

**JOURNAL**

**of the**

**HOUSE OF REPRESENTATIVES**

**of the**

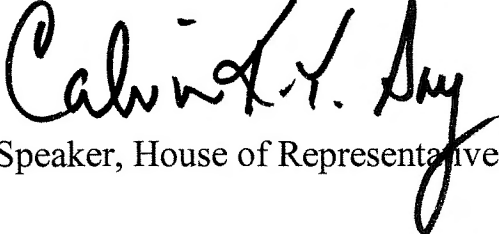
**TWENTY-SECOND LEGISLATURE  
STATE OF HAWAII**

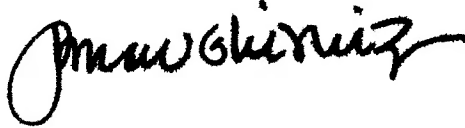
**SPECIAL SESSION OF 2003**

**Tuesday, July 8, 2003**

**CERTIFICATE**

*We hereby certify that the minutes for this Special Session day as appears in this House Journal are true and correct and that the original copies have been duly signed by the Speaker and the Clerk of the House of Representatives and are on file in the Archives of the State of Hawaii.*

  
Speaker, House of Representatives



Clerk, House of Representatives

**SPECIAL SESSION OF 2003  
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**THE  
TWENTY-SECOND LEGISLATURE  
STATE OF HAWAII  
SPECIAL SESSION OF 2003  
JOURNAL OF THE HOUSE**

**Tuesday, July 8, 2003**

In accordance with the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, the House of Representatives of the Twenty-Second Legislature of the State of Hawaii convened in Special Session on Tuesday, July 8, 2003.

The Honorable Calvin K.Y. Say, member of the Twentieth District, having been elected Speaker of the House of Representatives on the Opening Day of the Twenty-Second Legislature and retaining that position under the provision of Rule 1.5 of the Rules of the House of Representatives, called the House to order at 11:39 o'clock a.m., announcing:

"Members, we are gathered here in accordance with Article III, Section 16, of the Hawaii State Constitution which provides that the Governor shall have 45 days after adjournment of the Legislature sine die, to consider bills presented after adjournment, and allows the Governor to return any bill with her objections. These said provisions allow the Legislature to convene at or before noon on the 45th day in a special session without call for the sole purpose of acting upon any such bill returned by the Governor.

"This day of July of 8th is the 45th day after adjournment sine die of the Regular Session of 2003. Will the House please come to order."

The invocation was delivered by Representative Roy M. Takumi, after which the Roll was called showing all members present with the exception of Representatives Abinsay and Tamayo who were excused.

**GOVERNOR'S MESSAGES**

The following messages (Gov. Msg. Nos. 275 through 473) from the Governor were announced by the Clerk as follows:

Received message numbers 284, 291, 399 and 400, transmitting reports, which were received and filed;

Received message numbers 275 through 282, 285 through 290, 292 through 371, 373 through 398, 401 through 428, 439 through 464, informing the House that certain House and Senate Bills were signed into law and designated as Acts 36 to 221, which were received and filed;

Received message numbers 283 and 465 informing the House that certain House bills became law without the Governor's signature, which were received and filed;

Received message number 372 informing the House that on June 6, 2003, Senate Bill No. 44, S.D. 2, H.D. 2, C.D. 1 was vetoed, which was received; and

Received message numbers 429 through 438 dated June 20, 2003, giving notice to the House of the Governor's plans to return certain House and Senate bills with her objections and

received message numbers 466 through 473 dated July 2, 2003, informing the House and Senate that the following House and Senate bills were vetoed, which were received, and the Chair "so ordered."

Gov. Msg. No. 275, informing the House that on April 30, 2003, the following bill was signed into law:

H.B. No. 78, HD 1 A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII (ACT 036)

Gov. Msg. No. 276, informing the House that on April 30, 2003, the following bill was signed into law:

H.B. No. 754 A BILL FOR AN ACT RELATING TO ELECTIONS BY MAIL (ACT 037)

Gov. Msg. No. 277, informing the House that on April 30, 2003, the following bill was signed into law:

H.B. No. 772 A BILL FOR AN ACT RELATING TO BONDS (ACT 038)

Gov. Msg. No. 278, informing the House that on April 30, 2003, the following bill was signed into law:

H.B. No. 773 A BILL FOR AN ACT RELATING TO BONDS (ACT 039)

Gov. Msg. No. 279, informing the House that on April 30, 2003, the following bill was signed into law:

S.B. No. 363, HD 1 A BILL FOR AN ACT RELATING TO EXPERIMENTAL MODERNIZATION PROJECTS FOR COUNTY BOARDS OF WATER SUPPLY (ACT 040)

Gov. Msg. No. 280, informing the House that on April 30, 2003, the following bill was signed into law:

S.B. No. 1139, SD 1, HD 1 A BILL FOR AN ACT RELATING TO FAMILY COURT (ACT 041)

Gov. Msg. No. 281, informing the House that on April 30, 2003, the following bill was signed into law:

S.B. No. 1154, HD 1 A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS (ACT 042)

Gov. Msg. No. 282, informing the House that on April 30, 2003, the following bill was signed into law:

S.B. No. 1413, HD 1 A BILL FOR AN ACT RELATING TO KIKALA-KEOKEA (ACT 043)

Gov. Msg. No. 283, informing the House that after considerable study and reflection, she has decided to permit the following measure to become law on April 30, 2003, without her signature, pursuant to Section 16 of Article III of the State Constitution:

H.B. No. 389, A BILL FOR AN ACT RELATING TO  
HD 2 FAMILY LEAVE (ACT 044)

Gov. Msg. No. 284, transmitting a report from the Department of Public Safety in response to Act 170, Session Laws of Hawaii – 1995.

Gov. Msg. No. 285, informing the House that on May 5, 2003, the following bill was signed into law:

S.B. No. 88, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1 MOTOR VEHICLES OWNED BY  
MILITARY PERSONNEL (ACT 045)

Gov. Msg. No. 286, informing the House that on May 5, 2003, the following bill was signed into law:

S.B. No. 1405, A BILL FOR AN ACT RELATING TO  
HD 1 COMMERCIAL DRIVER LICENSING  
(ACT 046)

Gov. Msg. No. 287, informing the House that on May 7, 2003, the following bill was signed into law:

S.B. No. 538, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1 THE AGRIBUSINESS  
DEVELOPMENT CORPORATION  
(ACT 047)

Gov. Msg. No. 288, informing the House that on May 7, 2003, the following bill was signed into law:

S.B. No. 1107, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1 CHAPTER 711, HAWAII REVISED  
STATUTES (ACT 048)

Gov. Msg. No. 289, informing the House that on May 7, 2003, the following bill was signed into law:

S.B. No. 1255, A BILL FOR AN ACT RELATING TO  
SD 2, HD 1 AGRICULTURAL INSPECTIONS  
(ACT 049)

Gov. Msg. No. 290, informing the House that on May 7, 2003, the following bill was signed into law:

S.B. No. 1306, A BILL FOR AN ACT RELATING TO  
HD 1 TELECOMMUNICATIONS RELAY  
SERVICES (ACT 050)

Gov. Msg. No. 291, transmitting the Department of Housing and Community Development Corporation of Hawaii's Funds Report for fiscal year ending June 30, 2001.

Gov. Msg. No. 292, informing the House that on May 12, 2003, the following bill was signed into law:

S.B. No. 1261, A BILL FOR AN ACT RELATING TO  
HD 2 PROCUREMENT CARD PAYMENTS  
(ACT 051)

Gov. Msg. No. 293, informing the House that on May 12, 2003, the following bill was signed into law:

S.B. No. 1262, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1, PROCUREMENT (ACT 052)  
CD 1

Gov. Msg. No. 294, informing the House that on May 13, 2003, the following bill was signed into law:

S.B. No. 373, A BILL FOR AN ACT RELATING TO  
SD 1, HD 2 CONDOMINIUM PROPERTY  
REGIMES (ACT 053)

Gov. Msg. No. 295, informing the House that on May 13, 2003, the following bill was signed into law:

S.B. No. 42, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1 WATERCRAFT (ACT 054)

Gov. Msg. No. 296, informing the House that on May 13, 2003, the following bill was signed into law:

S.B. No. 1077, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1 CONTINUING EDUCATION FOR  
INSURANCE LICENSEES (ACT 055)

Gov. Msg. No. 297, informing the House that on May 14, 2003, the following bill was signed into law:

S.B. No. 1361, A BILL FOR AN ACT RELATING TO  
SD 2, HD 1 PRESCRIPTION DRUGS (ACT 056)

Gov. Msg. No. 298, informing the House that on May 15, 2003, the following bill was signed into law:

S.B. No. 585, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1, STATE FUNDS (ACT 057)  
CD 1

Gov. Msg. No. 299, informing the House that on May 15, 2003, the following bill was signed into law:

H.B. No. 1111, A BILL FOR AN ACT RELATING TO  
HD 2, SD 2, [sic] MAKING APPROPRIATIONS  
CD 1 FOR CLAIMS AGAINST THE STATE,  
ITS OFFICERS, OR ITS EMPLOYEES  
(ACT 058)

Gov. Msg. No. 300, informing the House that on May 16, 2003, the following bill was signed into law:

H.B. No. 1509, A BILL FOR AN ACT RELATING TO  
HD 2, SD 2, HISTORIC PRESERVATION (ACT  
CD 1 059)

Gov. Msg. No. 301, informing the House that on May 19, 2003, the following bill was signed into law:

S.B. No. 931, A BILL FOR AN ACT RELATING TO  
SD 2, HD 2, HAWAII VICTIMS LEAVE ACT (ACT  
CD 1 060)

Gov. Msg. No. 302, informing the House that on May 19, 2003, the following bill was signed into law:

H.B. No. 1198, A BILL FOR AN ACT RELATING TO  
HD 2, SD 2 CHILD LABOR (ACT 061)

Gov. Msg. No. 303, informing the House that on May 19, 2003, the following bill was signed into law:

H.B. No. 562, A BILL FOR AN ACT RELATING TO  
SD 1, CD 1 SEXUAL ASSAULT (ACT 062)

Gov. Msg. No. 304, informing the House that on May 19, 2003, the following bill was signed into law:

H.B. No. 297, A BILL FOR AN ACT RELATING TO  
HD 2, SD 2, DRUGS (ACT 063)  
CD 1

Gov. Msg. No. 305, informing the House that on May 19, 2003, the following bill was signed into law:

S.B. No. 1274, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1, MANSLAUGHTER (ACT 064)  
CD 1

Gov. Msg. No. 306, informing the House that on May 19, 2003, the following bill was signed into law:

H.B. No. 1116, A BILL FOR AN ACT RELATING TO  
HD 1, SD 2 COURTS (ACT 065)

Gov. Msg. No. 307, informing the House that on May 19, 2003, the following bill was signed into law:

S.B. No. 1275 A BILL FOR AN ACT RELATING TO  
ASSAULT AGAINST LAW  
ENFORCEMENT OFFICERS (ACT  
066)

Gov. Msg. No. 308, informing the House that on May 19, 2003, the following bill was signed into law:

S.B. No. 345, A BILL FOR AN ACT RELATING TO  
SD 1, HD 2 MOTOR VEHICLES (ACT 067)

Gov. Msg. No. 309, informing the House that on May 19, 2003, the following bill was signed into law:

S.B. No. 933, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1, STALKING (ACT 068)  
CD 1

Gov. Msg. No. 310, informing the House that on May 20, 2003, the following bill was signed into law:

S.B. No. 1234, A BILL FOR AN ACT RELATING TO  
SD 2, HD 1 ALCOHOLIC BEVERAGES (ACT 069)

Gov. Msg. No. 311, informing the House that on May 20, 2003, the following bill was signed into law:

H.B. No. 564, A BILL FOR AN ACT RELATING TO  
SD 1, CD 1 PROMOTION OF CONTROLLED  
SUBSTANCES (ACT 070)

Gov. Msg. No. 312, informing the House that on May 20, 2003, the following bill was signed into law:

H.B. No. 807, A BILL FOR AN ACT RELATING TO  
HD 2, SD 2, CHAPTER 291E (ACT 071)  
CD 1

Gov. Msg. No. 313, informing the House that on May 20, 2003, the following bill was signed into law:

H.B. No. 1010, A BILL FOR AN ACT RELATING TO  
HD 1, SD 2, THE USE OF INTOXICANTS (ACT  
CD 1 072)

Gov. Msg. No. 314, informing the House that on May 20, 2003, the following bill was signed into law:

H.B. No. 192, A BILL FOR AN ACT RELATING TO  
HD 1, SD 1, ACCRETED LANDS (ACT 073)  
CD 1

Gov. Msg. No. 315, informing the House that on May 20, 2003, the following bill was signed into law:

H.B. No. 1155, A BILL FOR AN ACT RELATING TO  
HD 1, SD 1 UNCLAIMED PROPERTY (ACT 074)

Gov. Msg. No. 316, informing the House that on May 20, 2003, the following bill was signed into law:

H.B. No. 1212, A BILL FOR AN ACT RELATING TO  
HD 1, SD 1 LAND EXCHANGES (ACT 075)

Gov. Msg. No. 317, informing the House that on May 20, 2003, the following bill was signed into law:

S.B. No. 1075, A BILL FOR AN ACT RELATING TO  
SD 1, HD 1 CONTESTED CASES (ACT 076)

Gov. Msg. No. 318, informing the House that on May 20, 2003, the following bill was signed into law:

S.B. No. 1267, A BILL FOR AN ACT RELATING TO  
HD 2, CD 1 TOBACCO (ACT 077)

Gov. Msg. No. 319, informing the House that on May 21, 2003, the following bill was signed into law:

S.B. No. 69, SD A BILL FOR AN ACT RELATING TO  
1, HD 1 THE TEACHER EDUCATION  
COORDINATING COMMITTEE.  
(ACT 78)

Gov. Msg. No. 320, informing the House that on May 21, 2003, the following bill was signed into law:

H.B. No. 1161, A BILL FOR AN ACT RELATING TO  
HD 1, SD 1 PSYCHOLOGIST LICENSING  
REQUIREMENTS. (ACT 79)

Gov. Msg. No. 321, informing the House that on May 21, 2003, the following bill was signed into law:

S.B. No. 394, A BILL FOR AN ACT RELATING TO  
HD 1 CONDOMINIUM PROPERTY  
REGIMES. (ACT 80)

Gov. Msg. No. 322, informing the House that on May 21, 2003, the following bill was signed into law:

H.B. No. 1594, A BILL FOR AN ACT RELATING TO  
HD 1, SD 1 NONPROFIT CORPORATIONS. (ACT  
81)

Gov. Msg. No. 323, informing the House that on May 22, 2003, the following bill was signed into law:

H.B. No. 1214, A BILL FOR AN ACT RELATING TO  
HD2, SD 2, PUBLIC LAND LIABILITY. (ACT 82)  
CD 1

Gov. Msg. No. 324, informing the House that on May 22, 2003, the following bill was signed into law:

S.B. No. 1393, A BILL FOR AN ACT RELATING TO  
SD 2, HD 1, THE EXECUTIVE DEPARTMENTS  
CD 1 OF STATE GOVERNEMENT. (ACT  
83)

Gov. Msg. No. 325, informing the House that on May 22, 2003, the following bill was signed into law:

S.B. No. 295, A BILL FOR AN ACT RELATING TO SD 1, HD 1, MOTOR VEHICLE TOWING. (ACT CD 1 84)

Gov. Msg. No. 326, informing the House that on May 23, 2003, the following bill was signed into law:

S.B. No. 1505, A BILL FOR AN ACT RELATING TO SD 1, HD 2, INVASIVE SPECIES. (ACT 85) CD 1

Gov. Msg. No. 327, informing the House that on May 23, 2003, the following bill was signed into law:

S.B. No. 552, A BILL FOR AN ACT RELATING TO SD 2, HD 2 LANDOWNERS' LIABILITY. (ACT 86)

Gov. Msg. No. 328, informing the House that on May 23, 2003, the following bill was signed into law:

S.B. No. 1630, A BILL FOR AN ACT RELATING TO HD 1, CD 1 NONPROFIT CORPORATIONS. (ACT 87)

Gov. Msg. No. 329, informing the House that on May 27, 2003, the following bill was signed into law:

H.B. No. 548, A BILL FOR AN ACT RELATING TO HD 2, SD 1 ANATOMICAL GIFTS. (ACT 88)

Gov. Msg. No. 330, informing the House that on May 27, 2003, the following bill was signed into law:

H.B. No. 1076, A BILL FOR AN ACT RELATING TO HD 1, SD 1 APPELLATE JURISDICTION. (ACT 89)

Gov. Msg. No. 331, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 1034, A BILL FOR AN ACT RELATING TO SD 1, HD 2, AGRICULTURAL LANDS. (ACT 90) CD 1

Gov. Msg. No. 332, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 1258, A BILL FOR AN ACT RELATING TO SD 1, HD 1, [THE] AGRIBUSINESS DEVELOPMENT CORPORATION. (ACT 91) CD 1

Gov. Msg. No. 333, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 1286, A BILL FOR AN ACT RELATING TO SD 1, HD 2, THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII. (ACT 92) CD 1

Gov. Msg. No. 334, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 1281, A BILL FOR AN ACT RELATING TO SD 1, HD 1 THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION. (ACT 93)

Gov. Msg. No. 335, informing the House that on May 28, 2003, the following bill was signed into law:

H.B. No. 475 A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION. (ACT 94)

Gov. Msg. No. 336, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 830, A BILL FOR AN ACT RELATING TO SD 1, HD 3, CRIMINAL HISTORY RECORD CHECKS. (ACT 95) CD 1

Gov. Msg. No. 337, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 1496, A BILL FOR AN ACT RELATING TO HD 1, CD 1 AGRICULTURE. (ACT 96)

Gov. Msg. No. 338, informing the House that on May 28, 2003, the following bill was signed into law:

H.B. No. 730, A BILL FOR AN ACT RELATING TO SD 1 OCCUPATIONAL THERAPISTS. (ACT 97)

Gov. Msg. No. 339, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 1352, A BILL FOR AN ACT RELATING TO SD 1, HD 2, HOME AND COMMUNITY-BASED SERVICES. (ACT 98) CD 1

Gov. Msg. No. 340, informing the House that on May 28, 2003, the following bill was signed into law:

S.B. No. 946, A BILL FOR AN ACT RELATING TO HD 2, CD 1 CAREGIVER CONSENT. (ACT 99)

Gov. Msg. No. 341, informing the House that on May 29, 2003, the following bill was signed into law:

S.B. No. 377, A BILL FOR AN ACT RELATING TO SD 1, HD 2, TAXATION. (ACT 100) CD 1

Gov. Msg. No. 342, informing the House that on May 30, 2003, the following bill was signed into law:

S.B. No. 1050, A BILL FOR AN ACT RELATING TO SD 2, HD 2, VETERANS RIGHTS AND BENEFITS. (ACT 101) CD 1

Gov. Msg. No. 343, informing the House that on May 30, 2003, the following bill was signed into law:

H.B. No. 662, A BILL FOR AN ACT RELATING TO HD 2, SD 2 THE HAWAII SPORTS HALL OF FAME. (ACT 102)

Gov. Msg. No. 344, informing the House that on May 30, 2003, the following bill was signed into law:

S.B. No. 1373, A BILL FOR AN ACT RELATING TO SD 1, HD 1 STAFFING FOR FEDERALLY FUNDED PROGRAMS. (ACT 103)

