The Hatfields and the McCoys. Mention either of these families and thoughts of unpardonable sins, generational grievances, and collateral damage come to mind. But despite all that had happened between these two families, at some point, peace was finally restored.

Kakaako Makai was intended to manifest the peace between the state of Hawaii and Native Hawaiians. The state and the Office of Hawaiian Affairs (OHA) agreed to settle their differences over millions of dollars in ceded land revenues without an admission of fault so that both could focus on good relations going forward. As settlement in 2012, the state agreed to convey, in lieu of cash, lands in Kakaako Makai to OHA that were worth approximately \$200 million. At the time, there was already a restriction in place dating back to 2006 prohibiting residential development there.

When OHA agreed to the settlement, it understood that commercial use would be the extent of any future development of the Kakaako Makai lands. It wholeheartedly accepted those lands with that understanding, and everyone was happy because peace was restored.

Yet in just two years, OHA changed its mind and now wants to build residential units in Kakaako Makai. It says the only way these lands will generate sufficient revenue to fulfill OHA's fiduciary duty to its beneficiaries will be if they are allowed the "highest and best" use. But if that is the case now, wasn't that the case two years ago? If that was so, why did OHA agree to the settlement?

When OHA officials accepted those lands, they knew that the law prohibited residential development makai of Ala Moana Boulevard.

They knew that Alexander & Baldwin had proposed build residential condominiums on those same parcels in 2006 but were stopped by the Legislature to protect public access to the ocean and preserve recreational uses of the area.

OHA even retained its own real estate appraisers, legal advisers and development experts in doing its due diligence. Moreover, OHA even repeatedly opposed passage of a law that would have provided the residential entitlements they are seeking today. The inescapable truth is that it accepted the bargain with eyes wide open.

Ask yourself: Would changing the law today be fair to Alexander & Baldwin? What about Kamehameha Schools that owns land in Kakaako Makai? What about its beneficiaries? How fair is this to all of the various community stakeholders who spent over five years working on the Kakaako Conceptual Master Plan? A master plan issued by the Kakaako Makai Community Planning Advisory Council, a group which included an OHA representative as an ex-officio member?

Buyer's remorse, although understandable, is insufficient reason to renege on a settlement that OHA and the state fashioned through good faith bargaining and honest negotiations.

On June 14, 2003, an official truce was declared by the Hatfields and McCoy's. An organizer of the truce said: "The Hatfields and McCoy's symbolize feuding and fighting, but by signing this (truce declaration), hopefully people will realize that's not the final chapter."

Like the truce declaration, Kakaako Makai was intended to broker an enduring peace between the state and Native Hawaiians. The bargain is a carefully balanced calculus of amount due and payment owed. Don't let buyer's remorse destroy all the good that was supposed to come with the agreement.

Granted, mutual reconsideration of past agreements is acceptable and can benefit all stakeholders, but it must be done so that both parties meet their legal and fiduciary responsibilities to respective constituencies for OHA, the Native Hawaiians beneficiaries; for the state and the Legislature, all the people of the state of Hawaii."

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

"Mr. Speaker, in support, Mr. Speaker. First and foremost, yes I was here in 2012. Yes, I did have conversations with the Office of Hawaiian Affairs in regards to this transaction. And I stood wholeheartedly at their wish to please, let's move this forward. I attended five of those meetings they held publicly regarding these lands, so I understood what I voted on in 2012.

"Did I think it was a great deal? No, I didn't, but I wasn't voting for me. You see, Mr. Speaker, I'm not a beneficiary of the OHA proceeds. I am not Native Hawaiian. Although they do serve everyone, I am not Native Hawaiian and I don't feel I am entitled to any of those. But, Mr. Speaker, I think we should allow this measure to move forward, to go into conference, to consider this discussion, and hopefully to have a resolution by the end of this session. This currently asks for the change on three of those lots on the *makai* side.

"The current zoning on the *makai* side, OHA can build a 20 foot, a 40 foot, a 100 foot or a 400 foot commercial building. Or, they can build the same as residential. But they can't, because there's a restriction on residential on the *makai* side. So nobody has objections with them building a 400 foot commercial building, I haven't heard those. What's the difference, if I'm looking at the same footprint, if it's commercial or residential.

"Oh, in today's economic times, commercial won't work. You see, we have too much commercial in Honolulu. We have too many vacancies. But in order to make a development work, you need mixed-use, Mr. Speaker, residential and commercial to pencil it out. All developers know that. You need planning time, sometimes one year, sometimes five years, sometimes 10 years. Sometimes those developers and those funders won't even talk to you, unless you have the proper zoning.

"We all know this, I'm sure most of this Body knows this. So are we to tell them, 'don't even go ahead with planning, because you don't have any options'? Now I have some concerns, Mr. Speaker, if they could possibly sell this land. No, I'm not happy if they sell this land because you heard my discussion earlier today regarding public and trust lands. And I wouldn't be happy if they chose to sell them.

"So these are the things that we can talk about in conference. But if we don't get to conference, we can't have that conversation. That's all we're asking for. I'm hoping this Body will allow that. And I understand those 16 Members that were here back in 2006. But as we heard earlier today, times change on many of these different measures. You have new people in here with new ideas, the tide rises, the tide decreases, liabilities in the mountains. Things change. And as things change, we as policy makers have to make exceptions to these changes moving forward.

"Now is that the best parcel that they could've gotten? No, I don't think so. Because we've heard in testimonies, it could be under water in 50 years. That's not for us to decide. That's for the Office of Hawaiian Affairs to decide moving forward. Right now, it's just allowing them to have that potential conversation, and I think we should afford them that. I don't think they're going to develop in the next 10 years. Again, we all know how development goes. But I think we should allow them the opportunity to have that discussion.

"And we all knew how to get that bill passed in 2012, right, we all know how it works. Don't rock the boat, just get it over the hurdle. And some say that they said back then they were going to come back for these, some say no, they weren't going to come back for these restrictions lifted. Doesn't matter who said what, what said who, it's here, there's a bill here. We should actually see if we can have some discussion and take this to the finish line and see where we stand. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. I'll be voting no, but with your indulgence may I just request that the statements I made on Second Reading be incorporated in this Third Reading measure. Thank you," and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I rise with support with some slight reservations. I find it interesting that the State Legislature is acting almost, in my opinion, like the City and County of Honolulu, like an ordinance. We're actually looking at in this particular bill, we're looking at height limitations, we're looking about allowing residential development, we're looking at allowing the authority to actually charge the residential homeowners an association fee, like condominium associations do fees. But in this bill we're giving the authority the ability to do a fee.

"So, my concern always when I looked at this is if we're going to treat Kakaako Makai like it's a community development and the Legislature is in there trying to design it, it would seem that, in the best of all worlds, we would just, the state would give it back to the City and County of Honolulu and say, you have your community meetings, you work with everybody, and let's see what, find out what the City and County of Honolulu wants with the property.

"But more importantly, I was around when we all met over Kakaako Makai, and there was a big rally and we didn't want the Alexander & Baldwin building to be built there, and the Legislature said, yes, lets back off and let's make sure there's community, public space. I think the message was loud and clear. I kind of think as it moves forward into conference, I'd sure like to see us consider buying back the beachfront and the open space land that's along the ocean and maybe get back to what the community strongly expressed during those times.

"But as the Legislature is stepping up and we're acting again like we're passing some city and county ordinance, it just seems awkward to me that we're doing this. And I want to point out to everyone, you read the details of it. Only two out of the three parcels have a height limit. Only two out of

three. It's not applied to all three parcels. I find that really interesting and I hope they look at that in conference. Thank you."

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

Representative Carroll 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 Carroll's written remarks are as follows:

"Mr. Speaker please note my reservations regarding SB 3122, allowing the Hawaii Community Development Authority (HCDA) to approve residential development on lands owned by the Office of Hawaiian Affairs (OHA), specifically the Kaka'ako Makai area. This has been opposed by a large portion of the community and residents in that area for some time, which is why a ban on residential development was enacted in 2006. Here we are in 2014 and the community is still just as opposed, for the same reasons as before. In fact, little has been done to ease the fears of the public regarding residential development in this area. We should address the public's concerns on this measure before we make any decision that would drastically affect those living in the Kaka'ako area.

"OHA is supposed to utilize ceded lands for the betterment of the native Hawaiian community. I also should add that, the ceded land controlled by OHA is being held in trust for the native Hawaiian people. For OHA to go against this dynamic would be contrary to its mission. My fear is that this measure will not only negatively impact the native Hawaiian community in the Kaka'ako area, but the entire native Hawaiian community as a whole, resulting in more financial losses for native Hawaiians due to further mismanagement of crown lands.

"Other concerns I have if OHA should develop residential apartments and/or homes for sale are: Is OHA going to sell our public lands as fee simple, which will go against the stance and policy created in 2008? That year, there was a highly visible and controversial debate regarding whether or not the state should sell ceded or public lands, which resulted in a trial in the United States Supreme Court. OHA took the stance of 'no selling of ceded or public lands' until a reconciliation process is established with a complete resolution and our Hawaiian people have been satisfied with the state compensation that would address the damage that occurred during the overthrow of our Hawaiian Kingdom as well the devastation that impacted our people from 1893 until now.

"Furthermore, if OHA decides to lease the land as part of their purchase to homeowners, are they going to make it affordable? There are concerns that both have not been and still need to be addressed before the passage of this bill. Mr. Speaker, there is a reason for the 2006 prohibition of residential development in Kaka'ako Makai. It is not just because of the intense community opposition, it also has a lot to do with the fact that it is one of the last open public spaces along the south shore. It is due to these reasons, Mr. Speaker, that I have reservations in regards to this measure.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to note my reservations on SB 3122. Thank you."

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 3122, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY," passed Third Reading by a vote of 41

ayes to 10 noes, with Representatives Belatti, Brower, Choy, Kobayashi, McKelvey, Ohno, Oshiro, Say, Takai and Takayama voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1657-14) recommending that S.B. No. 2274, SD 1, HD 1 pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2274, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. In opposition, just brief comments. Mr. Speaker, I'm in opposition to this measure because if you look at the testimony that was submitted, there was no testimony submitted in support to the House Finance Committee. Notably, the testimony from the State Office of Planning, they make it clear that there are existing and well used processes in place already to permit uses such as sustainable living research sites in appropriate areas in the rural and agricultural districts, such that this bill is not necessary.

"In particular, the special permit process and HRS 205-6 authorizes county planning commissions to permit certain unusual and reasonable uses within the agricultural and rural districts other than those for which the district is classified in accordance with county special use permit rules and the guidelines set forth in Hawaii Administrative Rules Section 15-15-95.

"Additionally, the state and the counties have not yet completed the process of identifying all important agricultural lands in the State of Hawaii. The IAL law passed in 2005 implements Article XI, Section 3 of the Hawaii State Constitution. It directs the state to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands. The intent of the IAL law is to conserve the state's agricultural land resource base and assure the long-term availability of agricultural lands for agricultural use.

"Lastly, allowing non-agricultural uses in the state agricultural district may contribute to the impermanence syndrome, whereby agricultural use declines due to farmers' disinvestment in their farm operations in anticipation of development. This has been observed to occur where competing uses are allowed in areas designed for agricultural uses, and this may occur as sustainable living research sites are allowed in agricultural districts where they have the potential to resemble urban development.

"In addition, Mr. Speaker, the other piece of testimony was submitted from the County of Hawaii Planning Department in opposition. They have certain concerns as well, objecting to the inclusion of sustainable living research sites as permissible uses within the state land use agricultural and rural districts. For those reasons, Mr. Speaker, I am in opposition. Thank you."

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

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

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

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

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



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

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

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

"Thank you, Mr. Speaker. I rise in opposition. I'd like to include the comments by the Representative from Kapolei, to be entered into the Journal as if they were my own. Thank you. And just another comment to add onto that Representative's statements. From the County of Hawaii's Planning Department, they had made a statement which caught my eye.

"While the purpose of this bill is laudable, it needs much more vetting before any kind of realistic implementation can be accomplished. Furthermore, we question whether the real intent of this bill is to truly foster sustainable research and testing or to create a vehicle; the proposed sustainable living research permit, to allow the proliferation of already existing "eco villages" to be legitimized.'