Gov. Msg. No. 345, informing the House that on May 30, 2003, the following bill was signed into law:

- H.B. No. 1285, A BILL FOR AN ACT RELATING TO HD 1, SD 1, HISTORIC SITES. (ACT 104)  
CD 1
- Gov. Msg. No. 346, informing the House that on May 30, 2003, the following bill was signed into law:
- H.B. No. 127, A BILL FOR AN ACT RELATING TO HD 1, SD 1 GENERAL ASSISTANCE. (ACT 105)
- Gov. Msg. No. 347, informing the House that on May 30, 2003, the following bill was signed into law:
- S.B. No. 1163 A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES. (ACT 106)
- Gov. Msg. No. 348, informing the House that on May 30, 2003, the following bill was signed into law:
- S.B. No. 1241, A BILL FOR AN ACT RELATING TO HD 2 CANCER EXAMINATIONS. (ACT 107)
- Gov. Msg. No. 349, informing the House that on May 30, 2003, the following bill was signed into law:
- S.B. No. 205, A BILL FOR AN ACT RELATING TO SD3, HD2, EMPLOYMENT. (ACT 108)  
CD1
- Gov. Msg. No. 350, informing the House that on May 30, 2003, the following bill was signed into law:
- S.B. No. 687, A BILL FOR AN ACT RELATING TO SD 1, HD 1, LEAVES OF ABSENCE. (ACT 109)  
CD 1
- Gov. Msg. No. 351, informing the House that on May 30, 2003, the following bill was signed into law:
- S.B. No. 1334, A BILL FOR AN ACT RELATING TO HD 1 THE STATE INTERNET PORTAL. (ACT 110)
- Gov. Msg. No. 352, informing the House that on May 30, 2003, the following bill was signed into law:
- S.B. No. 789 A BILL FOR AN ACT RELATING TO SD 1, HD 2, PUBLIC EMPLOYEE HEALTH CD 1 BENEFITS. (ACT 111)
- Gov. Msg. No. 353, informing the House that on May 30, 2003, the following bill was signed into law:
- H.B. No. 1607, A BILL FOR AN ACT RELATING TO HD 2, SD 1 AUTHORIZED EMERGENCY VEHICLES. (ACT 112)
- Gov. Msg. No. 354, informing the House that on May 30, 2003, the following bill was signed into law:
- S.B. No. 1040, A BILL FOR AN ACT RELATING TO SD 1, HD 1, TRANSIENT ACCOMMODATIONS TAX. (ACT 113)  
CD 1
- Gov. Msg. No. 355, informing the House that on June 2, 2003, the following bill was signed into law:
- H.B. No. 651, A BILL FOR AN ACT RELATING TO HD 2, SD 1 INFORMED CONSENT. (ACT 114)
- Gov. Msg. No. 356, informing the House that on June 2, 2003, the following bill was signed into law:
- H.B. No. 1154, A BILL FOR AN ACT RELATING TO HD 1, SD 2, UNCLAIMED PROPERTY. (ACT 115)  
CD 1
- Gov. Msg. No. 357, informing the House that on June 2, 2003, the following bill was signed into law:
- S.B. No. 582, A BILL FOR AN ACT RELATING TO HD 1, CD 1 STATE BONDS. (ACT 116)
- Gov. Msg. No. 358, informing the House that on June 2, 2003, the following bill was signed into law:
- H.B. No. 401, A BILL FOR AN ACT RELATING TO HD 1, SD 1 ELECTIONS. (ACT 117)
- Gov. Msg. No. 359, informing the House that on June 2, 2003, the following bill was signed into law:
- S.B. No. 1309, A BILL FOR AN ACT RELATING TO SD 2, HD 2, THE EMPLOYEES' RETIREMENT CD 1 SYSTEM. (ACT 118)
- Gov. Msg. No. 360, informing the House that on June 2, 2003, the following bill was signed into law:
- H.B. No. 317, A BILL FOR AN ACT RELATING TO HD 2, SD 2, THE EMPLOYEES' RETIREMENT CD 1 SYSTEM. (ACT 119)
- Gov. Msg. No. 361, informing the House that on June 2, 2003, the following bill was signed into law:
- H.B. No. 808, A BILL FOR AN ACT RELATING TO HD 1, SD 2, THE JUDICIARY. (ACT 120)  
CD 1
- Gov. Msg. No. 362, informing the House that on June 2, 2003, the following bill was signed into law:
- H.B. No. 1157, A BILL FOR AN ACT RELATING TO SD 2, CD 1 THE EMPLOYEES' RETIREMENT SYSTEM. (ACT 121)
- Gov. Msg. No. 363, informing the House that on June 2, 2003, the following bill was signed into law:
- S.B. No. 1332, A BILL FOR AN ACT RELATING TO SD 2, HD 2, THE COMPENSATION OF CD 1 OFFICIALS IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT. (ACT 122)
- Gov. Msg. No. 364, informing the House that on June 2, 2003, the following bill was signed into law:
- S.B. No. 1333, A BILL FOR AN ACT RELATING TO SD 1, HD 2, THE COMPENSATION OF OF CD 1 OFFICIALS IN THE JUDICIAL BRANCH OF STATE GOVERNMENT. (ACT 123)
- Gov. Msg. No. 365, informing the House that on June 2, 2003, the following bill was signed into law:
- H.B. No. 1165, A BILL FOR AN ACT RELATING TO HD 2, SD 1, BUSINESS REGISTRATION. (ACT CD 1 124)



Gov. Msg. No. 366, informing the House that on June 2, 2003, the following bill was signed into law:

S.B. No. 614, A BILL FOR AN ACT RELATING TO SD 1, HD 1, HEALTH INSURANCE. (ACT 125)  
CD 1

Gov. Msg. No. 367, informing the House that on June 2, 2003, the following bill was signed into law:

S.B. No. 1201, A BILL FOR AN ACT RELATING TO SD 2, HD 1, MOTOR VEHICLE FRANCHISES.  
CD 1 (ACT 126)

Gov. Msg. No. 368, informing the House that on June 2, 2003, the following bill was signed into law:

S.B. No. 1403, A BILL FOR AN ACT RELATING TO HD 1, CD 1 DEPARTMENT OF TRANSPORTATION'S MARITIME [-] RELATED USES. (ACT 127)

Gov. Msg. No. 369, informing the House that on June 3, 2003, the following bill was signed into law:

H.B. No. 1163, A BILL FOR AN ACT RELATING TO SD 1 DENTAL INSURANCE. (ACT 128)

Gov. Msg. No. 370, informing the House that on June 3, 2003, the following bill was signed into law:

H.B. No. 1160, A BILL FOR AN ACT RELATING TO HD 1, SD 1 THE EXAMINATION FOR LICENSURE AS A CERTIFIED PUBLIC ACCOUNTANT. (ACT 129)

Gov. Msg. No. 371, informing the House that on June 3, 2003, the following bill was signed into law:

S.B. No. 1410, A BILL FOR AN ACT RELATING TO SD 1, HD 1 CLAIMS AGAINST THE UNIVERSITY OF HAWAII AND PROVIDING APPROPRIATIONS THEREFOR. (ACT 130)

Gov. Msg. No. 372, transmitting S.B. No. 44, SD 2, HD 2, CD 1 without her approval, and her proclamation and statement of objection relating to the measure as follows:

"EXECUTIVE CHAMBERS  
HONOLULU  
June 6, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 44

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 44, entitled "A Bill for an Act Relating to Transportation."

The purpose of this bill is to provide economic relief to airport concessionaires.

This bill is objectionable for a number of reasons. First, the bill unfairly favors and singles out airport concessionaires for an unprecedented amount of economic relief. No airport

authority in the country has to date granted as much economic relief to its concessions as the State of Hawaii. The bill proclaims that any surplus in the airport revenue fund can be used to grant relief to the airport concessionaires.

This is a classic case of the "tail wagging the dog." The state airport system exists to serve the people of Hawaii and all those wishing to visit the islands. The airport system does not exist to serve the concessionaires; rather the concessionaires exist to serve the people who use our airports. This bill would have the airport system's primary mission be serving the concessionaires. The airports do not and should not exist to ensure that airport concessionaires remain in business.

Second, the bill is fiscally irresponsible because it essentially mandates open-ended relief to the airport concessionaires. The bill provides what could easily be more than \$100 million in relief to airport concessionaires, with possibly as much as \$100 million in relief to a single concessionaire, DFS Group L.P. (DFS), the operator of the statewide in-bond concession and the retail concessionaires at Honolulu International Airport and Kona International Airport at Keahole.

Because the extent of relief is to be determined by the concessionaire, the courts, or a certified public accountant selected by the courts, it is not possible to accurately assess the anticipated impact such mandated relief under the bill would have on the airport revenue fund. Lacking such information, the Legislature would appear not to have given informed consideration to the potential drain on this fund, which could affect seriously the DOT's ability to operate the state airport system.

If the DOT does not have the discretion to determine the appropriateness and extent of relief to be granted, it would be virtually impossible for the DOT to guarantee the financial integrity of the airport revenue fund. Notwithstanding pronouncements and provisions in the bill to the contrary, such an inability to guarantee the financial integrity of the airport revenue fund could result in possible sanctions by the Federal Aviation Administration (FAA) and potential violations of agreements with the State's bondholders. The mandated open-ended relief required by this bill therefore poses an unacceptable and unreasonable threat to the continued viability of the State's airport system.

Third, by essentially mandating such open-ended relief, the bill places the DOT at a significant disadvantage in the so-called relief negotiations "permitted" under the bill. Make no mistake, the DOT is being forced to negotiate. The only "choice" for the DOT in this bill is to select how relief is to be granted to the concessionaires. The amount and duration of the relief will be determined either by the concessionaire, the courts, or a third party selected by the courts, such as a certified public accountant.

Under section 5 of the bill, if, for example, the DOT is unable to reach agreement with a concessionaire who had previously received relief under Act 15, Third Special Session Laws of Hawaii 2001, the DOT must either: (1) terminate the contract, give up any right to claim the concessionaire's performance bond, and give up the right to collect most (if not all) of any back rent amounts or (2) permit a court-appointed certified public accountant to determine the amount of relief the DOT must provide to the airport concessionaire.

Preventing the DOT from calling upon the very security it obtained to ensure that the concessionaire completed performance under the contract is unwise and extremely detrimental to the State. For example, the performance bonds provided by DFS alone to secure its performance under the three concessions mentioned above approach \$50 million.

As a property owner and lessor, the DOT should have the discretion to determine if relief is warranted and at what level. These rights are basic to any property owner or lessor. The bill denies these rights to the DOT. If the DOT and the concessionaire cannot agree on the relief, either a certified public accountant or the court will determine the nature and extent of relief.

Particularly troubling is the tenor of distrust that runs through this bill. Without having given this administration an opportunity to work with the airport concessionaires, many have already assumed and concluded that the DOT cannot be trusted and will not be fair and use its judgment in the best interests of all of the people of this State. Under this bill, the airport concessions are guaranteed their share regardless of the impact on the public and the DOT's ability to operate the state airport system. This narrow-minded favoritism of a special interest group without considering the overall affect on the community is not acceptable.

Fourth, the bill is vague, ambiguous, and inconsistent. For example, one part of the bill asserts that the problems for some of the concessions "may never change," yet another part of the bill requires that relief continue until sales return to pre-September 11, 2001, levels for three consecutive months. The only reason given for why this is not "permanent relief" is that most of the relevant leases will expire by 2006. Even this is not correct, however, because at least one major concession lease does not expire until 2008.

Section 4 of the bill provides that, if cancellation or modification of the contract cannot be agreed to within sixty days, "a party may seek relief through the courts." But this bill also provides in the very next sentence, "[t]he concessionaire shall have no right to make any claims against the State due to such cancellation."

Further, under sections 1 and 4 of this bill, the DOT would have to negotiate relief with any concessionaires that had contracts as of January 1, 2003, including at least two concessionaires whose contracts have since been terminated and are no longer airport tenants. Also of note is that under section 5 of this bill, one concession could potentially continue receiving mandated "break-even no profit" relief through 2008.

Fifth, deciphering the rights and entitlements of the airport concessionaires and ensuring that all of the relief mechanisms are properly followed will be an administrative nightmare. It is difficult to understand and harmonize the subsections within section 4 of the bill, as well as discern how section 4 is to be applied in conjunction with other sections such as section 5. It appears that under section 4 of the bill, those concessions that receive relief under section 5 of the bill could potentially receive substantial additional relief over and above the relief mandated under section 5.

While section 7 seems to be intended to prevent concessionaires receiving relief under section 5 from receiving duplicate relief or benefits, it is unclear what such concessionaires could receive or what the State would be required to do or negotiate if an event similar to the event that occurred on September 11, 2001, occurs in the future. Based on sections 3, 4, and 5 of the bill, the DOT could easily find itself caught in an unending cycle of renegotiations with no ability to determine whether and to what extent relief should be granted.

Consequently, in summary, I object to sections 1, 4, 5, 6, 7, and 8 of the bill, which should have been deleted from the bill before passage of the bill, with a corresponding deletion of the last sentence of the new subsection (b) added in section 3 of the

bill to section 102-10, Hawaii Revised Statutes, and with corresponding changes to section 10 of the bill to make the remaining sections effective for airport concession contracts in effect on or after the approval date of the act. For the foregoing reasons, I am returning Senate Bill No. 44 without my approval.

Respectfully,

/s/Linda Lingle  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate bill No. 44, entitled "A Bill for an Act Relating to Transportation," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 44 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 44 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 6th  
day of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 373, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 75, HD 2, A BILL FOR AN ACT RELATING TO  
SD 1 CONDOMINIUMS. (ACT 131)

Gov. Msg. No. 374, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 1328, HD A BILL FOR AN ACT RELATING TO  
1, SD 1 THE CONSUMER ADVOCATE. (ACT  
132)

Gov. Msg. No. 375, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 736, HD A BILL FOR AN ACT RELATING TO  
1, SD 2, CD 1 PROFESSIONAL AND VOCATIONAL  
LICENSES. (ACT 133)

Gov. Msg. No. 376, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1312, SD A BILL FOR AN ACT RELATING TO  
1, HD 2, CD 1 THE EMPLOYEES' RETIREMENT  
SYSTEM. (ACT 134)

Gov. Msg. No. 377, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1395, SD 1, HD 1, CD 1 A BILL FOR AN ACT RELATING TO THE AMENDMENT OR REPEAL OF OBSOLETE TAX LAWS. (ACT 135)

Gov. Msg. No. 378, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1400, SD 1, HD 1 A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION. (ACT 136)

Gov. Msg. No. 379, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1438, HD 1, CD 1 A BILL FOR AN ACT RELATING TO *[sic]* MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS. (ACT 137)

Gov. Msg. No. 380, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1439 HD 1, CD 1 A BILL FOR AN ACT RELATING TO *[sic]* MAKING APPROPRIATIONS FOR SALARY INCREASES FOR PUBLIC EMPLOYEES. (ACT 138)

Gov. Msg. No. 381, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1440, HD 1, CD 1 A BILL FOR AN ACT RELATING TO COLECTIVE BARGAINING COST ITEMS. (ACT 139)

Gov. Msg. No. 382, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1441, HD 1, CD 1 A BILL FOR AN ACT RELATING TO *[sic]* MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS. (ACT 140)

Gov. Msg. No. 383, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1442, HD 1, CD 1 A BILL FOR AN ACT RELATING TO *[sic]* MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS. (ACT 141)

Gov. Msg. No. 384, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1443, HD 1, CD 1 A BILL FOR AN ACT RELATING TO *[sic]* MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS. (ACT 142)

Gov. Msg. No. 385, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 1444, HD 1, CD 1 A BILL FOR AN ACT RELATING TO *[sic]* MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS. (ACT 143)

Gov. Msg. No. 386, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 975, HD 1, CD 1 A BILL FOR AN ACT RELATING TO GOVERNMENT. (ACT 144)

Gov. Msg. No. 387, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 324, HD 1, SD 1, CD 1 A BILL FOR AN ACT RELATING TO DRIVER LICENSING. (ACT 145)

Gov. Msg. No. 388, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 980, HD 1, SD 1, CD 1 A BILL FOR AN ACT RELATING TO CIVIL SETTLEMENTS. (ACT 146)

Gov. Msg. No. 389, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 10, HD 2, SD 1, CD 1 A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES. (ACT 147)

Gov. Msg. No. 390, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 837, SD 1, HD 2, CD 1 A BILL FOR AN ACT RELATING TO WORKFORCE DEVELOPMENT. (ACT 148)

Gov. Msg. No. 391, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 135, HD 1, SD 1, CD 1 A BILL FOR AN ACT RELATING TO INTERNATIONAL MATCHMAKING ORGANIZATIONS. (ACT 149)

Gov. Msg. No. 392, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 287, HD 3, SD 2, CD 1 A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES. (ACT 150)

Gov. Msg. No. 393, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 1217, HD 1, SD 1, CD 1 A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES. (ACT 151)

Gov. Msg. No. 394, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 1303, SD 1, CD 1 A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS. (ACT 152)

Gov. Msg. No. 395, informing the House that on June 4, 2003, the following bill was signed into law:

H.B. 1465, HD 2, SD 2, CD 1 A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR. (ACT 153)

Gov. Msg. No. 396, informing the House that on June 4, 2003, the following bill was signed into law:

S.B. 528, SD 2, HD 1, CD 1 A BILL FOR AN ACT RELATING TO THE TRANSFER OF COUNTY LANDS AND IMPROVEMENTS. (ACT 154)

Gov. Msg. No. 397, informing the House that on June 5, 2003, the following bill was signed into law:

- H.B. 139, HD 1, SD 1 A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY. (ACT 155)
- Gov. Msg. No. 398, informing the House that on June 14, 2003, the following bill was signed into law:
- S.B. 1423, SD 2, HD 2, CD 1 A BILL FOR AN ACT RELATING TO A COMMISSION ON FATHERHOOD. (ACT 156)
- Gov. Msg. No. 399, transmitting a report, Requesting Monthly Notification of Expenditures from the Director of Health Relative to the Felix Consent Decree Made to the United States Ninth District Court, the Felix Special Monitor, the Felix Monitoring Project, or Any Another (sic) Agent of the United States Judiciary – For the Month of February 2003.
- Gov. Msg. No. 400, transmitting a report, Requesting Monthly Notification of Expenditures from the Director of Health Relative to the Felix Consent Decree Made to the United States Ninth District Court, the Felix Special Monitor, the Felix Monitoring Project, or Any Another (sic) Agent of the United States Judiciary – For the Month of March 2003.
- Gov. Msg. No. 401, informing the House that on June 16, 2003, the following bills were signed into law:
- H.B. No. 377, HD 1, SD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 157)
- H.B. No. 378, HD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 158)
- H.B. No. 379, HD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 159)
- H.B. No. 380, HD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 160)
- H.B. No. 381, HD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 161)
- H.B. 382, HD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 162)
- H.B. 383, HD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 163)
- H.B. 384, HD 1, SD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES (ACT 164)
- Gov. Msg. No. 402, informing the House that on June 16, 2003, the following bill was signed into law:
- S.B. 1068, SD 1, HD 2 A BILL FOR AN ACT RELATING TO HEALTH CARE FACILITIES. (ACT 165)
- Gov. Msg. No. 403, informing the House that on June 16, 2003, the following bills were signed into law:
- H.B. No. 485 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HANAHAU'OLI SCHOOL (ACT 166)
- H.B. No. 488 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR MID-PACIFIC INSTITUTE (ACT 167)
- H.B. 939 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HOALA SCHOOL (ACT 168)
- H.B. 1362, SD 1, CD 1 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR ST. PATRICK SCHOOL (ACT 169)
- H.B. 1564 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR CHAMINADE UNIVERSITY (ACT 170)
- Gov. Msg. No. 404, informing the House that on June 16, 2003, the following bill was signed into law:
- H.B. 731, HD 1, SD 1 A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION. (ACT 171)
- Gov. Msg. No. 405, informing the House that on June 16, 2003, the following bill was signed into law:
- S.B. 1394, SD 2, HD 1 A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE. (ACT 172)
- Gov. Msg. No. 406, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 1397, SD 1, HD 2 A BILL FOR AN ACT RELATING TO SIMPLIFIED TAX ADMINISTRATION. (ACT 173)

Gov. Msg. No. 407, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 1446, SD 2, HD 1, CD 1 A BILL FOR AN ACT RELATING TO TECHNOLOGY. (ACT 174)

Gov. Msg. No. 408, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 3, SD 1 A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR NORTH HAWAII COMMUNITY HOSPITAL, INC. (ACT 175)

Gov. Msg. No. 409, informing the House that on June 16, 2003, the following bill was signed into law:

H.B. 645 A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR ASSISTING NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES TO THE GENERAL PUBLIC. (ACT 176)

Gov. Msg. No. 410, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 1279, SD 2, HD 2, CD 1 A BILL FOR AN ACT RELATING TO TOBACCO. (ACT 177)

Gov. Msg. No. 411, informing the House that on June 16, 2003, the following bill was signed into law:

H.B. 1152, HD 1, SD 1, CD 2 A BILL FOR AN ACT RELATING TO STATE FUNDS. (ACT 178)

Gov. Msg. No. 412, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 1311, SD 1, HD 1 A BILL FOR AN ACT RELATING TO SPECIAL FUNDS. (ACT 179)

Gov. Msg. No. 413, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 1051, HD 2, CD 1 A BILL FOR AN ACT RELATING TO PERSONAL TRANSPORTATION. (ACT 180)

Gov. Msg. No. 414, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 402, SD 2, HD 2, CD 1 A BILL FOR AN ACT RELATING TO MEDICAL EDUCATION. (ACT 181)

Gov. Msg. No. 415, informing the House that on June 16, 2003, the following bill was signed into law:

H.B. 130 HD 1, SD 2, CD 1 A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS. (ACT 182)

Gov. Msg. No. 416, informing the House that on June 16, 2003, the following bill was signed into law:

H.B. No. 1300, HD 2, SD 2, CD 1 A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS. (ACT 183)

Gov. Msg. No. 417, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 1594, HD 1 A BILL FOR AN ACT RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT. (ACT 184)

Gov. Msg. No. 418, informing the House that on June 16, 2003, the following bill was signed into law:

S.B. 1492, SD 1, HD 2, CD 1 A BILL FOR AN ACT RELATING TO ASSISTED LIVING FACILITIES. (ACT 185)

Gov. Msg. No. 419, informing the House that on June 16, 2003, the following bill was signed into law:

H.B. 320 HD 2, SD 1, CD 1 A BILL FOR AN ACT RELATING TO RISK MANAGEMENT. (ACT 186)

Gov. Msg. No. 420, informing the House that on June 17, 2003, the following bill was signed into law:

H.B. 1175, HD 2, SD 1, CD 1 A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION. (ACT 187)

Gov. Msg. No. 421, informing the House that on June 17, 2003, the following bill was signed into law:

H.B. 281, HD 1, SD 2, CD 1 A BILL FOR AN ACT RELATING TO STATE EDUCATIONAL FACILITIES REPAIR AND MAINTENANCE. (ACT 188)

Gov. Msg. No. 422, informing the House that on June 17, 2003, the following bill was signed into law:

S.B. 337, SD 1, HD 1 A BILL FOR AN ACT RELATING TO THE MANAGEMENT OF SCHOOL FACILITIES. (ACT 189)

Gov. Msg. No. 423, informing the House that on June 17, 2003, the following bill was signed into law:

S.B. 617 A BILL FOR AN ACT RELATING TO CRIMINAL OFFENSES. (ACT 190)

Gov. Msg. No. 424, informing the House that on June 17, 2003, the following bill was signed into law:

H.B. 1361, HD 2, SD 1, CD 1 A BILL FOR AN ACT RELATING TO THE MEDICAID PRESCRIPTION DRUG EXPANSION PROGRAM. (ACT 191)

Gov. Msg. No. 425, informing the House that on June 18, 2003, the following bill was signed into law:

S.B. 637, HD 2 A BILL FOR AN ACT RELATING TO MISSING CHILDREN. (ACT 192)

Gov. Msg. No. 426, informing the House that on June 18, 2003, the following bill was signed into law:

H.B. 638, HD 1, SD 2, CD 1 A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM. (ACT 193)

Gov. Msg. No. 427, informing the House that on June 18, 2003, the following bill was signed into law:

H.B. 373, HD 2, SD 1, CD 1 A BILL FOR AN ACT RELATING TO POLITICAL SPEECH. (ACT 194)

Gov. Msg. No. 428, informing the House that on June 19, 2003, the following bill was signed into law:

H.B. 1255, SD 2, CD 1 MAKING AN APPROPRIATION FOR THE OFFICE OF ELECTIONS. (ACT 195)

Gov. Msg. No. 429, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

H.B. No. 29 HD1 SD1 CD1 A BILL FOR AN ACT RELATING TO MEAL BREAKS

H.B. No. 290 HD2 SD1 CD1 A BILL FOR AN ACT RELATING TO UNEMPLOYMENT

H.B. No. 293 HD1 SD2 CD1 A BILL FOR AN ACT RELATING TO THE FARMERS' MARKET

H.B. No. 640 HD1 SD2 CD1 MAKING AN APPROPRIATION FOR THE LOSS MITIGATION GRANT PROGRAM

H.B. No. 1013 HD3 SD2 A BILL FOR AN ACT RELATING TO EXAMINATIONS FOR THE DETERMINATION OF PERMANENT IMPAIRMENT

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 29

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 29, entitled "A Bill for an Act Relating to Meal Breaks."

The purpose of this bill is to require employers to provide employees with at least a thirty-minute meal break after more than eight hours of work, except when the employer is: (1) subject to a collective bargaining agreement that expressly provides for employee meal breaks; (2) a carrier of passengers or property by motor vehicle or a power generating utility regulated under chapter 269, Hawaii Revised Statutes (HRS); or (3) the operator of a continuously operating facility that is regulated by environmental permits.

The impetus for the bill was the Hawaii Civil Rights Commission's concern that, because state law does not require a meal period or other break, enforcing section 378-10, HRS, would be problematic. This law, enacted in 1999, prohibits an employer from preventing an employee from expressing breast milk during any meal or other break period required by law or by a collective bargaining agreement. The Commission, however, has never received a complaint on this issue.

This bill also provides that no employer shall prohibit an employee from expressing breast milk during any meal break or other break that is required by law, required by a collective bargaining agreement, or provided by the employer on a voluntary basis. In addition, an employer is prohibited from discriminating against an employee for expressing milk during the meal break or any other break.

This bill is objectionable because it applies only to small businesses that do not engage in business outside of Hawaii. Chapter 387, Hawaii Revised Statutes, which this bill would amend, does not cover employers subject to the federal Fair Labor Standards Acts (i.e., employers with gross receipts of \$500,000 or more and those engaged in interstate commerce).

In short, there has been no demonstrated need for this bill. In those cases where employees work more than eight hours at a time, the employee and employer should have the flexibility to structure meal and other breaks in ways that make sense under the circumstances, rather than to have breaks mandated by law.

In sum, it makes no sense to burden businesses in Hawaii with a new regulation of this kind in the absence of a demonstrated need. It makes even less sense to target only small, local businesses.

For the foregoing reasons, I am returning House Bill No. 29 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or

presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 29, entitled "A Bill for an Act Relating to Meal Breaks," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 29 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 29 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 290

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 290, entitled "A Bill for an Act Relating to Unemployment."

The primary purpose of this bill is to create a temporary state program to extend unemployment insurance benefits for an additional thirteen weeks for unemployed workers who had claims for unemployment benefits on or after September 11, 2001, and have exhausted their right to collect state, federal, and other unemployment benefits. Eligibility is conditioned on the federal Temporary Extended Unemployment Compensation (TEUC) program not being extended after May 31, 2003.

This bill is objectionable because it is unnecessary. On May 28, 2003, President George W. Bush signed federal legislation, Public Law No. 108-26, to extend the federal TEUC program until December 31, 2003. Because an individual would be eligible for the additional benefits under this bill only if the federal TEUC program was not extended and because that program has been extended, no individual can qualify for the additional benefits under this bill.

For the foregoing reasons, I am returning House Bill No. 290 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to

give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 290, entitled "A Bill for an Act Relating to Unemployment," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 290 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 290 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 293

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 293, entitled "A Bill for an Act Relating to the Farmers' Market."

The purpose of this bill is to appropriate \$7,000 for the Department of Agriculture to assess the economic feasibility of establishing a world-class farmers' market in Hawaii.

This bill is objectionable because this appropriation would result only in a feasibility study for something that goes beyond essential or core services. In fiscally challenging time like these, we must exercise fiscal discipline and stay focused on the core functions of government.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy

business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning House Bill No. 293 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 293, entitled "A Bill for an Act Relating to the Farmers' Market," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 293 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 293 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 640

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 640, entitled "A Bill for an Act Making an Appropriation for the Loss Mitigation Grant Program."

The purpose of this bill is to use \$500,000 from the Hawaii Hurricane Relief Fund for fiscal year 2003-2004 and another \$500,000 in fiscal year 2004-2005 to develop and implement the grant program established under Act 179, Session Laws of Hawaii 2002.

This bill is objectionable because it would take money from the Hawaii Hurricane Relief Fund to [sic] fund a relatively small program that would involve significant administration costs.

Although there is a logical relationship between the Hurricane Relief Fund and the purpose of this bill since the grants funded under this bill should reduce hurricane losses, too few property owners would benefit from this bill to justify the use of the moneys in the Hawaii Hurricane Relief Fund. There are administrative costs that would be incurred in operating this program, including costs for providing notice of the availability of the grant program, processing applications, and other staffing functions that are not funded in this bill. These administrative costs would reasonably be expected to consume a significant portion of the funds provided by this bill.

This bill also has a fiscal impact on the State. The State's general fund financial plan assumes a transfer of interest income of \$9 million annually from the principal balance of the Hurricane Relief Fund. Reducing that principal will reduce general fund revenues.

It should be noted that hurricane mitigation is a worthwhile concept, and the potential to use money provided by this bill as matching funds to qualify for additional federal money is attractive. Even so, the State must resist the urge to dip into the Hurricane Relief Fund so that the principal of this fund will be available to provide coverage for future hurricane losses. This bill represents the kind of "painless" decision that led to the current fiscal challenge. Faced now with a projected budget deficit of more than \$230 million, the State must make the hard choices necessary to put our financial house back in order.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget, it would be impossible to restore trust and integrity in government and expand and diversify the economy. These are things that we must do to achieve a true New Beginning for the people of Hawaii. Too much is at stake for us to lose our focus or our resolve.

For the foregoing reasons, I am returning House Bill No. 640 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 640, entitled "A Bill for an Act Making an Appropriation for the Loss Mitigation Grant Program," passed by the Legislature, was presented to the Governor within the aforementioned period; and



WHEREAS, House Bill No. 640 is unacceptable to the Governor of the State of Hawaii;

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 640 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1013

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1013, entitled "A Bill for an Act Relating to Examinations for the Determination of Permanent Impairment."

The purpose of this bill is to require an employer and an employee in a workers' compensation case to mutually agree upon a physician to conduct an examination for the determination of permanent impairment when an employer requests the examination. If no agreement is reached, the Director of Labor and Industrial Relations ("Director") is required to appoint a physician from a list of duly qualified physicians that the Director is required to compile and maintain. The Director is required to appoint the physicians in the order they appear on the list. The employer is required to pay for the cost of any examination it requests.

This bill is objectionable because there has been no demonstrated need for a change in the present system. Currently, the employer and employee either agree on a physician and the employer usually pays for the examination and report, or the employer and the employee each obtain and pay for their own examinations and reports. If the employee will not voluntarily attend an examination requested by the employer, the employer may ask the Director or the Labor and Industrial Relations Appeals Board for an order requiring the employee to attend the examination. The employer pays the physician it selects to do the examination and report. Under House Bill No. 1013, however, the employer might have no say in selection of the physician who would conduct the examination, but still be required to pay the cost of that examination.

This bill is also objectionable because it may make the system more adversarial and lengthy, and may increase workers' compensation costs for employers, including the State. Additionally, no appropriation was included to implement this bill.

For the foregoing reasons, I am returning House Bill No. 1013 without my approval.

Respectfully,

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1013, entitled "A Bill for an Act Relating to Examinations for the Determination of Permanent Impairment," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1013 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1013 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 430, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

H.B. No. 133 A BILL FOR AN ACT RELATING  
HD1 SD3 CD1 TO CHILD PROTECTION

H.B. No. 285 A BILL FOR AN ACT RELATING  
HD1 SD2 TO ADMINISTRATIVE  
PROCEDURE

H.B. No. 426 A BILL FOR AN ACT RELATING  
HD1 SD2 CD1 TO PUBLIC LANDS

H.B. No. 968 A BILL FOR AN ACT RELATING  
HD1 SD1 CD1 TO UNEMPLOYMENT BENEFITS

H.B. No. 1003 A BILL FOR AN ACT RELATING  
HD1 SD2 CD1 TO CRIME VICTIM  
COMPENSATION

H.B. No. 1456 A BILL FOR AN ACT RELATING  
HD1 SD1 CD1 TO THE DEPOSIT BEVERAGE  
CONTAINER PROGRAM

H.B. No. 1579 A BILL FOR AN ACT RELATING  
HD1 SD2 CD1 TO THE ECONOMIC  
DIVERSIFICATION AUTHORITY

H.B. No. 1652 MAKING AN APPROPRIATION TO  
SD1 CD1 THE MEDICAID PRESCRIPTION  
DRUG REBATE SPECIAL FUND

S.B. No. 317 MAKING AN APPROPRIATION  
SD2 HD1 CD1 FOR THE FIFTIETH  
ANNIVERSARY  
COMMEMORATION OF THE  
KOREAN WAR COMMISSION

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 133

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 133, entitled "A Bill for an Act Relating to Child Protection."

The purpose of this bill is to grant full immunity from prosecution for leaving an unharmed newborn at a hospital and provide immunity from liability for the hospitals and their personnel for receiving such a newborn.

This is a so-called safe-haven measure, intended to protect newborns from being killed by a mother who is unable or unwilling to care for the child.

My first reaction to this bill was mixed, but mostly positive. While questioning the need for such a law, I thought to myself, "but if it saves just one life it will be a good law." This mostly positive reaction seemed to be validated when I learned that forty-two other states have already enacted similar laws, and that the first to do so was Texas in 1999 under then-Governor George Bush.

However, additional research and lively discussions with people on both sides of the issue have caused me to reassess my initial thinking. In fact, I now believe that any good that might be accomplished by this bill is likely to be outweighed by the harm that it would cause.

I am concerned, for example, that the individual dropping off the newborn would not be required to prove that she is the baby's parent, or have to provide even minimal information about the baby. This could jeopardize the child's health and

make it exceedingly difficult for the extended families, or the child's father, to learn of the baby's whereabouts and to assert their interests in caring for the child. The abandoned baby would be prevented from ever learning about its medical and genealogical history.

In Hawaii, the extended family is commonly recognized as an integral part of the nuclear family, and the Hawaiian cultural practice of open adoption called "hanai" is still common practice. It violates the constitutional right to the free exercise of religion of an individual and a religious hospital that provides emergency care. This bill could have an adverse impact on such support systems.

I believe that our focus should be on the long-term well being of the newborn, and that safe-haven measures like this one fall short in that critically important respect. Experts around the country are increasingly critical of such laws.

For the foregoing reasons, I am returning House Bill No. 133 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 133, entitled "A Bill for an Act Relating to Child Protection," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 133 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 133 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 285

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 285, entitled "A Bill for an Act Relating to Administrative Procedure."

The purpose of this bill is to require that administrative rules conform to enabling statutes, to provide for the automatic repeal of administrative rules when the enabling statute or ordinance is repealed, and to require the Small Business Regulatory Review Board to include in its report to the Legislature recommendations as to whether a rule is an appropriate function of state government and whether its goal can be implemented as cost-effectively by the private sector as by state government.

This bill is objectionable because it is unnecessary to accomplish its goals, and it could result in confusion and wasteful litigation over the legal status of certain rules.

Although under current law, administrative rules could theoretically remain "on the books" indefinitely after repeal of the underlying statute, such rules would cease to be enforceable upon such repeal, without some other statutory authority. Our administration will periodically review existing rules to determine if they continue to serve a valid purpose, and section 91-3(f), Hawaii Revised Statutes, already provides a relatively simple process for the repeal of rules that are null and void or unnecessary, while ensuring that the public is notified and that any interested person may petition the agency seeking to repeal rules.

The automatic repeal of rules as mandated by this bill may or may not result in the repeal of rules that were implemented under, or relate to, more than one statute. This uncertainty would invite litigation.

Other provisions of this bill, such as the requirement to conform to federal mandates, already are part of existing policy.

The requirement that the Small Business Regulatory Review Board review rules and recommend whether the private sector can more cost-effectively provide the same goal can also be implemented through an administrative directive.

For the foregoing reasons, I am returning House Bill No. 285 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 285, entitled "A Bill for an Act Relating to Administrative Procedure," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 285 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 285 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 426

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 426, entitled "A Bill for an Act Relating to Public Lands."

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to issue new leases to the Kauai Beachfront Hotel (now known as the Aloha Beach Resort Kauai), the existing state lessee of resort properties at Wailua, Lihue, Kauai (Kauai Beachfront Leases).

This bill raises a serious policy question because it provides a special benefit to one entity that is not available to similarly situated entities. The State has a general policy, stated in section 171-14, Hawaii Revised Statutes, to award leases through public auction, thereby providing a fair opportunity for the public to bid on the lease and for the State to obtain the best deal possible.

This bill also is unnecessary in order to issue new leases on this property. Under section 171-61, Hawaii Revised Statutes, leases can be canceled and re-auctioned by the Board of Land and Natural Resources (BLNR) whenever land can be re-leased for a higher or better use or for an existing use to a greater economic benefit to the State. In fact, the BLNR took action at its meeting held on May 24, 2002, to approve the cancellation and re-auction of the Kauai Beachfront Leases.

Finally, there is a serious concern that this bill may be unconstitutional pursuant to Section 5 of Article XI of the State Constitution, which provides that the legislative power over the lands owned by the State and its political subdivisions shall be exercised only by general law.

For the foregoing reasons, I am returning House Bill No. 426 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to

give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 426, entitled "A Bill for an Act Relating to Public Lands," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 426 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 426 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 968

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 968, entitled "A Bill for an Act Relating to Unemployment Benefits."

The purpose of this bill is to allow unemployment insurance (UI) claimants to receive their weekly benefit amount without regard to earnings received from current employment.

This bill is objectionable because the unemployment system was established to provide jobless workers with a means of getting through a temporary period of unemployment and not as an entitlement that should continue to be paid in full even after a job has been found.