"For these reasons, I stand in opposition. Thank you, Mr. Speaker."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2274, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SUSTAINABLE LIVING," passed Third Reading by a vote of 35 ayes to 16 noes, with Representatives Awana, Fale, Fukumoto, Hanohano, Har, Jordan, Kawakami, Lowen, McDermott, Morikawa, Onishi, Oshiro, Say, Takayama, Thielen and Tokioka voting no.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1658-14) recommending that S.B. No. 2609, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2609, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

At this time, Representative McDermott offered Floor Amendment No. 6, amending S.B. No. 2609, SD 1, HD 2, as follows:

"SECTION 1. Senate Bill No. 2609, S.D. 1, H.D. 2, is amended by amending Section 1 to read as follows:

"SECTION 1. Section 387-2, Hawaii Revised Statutes, is amended to read as follows:

"§387-2 Minimum wages. (a) Except as provided in section 387-9 and this section, every employer shall pay to each employee employed by the employer, wages at the rate of not less than:

- (1) \$6.25 per hour beginning January 1, 2003;
- (2) \$6.75 per hour beginning January 1, 2006; [~~and~~]
- (3) \$7.25 per hour beginning January 1, 2007[-];
- (4) \$7.75 per hour beginning January 1, 2015;
- (5) \$8.50 per hour beginning January 1, 2016;
- (6) \$9.25 per hour beginning January 1, 2017; and
- (7) \$10.00 per hour beginning January 1, 2018.

[~~The~~] (b) Prior to January 1, 2015, the hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than 25 cents below the applicable minimum wage by the employee's employer and the combined amount the employee receives from the employee's employer and in tips is at least 50 cents more than the applicable minimum wage.

(c) Beginning January 1, 2015, the hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than the greater of:

- (1) \$3.00; or
- (2) An amount equal to thirty per cent of the applicable minimum wage rate established pursuant to subsection (a) rounded to the nearest five cents,

below the applicable minimum wage by the employee's employer and the combined amount the employee receives from the employee's employer and in tips is at least \$3.00 more than the applicable minimum wage."

Representative McDermott moved that Floor Amendment No. 6 be adopted, seconded by Representative Fale.

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

"Thank you, Mr. Speaker. May I first have permission to insert comments in the Journal. Thank you so very much, sir. I voted against this all along the way, the underlying measure. But my measure here sitting before us hopes to improve the minimum wage by expanding the tip credit. Mr. Speaker, you might be surprised to know, and I kind of find this humorous myself, that the amendment mirrors United States Senate Bill 460, introduced by Tom Harkin, a very liberal Democrat from Iowa, and is endorsed by President Obama.

"My amendment addresses the tip credit only. It deals nothing with the underlying bill. And if it's something that the President can get behind, you would think that it's something that we can get behind. After all, we claim him as one of our own. But, Mr. Speaker, this would expand the tip credit to give restaurants an opportunity to recoup some of that minimum wage.

"And I will go from both ends of the spectrum for you. Someone at McDonald's doesn't get a tip, at least not normally. Someone at Morton's, if they're good, can make \$200 to \$300 a night in tips. Yet, we're going to still require the owner of Morton's to pay that full minimum wage, whatever it may be in the future, \$10, without letting them take \$3 an hour off. I mean, the individual's already making \$100 an hour for a three or four hour shift, getting tipped extraordinarily well.

"Now that's one end of the spectrum. McDonalds is the other end. Tip credit doesn't apply to the person at McDonalds. So then you get, let's find somewhere at the lower end of the spectrum, Anna Millers. And basically, I'm speaking on behalf of the food service establishments who will feel the predominant impact of the tip credit.

"Beginning of the session I got a letter from the owner of Anna Millers saying, 'look, the minimum wage is going to crush us. We are going to have to lay people off. But if you do it, at least expand the tip credit.' I still remember to this day that in his letter he said, 'my average waitress makes \$17 an hour.' So, if we move the minimum wage up to ten or whatever it is, and give him a \$3 tip credit, his waitresses are not being negatively impacted. It doesn't matter where their money comes from.

"At the end of the day, whether they're making \$17 an hour or \$20 an hour, tips, wages, all of that is combined into the end total. But the restaurateur is asking for relief because his people are already being paid more than the minimum wage. Minimum wage is \$7 an hour, \$7.25, whatever. His people are already making \$17 an hour today when you include the tips. So you raise it to \$10 an hour, now they're making \$20 an hour. So he's asking, 'let me have some relief. Expand the tip credit so I don't have to lay anyone off because I'm not going to be able to eat all of that.'

"So, Mr. Speaker, if it's good enough for Senator Tom Harkin, if it's good enough for President Obama, which he endorsed Senate Bill 460, the Federal Fair Minimum Wage Act introduced by Tom Harkin last year, I think it's good enough for us. It's a pro-business move. 25 cents, 5 cents, those are meaningless numbers. And what they'll lead to is the employer saying, 'look, I'm not going to take the tip credit.' And so all the employees will have to pool their tips, which they can do because of the Woody Woo

decision in the 9th Circuit. They can be forced to pool their tips with the back office help, the dishwasher, the busboy. Sometimes the busboys get tips, sometimes they don't. But they'll be forced to do that.

"So you're going to get equality in pay across the board, but the guy washing dishes is usually less skilled and has less capabilities than that frontline server, and the frontline server is going to feel a little disheartened, disenfranchised about that.

"So, Mr. Speaker, those are my reasons for asking for consideration of a somewhat more liberal, or in line with President Obama and Senator Harkin's tip credit. Thank you."

Representative McDermott's written remarks are as follows:

"I note that beginning on January 1, 2015, the bill, if amended as I propose, would make the tip credit equal to the greater of \$3 or 30 percent of the applicable minimum wage rate rounded to the nearest five cents. But this credit only applies if the combined amount that the employee receives in tips and wages from the employer is at least \$3 more than the minimum wage. So the bill helps employers while also protecting lower-earning employees.

"Let me also add a note, to those who say that we don't need a tip credit increase, or that we should not even have a tip credit at all. They say that the tip is solely between the employee and the customer, and that therefore the employer should have no benefit.

"My response is that the employee does not operate in a vacuum. Without the employer's provision of the restaurant location, the food, the tables, the chairs, and the atmosphere, the satisfied customer would not have been able to meet the employee and give that employee the tip in the first place. So yes, the employer is a part of that transaction too, and deserves a break."

Speaker Souki: "Thank you very much, and welcome to the Democratic Party.

Representative McDermott: "Mr. Speaker, point of personal privilege. I wasn't aware you'd be willing to accept me."

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

"Mr. Speaker, in opposition. When I calculate \$17 an hour, say the waitperson makes \$17 an hour, five hours a day, 365 days a year, which of course nobody works every day. Well, except maybe people here in the Legislature, but other than us. It comes out to just over \$31,000. So even under this scenario where supposedly the wait staff are getting rich, you don't get that far on \$31,000 anywhere in Hawaii. *Mahalo*."

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

"Mr. Speaker, in opposition. I'm trying to do some math here. At the \$10 minimum wage, if a restaurant worker is working a five hour shift, we currently have that \$7 over provision. If you want to take out a tip credit, the employee needs to make \$7 of tips an hour, which comes out to \$35 a day in tips.

"This proposal will change that to \$3, which means \$15 a day in tips, which equals, when you include the minimum wage and the tips, that's about \$65 a day, around \$45 after tax. That's all this employee is making, and this bill is saying we are allowing employers to take out more of that \$45 a day. If you work six days a week, that's \$1,080 a month. And this proposal is allowing them to reduce that salary. Thank you."

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

"Thank you, Mr. Speaker. In opposition to the floor amendment. But I do appreciate the arguments by the Representative from Ewa and I do appreciate the fact that as far as the \$10 increase for the minimum wage,

he is not contesting that portion. I think it is about time that we did raise the minimum wage.

"As far as the tip credit is concerned, the amendment that came out of Finance with concurrence of the Labor Chair was compromise, and it was a good compromise. And in recognition of the work by the restaurant industry in hiring these entry jobs and for the restaurants to hire minimum wage workers for them to get their foot in the door, we do want to at least show our appreciation, and that's why we increased the tip credit.

"But at the same time, a \$3 increase for the tip credit is a little bit onerous. The relationship between the tip worker and the customer is a relationship between the two people. I would tip a person because the person did a good job, not because the restaurant did a good job, and we shouldn't penalize the worker for the good job that he or she did. Thank you."

Representative McKelvey rose in opposition to the proposed floor amendment and asked that the remarks of Representative Luke be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

The motion that Floor Amendment No. 6, amending S.B. No. 2609, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MINIMUM WAGE," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Ing, Luke, McKelvey and Rhoads voting no, and with Representatives Cachola and Takumi being excused.

(Main Motion)

At this time, Representative Fale offered Floor Amendment No. 7, amending S.B. No. 2609, SD 1, HD 2, as follows:

"SECTION 1. Senate Bill No. 2609, S.D. 1, H.D. 2, is amended by amending Section 1 to read as follows:

"SECTION 1. Section 387-2, Hawaii Revised Statutes, is amended to read as follows:

"**§387-2 Minimum wages.** (a) Except as provided in section 387-9 and this section, every employer shall pay to each employee employed by the employer, wages at the rate of not less than:

- (1) \$6.25 per hour beginning January 1, 2003;
- (2) \$6.75 per hour beginning January 1, 2006; [~~and~~]
- (3) \$7.25 per hour beginning January 1, 2007[-];
- (4) \$7.75 per hour beginning January 1, 2015;
- (5) \$8.50 per hour beginning January 1, 2016;
- (6) \$9.25 per hour beginning January 1, 2017; and
- (7) \$10.10 per hour beginning January 1, 2018.

(b) The hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than:

- (1) 25 cents prior to January 1, 2015; or
- (2) Beginning January 1, 2015, an amount that is equal to the difference between the minimum wage rate, as provided under subsection (a), that is being paid at the time the calculation is being made and the minimum wage rate provided in subsection (a) for the immediately prior period.

below the applicable minimum wage by the employee's employer and the combined amount the employee receives from the employee's employer and in tips is at least 50 cents more than the applicable minimum wage."""

Representative Fale moved that Floor Amendment No. 7 be adopted, seconded by Representative McDermott.

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

"Mr. Speaker, the first thing I would like to point out about this floor amendment is that it actually increases the minimum wage above what the current bill, the original measure, is asking for, Mr. Speaker. And I've had some pretty lengthy and interesting discussions in regards to the minimum wage, Mr. Speaker, and what this floor amendment will do to actually help those in an industry that needs a little bit of help, while the economy of the State of Hawaii, of course we understand, is in a little bit of difficulty. And the organizations that we're going to rely on the most here in the State of Hawaii, not only in the state but across the nation as a whole, to lift communities and people out of poverty, Mr. Speaker, it's going to be the private sector, and it's going to be our private sector economy.

"Mr. Speaker, the owner of one of the restaurants here in this great state has raised some serious concerns with the current measure, and has offered some proposals to make some ideas on how the bill could be improved upon to actually help the most amount of people. And the previous speaker actually addressed some of those in regards to how it's going to impact, especially those in the back.

"The measure, as it currently stands, would cost an extra, depending on how exactly it's distributed, anywhere between \$120,000 to \$200,000 a year. That's money that's going to actually go to the front of the line to those who actually receive the tips currently, because there is no tip credit, Mr. Speaker. That means that there's going to be less money, and that those who work in the back, the dishwashers, the cooks and everybody else, are not going to be able to be paid more.

"So this measure is actually going to negatively impact one group while maybe favoring others. Mr. Speaker, I'm glad that a previous speaker, the Chair of Judiciary, raised the point that even if we did have somebody making \$17 an hour, it certainly isn't going to be enough. And I think, Mr. Speaker, that we need to listen to those in the private sector who are saying, this is exactly how it's going to negatively impact my business, and this is how it's going to negatively impact the workers that I currently have.

"The intentions are great, the intentions are noble, Mr. Speaker. But its impact in reality is going to be very different from what it is exactly we're looking to achieve. And in a state where we just downgraded economic growth to zero percent, Mr. Speaker, I think those who are speaking to us from the private sector, I think we may better serve the people of the great State of Hawaii by listening a little better to what they have to say, and work together on making, on creating and fostering an environment that will best serve, especially those who are economically disadvantaged, Mr. Speaker.

"This amendment essentially allows a penny for penny increase in the tip credit. It's a bill that actually helps us more closely follow what it is currently being proposed in Washington, D.C. and even it's similar to the proposals currently put forward by President Obama, Mr. Speaker. And I think that this is something that would better serve our private sector, Mr. Speaker, and help us at least let the private sector know that we're listening, and that we understand what their concerns are."