This bill also is objectionable because it would apply retroactively to weeks beginning January 1, 2003 and cost approximately \$800,000 per month in benefits expended from the UI trust fund, or a seven percent increase from current levels. Employers in Hawaii have already been subject to higher tax assessments because the contribution rate schedule increased from Schedule C in 2002 to Schedule D in 2003, due to a lower trust fund balance. By permanently drawing from trust fund reserves, this measure would put upward pressure on the unemployment tax rate and thereby make it more difficult to hold down the costs of doing business in Hawaii.

For the foregoing reasons, I am returning House Bill No. 968 without my approval.

Respectfully,  
[without her signature]

LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 968, entitled "A Bill for an Act Relating to Unemployment Benefits," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 968 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 968 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1003

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1003, entitled "A Bill for an Act Relating to Crime Victim Compensation."

The purpose of this bill is to assist the Crime Victim Compensation Commission (CVCC) by doing the following: (1) allowing the CVCC to transfer a minor's compensation award to an appropriate custodian for the minor's benefit under the Uniform Transfers to Minors Act; (2) allowing compensation (a) for mental health services to children or elderly individuals who witness a crime, and (b) to surviving relatives of victims of sexual assault and death; (3) renaming the award for "pain and suffering" as the award for an "acknowledgment of harm"; (4) authorizing the CVCC to hire new employees without regard to civil service; (5) requiring the Judiciary to provide information demonstrating compliance with section 351-62.6, Hawaii Revised Statutes; and (6) escheating any unclaimed victim restitution moneys to the CVCC special fund after public notice.

Although there are several positive aspects to this bill, the bill is objectionable because the removal of civil service protection is unnecessary and because funds should not escheat to the CVCC when the CVCC is the organization currently responsible for locating victims.

This bill removes civil service protections from new staff at the CVCC. No sufficient justification has been provided to demonstrate the need for these workers to be exempt from the civil service.

Furthermore, the CVCC is currently responsible for locating and paying victims. Under this bill, if the CVCC does not locate the victim, the restitution funds escheat to the CVCC special fund. Accordingly, this bill would appear to create a financial incentive for the CVCC when victims are not found. Laws that create such perceptions of government do not serve to restore trust and integrity in government.

The positive parts of this bill may and should be passed next year.

For the foregoing reasons, I am returning House Bill No. 1003 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1003, entitled "A Bill for an Act Relating to Crime Victim Compensation," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1003 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1003 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1456

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval,

House Bill No. 1456, entitled "A Bill for an Act Relating to the Deposit Beverage Container Program."

The purpose of this bill is to amend statutes pertaining to the deposit beverage container program, part VIII of chapter 342G, Hawaii Revised Statutes (HRS), the so-called "bottle law," to clarify various ambiguities.

Since enactment of the bottle law, there has been uncertainty and disagreement over the meaning of various provisions, including the effective date of the provision requiring distributors to pay a per-container fee. According to a Report of the Senate Committee on Ways and Means, the Legislature intended that this bill would provide an effective date of January 1, 2005. The bill itself, however, does not do this, at least not clearly. In fact, in one section there is language calling for a retroactive effective date: "Beginning October 1, 2002, payment of the deposit beverage container fee and deposits as described in section 342G-110 shall be made monthly based on sale reports of the deposit beverage distributors."

Another provision of this bill makes it possible for dealers under certain conditions to charge customers for deposits on containers prior to January 1, 2005, but the bill leaves customers with no way to get back their deposits until after that date. Therefore, this bill would require such customers to bear the cost of the deposit and store the deposit beverage container until it could be redeemed on or after January 1, 2005.

This bill is objectionable because at best it fails to clarify existing confusion over the effective date for the payment of deposits. Such uncertainty invites wasteful litigation. At worst, the bill establishes a retroactive effective date of October 1, 2002, which would be unfair.

I called for repeal of the bottle law this past session, and I intend to do so again next session. I am convinced that the bottle law, once implemented, would be costly and bureaucratic, providing minimal benefit for our environment while hindering the adoption of more effective and efficient alternatives. The bottle law makes little sense under the best of fiscal circumstances. Faced with a projected budget deficit of more than \$230 million, and knowing that there are more effective ways to deal with the litter and landfill problems, it makes no sense to spend millions of dollars creating a new Bottle Division within the Department of Health, and mandating costly and cumbersome regulations.

Beverage containers account for only 7.3 percent of litter in Hawaii, and less than 2 percent of all solid waste. The bottle law ignores all but a tiny percentage of the problem. It would make far more sense to provide funding and other forms of support to community-based litter programs and county efforts to develop curbside and drop-off recycling.

Hawaii's Community Workday Program was thriving and highly successful before being largely dismantled in the mid-1990s. That community-based litter control program involved the public and private sectors plus thousands of volunteers in a campaign of education, anti-litter publicity, volunteer cleanup programs including adopt-a-highway and a litter hotline. At that time, Hawaii's litter rate was substantially lower than the average in states with bottle laws.

Clearly, bottle laws are not the wave of the future, they are a relic of the past. Actual experience in the 10 states that have bottle laws is telling: overall litter has not been substantially reduced, bottle laws contribute little to overall recycling levels, container return rates are at record low levels, and costs to operate and administer the programs are high. It has been more than 17 years since another state has enacted a bottle law.

One reason for the lack of new bottle laws is the development of infrastructure to provide recycling services to homes and apartments. These comprehensive recycling programs handle many other types of materials in addition to beverage containers. When California passed the last bottle law in 1986, curbside recycling was still a new idea. Today there are nearly 10,000 curbside programs in the US.

Bottle laws compete with these comprehensive programs — both provide the infrastructure to handle the same containers, but bottle laws pull the most valuable commodities out of the curbside programs, making them less efficient. This conflict spurred the repeal of Columbia, Missouri's deposit ordinance in April 2002 and underlies bottle bill repeal legislation that has been filed and/or heard in Iowa, Connecticut, New York, and Massachusetts.

We in Hawaii have a special pride in our environment, as well as an unusually strong economic incentive to protect it. The bottle law hastily enacted in Hawaii in anticipation of the last elections is a poorly thought-out, unnecessarily expensive, big-government program that would achieve relatively little. A non-bureaucratic, consumer-friendly recycling and litter-control plan would protect the environment better.

Last session, I proposed that substantial funding be appropriated to restart the Community Workday Program and to assist the counties in developing recycling programs. Both of these proposals were rejected by the Legislature. Next session, I will propose that the bottle law be repealed, and that we make major investments in litter control and recycling efforts. Without doubt, such initiatives would accomplish more for less.

For the foregoing reasons, I am returning House Bill No. 1456 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1456, entitled "A Bill for an Act Relating to the Deposit Beverage Container Program," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1456 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1456 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1579

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1579, entitled "A Bill for an Act Relating to the Economic Diversification Authority."

The purpose of this bill is to explicitly and specifically enumerate the duties of the Department of Business, Economic Development, and Tourism (DBEDT) to identify and implement ways to diversify Hawaii's economy. The bill requires DBEDT to develop and implement plans, programs, and initiatives to facilitate economic diversification.

This bill is objectionable because it is unnecessary. The enumerated duties already fall within the general objectives, functions, and duties of DBEDT. Section 201-2, Hawaii Revised Statutes, states that DBEDT's function is to "make broad policy determinations with respect to economic development in the State and to stimulate through research and demonstration projects those industrial and economic development efforts which offer the most immediate promise of expanding the economy of the State."

DBEDT has already accomplished what this bill intends to achieve, and continues to update its plans on an ongoing basis. Legislative micromanagement of the methods that DBEDT employs to achieve its objectives is inappropriate and reduces the DBEDT's flexibility to use its resources in the most efficient and productive way possible. Such flexibility is especially important in these lean fiscal times.

For the foregoing reasons, I am returning House Bill No. 1579 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1579, entitled "A Bill for an Act Relating to the Economic Diversification Authority," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1579 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1579 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1652

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1652, entitled "A Bill for an Act Making an Appropriation to the Medicaid Prescription Drug Rebate Special Fund."

The purpose of this bill is to appropriate \$500,000 to the Department of Human Services' Medicaid prescription drug rebate special fund for the development of a prescription drug benefits expansion program and for obtaining a waiver for the program from the Centers for Medicare and Medicaid Services.

This bill is objectionable because it is flawed legally. While the bill contains an appropriation making it possible to put money into the Medicaid prescription drug rebate special fund, the bill lacks an appropriation of money for expending out of this fund. Without additional legislation, the \$500,000 could not be used for anything, including the intended purpose.

In this time of pressing needs and budgetary constraints, it would make no sense to sign this bill under the circumstances. I believe that this money should remain in the general fund where it will be available for general fund appropriations made for other purposes.

This veto should not be seen as a criticism of the ultimate goal of this bill, which is to help make the cost of pharmaceuticals affordable to the people of this State. I am determined to do all that I can to accomplish this goal within the context of the State's fiscal situation.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning House Bill No. 1652 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1652, entitled "A Bill for an Act Making an Appropriation to the Medicaid Prescription Drug Rebate Special Fund," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1652 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1652 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 317

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 317, entitled "A Bill for an Act Making an

Appropriation for the Fiftieth Anniversary Commemoration of the Korean War Commission."

The purpose of this bill is to appropriate \$30,000 additional funds to allow the Fiftieth Anniversary Commemoration of the Korean War Commission to complete its activities commemorating the fiftieth anniversary of the end of the Korean War.

While I believe this project to be worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 317 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 317, entitled "A Bill for an Act Making an Appropriation for the Fiftieth Anniversary Commemoration of the Korean War Commission," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 317 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 317 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 431, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

H.B. No. 289 A BILL FOR AN ACT RELATING  
HD2 SD2 CD1 TO EDUCATION

H.B. No. 32 A BILL FOR AN ACT RELATING  
HD2 SD2 CD1 TO EDUCATION

S.B. No. 1237 A BILL FOR AN ACT RELATING  
SD1 HD2 CD1 TO EDUCATION

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 289

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 289, entitled "A Bill for an Act Relating to Education."

The stated purpose of this bill is to establish fifteen complex areas comprised of multiple school complexes as determined by



the Superintendent of Education (Superintendent) in consultation with the Board of Education (BOE).

In truth, this bill would simply codify an internal reorganization that was proposed by the Superintendent in December of 2001 and approved by the BOE on January 10, 2002, and already has been implemented by the Department of Education (DOE).

This bill is objectionable because it pretends to be education reform when in reality it is the opposite. It would "etch into stone" the latest of the DOE's many reorganizations, and make it that much more difficult not just to achieve real reform, but also to manage the system. For example, if the Superintendent were to determine at some future point in time that it made more sense to have 16 complex areas, or 14, such a change would require another act of the Legislature. That would be an intolerable situation.

The Superintendent should have a reasonable degree of managerial freedom to do her job, and should not be required to get bills passed in the legislature any and every time she wants to exercise her managerial prerogative. The BOE has the authority and responsibility to provide oversight and to hold the Superintendent accountable.

The Legislature's penchant to micromanage has not led to better schools in the past, nor will it in the future. This bill is yet another example of such micromanagement.

The time has come for the Legislature to release its stranglehold on public education. It should let the people decide the issue of local school boards, and stop offering do-nothing bills in the guise of education reform.

For the foregoing reasons, I am returning House Bill No. 289 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 289, entitled "A Bill for an Act Relating to Education," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 289 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 289 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 32

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 32, entitled "A Bill for an Act Relating to Education."

The purposes of this bill are to authorize schools to assess and collect annual fees for textbooks and to require schools to provide a copy of the current list of textbooks and instructional materials upon the request of a student or parent or guardian of a student attending the school. The bill also exempts publishers of library books from the requirement that the publisher furnish the State with computer diskettes from which Braille versions can be produced.

This bill is objectionable on philosophical grounds, and also because it is legally flawed.

The Department of Education (DOE) annual budget is in excess of \$1.3 billion, and is scheduled to increase significantly over each year of the biennium. If more books and instructional materials are needed in our public schools, and I believe they are, then the DOE should pay for them with funds from its existing budget and not place further financial burden on parents and guardians of school children.

The fundamental problem that prompted this bill is not a shortage of textbooks and instructional materials. This is a symptom of the real problem, which is that Hawaii's totally unique, single-district statewide school system, including its overly centralized DOE, is poorly structured and is not getting enough of its \$1.3 billion annual budget into classrooms.

Bills like this one distract the public from the obvious need to decentralize control and build in greater accountability. Our focus must remain fixed on real solutions, such as establishing clear lines responsibility and accountability for performance, decentralizing control, empowering principals and holding them accountable through performance contracts, and redirecting to classrooms up to fifty percent of the funds currently spent on administration.

There also are internal inconsistencies and ambiguities in this bill. For example, the bill does not contain an appropriation provision authorizing the expenditure of moneys collected as fees for instructional materials and textbooks. As a result, it is legally questionable whether any such moneys could actually be expended. It would make no sense to collect fees solely for the sake of collecting fees.

The bill also appears to have inadvertently limited the DOE's ability to hold students accountable for losing or destroying books. At a minimum, there is unnecessary ambiguity in the bill that would cause administrative difficulties and could result in legal challenge to the statute itself.

Without the authority to collect restitution from students who negligently lose or destroy textbooks, the ability of teachers and

principals to deter such actions and to hold students accountable would be compromised.

For the foregoing reasons, I am returning House Bill No. 32 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 32, entitled "A Bill for an Act Relating to Education," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 32 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 32 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1237

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1237, entitled "A Bill for an Act Relating to Education."

The purposes of this bill are to define "out of field teacher" to mean an individual who is teaching outside the teacher's authorized licensing field as indicated on the individual's license issued by the Hawaii Teacher Standards Board; define "teaching out of field" and "out of field teaching" to mean teaching outside the teacher's authorized licensing field as indicated on a teacher's license issued by the Board; require that the Department of Education's report on teachers and emergency hires to the Board be posted on the Department's Internet website; establish provisions relating to reporting violations of teacher licensing or credentialing; require any

licensed teacher, employees, or officers of the Department of Education, and employees or officers of any teacher preparation institution to report violations to the Hawaii Teacher Standards Board; establish petty misdemeanor non-reporting penalties, provisions for reports by other people, confidentiality, and action on reporting; authorize the Board to fund its currently established positions without having to reestablish them and authorize the positions to be made permanent.

This bill is objectionable because it makes it a petty misdemeanor crime for any licensed teacher, employee, or officer of the Department of Education, or employee or officer of any teacher preparation institution, to fail to report to the Board of Education the identity of any person who they have reason to believe is teaching outside of that person's area of certification. This imposes the burden of monitoring proper licensing of teachers on an overly broad group.

For the foregoing reasons, I am returning Senate Bill No. 1237 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1237, entitled "A Bill for an Act Relating to Education," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1237 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1237 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 432, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

S.B. No. 748	A BILL FOR AN ACT RELATING SD2 HD2 CD1 TO NURSING EDUCATION
S.B. No. 768	A BILL FOR AN ACT RELATING SD1 HD2 CD1 TO COLLECTIVE BARGAINING
S.B. No. 1647	A BILL FOR AN ACT RELATING SD2 HD2 CD1 TO SERVICES FOR INDIVIDUALS WHO ARE BLIND OR VISUALLY IMPAIRED
S.B. No. 1661	A BILL FOR AN ACT RELATING SD2 HD1 CD1 TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII
H.B. No. 1400	A BILL FOR AN ACT RELATING HD1 SD2 CD2 TO HOTEL CONSTRUCTION AND REMODELING TAX CREDIT

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 748

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 748, entitled "A Bill for an Act Relating to Nursing Education."

The purpose of this bill is to establish a nursing education loan program, administered by the University of Hawaii, to provide loans to qualified nursing students who agree to later secure employment as a nurse in Hawaii. Repayment of the principal and interest will be waived in an amount dependent upon the student's length of employment in Hawaii.

This bill is objectionable because it is questionable whether the partial and total waivers on the principal and interest of the student loans will actually alleviate the nursing shortage in Hawaii enough to justify the cost. Representatives of the School of Nursing testified that qualified applicants for the program have to be turned away because of limitations placed on the number of students that can be admitted to the school. There also is an insufficient number of clinical sites where students can be provided with clinical training and experience.

Furthermore, the bill establishes a special fund to provide loans to qualified nursing students but does not appropriate any moneys into the fund. It is not good policy to establish a special fund without any appropriation or dedicated funding source.

For the foregoing reasons, I am returning Senate Bill No. 748 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 748, entitled "A Bill for an Act Relating to Nursing Education," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 748 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 748 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 768

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 768, entitled "A Bill for an Act Relating to Collective Bargaining."

The purpose of this bill is to amend section 89-11(d), Hawaii Revised Statutes, to restore binding arbitration as the impasse resolution mechanism in labor contract disputes involving government workers in bargaining units 2, 3, 4, 6, 8, and 13.

If enacted, this bill would repeal these workers' right to strike, which had been reinstated as the impasse resolution mechanism by Act 90, Session Laws of Hawaii 2001, after six years of experience with binding arbitration.

Public worker strikes inconvenience the public, and are hard on public workers and their families. Elected officials and labor leaders all have a strong incentive to avoid them. In short, public worker strikes are a no-win proposition.

Because binding arbitration is one way to avoid even the possibility of a public worker strike, it has some appeal as an impasse resolution mechanism. Experience has demonstrated, however, that binding arbitration does not work as well in practice. We have learned that having binding arbitration to fall back on tends to lessen the incentive public worker union leaders and government employers otherwise have to engage in meaningful negotiation and good faith collective bargaining. One apparent reason is a universal expectation that arbitrators will "split the baby," choosing a number somewhere between the last offers of the two sides. This has had the perverse effect of encouraging both sides to take extreme positions, making negotiated settlements the exception rather than the rule.

Under a system of binding arbitration, recent negotiations often have been effectively replaced by decisions of third-party arbitrators. This has dramatically reduced accountability of union leaders and public officials.

Not having the safety net of binding arbitration forces both sides to get serious, stay focused, and negotiate in good faith. It also forces them to be accountable for positions taken, and for end results.

Reasonable settlements seem more likely to result when the alternative is a strike. Public officials must balance the ability to maintain a well-paid workforce against other government priorities and public resources. Unlike outside arbitrators, the Governor and mayors must keep all these interests in mind and then be accountable to the public. With binding arbitration, arbitrators make what amounts to the final call, and they do so with virtually no accountability.

The Legislature's concern regarding the impact a strike would have on the provision of necessary governmental services is alleviated by the fact that most employees involved in public safety services (i.e., health care, police protection, firefighting, and corrections) maintain their rights to binding arbitration.

Assuming appropriate modifications and limitations could be agreed upon by myself and the four county mayors, binding arbitration perhaps could be extended to other government workers in a way that would prove beneficial to the affected workers, their government employers, and the public. Binding arbitration as provided for in this bill, however, would not be in the best interests of the State, the counties, or the public.

For the foregoing reasons, I am returning Senate Bill No. 768 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 768, entitled "A Bill for an Act Relating to Collective Bargaining," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 768 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 768 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1647

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1647, entitled "A Bill for an Act Relating to Services for Individuals Who Are Blind or Visually Impaired."

The purposes of this bill are to appropriate \$43,000 for fiscal year 2003-2004 to the Public Utilities Commission for a telephone reading system that provides individuals who are blind or visually impaired with toll-free statewide telephone access to time-sensitive information for one year, and to authorize the Public Utilities Commission to contract with a qualified private nonprofit organization to provide these services.