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

"Thank you. Mr. Speaker, in opposition to the floor amendment. Between the two floor amendments, actually the floor amendment from the Representative from Ewa took into consideration that tip credit. In the Representative from Ewa's floor amendment, he actually put in a trigger, so the trigger for the tip credit will not come into effect until the person makes at least \$3 over what was allotted. So at least you can ensure that there would be no tip worker making under minimum wage.

"Unfortunately in this draft, the trigger was not changed at all. So potentially by year 2018, if we were to say that the minimum wage increases to \$10.10, the tip credit at that point would be \$2.85, but the trigger is still 50 cents. So potentially somebody could be making around I think \$7 or so for year 2018. And because the trigger is so low, what this bill ensures is we are going to end up paying tip workers substantially lower than the minimum wage. So for that reason, strong opposition."

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

"Mr. Speaker, thank you. Mr. Speaker, I stand in support of the amendment. Thank you so much. Why do we do this, Mr. Speaker? Why do we bring these amendments up, knowing that they're ultimately going to fail? It's a rhetorical question, of course. It is to engage in an exercise, a discussion, so the people in the public know what we're talking about. We want them to understand that we realize that the restaurant owner is not only paying the wage, but also the health insurance, the SUDA, FUDA, FICA, SICA, all those other things.

"The one measure that I spoke on this morning in great support, which is the autism bill. That's going to increase costs, however so slight. But that will be passed on to the employer. I felt it was important enough. What we lose focus of is all these costs that the business owner has to juggle. And so, increasing the tip credit gives him a little relief. Now we hear some discussion that someone can't survive on \$17 an hour. We're talking about a minimum wage tip credit here, and the minimum wage is going to be \$10 an hour, not \$17.

"We've done such a great job in this state that we have a safety net to protect these people. The difference is who pays for it, the taxpayer or the restaurateur, right? And, I think the poverty line is \$34,000. So you would need to make about \$17 an hour for a full 40-hour week to get that.

"So we're not talking about lifting people out of poverty here. We are talking about keeping people employed. And that's what lowering the tip credit does. It allows more people to get into the workforce because the employer can hire more people. And they can learn those skills that are so valuable at the entry level, training, and move up the ladder. So that's what the tip credit does. Thank you, Mr. Speaker."

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

"Mr. Speaker, in strong opposition. Trying to do some more math here. Somebody making \$7.25, the minimum wage right now, let's say at Pukalani Superette on Maui. Let's say they get a \$5 tip at the cash register, or by the bakery every hour. So they make about \$12.25 an hour. Let's say the employer wants to take out a tip credit right now that's 25 cents, so that equals \$12 an hour. Under this amendment, that person will be making \$10.10 an hour. Let's say he makes the same \$5 of tips. That's \$15.10, minus the tip credit proposed, that person will be making \$12.25 in 2018.

"So if you adjust it for inflation in real 2018 dollars, this amendment is asking someone who is already gravely impoverished to take a substantial pay cut. Thank you."

Representative Fale rose to respond, stating:

"Mr. Speaker, in rebuttal. I'm glad there's something that both myself and the previous speaker agree upon, is that whether the original bill, which he doesn't want amended, or the one that I'm offering amendment with, neither of them will do anything to substantially lift anybody out of poverty, Mr. Speaker. And that's severely problematic.

"Mr. Speaker, I would like to read a little bit of the testimony that was given in regards to this measure, and why we need this amendment. It says, 'a meager tip credit or no tip credit is absolutely counterproductive to increasing the wages of the lowest paid workers in Hawaii's largest private sector employer, the restaurant industry.'

"Mr. Speaker, remember, this isn't just about numbers. This is about people, and making sure that we can do the best that we can to provide an economic environment for them to thrive, Mr. Speaker. We've probably seen in the news the past couple days of a bunch of young people who have rioted in the streets, including the University of Connecticut, where they turned over cars and burned things to the ground, Mr. Speaker.

"This is about reaching out to a generation where we have the lowest employment of young people ever in the history of this country, which is severely problematic, Mr. Speaker, and we need to provide an environment

that allows them to work. If we price them out the economy, Mr. Speaker, we're setting up a lot of young people for failure because employers won't be able to bring them in.

"Tipped employees earning two to five times the minimum wage in tips do not need minimum wage protection. They already earn well above what many consider a living wage. The federal minimum wage bill proposed by President Obama includes a tip credit of 70 percent of the recommended minimum wage. Mandating restaurateurs to increase the wage they pay their tipped employees significantly reduces their ability to increase the wages of their other untipped workers being paid above the minimum wage, but not nearly as much as the tipped employees. This creates a huge and growing wage disparity between the service staff and the production staff. The lack of a meaningful tip credit puts undue pressure on restaurateurs to keep kitchen wages low. Please enact meaningful tip credit and help us pay our kitchen workers more.

"Mr. Speaker, these are the people who deal with this reality on a day-to-day basis. This isn't make believe, this isn't theoretical, this isn't a political issue to them. These are the people who live with this day-to-day, and they're trying to make sure that they can function in an economy that is struggling today, Mr. Speaker. And they're reaching out to us and saying, just help us out a little bit. Don't hurt us that bad.

"Mr. Speaker, that's why this proposal, from someone who lives in that environment on a day-to-day basis, is asking us to provide a little bit of assistance, and to lend our ear, Mr. Speaker. And I think that this floor amendment allows us to do that."

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

"Thank you, Mr. Speaker. In opposition, written comments, and I call for the question."

Representative Wooley's written remarks are as follows:

"I appreciate the author of this bill may have changed his mind, but I am very concerned about the divisive messaging this floor amendment provokes. This amendment confuses the public. On SB 331, SD2, HD1, Third Reading, the author, in voting against the bill, said 'If we're going to fix the problem, let's go to \$31.68 an hour.' Yet, he is now proposing this amendment to SB 2609, with proposals far lower than \$31.68 an hour last year. By advocating that this floor amendment becomes law, the proponent guarantees an employee won't hit the \$31.68 an hour."

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

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

"Thank you, Mr. Speaker. Just very briefly. In support of the amendment, but let me explain why. I support the amendment for the limited purpose that it actually takes the minimum wage increase to \$10.10 per hour, Mr. Speaker. Something that our current version failed to do. And for those making minimum wage, you cannot underestimate the importance of that dime, and what that dime means per hour to a minimum wage worker. And for those reasons, I do support this amendment for that limited purpose only. Thank you, Mr. Speaker."

Representative Ing rose to respond, stating:

"Mr. Speaker, well it is just for the record considering I think my previous argument may have been overstated when agreement was inferred earlier. Still in opposition. I just wanted to state that the employee that I mentioned that's making \$12 now after tips that will be \$12.25 in 2018, with this amendment, under the original bill that employee will be making \$15.10 an hour, which equates to \$6,240 a year. And that money makes a huge difference when you're living under those circumstances. When you add EITC, that's probably about \$6,500 a year, and that will lift somebody out of poverty. Thank you."

The motion that Floor Amendment No. 7, amending S.B. No. 2609, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MINIMUM WAGE," be adopted, was put to vote by the Chair and upon a voice vote, failed to carry, with Representatives Ing, Luke and Wooley voting no.

(Main Motion)

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

"Thank you, Mr. Speaker. In support with some reservations. Mr. Speaker, I want to make it very clear, crystal clear, that I support the raising of the minimum wage. I think it's long overdue. I want to thank the Chairs of Labor and Finance for the work that they've done, and their committee members, but I feel compelled to bring some reality to the Chamber today.

"Mr. Speaker, my reservations are based on the unintended consequences that are inevitable. Mr. Speaker, doing business in Hawaii is challenging. Keeping the doors open is even harder. Mr. Speaker, I see hard working mom and pops wake up at the crack of dawn, start making their musubis and okazuya foods. From dawn to dusk they sweat alongside their employees. I see many local business owners struggling. This may create even more hardship, Mr. Speaker.

"Mr. Speaker, there are many reasons why an employee stays with a company. Time magazine did a survey of why employees stay with a company. The top reason, I enjoy the work that I do. Number two is, the job fits well with my lifestyle. Number three, benefits. Number four is the pay. Number five, I feel connected to the organization. Number six, my coworkers. Number seven, my job gives me an opportunity to make a difference. Number eight, my manager. And at the bottom, there aren't any other job opportunities.

"You see, Mr. Speaker, pay in itself, money is not the top reason why someone will stay loyal to a company. Ranking above pay is enjoying what they do. Number two, it fits well into their lifestyle, especially if they have *keiki*, and number three, benefits.

"Mr. Speaker, many local mom and pops, they're doing the right thing. They're doing the right thing by employing at fulltime so that their workers can get health insurance. They're doing the right thing by offering profit sharing, holiday bonuses, retirement, and by scheduling work around one's lifestyles, so they can tend to their *keiki*. Mr. Speaker, these are the same mom and pops that donate to little league, Pop Warner. And sure, the big corporations will be able to weather the storm, but the mom and pops are going to suffer.

"Mr. Speaker, there are many reasons above and beyond pay and money itself that a worker remains loyal. And, Mr. Speaker, I fear that this measure will, for some local mom and pops, small businesses, okazuyas, convenience stores, the very fabric of Main Street America, the very fabric of Main Street Hawaii, to eliminate some of these benefits that mean so much to the employee that remains loyal.

"I fear that some mom and pops will be forced to put people at 19 hours. That some mom and pops will be forced to lay off workers. And yes, Mr. Speaker, I fear that some mom and pops will be forced to close up shop.

"Mr. Speaker, I understand that there are also many reasons why a business closes. Mismanagement, high cost of doing business, high utility cost, and just the plain fact that Hawaii is a very challenging place to do business. We are perhaps adding to that challenge. Mr. Speaker, I have reservations that this will further discourage young entrepreneurs from opening a business and growing their business. The clothing designer who wants to expand and open a boutique, the aspiring baker who wants to open up a bakery.

"Mr. Speaker, as I walk the streets and talk to the mom and pops, all of them agree, running a business in Hawaii ain't easy. The risk is high. Oftentimes the rewards are small. Mr. Speaker, I am sympathetic for those

who struggle everyday working two or three jobs, and I am also sympathetic for the mom and pops who are doing the right thing, providing all of those benefits above and beyond pay.

"Mr. Speaker, I am glad the restaurant industry and those that hire tipped employees are getting relief. But what about the relief for our mom and pops who hire at fulltime so that they can get their employees health insurance? Where is the relief for the mom and pops who donate much of their profits to charity and nonprofits? Mr. Speaker, where is the relief for mom and pops that hire the elderly? Where is the relief for mom and pops that hire those with mental and developmental disabilities?"

"Mr. Speaker, I'll wrap this up by restating, very clearly, my support at the raising of the minimum wage, but I want this Body to be cognizant of the unintended consequences that are inevitable with those mom and pops that are already up against the ropes. Support with reservations. Thank you."

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

"Thank you, Mr. Speaker. In support. Hawaii's minimum wage has been stuck at \$7.25 per hour since 2007, while the cost of living and basic expenses such as food, housing, utilities, gasoline and childcare have risen drastically. Average weekly earnings for non-minimum wage earners has increased 16 percent since 2007, while there has been zero increase for the minimum wage earners. If the minimum wage had kept the pace with inflation since 1968, the minimum wage would be over \$10.70 today.

"We have attempted, in this legislation, to put in place a method by which the minimum wage would gradually increase over time, and not wait for legislative action. However, that is not the case and so we have the bill before us today.

"Raising the minimum wage is good for Hawaii's families, and good for Hawaii's economy. Money in the pocket of working people will be spent to make ends meet, boost our economy, and create jobs in our community. According to the Federal Reserve Bank of Chicago, every \$1 in wage increase for a minimum wage worker results in \$2,800 in new consumer spending by that worker's household over the following year.

"Much has been said about the tip credit, Mr. Speaker, and I think that if we look at the tip credit, and we looked at the tipped employees in the restaurants we eat at, the vast majority of them are women. Raising the minimum wage will also be good for Hawaii's working women, who together with children will benefit from this increased economic security. In Hawaii, 47 percent of fulltime minimum wage workers are women, and 75 percent of our heads of household on TANF programs are women.

"Across the nation, women workers are concentrated in the low wage industry, such as food service, retail, and home healthcare. And despite the progress women have made, they are still earning overall much less. I think it's poignant that today is Equal Pay Day, Mr. Speaker. It's been 51 years since President Kennedy signed the Equal Pay Act. It was a great first step, but the average American woman still loses out on \$400,000 over her career, and that is unacceptable.

"Mr. Speaker, I think this measure is a long time coming, and I ask for all of your support. Thank you."

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

"Thank you, Mr. Speaker. In support with reservations. And simply, may I have the eloquent words of the Representative from Kauai adopted as my own. Thank you," and the Chair "so ordered." (By reference only.)

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

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

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

"Mr. Speaker, thank you. I rise in strong support of the minimum wage increase, but with reservations on the tip credit. Thank you, Mr. Speaker. And I do, like the Representative from North Kauai, want to thank the Labor Chair and the Finance Chair for all your hard work you did on this.

"And, Mr. Speaker, I want to clarify my comments by saying, people ask me, 'why are you so stuck on the tip credit?' Well, Mr. Speaker, I owned three restaurants in my previous life. This is not something that I'm not familiar with. And I know how hard it is, coming from a small restaurant, we're not talking about big dollars here, Mr. Speaker, we're talking about nickels and dimes. And if you can save some of those nickels and dimes in a small restaurant, you'll be successful.

"But with the increasing costs, whether its utilities, the cost of food, the cost of labor, all of these things going into a small little restaurant, some of them are not going to exist. One of the things that we hear in the Legislature, as neighbor island people, we come here and we have to eat out a lot, Mr. Speaker, and you're one of those people. I know in my discussions with the Finance Chair that we're trying to make sure that we have something fair, and she did a great job trying to do that.

"But the only area is, the trigger of \$7 in this bill, Mr. Speaker, it may only help the people that have operating systems, the big restaurants. The small little people like Washington Saimin, Boulevard Saimin, they don't have those types of tools. Many of them, Hamura Saimin on Kauai, a lot of them are still back in the shoebox days, in the cigar box days where they're taking in money and they put it in the cash register, and it's very, very difficult for them to calculate the tip credit.

"What was changed that was good was the 250 percent of the poverty level, and I applaud them for changing that, because as I said in my Floor speech on the earlier bill, you would have to hire people like the Representative from Manoa and CPAs to figure that out. And these people, they can't even afford to hire somebody to clean their grease traps, to clean the ventilation hoods. They can't, Mr. Speaker, because it's difficult. It's difficult in this economy, and it's difficult running a restaurant. So for those reasons, I'm in strong reservations, Mr. Speaker.

"But the other thing I wanted to mention is what you don't take into consideration, or what this Body has not mentioned, is these restaurant employees, most of them work five hour shifts, as was stated earlier. But most of them can eat before they go into work at that restaurant, and after work. And that's not included in that restaurant owners' zeal to make sure that their employees are taken care of. So we need to look at those things too, because most restaurants feed their employees, Mr. Speaker. And I don't know how many places in this state that you go to work and your employer feeds you.

"So for those reasons, Mr. Speaker, I thank, once again, I thank the Chair of Finance, and the Chair of Labor, but I still have strong concerns with the tip credit portion of this. Thank you very much."

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

"Thank you, Mr. Speaker. I rise in strong support. Thank you. Missing in all of this debate, I think, is what it means to live here, and what that costs us. We can talk about federal poverty levels, we can compare numbers back and forth. But what does it cost to live here in Hawaii? The state has, for some years now, done and calculated a self-sufficiency standard. And this is a measure of what it cost to put a roof over your head, to put clothes on your back, to pay for basic food, basic healthcare, and a bus pass to get to work. That's the self-sufficiency standard by which we ought to be measuring what we're doing here today.

"And this isn't by any means the typical American dream, this is hardly what people will consider something to aspire to. This is the basic necessities. But when you're talking about what it cost to earn a minimum wage here and to pay for those things, you're talking about, for a single individual earning minimum wage, earning 46 percent of that cost, 46 percent of what it takes to have a house, or an apartment, or a box, whatever it is you are able to afford. Basic food, basic healthcare, 46 percent of that. For a two person family, for a married couple, they earn 73 percent of that if both earn the minimum wage.

"For those with a kid, and this is where it gets really scary. For those families with children earning the minimum wage, they're earning 44 percent of what it costs to take care of their family. Just the basics, no movies on the weekends, no expensive Christmas presents, nothing.

"And for the rest of us, that's hard to grasp, but it's the truth and it's a fact that's often hidden in the shadows because we have multigenerational families living in the same household. We have subsidized lifestyles here that we have no option but to live. If we want to move beyond this, and move into a society where we can have children and expect them to raise themselves up to achieve something, to have a job, and to be able to raise a family of their own, this is something we need to move beyond.

"When I was in college I worked for a company that paid minimum wage, and I earned it. But I did so proudly. But it was enough there, because we didn't have it diminished by any mechanism. It was enough to get by in a society where the cost of living wasn't as high as it was here, where it was affordable to earn that wage, and make a daily living comfortably on it. Here, that's not the case.

"Ben Cohen from Ben and Jerry's fame was here just the other day from the mainland. A guy who's no stranger to small business, who founded one of the biggest, most popular ice cream stores, which has spread across the country. That store today pays at a minimum twice the minimum wage to its entry level employees. Twice the minimum wage.

"For the small businesses that are here in the state that many of my friends in my generation have come to develop and now run, they pay more than that. They can afford to do it because they're smart and they're efficient about it. And that's not to say that every mom and pop, and everybody's going to be able to do that, but it's incumbent upon us to look out for the interest of everybody, and that means the lowest common denominator in our society.

"That means the folks who are parents, who have children, who survive on these jobs that pay the minimum wage, and it's incumbent upon us to make sure that that pay is enough so that they can feed their children, they can provide them healthcare, and that they can take care of them and raise them in a Hawaii where they are comfortable that they're going to be able to do the same down the road.

"This bill is a far cry from what I wish it was. I wish we had the political will, I wish we had the ability to push far beyond a \$10 wage, and to do so, so that it pegs with the cost of inflation. But, I understand the political reality. Even so, this is the right thing to do. This isn't going to pull people out of poverty, but it's going to take a step that's going to be meaningful for a lot of them in that direction. Thank you very much."

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

"Mr. Speaker, I wasn't going to speak but when political will came up, I think I'm compelled to say something. I rise in support of the minimum wage, but with reservations regarding the other components, especially with the elegant remarks from the small businessman from Kauai very, very taking. But when the political will issue came up, Mr. Speaker, it resonates with me to try to understand how much time we take on this issue, when in effect the way you raise people out of poverty is to strengthen an economy.

"Mr. Speaker, we've probably spent a third of the debate on this Floor on just this one issue this whole session, talking about how we are going to strengthen the economy. I mean, why can you go to North Dakota and

double your wages? Because they have a strong economy. Why do they have a strong economy? They have resources, they have government that's not standing in the way of creating jobs, of creating high wage jobs.

"Mr. Speaker, I think it's very important that we increase the minimum wage, but let's not forget the big picture. The highest correlation of getting people out of poverty is their education and their occupation. The education leads to the occupation because of their training and their ability to add value.

"Mr. Speaker, there should be nobody who goes over a number of years into the minimum wage, we should all graduate from that. We should have training programs available for it. We should have ambitions and a government that encourages people not to get stuck on the minimum wage, because somehow we're going to promise that they will be taken care of, that they can buy food and housing.

"So, Mr. Speaker, I say we refocus with the political will that we need to strengthen our economy if we are ever going to get people out of poverty in this state. It's not going to be through the minimum wage, it's not going to be through welfare. It's going to be with a robust economy that's going to make, we've got to increase the pie, not just keep cutting it up into smaller parts. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. In support with some slight reservations. My reservation obviously is to do with the tip credit. I do believe we shouldn't even have a tip credit. A number of states including Washington, Nevada, California, Oregon, do not have a tip credit. Those economies have not fallen into the ocean.

"But secondly and most importantly, Mr. Speaker, a tip credit is not a subsidy for the employer. A tip credit is a social contract, if you will, between that customer and that server. So when you go into a restaurant, it's your decision whether or not you tip that employee nothing, or whatever you want. And to me that is not something the employer should then use to subsidize his or her business.

"So I'm going to close with observations, Mr. Speaker. First observation is, I've heard many a time on the Floor that costs have gone up for these businesses, cost of fuel, rent, food, all the rest of it. Mr. Speaker, let's remind ourselves, that is also true for the minimum wage worker. While that worker has not had a raise in eight years, equally the cost of fuel, rent, food, and all the rest has gone up.

"My second observation is, a comment was made about entry level workers, and how the minimum wage is merely a training wage. And then after that, once you get skilled and whatnot, you can rise up in your salary. I do observe when you get elected to office, Mr. Speaker, whether you're in office for 25 minutes or 25 years, you get paid the same. Thank you."

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

"Thank you, Mr. Speaker. I rise in support with reservations. First off, I would like to take the opportunity to highlight the language contained inside the measure and the subtle changes that protect restaurant owners in the event that cash tips are not reported by a tipped class employee.

"It was the concern of many testifiers over the course of this legislative session, and my own concerns as well, that a tip class employee would underreport or not report their cash tips, so they would fall below the poverty threshold. The current draft accurately reflects the Legislature's intent that all tips, both cash and credit cards, not only be accurately reported, but also provides for the interpretation, so that employers have recourse in the event that employees continue to misreport cash tips.

"Accurate reporting of cash tips is not just a priority of employers, but a priority of the Legislature. Since this bad behavior of not reporting cash tips, which by the way is income, represents a share of the population that is not paying their fair share in taxes and additionally deprives the state of

revenue rightfully due to it. It is not the intent of this Legislature to reward bad behavior and it is also not the intent of this Legislature to use fraud data by the Department of Labor and Industrial Relations that is rampantly corrupted with mis and malreporting by tip class employees.

"Mr. Speaker, my disappointment stems from the fact that the increase to the minimum wage was lowered by 10 cents. Ten cents an hour goes a long way for someone who is living paycheck to paycheck. During the 40 hour work week, that translates to roughly \$4. Those four dollars can mean the difference in hot lunches for a school-aged child, almost an entire round-trip on TheBus to get to a doctor's appointment, or an extra gallon of gas so they can drive to Tamura's instead of walking home with two gallons of milk and a case of diapers. And with all due respect to my colleague, the Chair of the Judiciary Committee, \$4 can mean six minutes of parking in Chinatown.

"Mr. Speaker, it is my belief that the last committee that looked at this bill, if they continue to accept the testimony on the measure, they would've understood the value of a dime like I do and like so many other people do. And in particular, those who supported the measure at \$10.10. Mr. Speaker, again, if you look at the committee report for the House Draft 1, the list is replete of how many people supported a \$10.10 minimum wage increase.

"Mr. Speaker, many of my constituents believe that elected officials, as a result of their \$500-a-plate fundraisers, have lost sight about the value of a mere dime. I, for one, refuse to be a party to that deception. I have not forgotten the lean times just a couple of years ago, when we dealt with shortfalls of up to \$2 billion and Furlough Fridays.

"Furthermore, while I am uncertain of the genesis of this 10 cent compromise that the Finance Committee has inserted into this measure, I can only surmise that it is supposed to reflect a bipartisan approach to this particular issue. While I am certainly not one to criticize the hard work of the bipartisan leadership of the Finance Committee, I was always led to believe that a living wage is a bipartisan issue.

"These hardworking individuals that would benefit from a single dime subscribe to the American Dream. As the daughter of Korean immigrants who came to this country in search of the American Dream, I have not forgotten my humble beginnings. The American Dream was simply that hard work is the great equalizer and will always be rewarded. And here we are as a Legislature denying them the last dime that they have earned as the fruits of their labor. Who are we to deny them every last hard earned penny?

"I believe in bipartisanship, Mr. Speaker, but there is no compromise when we are talking about the most vulnerable members of our society. There is no compromise when we are talking about people's livelihoods. It is with great lament that I cannot offer my full-throated support to this bill. But half a loaf is better than no loaf, Mr. Speaker, and as someone who has lived paycheck to paycheck, even the most needy person can make an entire loaf of bread after collecting enough slices. Those slices will probably make great toast to disguise the bitterness of this compromise.

"Mr. Speaker, may I please adopt the words of the Representatives from Lihue and Hanalei into the Journal as if they were my own? Thank you," and the Chair "so ordered." (By reference only.)

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

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

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2609, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO MINIMUM WAGE," passed Third Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

At 3:44 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2855, SD 1, HD 1  
S.B. No. 3064, SD 2, HD 1  
S.B. No. 1007, SD 2, HD 2  
S.B. No. 3122, SD 2, HD 2  
S.B. No. 2274, SD 1, HD 1  
S.B. No. 2609, SD 1, HD 2

At 3:44 o'clock p.m., Representative Fale requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:54 o'clock p.m.