While I believe this project to be worthwhile, releasing these funds would mean spending money that we do not have.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing

all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 1647 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1647, entitled "A Bill for an Act Relating to Services for Individuals Who Are Blind or Visually Impaired," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1647 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1647 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1661

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1661, entitled "A Bill for an Act Relating to the Housing and Community Development Corporation of Hawaii."

The purpose of this bill is to require the Housing and Community Development Corporation of Hawaii (HCDCH) to complete construction of the Villages of Kapolei by June 30, 2011, and to to [sic] collaborate and coordinate with the State Department of Transportation (DOT) and the City and County of Honolulu (City) in implementing the recommendations of the private traffic study for the Villages of Kapolei prepared by Walkable Communities, Inc.

This bill is objectionable because it requires the HCDCH to complete the construction of the Villages of Kapolei by a specific date without consideration of factors beyond the HCDCH's control that could make it impossible to comply with the law. For example, the HCDCH has little or no control over fluctuating real estate market conditions and the City's ability to complete water and sewer infrastructure.

This bill further requires the HCDCH to collaborate and coordinate with the City and the DOT to implement the recommendations of the traffic study. However, some recommendations may negatively impact the larger Kapolei region or the Ewa Transportation Master Plan and jeopardize the dedication of the roadway infrastructure to the City.

Even without this bill, completion of the Villages of Kapolei remains one of the HCDCH's top priorities. Approximately 2,600 housing units, three schools -- the Kapolei Elementary, Middle, and High Schools -- and the Kapolei Recreation Center have been built. The remainder will be completed as soon as practicable, consistent with community concerns and financial and engineering realities.

For the foregoing reasons, I am returning Senate Bill No. 1661 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1661, entitled "A Bill for an Act Relating to the Housing and Community Development Corporation of Hawaii," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1661 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1661 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1400

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1400, entitled "A Bill for an Act Relating to Hotel Construction and Remodeling Tax Credit."

The purposes of this bill are to: (1) extend the period during which the Hotel Construction and Remodeling Tax Credit ("Credit") may be claimed; (2) implement a phased-in decrease in the amount of the Credit; and (3) expand the types of costs that may be included in the calculation of the Credit.

This bill is objectionable because it: (1) greatly expands the types of costs eligible for the Credit; (2) does not provide an overall cap on the amount of the Credit claimed; and (3) places too much of a burden on general fund revenue.

The provisions of this bill expand the definition of "qualified hotel facility" to include commercial facilities in a "qualified resort area." Virtually any construction costs incurred by a hotel operator or owner would be eligible for the Credit. This broad expansion of the credit could dramatically increase claims for the Credit in unpredictable ways.

Lack of an overall cap on Credits claimed, combined with the greatly expanded eligible costs, make it exceptionally difficult to predict the fiscal impact of this bill. While such unpredictability might be tolerable under different fiscal circumstances, it could be disastrous at a time when the State is facing a projected budget deficit of more than \$230 million.

For the foregoing reasons, I am returning House Bill No. 1400 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1400, entitled "A Bill for an Act Relating to Hotel Construction and Remodeling Tax Credit," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1400 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1400 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 433, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K. Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

S.B. No. 58 SD1 A BILL FOR AN ACT RELATING  
HD2 CD1 TO SCHOOL REPAIR AND  
MAINTENANCE

H.B. No. 1230 A BILL FOR AN ACT RELATING  
HD1 SD2 CD1 TO TRANSPORTATION

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 58

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 58, entitled "A Bill for an Act Relating to School Repair and Maintenance."

The purpose of this bill is to appropriate moneys for fiscal year 2003-2004 to support Hawaii 3R's, a Hawaii nonprofit organization, in its program to assist in the public and private efforts to repair and maintain Hawaii's public schools.

I strongly support the efforts and accomplishments of Hawaii 3R's and intend to approve the general fund appropriation in this bill of \$148,688 for fiscal year 2003-2004 as a grant for Hawaii 3R's. Given the State's critical fiscal condition, this amount represents a significant commitment by the State to Hawaii 3R's and reflects our belief in the effectiveness of our partnership to improve Hawaii's public schools.

However, I object to the \$51,312 general fund appropriation for fiscal year 2003-2004 to pay for a position in the Department of Accounting and General Services to coordinate the public and private efforts to repair and maintain public schools, designated in section 4 on pages 11-12 of the bill. I believe that we can assist Hawaii 3R's in a fiscally prudent manner by using existing resources to provide the needed coordination services.

Section 16 of Article III of the State Constitution provides that, "[e]xcept for items appropriated to be expended by the judicial and legislative branches, the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same." Because of the foregoing objection, pursuant to my line item veto authority, I have reduced the \$51,312 general fund appropriation for fiscal year 2003-2004 to pay for a position in the Department of Accounting and General Services to coordinate the public and private efforts to repair and maintain public schools (on pages 11-12) and changed it to \$0.

For the foregoing reason, I am returning Senate Bill No. 58 with the reduction set forth above totaling \$51,312 in general fund appropriations for fiscal year 2003-2004.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

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S.B. NO. 56  
S.D. 1  
H.D. 2  
C.D. 1

1 (pl) For every dollar of state moneys granted by the fund  
2 to the project, there shall be a minimum of \$1 in value matched  
3 by Hawaii 3R's from private, federal, county, or community  
4 service.

5 (q) The state comptroller shall submit an annual report of  
6 the progress of the Hawaii 3R's school repair and maintenance  
7 fund no later than twenty days prior to the convening of each  
8 regular session of the legislature.'

[This portion left intentionally blank.]

9 SECTION 3. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$148,688, or so much  
11 thereof as may be necessary for fiscal year 2003-2004 as a grant  
12 pursuant to chapter 42F, Hawaii Revised Statutes, to Helping  
13 Hands Hawaii for the Hawaii school repair and maintenance fund;  
14 provided that upon the Internal Revenue Service's determination  
15 that Hawaii 3R's is a qualified nonprofit organization under  
16 section 501(c)(3) of the Internal Revenue Code, Helping Hands  
17 Hawaii shall transfer to Hawaii 3R's all appropriations made to  
18 Helping Hands Hawaii.

19 The sum appropriated shall be expended by the department of  
20 accounting and general services for the purposes of this Act.

21 SECTION 4. There is appropriated out of the general  
22 revenues of the State of Hawaii the sum of \$94,344, or so much

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S.B. NO. 56  
S.D. 1  
H.D. 2  
C.D. 1

1 thereof as may be necessary for fiscal year 2003-2004 for a  
2 position within the department of accounting and general  
3 services to coordinate the public and private efforts to repair  
4 and maintain public schools; provided that the coordinator shall  
5 serve at the pleasure of the comptroller; and provided further  
6 that chapter 76, Hawaii Revised Statutes, shall not apply to any  
7 action taken by the comptroller pursuant to this Act.

8 The sum appropriated shall be expended by the department of  
9 accounting and general services for the purposes of this  
10 section.

[This portion left intentionally blank.]

11 SECTION 5. Upon the Internal Revenue Service's  
12 determination that Hawaii 3R's is a qualified nonprofit  
13 organization under section 501(c)(3) of the Internal Revenue  
14 Code, Act 309, Session Laws of Hawaii 2001, is amended by  
15 repealing section 3.

16 ~~SECTION 3.—Hawaii school repair and maintenance fund.~~  
17 ~~(a) There is established the Hawaii school repair and~~  
18 ~~maintenance fund (hereinafter, "fund") as a separate fund of~~  
19 ~~Helping Hands Hawaii, a Hawaii nonprofit organization. Moneys~~  
20 ~~received from the state, county, or federal government, private~~  
21 ~~contributions of cash or other property, and the income and~~  
22 ~~capital gains earned by the fund shall constitute its assets.~~

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PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 58, entitled "A Bill for an Act Relating to School Repair and Maintenance," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, under Section 16 of Article III, the Governor may veto any specific item or items in any bill that appropriates money for specific purposes by striking out or reducing the same; and

WHEREAS, Senate Bill No. 58 appropriates money for specific purposes and a certain appropriation item in that bill is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 58 with my objections to a certain appropriation item contained therein, to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

## STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1230

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1230, entitled "A Bill for an Act Relating to Transportation."

The purposes of this bill are to appropriate moneys to fund heightened security measures throughout the State's airports and harbor systems, create a special fund for passenger facility charges, and make other appropriations.

While the first parts of this bill have merit, I object to the appropriations contained in sections 5 to 10, inclusive, because the appropriations for operating and capital improvement projects funds for the Department of Transportation for fiscal year 2003-2004 are already contained in the general appropriations bill (House Bill No. 200).

Section 16 of Article III of the State Constitution provides that, "[e]xcept for items appropriated to be expended by the judicial and legislative branches, the governor may veto any

specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same."

Because of the foregoing objections, I have taken the following actions pursuant to my line item veto authority:

1. Section 5, pages 3-4. Striking out by drawing a line through the \$350,000 and the \$8,191,000 special fund appropriations out of the harbor special fund for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0.

2. Section 6, pages 4-6. (a) Striking out by drawing a line through the \$12,250,000 appropriation, and its total funding source breakdown amounts of \$2,450,000 and \$9,800,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (b) striking out by drawing a line through the \$6,500,000 appropriation, and its total funding source breakdown amounts of \$1,300,000 and \$5,200,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (c) striking out by drawing a line through the \$2,500,000 appropriation, and its total funding source breakdown amounts of \$500,000 and \$2,000,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (d) striking out by drawing a line through the \$15,000,000 appropriation, and its total funding source breakdown amounts of \$3,000,000 and \$12,000,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (e) striking out by drawing a line through the \$350,000, \$2,000,000, and \$10,250,000 appropriations, and their total funding source breakdown amounts of \$2,520,000 and \$10,080,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0.

3. Section 7, page 7. Striking out by drawing a line through the \$2,700,000 special fund appropriation out of the highway other funds for fiscal year 2003-2004 for capital improvement projects, and changing it to \$0.

4. Section 8, pages 7-8. Striking out by drawing a line through all of the \$20,885,201 of the special fund appropriations out of the airports special fund for fiscal year 2003-2004 for additional positions, security services, equipment, rental, and supplies at state airports, and changing them to \$0.

5. Section 9, pages 8-9. Striking out by drawing a line through the \$5,981,676 of the special fund appropriations out of the harbors special fund for fiscal year 2003-2004 for security services and fringe benefits throughout the various state harbor locations, and changing it to \$0.

6. Section 10, page 9. Striking out by drawing a line through the \$4,067,783 of the reduce debt service payments for highways division for fiscal year 2003-2004, and changing it to \$0.

For the foregoing reasons, I am returning House Bill No. 1230 with the appropriations in sections 5 to 10 stricken as set forth above totaling \$91,025,660 in special fund appropriations for fiscal year 2003-2004.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii



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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

1 TRN 141 Molokai Airport

2 Security Services 104,108

3 Equipment, rental, and supplies 18,000

4 TRN 151 Lanai Airport

5 Security Services 103,917

6 Equipment, rental, and supplies 18,000

7 TRN 161 Lihue Airport

8 Security Services 127,100

9 Equipment, rental, and supplies 85,000

10 provided that any funds unexpended for this purpose shall lapse

11 to the airport special fund.

12 SECTION 4. There is appropriated out of the harbor special

13 fund of the State of Hawaii the sum or \$2,300,000 or so much

14 thereof as may be necessary for fiscal year 2003-2004 to be

15 expended to continue the heightened harbor security throughout

16 the various state harbor locations as follows:

17 TRN 395 Harbor Administration

18 Statewide Security Services 2,300,000

19 provided that any funds unexpended for this purpose shall lapse

20 to the harbor special fund.

21 SECTION 5. There is appropriated out of the harbor special

22 fund of the State of Hawaii for Honolulu harbor (TRN 301) the

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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

1 following sums for fiscal year 2003-2004 for capital improvement

2 projects:

3 1. J32 Smug Harbor Relocation, Honolulu Harbor, Oahu

4 Plans for the relocation of facilities at Smug Harbor and

5 other related improvements.

6 Plans 0

7 Total Funding TRN 0

8 2. J33 Kapalema Container Terminal Land Acquisition, Oahu

9 Land acquisition for the development of a new container

10 facility and other related improvements.

11 Land 0

12 Total Funding TRN 0

13 SECTION 6. There is appropriated out of the highway

14 revenue bond funds and federal funds of the State of Hawaii for

15 Oahu Highways (HWY 501) the following sums for fiscal year 2003-

16 2004 for capital improvement projects:

17 1. S269 Kanehameha Highway, South Punaluu Bridge Replacement,

18 Oahu

19 Construction for replacement of South Punaluu bridge. This

20 project is deemed necessary to qualify for Federal aid

21 financing and/or reimbursement.

22 Construction 0

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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

1 Total Funding TRN 0

2 0

3 2. S271 Interstate Route H-1 and Moanalua Freeways

4 Improvements. Puloa IC to Kapiolani IC, Oahu

5 Construction for an additional lane on the H-1 freeway

6 eastbound lanes from the vicinity of Middle street to the

7 vicinity of Vineyard boulevard. This project is deemed

8 necessary to qualify for Federal aid financing and/or

9 reimbursement.

10 Construction 0

11 Total Funding TRN 0

12 0

13 3. S323 Interstate Route H-1, Additional Westbound Lane,

14 Vicinity of Pearl City Viaduct to Paia IC, Oahu

15 Design for construction of an additional H-1 west bound

16 lane through the Waiava interchange and an additional lane

17 to the off-ramp at the Paia interchange. This project is

18 deemed necessary to qualify for Federal aid financing

19 and/or reimbursement.

20 Design 0

21 Total Funding TRN 0

22 0

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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

1 4. SP9901 Fort Weaver Road Widening, Vicinity of Leialuani

2 Street to Geiger Road, Oahu

3 Construction for widening of Fort Weaver road to a six-lane

4 facility from the vicinity of Leialuani street to the

5 vicinity of Geiger road, including installing a traffic

6 camera system from Waipahu street to Papipi road. This

7 project is deemed necessary to qualify for Federal aid

8 financing and/or reimbursement.

9 Construction 0

10 Total Funding TRN 0

11 0

12 5. S324 Farrington Highway, Maipalaea Bridge Replacement, Oahu

13 Design for replacement of a prestressed tee-beam bridge on

14 Farrington highway in the vicinity of Mai'iili. This

15 project is deemed necessary to qualify for Federal aid

16 financing and/or reimbursement.

17 Land 0

18 Design 0

19 Construction 0

20 Total Funding TRN 0

21 0

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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

SECTION 7. There is appropriated out of the highway other funds of the State of Hawaii for Oahu highways (HWY 501) the following sum for fiscal year 2003-2004 for a capital improvement project:

1.	James Campbell Estate Property Land Acquisition, Kalaeloa Barbers Point, Oahu	
	Land acquisition of James Campbell Estate property for future expansion of roadways at Kalaeloa Barbers Point.	0
	Land	<del>2,700,000</del>
	Total Funding TRN	<del>2,700,000</del> X

SECTION 8. There is appropriated out of the airport special fund of the State of Hawaii the sum of ~~400,000,000~~ or so much thereof as may be necessary for fiscal year 2003-2004 to be expended for additional positions, security services, equipment, rental, and supplies at state airports as follows:

<u>TRN 102 Honolulu International Airport</u>		
	Position Count	2.00
	Security Services	<del>0,344,700</del>
	Equipment, rental, and supplies	<del>0,000,000</del>
<u>TRN 111 Hilo International Airport</u>		
	Security Services	<del>1,725,740</del>
	Equipment, rental, and supplies	<del>05,000</del>

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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

thereof as may be necessary for fiscal year 2003-2004 to be expended for security services and fringe benefits throughout the various state harbor locations as follows:

<u>Honolulu Harbor (TRN 301)</u>		
	Security Services	0
	Add Fringe Benefits	<del>500,400</del>
<u>Harbor Administration (TRN 395)</u>		
	Security Services - Statewide	<del>1,000,000</del>
	Add Fringe Benefits	<del>200,400</del>

provided that any funds unexpended for this purpose shall lapse to the harbor special fund.

SECTION 10. Due to the refinancing of revenue bonds and other cost savings to debt service payments for highways division, the following sum shall be used to reduced the total debt service payment for fiscal year 2003-2004 for the following:

<u>Land Transportation Facilities and Support (TRN 595)</u>		
	Reduce Debt Service Payments	<del>44,067,700</del>

SECTION 11. For the fiscal biennium 2003-2005, where the department of transportation is authorized to expend from special funds under the department's control, the department may expend so much as may be necessary in excess of the sums

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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

<u>TRN 114 Keahole Airport at Kona</u>		
	Security Services	<del>1,304,200</del>
	Equipment, rental, and supplies	<del>05,000</del>
<u>TRN 131 Kahului Airport</u>		
	Position Count	1.00
	Security Services	<del>1,255,200</del>
	Equipment, rental, and supplies	<del>05,000</del>
<u>TRN 141 Molokai Airport</u>		
	Security Services	<del>124,400</del>
	Equipment, rental, and supplies	<del>10,000</del>
<u>TRN 151 Lanai Airport</u>		
	Security Services	<del>110,000</del>
	Equipment, rental, and supplies	<del>10,000</del>
<u>TRN 161 Lihue Airport</u>		
	Security Services	<del>500,400</del>
	Equipment, rental, and supplies	<del>05,000</del>
<u>Airports Administration (TRN 195)</u>		
	Position Count	1.00

provided that any funds unexpended for this purpose shall lapse to the airport special fund.

SECTION 9. There is appropriated out of the harbor special fund of the State of Hawaii the sum or ~~65,000,000~~ or so much

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[This portion left intentionally blank.]

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1230, entitled "A Bill for an Act Relating to Transportation," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, under Section 16 of Article III, the Governor may veto any specific item or items in any bill that appropriates money for specific purposes by striking out or reducing the same; and

WHEREAS, House Bill No. 1230 appropriates money for specific purposes and certain appropriation items in that bill are unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1230 with my objections to certain appropriation items contained therein, to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 434, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

S.B. No. 464	A BILL FOR AN ACT RELATING TO IMPLEMENTATION OF A FIXED RAIL TRANSIT SYSTEM
SD2 HD2 CD1	
S.B. No. 474	A BILL FOR AN ACT RELATING TO THE AUDITOR
SD2 HD1	
H.B. No. 298	A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES
HD2 SD2 CD1	
H.B. No. 531	A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES
SD1 CD1	

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 464

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 464, entitled "A Bill for an Act Relating to Implementation of a Fixed Rail Transit System."

The purpose of this bill is to address growing traffic congestion problems by requiring the State Department of Transportation, in conjunction with both the Oahu Metropolitan Planning Organization (OMPO) and the City and County of Honolulu, to develop an action plan for the implementation of a fixed rail transit system for Oahu.

This bill is objectionable because I have already created a task force that includes representatives of the Legislature, the Honolulu City Council, the Mayor, OMPO, the Federal Highway Administration, the Federal Transit Administration, and both state and city transportation departments to study all possible transportation options that could help alleviate the traffic congestion problem on Oahu. This task force is taking a broad view of the transportation options available, and is looking at a variety of alternatives, including but not limited to rail transit, as a means of addressing this pressing issue that is of tremendous concern to our residents and families on Oahu.

Additionally, I note that the development of the action plan required by this bill would be a large undertaking for which no funding has been provided.

For the foregoing reasons, I am returning Senate Bill No. 464 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 464, entitled "A Bill for an Act Relating to Implementation of a Fixed Rail Transit System,"

passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 464 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 464 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 474

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 474, entitled "A Bill for an Act Relating to the Auditor."