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1659-14) recommending that S.B. No. 2048, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2048, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I'd like to ask for a ruling on a potential conflict. Solely because of the title, Mr. Speaker, it says, 'Relating to Cable Television Systems.' I work for the cable company," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. So I'd like to talk about the bill and I'm in opposition, Mr. Speaker. Let me explain. Eight years ago when I came into this Body as a Councilmember of 10 years on Kauai, the county council on Kauai got sued, Mr. Speaker. And it got sued because a deaf couple had concerns that we weren't broadcasting our county council meetings with captions, and we weren't. So we got sued and we lost.

"It was only fair for the people who are hard of hearing or deaf to caption those meetings. And we did. But it was expensive, Mr. Speaker. That contract at that time, 18 years ago, was about \$250,000. Now it's upwards to \$350,000, Mr. Speaker. So I came to this Body and I spoke with the Speaker at that time, Calvin Say, and I said, 'Mr. Speaker, this Body, this Legislature, is not captioning meetings, and I think it's wrong.' And I told him the situation on Kauai and I explained to him that it's just not fair. We always say that we're trying to do things for people who cannot do it themselves, and captioning and reading those meetings or getting that information to those meetings was something that the deaf community and the people who are hard of hearing could not access.

"So the Speaker told me to look at this fund. He said, 'there may be some options in the PEG fund.' So I did do some research on the PEG fund, Mr. Speaker. And I found out, here, on this island, which is obviously the biggest market in the state, that the PEGs were getting a little over \$5 million at that time. And I thought maybe that could be a venue, that we could use that money to caption these meetings, instead of taking it out of the legislative budget. And so we went down that path, and I met with the current director from 'Ōlelo at the time. And she applauded me for looking into that and trying to make a difference for people who are deaf and hard of hearing.

"Full disclosure, my son is deaf, so obviously it's near and dear to my heart. So, Mr. Speaker, we did, and we looked at it. The Chair of the City and County at that time, Chairman Garcia, he came to me and he brought the same concerns to me. He said, 'Jimmy, I know you're looking at this thing.' And I said, 'Yes, I am.' And he said, 'We need to discuss the county council.' He's in the same situation and they were looking at trying to get funding to get those meetings captioned, because they were having to pay it out of their own budget, because they were trying to do the right things for the people who couldn't do it for themselves, Mr. Speaker.

"So, having gone through that, we scheduled meetings and people from this PEG, 'Ōlelo, came to that meeting and they thought that I was trying to shut down access to them. And in no way were we trying to do that, Mr. Speaker. We were just trying to figure out if they had enough funding, we were trying to look at doing an audit of them to see if they had enough funding to help provide captioning for, again, the people who couldn't provide it for themselves.

"So a lot of them on this island and a couple of other islands, the neighbor islands, Mr. Speaker. Let me go back and say, the neighbor islands don't have a big fund like they do here. Because this is the big market, this is the big elephant in the room. So we went down that path and the PEGs were totally upset with me. I'm like, 'why are you so mad? I'm just trying to help deaf people.' But they didn't want me to help them that way, so they pictured me as this person that was working for the cable company. And I started this thing way before I was working for the cable company, so it had nothing to do with that. My job at the cable company, Mr. Speaker, only deals with hotels, because that's my background.

"So we started walking down this road, and I still think that what this bill does, Mr. Speaker, is it exempts the big boy from procurement. Why would we want to do that? Everybody else has procurement. Every other agency has procurement. Why would we want to do that, Mr. Speaker? So, I'm not the one who's trying to hide anything here.

"What it also does is it takes 'Ōlelo out from getting an audit. Why wouldn't we want to know what happens with all that money? I think that everybody here would want to know where that money comes from and where it goes and how much it is. And I would ask all of you who don't know how much money that's in that fund, to go look at it, Mr. Speaker. And that's how I started down this journey. And for me, it was all about people."

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

Representative Tokioka continued, stating:

"Oh my goodness, I think that's the first time that's ever happened to me. Thank you, Representative.

"Why wouldn't we want to do that Mr. Speaker? I introduced a bill this year that provided, that would ask theaters to provide captioning for deaf people and hard of hearing people in movies. The bill died, but again, it was a similar thing. We're trying to do things for people that cannot help themselves.

"So, Mr. Speaker, for that reason, for those reasons that I mentioned, Mr. Speaker, I'm in strong opposition of this bill. I know that hopefully something can be worked out to address those situations in conference, but it is a clean bill right now. So again, Mr. Speaker, for those reasons I am in strong opposition. Thank you."

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

"Ruling on a possible conflict, Mr. Speaker. I own stocks in Time Warner Cable. Thank you," and the Chair ruled, "no conflict."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2048, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CABLE TELEVISION SYSTEMS," passed Third Reading by a vote of 44 ayes to 6 noes, with

Representatives Hanohano, Har, Ito, McDermott, Oshiro and Tokioka voting no, and with Representative Carroll being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1660-14) recommending that S.B. No. 2490, SD 2, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2490, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I request a ruling on a potential conflict. My wife is a registered nurse. Thank you," and the Chair ruled, "no conflict."

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

"Ruling on a potential conflict. I'm a registered nurse," and the Chair ruled, "no conflict."

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

"I would like to make a statement in opposition. The current system is not broken, Mr. Speaker. Its fine as it is, I don't see any need to change. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2490, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO CONTINUING COMPETENCY FOR NURSES," passed Third Reading by a vote of 50 ayes, with Representative Carroll being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1661-14) recommending that S.B. No. 2478, 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 S.B. No. 2478, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 50 ayes, with Representative Carroll being excused.

Representative McKelvey, for the Committee on Consumer Protection & Commerce, presented a report (Stand. Com. Rep. No. 1662-14) recommending that S.B. No. 2487, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2487, SD 1, HD 2 pass Third Reading, 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2487, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Fale, McDermott and Rhoads voting no, and with Representative Carroll being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1664-14) recommending that S.B. No. 2260, SD 2, HD 1, as amended in HD 2, pass Third Reading.



Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2260, SD 2, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2260, SD 2, HD 2, entitled: "A BILL FOR AN ACT RELATING TO WAGES AND HOURS ON PUBLIC WORKS," passed Third Reading by a vote of 50 ayes, with Representative Carroll being excused.

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1665-14) recommending that S.B. No. 2845, SD 1, HD 2, as amended in HD 3, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2845, SD 1, HD 3 pass Third Reading, 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."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2845, SD 1, HD 3, entitled: "A BILL FOR AN ACT RELATING TO APPOINTMENT OF EXEMPT PERSONNEL IN THE DEPARTMENT OF HUMAN SERVICES FOR THE STATE MEDICAL ASSISTANCE PROGRAMS," passed Third Reading by a vote of 50 ayes, with Representative Carroll being excused.

At 4:04 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2048, SD 1, HD 2  
S.B. No. 2490, SD 2, HD 2  
S.B. No. 2478, HD 2  
S.B. No. 2487, SD 1, HD 2  
S.B. No. 2260, SD 2, HD 2  
S.B. No. 2845, SD 1, HD 2

Representative Rhoads, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1667-14) recommending that S.B. No. 2026, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2026, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I request a ruling on a potential conflict on this bill. On our farm we have three dogs and seven cats," and the Chair ruled, "no conflict."

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

"Thank you, Mr. Speaker. Members, I rise in strong support of this measure. Recent evidence from brain scans indicate that dogs think and feel much like humans do, and that they are conscious beings as we are. They also can love. They have the same oxytocin system that humans and all mammals have.

"Oxytocin is a hormone that engenders positive feelings and trust. When a mother holds her infant and looks into its eyes, oxytocin is increased in both the mother and the child. Similarly, when a dog owner looks into his or her dogs' eyes, oxytocin is increased in both the dog and the human. Your dog loves and trusts you, and that love is sustained and unquenchable.

"This bill recognizes that love and trust and awards it with what meager protection we can provide. Thank you, Mr. Speaker."

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

"Mr. Speaker, maybe I need to make a request on a ruling of a potential conflict. I have consumed dog before," and the Chair ruled, "no conflict."

Representative Fale continued to speak in support of the measure with reservations, stating:

"Mr. Speaker, reservations, brief comment. Mr. Speaker, my concern there is that given the history of the Pacific Islands and the people that live here, we are actually standing on the land of a Pacific Island nation and a culture that actually once raised dogs for consumption, and that this bill may not be sensitive to a number of cultures and perspectives that certain people may have in regards to this measure, Mr. Speaker. So I think given the diversity of Hawaii, the history that we have with the *ʻŌiō* here in the State of Hawaii, that maybe we can adjust for those conditions. So with that, I have those reservations."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2026, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL CRUELTY," passed Third Reading by a vote of 51 ayes.

At 4:09 o'clock p.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 2026, SD 1, HD 2

### THIRD READING

#### S.B. No. 41, SD 1, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 41, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE," passed Third Reading by a vote of 51 ayes.

#### S.B. No. 2300, SD 1, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 2300, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FIRE PROTECTION," passed Third Reading by a vote of 51 ayes.

#### S.B. No. 2817, SD 2, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 2817, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT," passed Third Reading by a vote of 50 ayes to 1 no, with Representative McDermott voting no.

At 4:10 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 41, SD 1, HD 1  
S.B. No. 2300, SD 1, HD 1  
S.B. No. 2817, SD 2, HD 1

#### S.B. No. 2321, SD 1, HD 1:

Representative Saiki moved that S.B. No. 2321, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. Regarding Senate Bill Number 2321, Senate Draft 1, House Draft 1, I rise in opposition. Thank you, Mr. Speaker. Let's make this clear. The money in the Unclaimed Property Trust Fund is not the property of the state. The state is holding it for individuals on behalf of individuals who do not know that there are funds owed to them. For some, that \$100 limit, as stated in the bill, may appear to be little to nothing, but to others it could be one to two weeks of gasoline. It's groceries for a struggling family. It's part of the monthly rent that will help a family, instead of being evicted. It can provide shoes and clothes for children growing faster than the money available for them to purchase these items. For those who have not, these funds provide much needed relief.

"We have many inside and outside of this building living on the edge, in an environment where \$100 or less may make a big difference. And for my district, Mr. Speaker, my staff is hard at work trying to get these monies to the families to whom it is owed. Over \$76,000 in stocks, bonds, life insurance, escrow, bank accounts and so on, have been found. Some were above \$100, but many were under \$100.

"In addition, Mr. Speaker, the current department within DBEDT is challenged with being able to keep this database correct. In our findings, names were spelt incorrectly and information is inputted into the database wrong, which adds to the difficulty of individuals who are searching to see if their name or a family member's name is listed. So if you enter your name correctly and the database lists the information incorrectly, guess what? Funds owed to you will not be reflected in your search results.

"In addition, residents who have been successful in finding that they are owed money are frustrated when no one answers the telephone calls during working hours. Our office has too been frustrated. A constituent called eight times with no response, and there is no voicemail at the other end. Just last week, someone arrived to our office concerned that their calls were not being answered. We personally walked them to the office and when all was finalized, he was told to wait six to eight months before he receives a check. By the way, Mr. Speaker, we still have residents in our district waiting six months after being told they would receive their check in six weeks. This is not the level of customer service our public is deserving.

"Mr. Speaker, before we look at transferring the people's money to the General Fund, we should scrutinize the department that provides oversight, as they need to realize that the purpose of their existence is to provide service to people who do not realize that they are owed money. They need to help them. Perhaps they are understaffed and perhaps training is needed, perhaps all of the above. But either way, we need to look at this department first to ensure that people who are owed money and seek to obtain it, get it. It is the experience of many that this department needs help.

"Senate Bill 2321, Senate Draft 1, House Draft 1 has a clean date, which is scheduled to take effect July 1st, 2014. And when simply looking at the title and description of the measure, it looks pretty reasonable. However, with the additional information that I've shared with you, I hope you understand that this bill, in its current form, meets the degree by which I will be voting in opposition. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition. Yes, in testimony provided during Finance, B&F stated there's 275,000 individuals in the State of Hawaii totaling approximately \$20.6 million that have \$100 or less. Is it okay to take their money and put it in our General Fund? I don't think so, Mr. Speaker. As the previous Representative had stated, many people don't know. They might not have known, they forgot about an account, they forgot about a refund from HMSA or Kaiser that because they moved, they never got it. I myself found a couple checks there for me, as well as deceased people that I knew.

"I don't think this is appropriate for us to do. We are holding those dollars in trust until such time as those individuals are located or come forward. I don't think it's our duty to be taking that money and putting it towards our General Fund. I don't think this measure is a proper measure.

And true, like the Representative before me stated, the title is very inconspicuous. It does have a clean date, we can just send it over to the Senate and it'll be said and done, and whoops, there we go, we can solve some programs with \$20.6 million.

"Just a couple pages back, Mr. Speaker we were talking about the minimum wage and 10 cents difference. What are we to tell individuals when they say, 'no, we took your \$100 after 10 years of you not coming forward and claiming it.' I think people should look closer at this measure. Thank you, Mr. Speaker."

Representative Carroll rose in opposition to the measure and asked that the remarks of Representatives Awana and Jordan be entered into the Journal as her own, and asked that her written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Carroll's written remarks are as follows:

"Mr. Speaker, I am in opposition to SB 2321, which would require claims for funds of less than \$100 in the Unclaimed Property Trust Fund to be filed within 10 years of deposit into the fund, otherwise the money will be escheated and transferred to the state's General Fund.

"Mr. Speaker, my opposition comes from the fact that this is not the state's money. What right do we as the state have to take the property of others? I have issues with taking what is not ours, Mr. Speaker. It troubles me to think about all the people who are struggling financially on this island, they could use this money. Even dollar amounts below \$100 could go an extremely long way for a family in need. The state should not be taking from these people, especially when it is not all that clear that an adequate effort has been made to notify owners of their unclaimed property.

"Beyond that, Mr. Speaker, the Unclaimed Property Program is inefficient. Constituents have made it clear that the program and its offices are often unresponsive and unwilling to assist citizens. If a person is lucky enough to get a response from the program offices, it is far from a timely one, often taking years. My position is that we need to do more for these folks, we need to do our part in helping them get back their unclaimed property, instead of trying to make it the state's property.

"Mr. Speaker and distinguished Members of this Body, I urge everyone to please take careful consideration of this bill and to note my opposition on SB 2321. Thank you."

Representative Fale rose in opposition to the measure and asked that the remarks of Representatives Awana and Jordan be entered into the Journal as his own, and asked that his written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Fale's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 2321, SD 1, HD 1. This measure requires claims for funds of less than \$100 in the Unclaimed Property Trust Fund to be filed within 10 years of deposit into the trust fund, or the funds will escheat to the state and be transferred to the General Fund.

"Mr. Speaker, this measure seeks to create another source of revenue for the State of Hawaii. The problem is that the state should not be taking what does not belong to the State of Hawaii.

"For these reasons, Mr. Speaker, I rise in opposition to SB 2321, SD 1, HD 1."

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

"Thank you, Mr. Speaker. In support of the measure, if I may, on the Unclaimed Property Trust Fund. First of all, I totally agree and support the frustrations with the Representative from Waianae, Mr. Speaker, on B&F being able to get this fund out, get their database cleaned up and getting out to the people.

"But Mr. Speaker, after I read this measure closely with all this debate going on, I noticed that, Mr. Speaker, a lot of the money that's in there has been there for quite some time. People need to understand, part of it is that they can't expect that money that may or may not be owed to them from years past are going to be there forever, Mr. Speaker. What this does is say hey, you know what, if you think you have a claim out there, you have 10 years to get it. And I looked at lines 13-17 where it actually starts the clock on all unclaimed property funds prior to the date of the act for 10 years. So this gives everybody who's in there now, who may have not known about it for five or 10 years already, an additional 10 years.

"However, I do not want to diminish the concerns of the Representative from Waianae, I completely support them 100 percent, but I think the bill is fair because it provides an impetus for people to claim the money and get out there. It provides a 10 year limit, but at the same time if people cannot successfully in a timely manner claim this money, then yes, Mr. Speaker, this act could be flawed. But I still stand in support. Thank you very much."

The motion was put to vote by the Chair and carried, and S.B. No. 2321, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," passed Third Reading by a vote of 43 ayes to 7 noes, with Representatives Awana, Carroll, Evans, Fale, Hanohano, Jordan and Oshiro voting no, and with Representative Cachola being excused.

#### **S.B. No. 2410, SD 1, HD 1:**

Representative Saiki moved that S.B. No. 2410, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I'll be voting no, because the way the bill is drafted it would be very impractical to implement what the bill wants to achieve. Thank you."

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 S.B. No. 2410, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Third Reading by a vote of 48 ayes to 2 noes, with Representatives Hanohano and Say voting no, and with Representative Cachola being excused.

#### **S.B. No. 2519, SD 1, HD 1:**

Representative Saiki moved that S.B. No. 2519, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. I'm rising with opposition on this bill. Thank you. This bill changes the General Fund expenditure ceiling calculation formula. The reason for this change, as stated in the bill, is trying to make the General Fund expenditure ceiling reflective of the General Fund expenditures. In other words, trying to keep the expenditures and the ceiling relatively constant.

"In order to understand this bill you kind of have to understand our budgeting process. General Fund expenditures are not indicative of the total cost of government. Total government expenditures, which includes special funds, is the total cost of government. The use of special fund revenues and expenditures is a method used to reduce General Fund expenditures. In other words, when we move more basic governmental services and expenditures towards special funds, we lower the General Fund expenditures.

"When comparing the current General Fund expenditures to the General Fund expenditures ceiling, it shows that we're doing two things to manipulate showing the total cost of government. We are reducing the statutory tax rate or the tax base through credits and exemptions, or we're

shifting General Fund expenditures to special funds. And I understand this could be very confusing, but I do agree with the Tax Foundation that this would be a fascinating study for a future Tax Review Commission, and a good primer for this subject would be to study the 2005 Tax Review Commission Report, which had a report in it called 'Is Hawaii's Tax Structure Adequate?'

"Our current General Fund appropriations are driven by the COR and the state financial plan, not the expenditure ceiling. Therefore, we should keep the current formula as a possible indicator as to what our General Fund revenues and expenditures should be. We should also keep the current formula to give us flexibility that we need, as illustrated in the state budget director's testimony.

"The current formula could also be an indicator as to how much General Funds we are shifting to special funds. Mr. Speaker, this bill is not very well thought out and should be recommitted to the author for reconsideration. And it's for these reasons, I stand in opposition. Thank you."

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

"Thank you, in support. I do appreciate all the comments from the Representative from Manoa, and we will be looking at some of those as we go into conference. One of the things I did want to point out is that currently, the General Fund expenditure is based on income tax, and the income tax growth is substantially higher than what we see in General Fund revenue growth and even the Council on Revenues' projection.

"So in this bill, we're trying to figure out what a true picture of the ceiling should be. Otherwise, right now, during the time that we've been here and I'm sure the time that you've been here, Mr. Speaker, we have never gone over this false ceiling, because we never meet it. And so it's a little bit arbitrary, and what's the sense of having a ceiling that we're never going to hit.

"If we want to be responsible and fiscally responsible with our budget, we should set a real, realistic ceiling. But at the same time as I said, I do understand the concerns from the Representative from Manoa, and one of the things that the Tax Foundation did say is that this is a conversation that we should have, because I think many people recognize that the ceiling is artificial and it's something that we will never reach. Thank you very much."

The motion was put to vote by the Chair and carried, and S.B. No. 2519, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE GENERAL FUND EXPENDITURE CEILING," passed Third Reading by a vote of 44 ayes to 6 noes, with Representatives Awana, Choy, Hanohano, Jordan, Oshiro and Say voting no, and with Representative Cachola being excused.

#### **S.B. No. 2829, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 2829, SD 1, HD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE EMERGENCY AND BUDGET RESERVE FUND," passed Third Reading by a vote of 50 ayes, with Representative Cachola being excused.

#### **S.B. No. 2886, SD 1, HD 1:**

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 2886, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Third Reading by a vote of 47 ayes to 3 noes, with Representatives Fale, Fukumoto and McDermott voting no, and with Representative Cachola being excused.

At 4:26 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2321, SD 1, HD 1

S.B. No. 2410, SD 1, HD 1  
 S.B. No. 2519, SD 1, HD 1  
 S.B. No. 2829, SD 1, HD 1  
 S.B. No. 2886, SD 1, HD 1

**S.B. No. 2895, SD 1, HD 1:**

Representative Saiki moved that S.B. No. 2895, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. With reservations. May I make a comment? Thank you very much, Mr. Speaker. In my opinion, I think the Department of Taxation should do their taxpayer education through their General Funds and not be asking to come dip it out of special funds. Thank you, Mr. Speaker."

Representative Say 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 S.B. No. 2895, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXPAYER EDUCATION," passed Third Reading by a vote of 50 ayes to 1 no, with Representative Hanohano voting no.

**S.B. No. 2887, SD 1:**

Representative Saiki moved that S.B. No. 2887, SD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"This will be strong reservations, Mr. Speaker. I think Members of this Body should really look at this a little bit closer. Thank you, Mr. Speaker."

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

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

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

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

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

Representative Jordan rose, stating:

"Mr. Speaker, could you please change my reservations, from reservations to a no. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and S.B. No. 2887, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ESTATE AND GENERATION-SKIPPING TRANSFER TAXES," passed Third Reading by a vote of 38 ayes to 13 noes, with Representatives Awana, Choy, Fale, Fukumoto, Hanohano, Har, Hashem, Ichiyama, Jordan, Kawakami, Oshiro, Say and Takayama voting no.

**S.B. No. 2890, SD 1:**

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 2890, SD 1, entitled: "A BILL FOR AN ACT RELATING TO APPLICATION OF THE INTERNAL REVENUE CODE TO HAWAII INCOME TAX LAW," passed Third Reading by a vote of 51 ayes.

**S.B. No. 2896, SD 1:**

Representative Saiki moved that S.B. No. 2896, SD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Mr. Speaker, I rise with reservations, and state as I did on Third Reading that this is the only tax break we have given to small business, and it was done by mistake. That's a sad commentary, particularly as we argued earlier about the minimum wage, getting people out of poverty. The businesses can hire more if they're taxed less, Mr. Speaker. Thank you."

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

"Mr. Speaker, in strong support. Mistake or not, I'll take it. Thank you very much."

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

"Mr. Speaker, just in rebuttal to my good friend from Hawaii Kai. This bill actually doesn't take away anything. It is just a correction of an error, and I would suggest that he would look at the operations of Title 14, and he would know that you list the tax first. The exemption is still there for wholesale to wholesale transactions. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and S.B. No. 2896, SD 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX WHOLESAL RATE IMPOSED UPON SALE OF TANGIBLE PERSONAL PROPERTY," passed Third Reading by a vote of 48 ayes to 3 noes, with Representatives Fale, McDermott and Oshiro voting no.

**S.B. No. 2779, SD 1, HD 1:**

Representative Saiki moved that S.B. No. 2779, SD 1, HD 1 pass Third Reading, seconded by Representative Cabanilla.

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

"Thank you, Mr. Speaker. It seems like I'm always on the last bill. I stand in opposition to this bill, Mr. Speaker. This particular bill allows for the release of confidential taxpayer information, that's your tax return, Mr. Speaker, to the State Legislative Auditor or third parties. The State Legislative Auditor, who is the sponsor of this bill, attempts to put us at ease by saying that the release of confidential taxpayer information is for limited purposes. Specifically, for the completion of the audit of the Comprehensive Annual Financial Report, that's the financial statement for the state every year.

"Mr. Speaker, I am in opposition to this bill because first, this bill exposes all of your tax returns, whether it's income, excise, payroll, business, or any other tax return, to inspection by third parties. Currently, Deloitte & Touche is the auditor for the state. This firm that's currently looking at your tax returns has over 50,000 employees. Should we rely on another private organization to keep our tax return information confidential? I don't think so.

"Third, Mr. Speaker, this bill does not limit the data that the third parties can look at. The bill states that the third party determines what is necessary and relevant to look at. Mr. Speaker, visualize your tax return. It has your name, your address, social security number, income from various sources. Clearly, information that is not even needed for the State of Hawaii financial statement, but is not limited from being inspected from somebody outside the tax office.

"Fourth, Mr. Speaker, this bill, in Section 2(a)(2) states, the law gives the State Auditor confidentiality working papers. But Mr. Speaker, my problem is I do not believe that this privilege extends to third parties. I personally know, as an accountant, accountants do not have working paper confidentiality privileges.

"Fifth, Mr. Speaker, I have reviewed the testimony of the State Legislative Auditor, and I found very alarming information. You see, Mr. Speaker, this is not the first year that the Annual Comprehensive Financial Report is being issued. It has probably been issued for decades. So one must ask, how were these financial statements being issued before, without this bill that allows for third parties to look at confidential tax information?"