The purpose of Senate Bill No. 474 is to facilitate the acquisition of FERPA-protected information by making the Legislative Auditor an "authorized representative" of the Department of Education (DOE) and of the Department of Health (DOH).

The Federal Family Educational and Privacy Rights Act, 20 U.S.C. § 1232g (FERPA), generally prohibits the disclosure of personally identifiable information about students. There are, however, exceptions. The DOE may disclose such records pursuant to a subpoena together with prior notification to the students' parents, or to a recipient who is an "authorized representative" of the DOE. FERPA sometimes slows down the work of the Hawaii State Legislative Auditor ("Legislative Auditor") when auditing programs within the DOE and DOH by necessitating the issuance of a subpoena and notification to parents.

According to the Department of the Attorney General, enactment of Senate Bill No. 474 would subject the State to a significant risk of lawsuits. Specifically, the disclosure of education records without prior parental notification or issuance of a subpoena would probably result in expensive lawsuits filed by parents challenging this bill as an invalid attempt to circumvent federal law. In my opinion, this potential liability clearly exceeds any possible benefit that might result from this bill.

It should be noted that auditors in some states are automatically considered authorized representatives of educational agencies for purposes of FERPA compliance. These are states in which the person or organization conducting the audit is hired by the educational agency and conducts a single audit of federal funds received by the educational

agency, which is clearly not the case with the Legislative Auditor in Hawaii.

The Family Policy Compliance Office ("Compliance Office"), U.S. Department of Education, which is the federal agency authorized to administer FERPA, contends that the FERPA exception in question applies only when the "authorized representative" is an executive branch auditor or an outside auditor hired by the educational agency or the state to conduct a single audit of federal funds received by the educational agency or the state. Hawaii's Legislative Auditor does not conduct the type of single audit that falls within the FERPA exception. Therefore, under the Compliance Office's interpretation of FERPA, the DOE would not be allowed to disclose education records to the Legislative Auditor even after enactment of Senate Bill No. 474, and so this bill would not accomplish its intended goal in any event.

For the foregoing reasons, I am returning Senate Bill No. 474 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 474, entitled "A Bill for an Act Relating to the Auditor," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 474 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 474 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 298

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 298, entitled "A Bill for an Act Relating to Correctional Facilities."

The purpose of this bill is to direct the executive branch to initiate the process to develop a replacement facility for the Oahu Community Correctional Center (OCCC) on the undeveloped portion of the Halawa Correctional Facility (HCF) site.

This bill is objectionable because it prevents the consideration of alternative, possibly more appropriate, sites and because it requires expensive soil testing and a feasibility and planning study without appropriating any funds to do so. If the HCF site is later determined to be the best site upon which to construct a replacement facility for OCCC, existing laws already allow the administration to take steps necessary to pursue that option. Accordingly, this bill is also unnecessary.

For the foregoing reasons, I am returning House Bill No. 298 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 298, entitled "A Bill for an Act Relating to Correctional Facilities," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 298 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 298 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 531

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 531, entitled "A Bill for an Act Relating to Public Employees."

This bill amends provisions relating to compensation and benefit adjustments for excluded managerial civil service employees. The bill provides that, in formulating recommendations to the appropriate authority, the respective director shall ensure that proposed adjustments are consistent with civil service laws and equivalent or not less than adjustments provided for counterpart included civil service employees within the employer's jurisdiction.

This bill is objectionable and poor public policy, because the compensation and benefits packages for high-level excluded managerial employees will be linked to benefits obtained by the Unions through negotiation. This creates a conflict of interest for excluded managers, it reduces management's flexibility in employing excluded personnel, and it is contrary to the underlying rationale for creating excluded positions that are not subject to collective bargaining. In addition, the establishment of a compensation "floor" that is no less than the compensation negotiated for counterpart included civil service employees undermines the effort to establish pay for performance. Poor excluded performers receive the same as included counterparts, leaving less resources available to reward outstanding performers.

For the foregoing reasons, I am returning House Bill No. 531 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 531, entitled "A Bill for an Act Relating to Public Employees," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 531 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 531 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 435, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K. Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

S.B. No. 38 A BILL FOR AN ACT RELATING  
HD2 CD1 TO THE HAWAII TOURISM  
AUTHORITY

S.B. No. 1460 A BILL FOR AN ACT RELATING  
SD1 HD2 CD1 TO CONTRACTS ENTERED INTO  
BY THE HAWAII TOURISM  
AUTHORITY

H.B. No. 282 A BILL FOR AN ACT RELATING  
HD2 SD1 CD1 TO THE AUDITOR

H.B. No. 993 A BILL FOR AN ACT RELATING  
SD1 CD1 TO RECONSTRUCTED VEHICLES

H.B. No. 1613 A BILL FOR AN ACT RELATING  
HD2 SD1 CD1 TO NORTH KOHALA

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 38

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning without my approval, Senate Bill No. 38, entitled "A Bill for an Act Relating to the Hawaii Tourism Authority."

The purpose of this bill is to authorize the Hawaii Tourism Authority (HTA) to hire attorneys independent of the Attorney General. At present, the HTA's legal services are provided through the Department of the Attorney General.

This bill is unnecessary because the Attorney General is capable of providing the services needed by the HTA either through regular or special deputy attorneys general.

Furthermore, existing statutes provide for the contracting of private attorneys with special expertise when needed for specific projects, and the Attorney General has never denied a request from the HTA for an attorney with special expertise.

If the HTA were authorized to hire or retain attorneys independent of the Attorney General, the advice of private counsel may conflict with the advice given to other state agencies by the Attorney General and result in litigation that could have been avoided if the advice had been coordinated and reviewed by the Attorney General.

For the foregoing reasons, I am returning Senate Bill No. 38 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 38, entitled "A Bill for an Act Relating to the Hawaii Tourism Authority," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 38 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 38 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1460

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1460, entitled "A Bill for an Act Relating to Contracts Entered into by the Hawaii Tourism Authority."

This bill requires the Hawaii Tourism Authority (HTA) to put certain provisions into its contracts that exceed \$6,000,000 or those that are of a level of complexity (as determined by the Executive Director of the HTA) that a reasonably prudent person would expect of a complex contract. Such contract provisions would include language on intellectual property, loyalty to and in support of the HTA, subcontracting only with prior consent, no subcontracting beyond the term of the contract, standards of conduct, confidentiality, best efforts, payments related to deliverables, and performance standards with detailed goals and timelines.

The HTA's Executive Director may suspend these required provisions if the Executive Director notes the reasons for the suspension in a memorandum attached to the contract, and forwards it to the Legislature within ten days.

This bill violates the fundamental government principal of separation of powers, under which the legislative branch of government enacts laws that are then carried out by the executive branch in its discretion. This bill mandates, in minute detail, what provisions must be included in a contract. Such legislative micromanagement of an executive function is inappropriate, especially where there has been no showing of need and the Legislature has acknowledged that "the current executive director of the HTA has strived to include these provisions in all HTA contracts."

Although this bill allows for the suspension of a required provision under certain circumstances, it could still unnecessarily limit HTA's contracting options. Such discretion should properly rest with the executive branch. Moreover, the bill's requirement that all such suspensions be reported to the Legislature within ten days is a further example of legislative micromanagement.

For the foregoing reasons, I am returning Senate Bill No. 1460 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1460, entitled "A Bill for an Act Relating to Contracts Entered Into by the Hawaii Tourism Authority," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1460 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1460 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day

of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 282

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 282, entitled "A Bill for an Act Relating to the Auditor."

The purposes of this bill are to enable the Legislative Auditor to be reimbursed for all or part of the costs of an audit the Auditor conducts, when moneys for such costs have been appropriated or generated by any department, office, or agency of the State or its political subdivision, and to establish a revolving fund in which to deposit such moneys and legislative appropriations.

While this bill has a commendable intent, to provide funds to enable the Legislative Auditor to conduct audits, the mechanism selected to achieve that intent is unduly cumbersome and potentially wasteful. By allowing the Legislative Auditor to decide unilaterally when to conduct or contract for financial audits of executive branch agencies, and then to claim reimbursement for the cost of all such audits, this bill invites duplication and waste of limited resources for the many departments, offices, agencies, and political subdivisions that must budget for and schedule their own audits. If the Legislature wants the Legislative Auditor to conduct more audits of executive branch agencies, it should appropriate sufficient funds directly to the Legislative Auditor for that purpose.

For the foregoing reasons, I am returning House Bill No. 282 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 282, entitled "A Bill for an Act Relating to the Auditor," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 282 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 282 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 993

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 993, entitled "A Bill for an Act Relating to Reconstructed Vehicles."

The purpose of this bill is to make the state law relating to reconstructed vehicles applicable beginning on July 1, 2004, in counties with a population of less than 500,000, unless a county decides to adopt ordinances regulating reconstructed vehicles.

Currently, the City and County of Honolulu is the only county administering the Director of Transportation's rules relating to the inspection and certification of reconstructed vehicles. Thus, a reconstructed vehicle that may be operating in the counties of Maui, Kauai, and Hawaii may not be legally operated in the City and County of Honolulu unless it is inspected and certified by Honolulu, and a reconstructed vehicle permit is obtained.

This bill is objectionable because it would force counties to either enact their own ordinances regarding the specifications and requirements governing reconstructed vehicles by July 1, 2004, or be subject to state provisions. Counties should be able to choose whether to regulate reconstructed vehicles, and if they do, have the ability to structure the regulation to meet their own particular needs.

The mayors of all four counties requested that I veto this bill.

For the foregoing reasons, I am returning House Bill No. 993 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or

presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 993, entitled "A Bill for an Act Relating to Reconstructed Vehicles," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 993 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 993 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1613

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1613, entitled "A Bill for an Act Relating to North Kohala."

The purpose of this bill is to encourage the Department of Land and Natural Resources (DLNR) to renew its efforts to acquire, through land exchanges, lands necessary to provide additional protection of, and public access to, the Kohala Historical Sites State Monument, and to name a specific entity as caretaker for the Mo'okini Heiau.

This bill is unnecessary because the DLNR is already required by Act 166, Session Laws of Hawaii 1992, to acquire such lands. In fact, the DLNR is currently engaged in a number of actions relative to this matter. These have included discussions regarding land exchanges for buffer zones and easements for public access. The DLNR also will be seeking a commitment from the adjoining landowner to refrain from selling potential buffer parcels of land to others while these discussions continue. Finally, the DLNR is planning a community meeting to seek input regarding the care of Mo'okini Heiau.

This bill inappropriately designates a specific entity to serve as caretaker of the Mo'okini Heiau. To ensure fairness and accountability, management decisions such as this one should be made by the DLNR, consistent with established practice and in accordance with all applicable law and administrative rules. In any event, the DLNR will continue to consult with the Kahuna Nui of the Mo'okini Heiau, as required by the deed to the property.

For the foregoing reasons, I am returning House Bill No. 1613 without my approval.



LINDA LINGLE"

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1613, entitled "A Bill for an Act Relating to North Kohala," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1613 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1613 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 436, transmitting a proclamation giving notice of her plan to return the following bill with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith a proclamation giving notice of my plan to return the following bill with my objections:

S.B. No. 1305 A BILL FOR AN ACT RELATING  
SD1 HD1 CD1 TO STATE FUNDS

Also enclosed for your information is an advance copy of my statement of objections to this bill. The official statement of objections for this bill will be delivered to you with the bill on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1305

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1305, entitled "A Bill for an Act Relating to State Funds."

The purpose of this bill is to appropriate moneys out of the Emergency and Budget Reserve Fund, established under section 328L-3, Hawaii Revised Statutes (HRS), to maintain levels of programs that the Legislature has determined to be essential to the public health, safety, and welfare. The bill also appropriates general revenues to develop a plan to implement the Hawaii Rx program.

While I believe many of the programs funded by this bill are worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health System Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

Use of the Emergency Budget and Reserve Fund bypasses the normal budget process and avoids the fiscal discipline of matching recurring expenses with recurring revenues. While the State is facing an unexpected reduction in revenues, prudent management of the State's budget requires that funds in the Emergency Budget and Reserve Fund be saved as much as possible for future needs. As such, there should be only sparing and judicious use of the Emergency Budget and Reserve Fund.

Under section 328L-3, HRS, the Emergency Budget and Reserve Fund shall be used as a "temporary" source of funding,

and the Legislature may make appropriations from the Fund to "maintain levels of programs" determined to be "essential to public health, safety, welfare, and education."

For the reasons stated above, I object to the following appropriations in this bill:

1. \$200,000 appropriated pursuant to chapter 103F, HRS, to provide treatment services for child victims of intrafamilial sexual abuse in section 3, page 2 of the bill.

2. \$150,000 appropriated pursuant to chapter 103F, HRS, for forensic medical examinations of children in foster custody placements in section 4, pages 2-3 of the bill.

3. \$100,000 appropriated as a grant to the Hawaii Youth Services Network in section 5, page 3 of the bill.

4. \$300,000 appropriated as a grant for the bridge to hope program in section 9, pages 4-5 of the bill.

5. \$200,000 appropriated as a grant to Volunteer Legal Services Hawaii in section 10, page 5 of the bill.

6. \$100,000 appropriated as a grant to fund the continuation of the Kaneohe Community Family Center's core services in section 11, pages 5-6 of the bill.

7. \$100,000 appropriated as a grant to fund the continuation of the Kuhio Park Terrace Family Center's core services in section 12, pages 6-7 of the bill.

8. \$300,000 appropriated as a grant for the operation of the Waipahu Community Adult Day Health Center and Youth Day Care Center pilot project in section 13, page 7 of the bill.

9. \$150,000 appropriated as a grant for the Domestic Violence Clearinghouse and Legal Hotline for Maui program services in section 14, pages 7-8 of the bill.

10. \$500,000 appropriated as a grant for existing Kalihi area youth service centers and other youth service centers in the State in section 17, page 9 of the bill. It should be noted that this appropriation violates section 42F-101, HRS, because the appropriation is not to a specified recipient.

11. \$750,000 appropriated as a subsidy to Molokai General Hospital in section 18, page 9 of the bill.

12. \$50,000 appropriated as a grant to Molokai General Hospital in section 19, page 9 of the bill.

13. \$750,000 appropriated as a subsidy to Kahuku Hospital in section 20, page 10 of the bill.

14. \$750,000 appropriated as a subsidy to Waianae Coast Comprehensive Health and Hospital Board, Inc. in section 21, page 10 of the bill.

15. \$500,000 appropriated as a subsidy to Wahiawa General Hospital in section 22, page 10 of the bill.

16. \$50,000 appropriated as a subsidy to St. Francis Medical Center in section 23, pages 10-11 of the bill.

17. \$75,000 appropriated as a grant to the Maui AIDS Foundation in section 25, page 11 of the bill.

18. \$1,450,000 appropriated to the department of health to provide resources to nonprofit, community-based health-care providers to care for the uninsured in section 27, page 11-12 of the bill.

19. \$300,000 appropriated as a subsidy for the Kapiolani Medical Center for Women and Children Sex Abuse Treatment Center master contract in section 28, page 12 of the bill.

20. \$450,000 appropriated pursuant to chapter 103F, HRS, for the department of health to contract for comprehensive oral health services to underserved children in section 31, page 13 of the bill.

Because of the foregoing objections, I have taken the following actions:

1. Stricken the appropriation of \$200,000 for fiscal year 2003-2004 in section 3 of the bill (page 2, line 6) and changed it to zero.

2. Stricken the appropriation of \$150,000 for fiscal year 2003-2004 in section 4 of the bill (page 2, line 17) and changed it to zero.

3. Stricken the appropriation of \$100,000 for fiscal year 2003-2004 in section 5 of the bill (page 3, line 4) and changed it to zero.

4. Reduced the appropriation of \$300,000 for fiscal year 2003-2004 in section 9 of the bill (page 4, line 18) and changed it to \$150,000.

5. Stricken the appropriation of \$200,000 for fiscal year 2003-2004 in section 10 of the bill (page 5, line 10) and changed it to zero.

6. Reduced the appropriation of \$100,000 for fiscal year 2003-2004 in section 11 of the bill (page 5, line 20) and changed it to \$50,000.

7. Reduced the appropriation of \$100,000 for fiscal year 2003-2004 in section 12 of the bill (page 6, line 11) and changed it to \$50,000.

8. Stricken the appropriation of \$300,000 for fiscal year 2003-2004 in section 13 of the bill (page 7, line 8) and changed it to zero.

9. Stricken the appropriation of \$150,000 for fiscal year 2003-2004 in section 14 of the bill (page 7, line 16) and changed it to zero.

10. Stricken the appropriation of \$500,000 for fiscal year 2003-2004 in section 17 of the bill (page 9, line 2) and changed it to zero.

11. Reduced the appropriation of \$750,000 for fiscal year 2003-2004 in section 18 of the bill (page 9, line 13) and changed it to \$700,000.

12. Stricken the appropriation of \$50,000 for fiscal year 2003-2004 in section 19 of the bill (page 9, line 18) and changed it to zero.

13. Reduced the appropriation of \$750,000 for fiscal year 2003-2004 in section 20 of the bill (page 10, line 2) and changed it to \$350,000.

14. Reduced the appropriation of \$750,000 for fiscal year 2003-2004 in section 21 of the bill (page 10, line 9) and changed it to \$675,000.

15. Reduced the appropriation of \$500,000 for fiscal year 2003-2004 in section 22 of the bill (page 10, line 15) and changed it to \$250,000.

16. Stricken the appropriation of \$50,000 for fiscal year 2003-2004 in section 23 of the bill (page 10, line 20) and changed it to zero.

17. Stricken the appropriation of \$75,000 for fiscal year 2003-2004 in section 25 of the bill (page 11, line 10) and changed it to zero.

18. Reduced the appropriation of \$1,450,000 for fiscal year 2003-2004 in section 27 of the bill (page 11, line 21) and changed it to \$1,300,000.

19. Reduced the appropriation of \$300,000 for fiscal year 2003-2004 in section 28 of the bill (page 12, line 10) and changed it to \$100,000.

20. Stricken the appropriation of \$450,000 for fiscal year 2003-2004 in section 31 of the bill (page 13, line 6) and changed it to zero.

Decisions like the one to veto many of the appropriations made under this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget, it would be impossible to restore trust and integrity in government and expand and diversify the economy. These are things that we must do to achieve a true New Beginning for the people of Hawaii. Too much is at stake for us to lose our focus or our resolve.

For the foregoing reasons, I am returning Senate Bill No. 1305 with the appropriations stricken or reduced as described above.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

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THE SENATE  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII

S.B. NO. 1305  
S.D. 1  
H.D. 1  
C.D. 1

A BILL FOR AN ACT

RELATING TO STATE FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

1 SECTION 1. The legislature finds that expenditures from  
2 the emergency and budget reserve fund established by section  
3 328L-3, Hawaii Revised Statutes, are needed to meet the  
4 emergency economic situation currently facing the State. The  
5 legislature determines that the moneys are urgently needed to  
6 maintain levels of programs that are essential to the public  
7 health, safety, and welfare. The legislature further finds that  
8 the grants and subsidies under this Act are in the public  
9 interest and serve the public health, safety, and welfare.

PART II

12 SECTION 2. There is appropriated out of the emergency and  
13 budget reserve fund of the State of Hawaii the sum of \$90,000,  
14 or so much thereof as may be necessary for fiscal year  
15 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
16 Statutes, to Hale Mahaolu for the personal care program for

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1 disabled or chronically ill frail adults and elders residing in  
2 Maui county.