"Unfortunately, Mr. Speaker, the answer to this question is in the Legislative State Auditor's testimony. Page 2, second paragraph. She states, 'Each year our office contracts with several public accounting firms to conduct financial statement audits for the State of Hawai'i, including the CAFR. In order to complete this work, our office and contract auditors have accessed,' past tense, 'accessed taxpayer information from the Department of Taxation, the largest revenue-generating agency in the state. But this year, DoTAX, as advised by the Department of the Attorney General, determined that the law required DoTAX to withhold taxpayer information from our auditors,' unquote.

"O.M.G., Mr. Speaker, DoTAX has been releasing confidential taxpayer information. As stated by the Attorney General, this is a violation of current law. Mr. Speaker, this is a genie that cannot be stuffed back into the bottle. Confidential tax return information had been made available to third parties. I believe taxpayer information should remain confidential.

"I'd like to conclude my remarks by quoting from the DoTAX testimony, because this is something I truly believe in."

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

Representative Choy continued, stating:

"I'm sorry I'm taking so long. 'State taxes are administered largely through voluntary compliance on the part of taxpayers. Part of the motivation to voluntarily report tax information is the State's laws protecting the confidentiality of that information. Any erosion of that promise of confidentiality may have negative consequences for continued voluntary compliance by taxpayers under Title 14 of the Hawaii Revised Statutes,' end quote.

"Mr. Speaker, we have a problem here. And it's for these reasons, I stand in opposition to this bill. Thank you."

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

"Thank you, Mr. Speaker, I'm rising in opposition. The prior speaker and I have disagreed on one very important issue that was at the beginning of the calendar today. On this one, we firmly agree. Mr. Speaker, we're going to have drones going over our homes, and then we are going to have the auditor having access to our tax records. And then, if you go back a few sessions, or a few earlier in the year, we are having liquor stores scanning our driver's licenses and keep that personal information.

"So one by one by one, we are eroding the privacies that we should keep intact for our residents. The auditor has no right to have access to tax returns, and should not have that right. I would say that this bill should stop right here today. We still will have the drones, but at least we will have other information kept confidential within the State Department of Taxation, which has the privacy restrictions already in place. Thank you."

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

"Thank you very much, Mr. Speaker, I rise to speak in favor of this bill. Thank you. One of the things we have found through testimony and deliberation of this bill is somewhat iterated by the Chairman of Higher Education. It is true that the Auditor's Office, in trying to do the annual CAFR, has disclosed confidential tax information to outside firms. And that has been going on all these years.

"The reason why we found out about it this year, is because during the CAFR audit there was a \$6 million discrepancy between what the Department of Taxation reported and what the actual amount was, and when the Auditor's Office requested further information, she requested

assistance from the Attorney General's Office, and at that point, the Attorney General's Office questioned how the third party received personal tax information. So that was the history of what it became.

"The additional thing that happened this past year, is the third party, for instance, Deloitte & Touche, was able to access direct tax information from HIC, which is the vendor for electronic filing of your taxes. So what has been going on is the third party accounting firm would get the information. So we would pay taxes to HIC, right? When we do electronic filing it would go through HIC, and that information would go directly to Deloitte & Touche.

"What had happened this past year, is that the routing has changed because we wanted to make sure that the Department of Taxation receives that money first, before it goes to the vendor. So what happens now is any kind of electronic filing would go to the Department of Taxation first, and then the lump sum would go to HIC. So Deloitte had a very difficult time trying to pinpoint where that money came from, because what they would see is a lump sum amount, as opposed to trying to figure out, okay we're following each taxpayer amount and the funding happened.

"So these are the two things that occur that resulted in this bill. I do understand the concern for privacy, and that's why currently the law states that any disclosure of private information will be a misdemeanor. But I did put a provision in this bill that makes a class C felony. So I would say that in order for the state to continue to do the CAFR, and not impact the bond rating, but at the same time provide protection so that we can make sure that no one is disclosing confidential information, I think that's a good compromise. Thank you."

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

"Mr. Speaker, in opposition. Mr. Speaker, I would like to call on all of my aerospace Luddites, all paranoia, NSA, other drone fearing people to say no to this bill, Mr. Speaker. If in effect we are already doing it, the good Representative from Manoa should actually come back with an amendment or come back next year to say that they cannot do that. The CAFR can be done because it's been done over the years without doing this. And if we are having these tax forms exposed already without permission from this Body, I find that highly illegal and suspect, Mr. Speaker. So those who are fearing drones, must fear this bill. Thank you."

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

"Mr. Speaker, in opposition. Mr. Speaker, just after hearing the words of the Chair of Higher Education in regards to this measure, I'm really alarmed, Mr. Speaker, by this bill, and I would like to have the words of the Chair of Higher Education adopted as if they were my own," and the Chair "so ordered." (By reference only.)

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

Representative Choy rose to respond, stating:

"Thank you, Mr. Speaker. Just in slight rebuttal. And I want to thank the Chair from Finance for understanding and putting in that penalty clause. Mr. Speaker, I want the Members to get it. Taxpayer information is confidential. The reason for people to look at confidential taxpayer information to put out a financial statement is not acceptable.

"As a professional auditor, I know there's ways around it. It's in the standards. We cannot, just because they're having a hard time doing something, we cannot just carte blanche, put out a bill that says, well, you know something, just go ahead and look at it. It's not, hey if you guys want to look at my tax return, I don't care, okay? But I'm going to tell you something. That's going to erode the system. This policy is bad.

"If they must use tools to put out the CAFR, use the tools but do not destroy the policy that's the basis of our tax system. I want to make sure everybody knows that. Confidentiality is the basis of our tax system. That's the money we spend every single day in this Chamber. Let's not destroy it. Thank you, Mr. Speaker."

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

At 4:44 o'clock p.m., Representative Ward requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:45 o'clock p.m.

Representative Fale rose in opposition to the measure and asked that the remarks of Representative Choy 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 S.B. No. 2779, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL AUDIT OF THE STATE OF HAWAII BY THE LEGISLATIVE AUDITOR," passed Third Reading by a vote of 29 ayes to 22 noes, with Representatives Aquino, Awana, Carroll, Choy, Cullen, Fale, Fukumoto, Hanohano, Har, Ichiyama, Ito, Jordan, Kawakami, McDermott, Oshiro, Say, Takayama, Thielen, Tokioka, Ward, Yamane and Yamashita voting no.

At 4:50 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 2895, SD 1, HD 1  
 S.B. No. 2887, SD 1  
 S.B. No. 2890, SD 1  
 S.B. No. 2896, SD 1  
 S.B. No. 2779, SD 1, HD 1

At 4:51 o'clock p.m., Representative Saiki requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:52 o'clock p.m.

### END OF CALENDAR

At this time, the Chair stated:

"Now we are at the end, we are on page 29. Members, please turn your attention to page 26. We will be taking up HSCR 1666-14. End of the calendar, Stand Com. Report 1666-14."

Representative Luke, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1666-14) recommending that S.B. No. 2194, SD 1, HD 1, as amended in HD 2, pass Third Reading.

Representative Saiki moved that the report of the Committee be adopted, and that S.B. No. 2194, SD 1, HD 2 pass Third Reading, seconded by Representative Cabanilla.

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

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

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

Representative Cachola's written remarks are as follows:

"Mr. Speaker, Part II of this bill will address the over \$18 billion liability amounting to over \$500 million per year for the next 30 years encumbered upon the Employer-Union Health Benefits or EUTF trust fund without the need to raise taxes or reduce benefits to EUTF beneficiaries. If enacted, this proposal will setup a single-payer system for government employees managed by a captive insurance company within the EUTF. The benefits are, 1) realizing a savings of over \$500 million a year and 2) slowing down increases in health care premiums for EUTF beneficiaries.

"The Department of Budget and Finance, the Department of Commerce and Consumer Affairs, and the Tax Foundation have provided testimony recommending a feasibility study of Part II of this Bill. As documented in the Committee Report, and in the spirit of compromise, we hope to add a provision for a feasibility study in Conference Committee as well as move the effective date a year back, to July 1, 2015. This would provide time to conduct a feasibility study, the results of which will determine whether or not the proposal should be implemented. If the study finds that the proposal is feasible, the proposal will be implemented. If the study finds that the proposal is not feasible, the program will not be implemented.

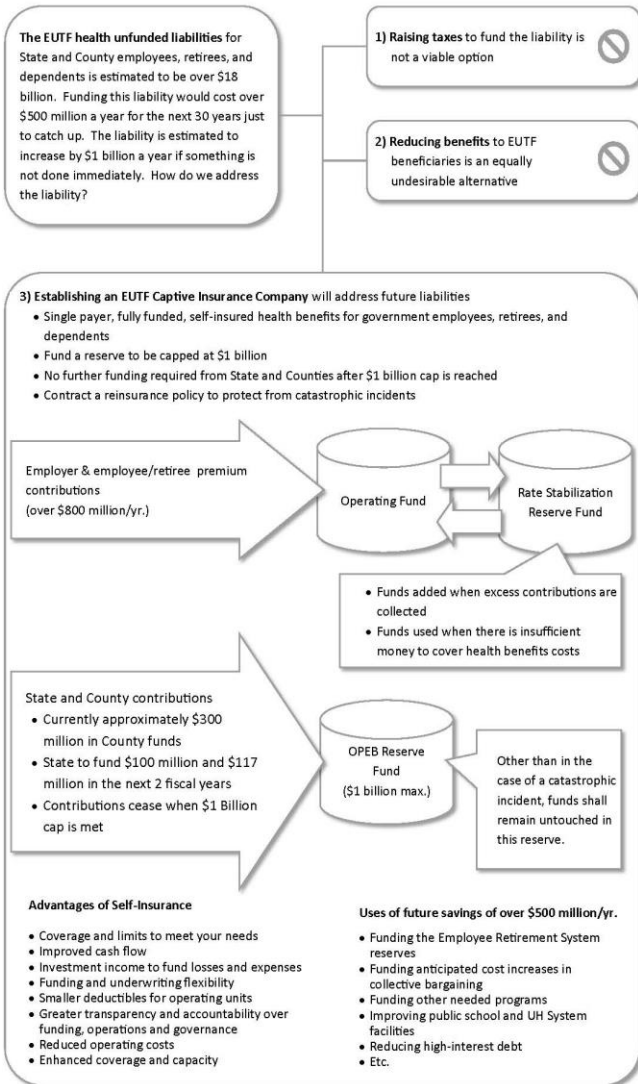
"While it is true that the EUTF voiced their opposition to Part II of the bill and recommends its deletion in its recent memo with an attachment from Segal Consulting, their consultant, I humbly suggest that a thorough feasibility study should provide the most accurate conclusion as to the actual feasibility of the program's implementation. I believe that such a study will find that this is a fair and innovative approach that will save taxpayer money. However, if it is in fact found that the proposal is not feasible, I will concede that the question will be finally resolved at that point. It is my belief at this time, however, that we as a Legislative Body must explore all options and that this proposal should be given a fair chance.

"Lastly, I want to express that I have no axe to grind with the EUTF. I am a beneficiary of the EUTF, but I also care about the taxpayers who may end up paying for the liability. I truly believe that this bill will address the over \$18 billion liability which amounts to over \$500 million per year for the next 30 years that would be encumbered upon the state and its counties without the need to raise taxes or reduce benefits to EUTF beneficiaries."

Representative Cachola also submitted the following:

[Note: This section intentionally left blank.]

Addressing Health Unfunded Liabilities



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

"Thank you, Mr. Speaker. Wow, Mr. Speaker, this is a tough one, because I'd really like to speak in opposition, but I'm going to have to say with strong reservations at this point in time, because I do support the first part of this bill, Part I. I understand how important it is. I do not support Part II of this measure, and I think that it was a travesty that it was added in, especially with how important that first measure is, Part I.

"I'm hoping the good doctor from Hawaii Island will speak on Part I of this measure, to express how important it is. But at this point in time, hopefully to get it to conference, and remove Part II, I will be standing here with reservations, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker, and thank you for your request. This bill is important. The American Heart Association requested this bill because hospitals in this state were not doing this, and there was no requirement that they do it. The only reason that they've come forward and said they would do it is because this bill was proposed. And the problem is, if we do not pass this bill, they can go back to their old ways, and we would have no recourse. So currently, there are three hospitals we know about that

aren't doing this, even though they know and have known for some time that this was a good practice.