3 The sum appropriated shall be expended by the department of  
4 human services for the purposes of this Act.

5 SECTION 3. There is appropriated out of the emergency and  
6 budget reserve fund of the State of Hawaii the sum of ~~4000,000~~<sup>0</sup>  
7 or so much thereof as may be necessary for fiscal year  
8 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, to  
9 provide treatment services for child victims of intrafamilial  
10 sexual abuse, including psychological treatment and case  
11 management services for child victims and their families who are  
12 not covered under the child protective services system of the  
13 department of human services.

14 The sum appropriated shall be expended by the judiciary via  
15 the children's justice center for the purposes of this Act.

16 SECTION 4. There is appropriated out of the emergency and  
17 budget reserve fund of the State of Hawaii the sum of ~~4000,000~~<sup>0</sup>  
18 or so much thereof as may be necessary for fiscal year  
19 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes,  
20 for forensic medical examinations of children in foster custody  
21 placements.

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1 The sum appropriated shall be expended by the department of  
2 human services for the purposes of this Act.

3 SECTION 5. There is appropriated out of the emergency and  
4 budget reserve fund of the State of Hawaii the sum of ~~4000,000~~<sup>0</sup>  
5 or so much thereof as may be necessary for fiscal year  
6 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
7 Statutes, to the Hawaii Youth Services Network for its  
8 Transitional Living Program for Unserved Street Youth.

9 The sum appropriated shall be expended by the department of  
10 human services for the purposes of this Act.

11 SECTION 6. There is appropriated out of the emergency and  
12 budget reserve fund of the State of Hawaii the sum of \$100,000,  
13 or so much thereof as may be necessary for fiscal year  
14 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes,  
15 for substance abuse services for youth and adolescents,  
16 including, but not limited to, preventative services, school  
17 education programs, counseling, evaluation, treatment, therapy,  
18 family services, case management, recovery services, and  
19 substance abuse treatment services, and the coordination of such  
20 services.

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1 The sum appropriated shall be expended by the department of  
2 health, alcohol and drug abuse division, for the purposes of  
3 this Act.

4 SECTION 7. There is appropriated out of the emergency and  
5 budget reserve fund of the State of Hawaii the sum of  
6 \$1,000,000, or so much thereof as may be necessary for fiscal  
7 year 2003-2004, for the residential alternative community care  
8 program.

9 The sum appropriated shall be expended by the department of  
10 human services for the purposes of this Act.

11 SECTION 8. There is appropriated out of the emergency and  
12 budget reserve fund of the State of Hawaii the sum of \$200,000,  
13 or so much thereof as may be necessary for fiscal year  
14 2003-2004, for the chore services program.

15 The sum appropriated shall be expended by the department of  
16 human services for the purposes of this Act.

17 SECTION 9. There is appropriated out of the emergency and  
18 budget reserve fund of the State of Hawaii the sum of ~~4000,000~~<sup>\$150,000</sup>  
19 or so much thereof as may be necessary for fiscal year  
20 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
21 Statutes, for the bridge to hope program, including one position  
22 for outreach; provided that if federal funds are made available

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1 to fund any portion of bridge to hope Temporary Assistance to  
2 Needy Families program participant costs, then the sum  
3 appropriated by this section shall be reduced by the amount of  
4 federal funds received, and the state funds that were replaced  
5 by federal funds shall lapse to the emergency and budget reserve  
6 fund.


7 The sum appropriated shall be expended by the University of  
8 Hawaii for the purposes of this Act.

9 SECTION 10. There is appropriated out of the emergency and  
10 budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~<sup>0</sup>  
11 or so much thereof as may be necessary for fiscal year

12 2003-2004, as a grant, pursuant to chapter 42F, Hawaii Revised  
13 Statutes, to Volunteer Legal Services Hawaii for its Ma Keiki  
14 Law Center project focusing on protecting the legal rights of  
15 children.

16 The sum appropriated shall be expended by the office of  
17 community services, department of labor and industrial relations  
18 for the purposes of this Act.

19 SECTION 11. There is appropriated out of the emergency and  
20 budget reserve fund of the State of Hawaii the sum of ~~\$100,000~~<sup>\$0,000</sup>  
21 or so much thereof as may be necessary for fiscal year  
22 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised

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1 Statutes, to fund the continuation of the Kaneohe Community  
2 Family Center's core services, particularly for families that  
3 are low income, unemployed, or underemployed and families of  
4 at-risk youths. Core services include information and referral,  
5 support and self-help, parenting education, family  
6 strengthening, job readiness and career development, and  
7 community leadership.

8 The sum appropriated shall be expended by the department of  
9 human services for the purposes of this Act.

10 SECTION 12. There is appropriated out of the emergency and  
11 budget reserve fund of the State of Hawaii the sum of ~~\$500,000~~<sup>\$0,000</sup>  
12 or so much thereof as may be necessary for fiscal year

13 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
14 Statutes, to fund the continuation of the Kuhio Park Terrace  
15 Family Center's core services to low income individuals and  
16 families residing in Kuhio Park Terrace and Kuhio Homes. Core  
17 services include:

18 (1) Family strengthening activities such as linking  
19 families to supportive services, offering parenting  
20 classes and parent/child activities, and providing  
21 emergency rental assistance;

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1 (2) Education and life skills support, such as computer  
2 and literacy classes and training of volunteers;  
3 (3) Pre-employment activities; and  
4 (4) Community improvement through community celebrations.


5 The sum appropriated shall be expended by the department of  
6 human services for the purposes of this Act.

7 SECTION 13. There is appropriated out of the emergency and  
8 budget reserve fund of the State of Hawaii the sum of ~~\$300,000~~<sup>0</sup>  
9 or so much thereof as may be necessary for fiscal year  
10 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
11 Statutes, for the operation of the Waipahu Community Adult Day  
12 Health Center and Youth Day Care Center pilot project.

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

15 SECTION 14. There is appropriated out of the emergency and  
16 budget reserve fund of the State of Hawaii the sum of ~~\$500,000~~<sup>0</sup>  
17 or so much thereof as may be necessary for fiscal year

18 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
19 Statutes, for the Domestic Violence Clearinghouse and Legal  
20 Hotline for Maui program services.

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1 The sum appropriated shall be expended by the judiciary,  
2 circuit court of the second circuit, for the purposes of this  
3 Act.


4 SECTION 15. There is appropriated out of the emergency and  
5 budget reserve fund of the State of Hawaii the sum of \$421,000  
6 or so much thereof as may be necessary for fiscal year

7 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
8 Statutes, to the Blueprint for Change for the delivery of  
9 diversion services and child protective services to target  
10 families, including the establishment of additional sites for  
11 neighborhood places.

12 The sum appropriated shall be expended by the department of  
13 human services for the purposes of this Act.

14 SECTION 16. There is appropriated out of the emergency and  
15 budget reserve fund the sum of \$150,000 or so much thereof as  
16 may be necessary for fiscal year 2003-2004, pursuant to chapter  
17 103F, Hawaii Revised Statutes, for costs related to homeless  
18 assistance.

19 The sum appropriated shall be expended by the housing and  
20 community development corporation of Hawaii for the purposes of  
21 this Act.

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1 SECTION 17. There is appropriated out of the emergency and  
 2 budget reserve fund of the State of Hawaii the sum of <sup>0</sup>~~\$500,000~~,  
 3 or so much thereof as may be necessary for fiscal year  
 4 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
 5 Statutes, for existing Kalihi area youth service centers;  
 6 provided that moneys not required by existing Kalihi area youth  
 7 service centers may be used for other youth service centers in  
 8 the State.  
 9 The sum appropriated shall be expended by the office of  
 10 youth services for the purposes of this Act.

PART III

12 SECTION 18. There is appropriated out of the emergency and  
 13 budget reserve fund the sum of <sup>700,000</sup>~~\$900,000~~, or so much thereof as  
 14 may be necessary for fiscal year 2003-2004, as a subsidy  
 15 pursuant to chapter 42F, Hawaii Revised Statutes, to Molokai  
 16 General Hospital.

17 SECTION 19. There is appropriated out of the emergency and  
 18 budget reserve fund the sum of <sup>0</sup>~~\$50,000~~, or so much thereof as  
 19 may be necessary for fiscal year 2003-2004, as a grant pursuant  
 20 to chapter 42F, Hawaii Revised Statutes, to Molokai General  
 21 Hospital for Lanalana Ka 'Ili Community Health Services programs  
 22 and general operating costs.

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1 SECTION 20. There is appropriated out of the emergency and  
 2 budget reserve fund the sum of <sup>350,000</sup>~~\$750,000~~, or so much thereof as  
 3 may be necessary for fiscal year 2003-2004, as a subsidy  
 4 pursuant to chapter 42F, Hawaii Revised Statutes, to Kahuku  
 5 hospital to fund the costs of emergency room operations,  
 6 inpatient and outpatient care for the underinsured, medical  
 7 malpractice insurance, and labor.

8 SECTION 21. There is appropriated out of the emergency and  
 9 budget reserve fund the sum of <sup>675,000</sup>~~\$250,000~~, or so much thereof as  
 10 may be necessary for fiscal year 2003-2004, as a subsidy  
 11 pursuant to chapter 42F, Hawaii Revised Statutes, to the Waianae  
 12 Coast Comprehensive Health and Hospital Board, Inc., to fund its  
 13 operations and programs.

14 SECTION 22. There is appropriated out of the emergency and  
 15 budget reserve fund the sum of <sup>250,000</sup>~~\$500,000~~, or so much thereof as  
 16 may be necessary for fiscal year 2003-2004, as a subsidy  
 17 pursuant to chapter 42F, Hawaii Revised Statutes, for Wahiewa  
 18 General Hospital to provide indigent care services.

19 SECTION 23. There is appropriated out of the emergency and  
 20 budget reserve fund the sum of <sup>0</sup>~~\$500,000~~, or so much thereof as  
 21 may be necessary for fiscal year 2003-2004, as a subsidy  
 22 pursuant to chapter 42F, Hawaii Revised Statutes, to the

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1 St. Francis Medical Center for the operations of the bone marrow  
 2 registry.

3 SECTION 24. There is appropriated out of the emergency and  
 4 budget reserve fund the sum of \$200,000, or so much thereof as  
 5 may be necessary for fiscal year 2003-2004, pursuant to chapter  
 6 103F, Hawaii Revised Statutes, to enable the department of  
 7 health to operate a hospital-based poison center twenty-four  
 8 hours a day.

9 SECTION 25. There is appropriated out of the emergency and  
 10 budget reserve fund the sum of <sup>0</sup>~~\$25,000~~, or so much thereof as  
 11 may be necessary for fiscal year 2003-2004, as a grant pursuant  
 12 to chapter 42F, Hawaii Revised Statutes, to the Maui AIDS  
 13 Foundation for the case management program.

14 SECTION 26. There is appropriated out of the emergency and  
 15 budget reserve fund the sum of \$700,000, or so much thereof as  
 16 may be necessary for fiscal year 2003-2004, as a subsidy  
 17 pursuant to chapter 42F, Hawaii Revised Statutes, to the Hana  
 18 Community Health Clinic for its operations and care services for  
 19 uninsured patients.

20 SECTION 27. There is appropriated out of the emergency and  
 21 budget reserve fund the sum of <sup>1,300,000</sup>~~\$2,450,000~~, or so much thereof as  
 22 may be necessary for fiscal year 2003-2004, pursuant to chapter

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1 103F, Hawaii Revised Statutes, to the department of health to  
 2 provide resources to nonprofit, community-based health-care  
 3 providers to care for the uninsured. This appropriation shall  
 4 pay for providing direct care, which includes primary medical,  
 5 dental, and mental health care, and may pay for the purchase of  
 6 prescription drugs. The department of health may distribute  
 7 moneys on a per-visit basis, taking into consideration need on  
 8 all islands.

9 SECTION 28. There is appropriated out of the emergency and  
 10 budget reserve fund the sum of <sup>100,000</sup>~~\$300,000~~, or so much thereof as  
 11 may be necessary for fiscal year 2003-2004, as a subsidy  
 12 pursuant to chapter 42F, Hawaii Revised Statutes, for the  
 13 Kapiolani Medical Center for Women and Children Sex Abuse  
 14 Treatment Center master contract.

15 SECTION 29. There is appropriated out of the emergency and  
 16 budget reserve fund of the State of Hawaii the sum of \$300,000  
 17 or so much thereof as may be necessary for fiscal year  
 18 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes,  
 19 for the establishment of an adolescent treatment center to treat  
 20 poly-drug abuse on the island of Hawaii.

21 SECTION 30. There is appropriated out of the emergency and  
 22 budget reserve fund of the State of Hawaii the sum of \$100,000

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1 or so much thereof as may be necessary for fiscal year  
2 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes,  
3 for community anti-drug efforts aimed at preventing crystal  
4 methamphetamine use on the island of Hawaii.

5 SECTION 31. There is appropriated out of the emergency and  
6 budget reserve fund the sum of \$450,000 or so much thereof as  
7 may be necessary for fiscal year 2003-2004, pursuant to chapter  
8 103F, Hawaii Revised Statutes, for the department of health to  
9 contract with primary health care centers for comprehensive oral  
10 health services to underserved children.

11 SECTION 32. The sums appropriated in this part shall be  
12 expended by the department of health for their respective  
13 purposes; provided that the sums appropriated in sections 29 and  
14 30 shall be expended by the county of Hawaii.

15 PART IV

16 SECTION 33. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$200,000, or so much  
18 thereof as may be necessary for fiscal year 2003-2004, to  
19 develop a plan to implement the Hawaii Rx program to carry out  
20 the purposes of chapter 346, part XIII, Hawaii Revised Statutes.

21 The sum shall be expended by the department of human  
22 services; provided that the department shall provide a quarterly

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1 progress report on the plan development to the legislature; and  
2 provided further that the department shall provide a progress  
3 report to the legislature no later than twenty days prior to the  
4 convening of the 2004 regular session.

5 PART V

6 SECTION 34. This Act shall take effect on July 1, 2003.

[This portion left intentionally blank.]

APPROVED THIS DAY OF . 2003

GOVERNOR OF THE STATE OF HAWAII

[This portion left intentionally blank.]

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1305, entitled "A Bill for an Act Relating to State Funds," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, under Section 16 of Article III, the Governor may veto any specific item or items in any bill that appropriates money for specific purposes by striking out or reducing the same; and

WHEREAS, Senate Bill No. 1305 appropriates money for specific purposes and certain appropriation items in that bill are unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1305 with my objections to certain appropriation items contained therein, to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 437, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith proclamations giving notice of my plan to return the following bills with my objections:

S.B. No. 209 A BILL FOR AN ACT RELATING  
SD3 HD1 CD1 TO PUBLIC EMPLOYMENT

S.B. No. 319 A BILL FOR AN ACT RELATING  
SD2 HD1 TO COUNTIES

S.B. No. 534 A BILL FOR AN ACT RELATING  
SD2 HD1 CD1 TO AGRICULTURE

S.B. No. 540 MAKING AN APPROPRIATION  
SD1 HD2 CD1 FOR AGRICULTURAL RESEARCH  
AND DEVELOPMENT

S.B. No. 576 A BILL FOR AN ACT RELATING  
HD2 CD1 TO THE UNIVERSITY OF HAWAII

S.B. No. 658 A BILL FOR AN ACT RELATING  
SD1 HD3 TO EMERGENCY  
CONTRACEPTIVES FOR SEX  
ASSAULT SURVIVORS IN  
EMERGENCY ROOMS

S.B. No. 745 A BILL FOR AN ACT RELATING  
SD2 HD2 CD1 TO EMERGENCY MEDICAL  
SERVICES

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

## STATEMENT OF OBJECTIONS TO SENATE BILL NO. 209

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 209, entitled "A Bill for an Act Relating to Public Employment."

The purpose of this bill is to appropriate \$60,000 for fiscal year 2003-2004 to the Department of Education to convert ten-month certificated positions to twelve-month certificated positions to provide services for multi-track year-round schools within the State of Hawaii.

While I believe that services are needed for multi-track schools, I also believe that the Department of Education already has existing capacity within its budget to provide the additional services that are required by the four schools in question. It would not be fiscally prudent to fund these services with a new appropriation from the general fund at a time when the State is facing a projected budget deficit of more than \$230 million.

For the foregoing reasons, I am returning Senate Bill No. 209 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the



Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 209, entitled "A Bill for an Act Relating to Public Employment," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 209 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 209 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 319

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 319, entitled "A Bill for an Act Relating to Counties."

The purpose of this bill is to reduce solid waste in the State of Hawaii by requiring counties with a population of at least 500,000 to establish a food waste recycling program. The program would require the owners or operators of certain food establishments to arrange for the collection, and delivery to a recycling facility, of a minimum of fifty percent of the establishments' food waste.

The bill is objectionable because it is unnecessary and goes against the concept of home rule.

According to the 2000 census, the City and County of Honolulu is the only county that would be required to comply with this bill. Yet, Honolulu is also the only county that currently has a mandatory food waste recycling program, pursuant to section 9-3.5, Revised Ordinances of Honolulu.

Regulation of food waste removal is best left to the counties so that the people most directly affected by such regulation can determine for themselves how best to implement it. The City and County of Honolulu testified against this bill because it prefers its own food waste recycling program to the one that would be forced upon it by this bill.

For the foregoing reasons, I am returning Senate Bill No. 319 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 319, entitled "A Bill for an Act Relating to Counties," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 319 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 319 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 534

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 534, entitled "A Bill for an Act Relating to Agriculture."

The purpose of this bill is to appropriate \$400,000 to the University of Hawaii College of Tropical Agriculture and Human Resources for various agricultural research and outreach programs, including the development of high value agricultural products, breeding programs, and related activities.

While I believe this project to be worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the

upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 534 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 534, entitled "A Bill for an Act Relating to Agriculture," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 534 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 534 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 540

Honorable Members  
Twenty-Second Legislature

State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 540, entitled "A Bill for an Act Making an Appropriation for Agricultural Research and Development."

The purpose of this bill is to appropriate \$850,000 for agricultural research and market development and pineapple research projects. The amount of \$800,000 is appropriated to the Department of Agriculture as a grant to the Hawaii Farm Bureau Federation with the requirements that the money be disbursed to the Hawaii Agriculture Research Center and that \$500,000 of the money be used for sugar research. The remaining \$50,000 is appropriated to the Department of Agriculture for specific pineapple research projects.

While I believe this project to be worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 540 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 540, entitled "A Bill for an Act Making an Appropriation for Agricultural Research and

Development," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 540 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 540 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 576

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 576, entitled "A Bill for an Act Relating to the University of Hawaii."

Current law, section 304-16.5, Hawaii Revised Statutes, authorizes expenditures from the University of Hawaii (UH) tuition and fees special fund in order to generate private donations for deposit into the UH Foundation. The purpose of Senate Bill No. 576 is to provide that any expenditure from the UH tuition and fees special fund shall be subject to section 42F-103(a)(4), Hawaii Revised Statutes, which gives the UH and legislative committees and their staff, as well as the legislative auditor (Auditor), full access to the records, reports, and files of the individual or organization receiving the funds, such as the UH Foundation.

This bill is objectionable because it would make it impossible for the UH Foundation to assure prospective donors that their privacy rights would be protected, and would thereby jeopardize the UH Foundation's ability to raise money for UH's needs.

While the bill does subject the Auditor to the same restrictions on disclosure of records as currently apply to the UH Foundation, and provides that upon written request from a private donor the Auditor would be prohibited from disclosing that donor's name and personal information, it does not place these limitations on legislative committees and members of their staff. This would have a chilling effect on private donors not wanting the public to know information about their personal assets, business plan, estate plan, or in some cases their identity.