"A second issue is that the heart defects detected by this measure have been thought to be increased on the island of Kauai, and there is concern that this is because of some environmental factors that aren't yet understood. The Health Department would like to use the information obtained from doing these tests to find out if there's a growing increase in some islands in heart defects, and to do that they have to know how many there are, and how many people are tested. This testing will provide that valuable information, so I am rising in strong support. Thank you, Mr. Speaker.

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

"Mr. Speaker, with very strong reservations. May I have the words of the Representative of Waianae adopted as my own," and the Chair "so ordered." (By reference only.)

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

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

"Reservations to the captive insurance part."

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

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

"Mr. Speaker, reservations to Part II. Thank you."

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

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

"Thank you, Mr. Speaker. Strong support on Part I, and I'd like the words of the Representative from the Big Island to be as if they were my own. Thank you," and the Chair "so ordered." (By reference only.)

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

Representative Takayama's written remarks are as follows:

"Mr. Speaker, I rise in opposition to SB 2194, SD1, HD2 because of the last-minute addition of Part II to establish the Hawaii Employer-Union Health Benefits Trust Fund Captive Insurance Company. I believe this addition, contained in SB 2194, HD2 by the House Finance Committee, is neither desirable nor consistent with the spirit of House rules which encourage transparency and full public debate.

"I wish to make it clear that I fully support the original content of SB 2194 - now Part I - which requires birthing facilities to perform a pulse oximetry test or other medically accepted screening on newborns to screen for critical congenital heart defects. The addition of an unrelated provision unfortunately detracts from the original measure's critical importance to protecting the lives of infants.

"I am opposed to creation of a EUTF Captive Insurance Company - the newly added Part II of the bill - because of the lack of a feasibility study, which is a required step by the State Insurance Commissioner for all other captive insurance companies in Hawaii. Such a feasibility study by experts in captive insurance and employee benefits would ensure that this proposed entity fulfills its stated intent of slowing growth in our unfunded liabilities while also protecting the interests of EUTF beneficiaries -

including hundreds of thousands of current and future state and city government employees.

"For these reasons, I am voting 'no' on SB 2194, SD1, HD2."

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

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

"Mr. Speaker, I've voted no on the second part, on Part II of this bill since it started. But I will be voting with reservations for now, Mr. Speaker. Thank you."

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

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

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

Representative Cullen's written remarks are as follows:

"Mr. Speaker, I rise in support with reservations for Senate Bill 2194, SD1, HD2.

"Mr. Speaker, I support Part I of the measure that would mandate birthing facilities to perform a pulse oximetry test or other medically accepted tests for critical congenital heart defects before discharging every newborn in its care.

"My reservations to support the measure entirely stem from Part II which establishes a captive insurance company to more effectively manage the administration and financing of current and future employee health benefit obligations of the state and counties."

Representative McKelvey 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 McKelvey's written remarks are as follows:

"Mr. Speaker, I have reservations about this bill due to the fact that there have been amendments added to the bill which did not have three readings. In the Legislature's effort to have transparency, I feel that it is in the best interest to the citizens of Hawaii to have the Consumer Protection and Commerce Committee have jurisdiction over insurance issues. The measure which I have just reviewed contains a captive insurance section that has been amended and yet the bill has not gone through the CPC Committee."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and S.B. No. 2194, SD 1, HD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Third Reading by a vote of 42 ayes to 9 noes, with Representatives Hanohano, Ichiyama, Ing, Lowen, Ohno, Onishi, Say, Takayama and Yamashita voting no.

At 5:00 o'clock p.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 2194, SD 1, HD 2

At 5:00 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:01 o'clock p.m.

## SUPPLEMENTAL CALENDAR #1

At this time, the Chair stated:

"Senate Bill Number 3042, Senate Draft 2, House Draft 1, has been re-referred solely to the Committee on Consumer Protection and Commerce per Committee Referral Sheet Number 50. The Committee on Finance waived its referral to this measure, and therefore it is appropriate for the House to consider action for passage on Third Reading."

## SUSPENSION OF RULES

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the rules were suspended to reconsider action previously taken on S.B. No. 3042, SD 2, HD 1.

## RECONSIDERATION OF ACTION TAKEN

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, the House reconsidered its action previously taken pursuant to the recommendation contained in Standing Committee Report No. 1201-14, recommending referral to the Committee on Finance.

## UNFINISHED BUSINESS

### S.B. No. 3042, SD 2, HD 1:

On motion by Representative Saiki, seconded by Representative Cabanilla and carried, S.B. No. 3042, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LICENSE CLASSES," passed Third Reading by a vote of 51 ayes.

At 5:03 o'clock p.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 3042, SD 2, HD 1

## ANNOUNCEMENTS

Representative Evans: "Thank you, Mr. Speaker. Mr. Speaker and colleagues, today is Equal Pay Day, the date that symbolizes how far into 2014 the average American woman would have to work to earn what the average American man earned in 2013. Even though women have increased their presence in higher paying jobs traditionally dominated by men, such as professional and managerial positions, women as a whole continue to work in lower paying occupations than men do, and get paid less than a man doing similar work.

"US Census Bureau surveys show the increase of women as the sole or primary breadwinners of their families. The wage gap takes a toll on the family's standard of living. Women's lower earnings leave less for reoccurring expenses such as mortgage or rent, car payments, car insurance, health insurance, utility bills, groceries, clothing, and so on. Let's not forget about the kid's expenses, clothes, shoes, extracurricular activities, after school care, medical and dental expenses, and food.

"If a woman has to work two jobs to make ends meet, the family suffers. It means less time to enjoy, supervise, encourage and guide children, and less time can have consequences. We know that poverty, lack of parental supervision, and family stress can lead to lower education, career achievement, and higher crime rates. As lawmakers, we are continuously asked to fund programs to deal with the impacts.

"Please join me in continuing to urge employers to give men and women equality in the work place. It was in 1963, President Kennedy signed the Equal Pay Act. We cannot stop the fight for equal pay until Equal Pay Day is January 1st."



Representative Har: "Thank you, Mr. Speaker. Mr. Speaker, I just want to toast you and the Vice Speaker for running the rostrum so efficiently and expeditiously today. As a result, we are able to get out of here at a reasonable hour, and with the sun still up. So, thank you very much, Mr. Speaker, and to the Vice Speaker."

Representative Tokioka: "Mr. Speaker, I'd like to part two that and say that the Senate was done at 11 o'clock."

**COMMITTEE ASSIGNMENTS**

The following measures were referred to committee by the Speaker:

**S.C.R.**  
**Nos.**

**Referred to:**

|         |   |          |  |
|---------|---|----------|--|
| 8       | Committee on Public Safety  | 47, SD1  | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Veterans, Military, & International Affairs, & Culture and the Arts   |
| 12      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 48       | Committee on Health, then to the Committee on Finance  |
| 13      | Committee on Water & Land, then to the Committee on Finance   | 56, SD1  | Jointly to the Committee on Transportation and the Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance,   |
| 16      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 57       | Committee on Veterans, Military, & International Affairs, & Culture and the Arts, then to the Committee on Finance   |
| 17      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 62       | Committee on Veterans, Military, & International Affairs, & Culture and the Arts, then to the Committee on Judiciary   |
| 18      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 63       | Committee on Veterans, Military, & International Affairs, & Culture and the Arts, then to the Committee on Judiciary   |
| 19      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 69, SD1  | Jointly to the Committee on Energy & Environmental Protection and the Committee on Water & Land, then jointly to the Committee on Economic Development & Business and the Committee on Agriculture |
| 20      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 70       | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Veterans, Military, & International Affairs, & Culture and the Arts   |
| 21      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 71       | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Veterans, Military, & International Affairs, & Culture and the Arts   |
| 22      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 73       | Jointly to the Committee on Energy & Environmental Protection and the Committee on Veterans, Military, & International Affairs, & Culture and the Arts, then to the Committee on Finance           |
| 23      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 74, SD1  | Committee on Energy & Environmental Protection, then to the Committee on Finance   |
| 24      | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance                                | 77, SD1  | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance   |
| 31, SD1 | Committee on Consumer Protection & Commerce, then to the Committee on Finance   | 78, SD1  | Committee on Ocean, Marine Resources, & Hawaiian Affairs, then to the Committee on Finance   |
| 34, SD1 | Committee on Consumer Protection & Commerce, then to the Committee on Finance   | 80       | Committee on Public Safety, then jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary   |
| 35, SD1 | Jointly to the Committee on Health and the Committee on Consumer Protection & Commerce, then to the Committee on Finance, | 83       | Committee on Economic Development & Business   |
| 38      | Committee on Higher Education, then to the Committee on Finance   | 92, SD1  | Committee on Labor & Public Employment, then to the Committee on Finance   |
| 41      | Committee on Education, then to the Committee on Human Services   | 97, SD1  | Committee on Health, then to the Committee on Finance  |
| 46      | Committee on Consumer Protection & Commerce   | 99       | Committee on Housing, then to the Committee on Finance   |
|         |   | 104      | Committee on Energy & Environmental Protection, then to the Committee on Finance   |
|         |   | 113, SD1 | Committee on Education, then to the Committee on Finance   |
|         |   | 114, SD1 | Committee on Higher Education, then to the Committee on Finance  |
|         |   | 116      | Committee on Higher Education, then to the Committee on Finance  |

118 Committee on Ocean, Marine Resources, & Hawaiian Affairs,  
then to the Committee on Finance

120, SD2 Committee on Public Safety, then to the Committee on  
Finance

122 Committee on Transportation, then to the Committee on  
Finance

128, SD1 Committee on Higher Education, then to the Committee on  
Finance

139, SD1 Committee on Economic Development & Business, then to the  
Committee on Finance

143, SD1 Jointly to the Committee on Energy & Environmental  
Protection and the Committee on Agriculture and the  
Committee on Water & Land

145, SD1 Committee on Water & Land, then to the Committee on  
Ocean, Marine Resources, & Hawaiian Affairs

146 Committee on Ocean, Marine Resources, & Hawaiian Affairs,  
then to the Committee on Finance

148, SD1 Committee on Energy & Environmental Protection, then to the  
Committee on Finance

149, SD1 Committee on Agriculture, then to the Committee on  
Consumer Protection & Commerce

"April 08, 2014

Governor Neil Abercrombie  
State of Hawaii  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Governor Abercrombie:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii  
State Constitution, written notice is hereby given of the final form of the  
following Senate Bill, copies of which are attached hereto:

S.B. No. 2876, S.D. 2, H.D. 2, entitled:

"PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12,  
OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND  
RESERVOIR OWNERS."

Said measure passed Third Reading in the House of Representatives on  
this date.

Respectfully,  
/s/ Brian L. Takeshita  
BRIAN L. TAKESHITA  
Chief Clerk

Enclosures

CC: Carol Taniguchi, Clerk of the Senate  
Scott Nago, Chief Election Officer"

#### COMMITTEE REASSIGNMENTS

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

**S.B.**  
**No.**      **Re-referred to:**

3042,      Committee on Consumer Protection & Commerce  
SD2,  
HD1

**S.C.R.**  
**No.**      **Re-referred to:**

51,      Committee on Finance  
SD1

#### ADJOURNMENT

At 5:06 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, Thursday, April 10, 2014.  
(Representative Say was excused.)

#### HOUSE COMMUNICATIONS

House Communication dated April 8, 2014, from Brian L. Takeshita,  
Chief Clerk of the House of Representatives, to the Honorable President  
and Members of the Senate, informing the Senate that the House has  
disagreed to the amendments made by the Senate to the following  
measure:

H.B. No. 2243, HD 1, SD 1

#### OTHER COMMUNICATIONS

A copy of the following Senate Communication to the Governor was  
received by the Clerk:

"April 8, 2014

The Honorable Neil Abercrombie  
Governor of the State of Hawaii  
State Capitol  
Honolulu, Hawaii 96813

Dear Governor Abercrombie:

In accordance with the provisions of Article XVII, Section 3 of the  
Hawaii State Constitution, written notice is hereby given of the final form  
of the following bill, a copy of which is attached hereto:

H.B. No. 748, H.D. 2, S.D. 1

"PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION  
TO AUTHORIZE THE ISSUANCE OF SPECIAL PURPOSE REVENUE  
BONDS TO ASSIST AGRICULTURAL ENTERPRISES."

Respectfully,  
/s/ Carol T. Taniguchi  
CAROL T. TANIGUCHI  
Clerk of the Senate

Enclosures

cc: Brian Takeshita  
Clerk of the House"