If there is a perceived need for greater accountability by the UH Foundation, I am confident it can be achieved without the adverse consequences that surely would flow from enactment of this bill.

For the foregoing reasons, I am returning Senate Bill No. 576 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 576, entitled "A Bill for an Act Relating to the University of Hawaii," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 576 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 576 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 658

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 658, entitled "A Bill for an Act Relating to Emergency Contraceptives for Sex Assault Survivors in Emergency Rooms."

The purpose of this bill is to require hospitals that provide emergency care to sexual assault survivors, to provide information on emergency contraceptives, and to offer and provide emergency contraceptives to sexual assault survivors.

This bill is objectionable because it would not withstand a legal challenge. According to the Department of the Attorney General, this bill violates the constitutional right to the free exercise of religion.

Individuals and religious institutions, such as St. Francis Hospital (St. Francis), have a constitutional right to the free exercise of religion. Citing religious beliefs, St. Francis does

not allow its medical personnel to dispense emergency contraception drugs while carrying out their duties at St. Francis.

This bill directly interferes with the constitutional right to the free exercise of religion by requiring hospital personnel to administer emergency contraception drugs even if such an act is in contravention of religious beliefs and hospital policies which reflect those beliefs, as is the case at St. Francis.

When the State interferes with an individual's or an institution's right to the free exercise of religion, the State must show not only that the limitation in question furthers a compelling state interest, but also that the desired result is accomplished in a reasonable and least-restrictive manner.

The penalty provisions of this bill are unusually severe. After the first two violations, this bill would require the Department of Health to suspend or revoke the license of a hospital violating the bill.

This bill would not have been objectionable if the Legislature had included an "opt-out" provision for religious hospitals. During the legislative session, I indicated that I would sign an emergency contraception bill only if it included an "opt out" provision for religious hospitals. For whatever reason, the Legislature chose not to include such a provision.

Another possible alternative would be the approach taken by the State of Illinois. In 2001, Illinois enacted a bill that requires all hospitals to provide emergency contraception information to sexual assault victims. This law does not require the hospital to actually administer the drug if requested, but only requires that the hospital provide the victim with "a description of how and when victims may be provided emergency contraception upon the written order of a physician." Like an "opt out" provision, such a requirement would not force the religious hospital to administer emergency contraception drugs in contravention of its religious beliefs.

The current practice at St. Francis is to do what the Illinois law requires, and also to arrange for transportation of the victim to another hospital that does not have an objection to providing emergency contraception drugs.

For the foregoing reasons, I am returning Senate Bill No. 658 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 658, entitled "A Bill for an Act Relating to Emergency Contraceptives for Sex Assault Survivors in Emergency Rooms," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 658 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 658 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 745

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 745, entitled "A Bill for an Act Relating to Emergency Medical Services."

The purposes of this bill are to require the State to provide emergency aeromedical helicopter services statewide and to appropriate \$611,500 for fiscal year 2004-2005 to the Emergency Medical Services System of the Department of Health for emergency aeromedical helicopter services for the County of Maui, with matching funds to be provided by the County of Maui. This bill further appropriates \$388,500 for fiscal year 2004-2005 to the Emergency Medical Services System for the integration of additional ground ambulance services with the emergency aeromedical helicopter services.

This bill is objectionable because it requires the State through the Department of Health to establish emergency aeromedical helicopter services statewide, but without statewide funding. The State would be open to liability if emergency aeromedical helicopter services were not available to a person who needed them in a county other than Maui.

Through its appropriations, this bill also would impose a substantial financial burden on the State during a fiscally challenging time. While it truly would be wonderful to have emergency aeromedical helicopter services statewide, the State cannot spend money that it does not have.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. The challenge presented by this budget increased when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short,

we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 745 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 745, entitled "A Bill for an Act Relating to Emergency Medical Services," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 745 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 745 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 438, transmitting proclamations giving notice of her plan to return the following bills with her objections as follows:

"June 20, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Pursuant to the notice requirement of Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting

herewith proclamations giving notice of my plan to return the following bills with my objections:

S.B. No. 41 A BILL FOR AN ACT RELATING  
HD1 CD1 TO PUBLIC CONTRACTS

S.B. No. 255 A BILL FOR AN ACT RELATING  
SD2 HD1 CD1 TO AGRICULTURE

S.B. No. 740 A BILL FOR AN ACT RELATING  
HD2 CD1 TO HEALTH

S.B. No. 1088 A BILL FOR AN ACT RELATING  
SD2 HD2 CD1 TO LONG-TERM CARE

S.B. No. 1135 A BILL FOR AN ACT RELATING  
SD1 HD1 CD1 TO COURT FEES

S.B. No. 1462 A BILL FOR AN ACT RELATING  
HD2 CD2 TO THE HAWAII TOURISM  
AUTHORITY

Also enclosed for your information are advance copies of my statements of objections to these bills. The official statements of objections for these bills will be delivered to you with the bills on Tuesday, July 8, 2003, which is the forty-fifth day after the adjournment sine die of the regular session of 2003.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 41

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 41, entitled, "A Bill for an Act Relating to Public Contracts."

The purpose of this bill is to require the Hawaii Tourism Authority (HTA) to disclose its publicly funded contracts and subcontracts by specifically subjecting them to the disclosure requirements of the Uniform Information Practices Act (UIPA), chapter 92F, Hawaii Revised Statutes, except for any information deemed proprietary by the person providing the information to the HTA.

This bill is objectionable because it invites confusion and accomplishes the opposite of the intent of disclosure and openness that was articulated by the Legislature in its committee reports.

The HTA is already subject to the disclosure requirements of the UIPA. Instead of requiring full disclosure, this bill provides an exemption from disclosure. Under this bill, this exemption would be invoked by persons providing information to the HTA.

Whether or not information is proprietary should be determined by the Office of Information Practices (OIP) under the provisions of chapter 92F, and not by the provider of the information.

This bill needs to be reworked by changing who determines whether information is proprietary from the provider of the information to the OIP. So changed, it could receive my enthusiastic support.

For the foregoing reasons, I am returning Senate Bill No. 41 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 41, entitled "A Bill for an Act Relating to Public Contracts," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 41 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 41 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 255

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 255, entitled "A Bill for an Act Relating to Agriculture."

The purpose of this bill is to amend chapter 205 (land use) of the Hawaii Revised Statutes by adding a new section to prohibit private restrictions on agricultural uses and activities on lands classified as agricultural by the Land Use Commission, except for restrictions intended to protect environmental or cultural resources.

This bill was introduced to address concerns regarding the proliferation on agricultural lands of residential subdivisions,

gentleman farmer estates, and gated communities. Such developments often restrict agricultural activities by covenants or other types of servitudes.

I wholeheartedly support agriculture, which is a vital component of our economy, and I believe that most restrictive covenants against agricultural uses are contrary to the public good. This bill, however, is too far-reaching, and would prohibit landowners from placing any restrictions on agricultural uses of their agricultural lands.

I believe that the problems this bill attempted to remedy should be addressed in a fashion that will ensure the ability to use agricultural lands for agricultural activities, while allowing for reasonable restrictions where appropriate. My administration intends to work with all stakeholders to draft a bill for the next legislative regular session that accommodates the interests of both agriculture and private property owners.

For the foregoing reasons, I am returning Senate Bill No. 255 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 255, entitled "A Bill for an Act Relating to Agriculture," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 255 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 255 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 740

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 740, entitled "A Bill for an Act Relating to Health."

The purpose of this bill is to establish statutorily within the Department of Health the public health nursing (PHN) services program. The bill enumerates specific services that the program shall provide.

This attempt to codify the PHN program, which has been in existence since 1923, is commendable to the extent that it recognizes the importance and value of the services that have been provided to the community for the last eighty years. The PHN program provides essential services to some of the State's most vulnerable populations including special needs infants, the elderly, and victims of natural disasters. Although I believe it is a vital program, this bill is objectionable for a number of reasons.

First, the bill creates an overly broad mandate. For instance, it provides that the PHN program "shall" provide health care services when no other resources are available in the community. There is no limitation that the services will be provided only to the extent that staff and other resources are available. Without some explicitly stated restrictions, the mandate could result in community demands that far exceed the program's current abilities to respond.

Second, the broad mandatory language may result in excessive financial liability. If the needs of the community exceed the program's ability to respond, there is potential legal liability from assuming an obligation that we know cannot be met. In this time of fiscal austerity, there is no guarantee of increased resources to meet the increased demands. It would not be fiscally prudent to expand services at a time when funding is scarce and the prospect of increasing funding is unlikely.

Third, the mandatory language in this bill would unnecessarily restrict the flexibility of the program to adapt to changing community needs. As the program currently operates and, presumably, will continue to operate, it is not restricted to providing a limited set of services. If the bill becomes law, however, the statute would need to be amended before the program could discontinue one of the enumerated services, or before adding a service not enumerated, which would be an inefficient use of time and resources.

I envision a bill being crafted in the future that would not only recognize the immense value of the PHN program, but would also be tailored to limit unnecessary liability and allow for the flexibility the program currently has to meet the changing needs of the community. This bill does not satisfy those requirements.

For the foregoing reasons, I am returning Senate Bill No. 740 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or

presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 740, entitled "A Bill for an Act Relating to Health," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 740 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 740 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1088

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1088, entitled "A Bill for an Act Relating to Long-Term Care."

The purpose of Senate Bill No. 1088 is to establish a long-term care tax and provide long-term care benefits.

This bill is objectionable for the following reasons:

First, it does not adequately address the needs for long-term care for the people of Hawaii. In exchange for taxes paid over a lifetime, individuals would qualify for only 365 days of benefits too small to cover the current average daily cost of long-term care, much less what such costs might be at the time benefits were actually paid. Some individuals who would otherwise plan for their own long-term care needs might instead rely entirely on this program and end up much worse off as a result.

Second, the bill is fundamentally unfair and regressive. It would be disproportionately burdensome on low-income and middle-income taxpayers. The percentage of income that would have to be paid under this bill by a person earning \$20,000 is five times greater than the rate on someone earning \$100,000.

Third, the bill imposes unreasonable financial and administrative burdens on the State and private employers. The Department of Taxation estimates that it would cost the State approximately \$1 million to set up this program, and approximately \$320,000 each year for administration.

More funds would be needed to ensure compliance, but compliance costs for the collection of a \$120 tax would be an inefficient use of resources in any event.

The bill creates additional complications in the administration of taxes because of a mismatching of funds — the tax would be deposited into a special fund while a partial credit for the cost of long-term care insurance would be awarded from the general fund.

All employers would need to modify their payroll systems to account for the collection of the tax from their employees.

The cost of keeping track of the program itself, as opposed to just tax administration, is unknown at this time.

Fourth, the long-term care tax provided for by this bill would drain financial resources from Hawaii's economy. This loss is estimated to be approximately \$100 million per year.

Finally, I am concerned that the long-term care special fund, which is projected to grow to approximately \$1.2 billion over the next ten years, might not be used for the intended purpose. Given relatively recent raids on the state retirement fund and other special funds, I am concerned that the Legislature might be tempted to use this fund for other worthwhile purposes, leaving the State with yet another unfunded liability and taxpayers in doubt of whether they would ever receive the benefits that they had already paid for.

For the foregoing reasons, I am returning Senate Bill No. 1088 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

#### PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1088, entitled "A Bill for an Act Relating to Long-Term Care," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1088 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1088 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1135

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1135, entitled "A Bill for an Act Relating to Court Fees."

The purpose of this bill is to authorize certain district court fees to be deposited in the judiciary computer system special fund and to appropriate \$3.5 million from that fund in each year of the biennium to implement the judiciary information management system.

This bill is objectionable because it takes amounts that would have been deposited into the general fund and deposits those funds in a special fund instead. This has a negative impact on the State's limited resources.

While I believe this project to be worthwhile, I am confident that there are other, more appropriate financing mechanisms available to the Judiciary. Meanwhile, the State's current fiscal condition cannot be ignored.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

Furthermore, Judiciary personnel have assured my administration that a veto of this bill will not stop the Judiciary from continuing to upgrade its information management system during the coming year.

For the foregoing reasons, I am returning Senate Bill No. 1135 without my approval.



Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1135, entitled "A Bill for an Act Relating to Court Fees," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1135 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1135 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1462

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning without my approval, Senate Bill No. 1462, entitled "A Bill for an Act Relating to the Hawaii Tourism Authority."

This bill contains many provisions affecting the Hawaii Tourism Authority (HTA). One major change would provide HTA with complete autonomy with regard to the expenditure of tourism special funds and convention center enterprise special funds by exempting it from chapters 38 and 40, Hawaii Revised Statutes. These chapters govern deposits of public funds and audit and accounting procedures. The bill would also allow disbursements from the tourism special fund and convention center enterprise special fund to be drawn upon checks prepared and signed as approved by the HTA Executive Director and a member of the HTA board.

This bill is objectionable because, by exempting HTA from chapters 38 and 40, there would be no controls to ensure the proper expenditure and protection of HTA funds, which are

public funds. Presently the Department of Accounting and General Services (DAGS) supervises and pre-audits HTA expenditures to make certain that amounts appropriated are not exceeded, and that there is full compliance with executive orders and rules. If this bill were to become law, HTA would have to implement a system of internal controls and cash management procedures to replace those currently provided by DAGS and the Department of Budget and Finance. Hiring its own staff to ensure such fiscal accountability would be duplicative and wasteful.

Moreover, HTA's financial transactions are an integral part of the State's Comprehensive Annual Financial Report (CAFR), which is used to determine the State's bond rating. Reporting HTA's transactions after-the-fact, as this bill allows, could negatively impact the CAFR, and thereby damage state interests.

HTA's contracting issues can be addressed without adding more people and systems to government. Our Administration has worked, and will continue to work, with HTA to streamline the contracting process and expedite payment to vendors, while still ensuring efficiency, accountability, and responsible use of public funds. Even now, HTA is in the process of scrutinizing its past performance, and clarifying its proper roles and functions.

This bill would also appropriate \$8,000,000 out of the tourism special fund for fiscal year 2003-2004 to respond to any adverse effects due to world conflicts, terrorist threats, and SARs, and to strengthen the programs and operations of the HTA. I am not opposed to this appropriation and would support it if appropriate next session.

Some other provisions of this bill, such as the establishment of a tourism registry, the appointment of a sports coordinator, and the performing of an annual financial audit, are being done administratively.

For the foregoing reasons, I am returning Senate Bill No. 1462 without my approval.

Respectfully,

[without her signature]  
LINDA LINGLE  
Governor of Hawaii

PROCLAMATION

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1462, entitled "A Bill for an Act Relating to the Hawaii Tourism Authority," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1462 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 1462 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu  
State of Hawaii, this 20th day  
of June, 2003.

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 439, informing the House that on June 24, 2003, the following bill was signed into law:

S.B. 78, SD 2, A BILL FOR AN ACT RELATING TO  
HD 1 ELDER ABUSE. (ACT 196)

Gov. Msg. No. 440, informing the House that on June 24, 2003, the following bill was signed into law:

S.B. 1321, HD A BILL FOR AN ACT RELATING TO  
2, CD 1 MENTAL HEALTH. (ACT 197)

Gov. Msg. No. 441, informing the House that on June 24, 2003, the following bill was signed into law:

H.B. 422, HD A BILL FOR AN ACT RELATING TO  
2, SD 2, CD 1 CENTER FOR NURSING. (ACT 198)

Gov. Msg. No. 442, informing the House that on June 24, 2003, the following bill was signed into law:

H.B. 507, HD A BILL FOR AN ACT RELATING TO  
3, SD 1, CD 1 EMERGENCY MEDICAL  
TECHNICIANS. (ACT 199)

Gov. Msg. No. 443, informing the House that on June 24, 2003, the following bill was signed into law:

H.B. 200, HD A BILL FOR AN ACT RELATING TO  
1, SD 1, CD 1 THE STATE BUDGET. (ACT 200)

Gov. Msg. No. 444, informing the House that on June 24, 2003, the following bill was signed into law:

H.B. 123, HD A BILL FOR AN ACT RELATING TO  
1, SD 1 THE PRACTICE OF PHARMACY.  
(ACT 201)

Gov. Msg. No. 445, informing the House that on June 24, 2003, the following bill was signed into law:

H.B. 914, HD A BILL FOR AN ACT RELATING TO  
2, SD 1, CD 1 ADULT RESIDENTIAL CARE  
HOMES. (ACT 202)

Gov. Msg. No. 446, informing the House that on June 24, 2003, the following bill was signed into law:

S.B. 1700, SD A BILL FOR AN ACT RELATING TO  
1, HD 2, CD 1 CHARTER SCHOOLS. (ACT 203)

Gov. Msg. No. 447, informing the House that on June 24, 2003, the following bill was signed into law:

H.B. 512, HD A BILL FOR AN ACT RELATING TO  
1, SD 2, CD 2 HEALTH. (ACT 204)

Gov. Msg. No. 448, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 574, SD 1, A BILL FOR AN ACT RELATING TO  
HD 2, CD 1 CAPTIVE INSURANCE. (ACT 205)

Gov. Msg. No. 449, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 665 SD 1, A BILL FOR AN ACT RELATING TO  
HD 2, CD 1 PREPAID HEALTH CARE PLAN.  
(ACT 206)

Gov. Msg. No. 450, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 855, SD 1, A BILL FOR AN ACT RELATING TO  
HD 3, CD 1 ENERGY. (ACT 207)

Gov. Msg. No. 451, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 1058, SD A BILL FOR AN ACT RELATING TO  
1, HD 1 CAPTIVE INSURANCE. (ACT 208)

Gov. Msg. No. 452, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 1200, SD A BILL FOR AN ACT RELATING TO  
1, HD 1, CD 1 CAPTIVE INSURANCE. (ACT 209)

Gov. Msg. No. 453, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 1319, SD A BILL FOR AN ACT RELATING TO  
1, HD 3, CD 1 THE UNIFORM LIMITED  
PARTNERSHIP ACT. (ACT 210)

Gov. Msg. No. 454, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 1324, SD A BILL FOR AN ACT RELATING TO  
1, HD 2, CD 1 CONCILIATION PANELS. (ACT 211)

Gov. Msg. No. 455, informing the House that on June 26, 2003, the following bill was signed into law:

H.B. 1164, HD A BILL FOR AN ACT RELATING TO  
1, SD 1, CD 1 INSURANCE. (ACT 212)

Gov. Msg. No. 456, informing the House that on June 26, 2003, the following bill was signed into law:

H.B. 1230, HD A BILL FOR AN ACT RELATING TO  
1, SD 2, CD 1 TRANSPORTATION. (ACT 213)

Approved by the Governor  
on JUN 26 2003

ORIGINAL

ACT 213

HOUSE OF REPRESENTATIVES  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII

H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Although funds were appropriated to the department of transportation for airport and harbor security measures throughout the State's airports and harbors for fiscal year 2002-2003, a critical funding emergency now exists. The program will expend all appropriated special funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide the heightened airport and harbor security measures.

The purpose of this Act is to:

- (1) Appropriate additional special fund moneys to allow the airports and harbors divisions to continue to meet the heightened security requirements throughout the airport and harbor systems;

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H.B. NO. 1230  
H.D. 1  
S.D. 2  
C.D. 1

- (2) Appropriate additional funds to the department of transportation for various capital improvement projects; and
- (3) Appropriate funds to reduce the debt service payment for land transportation facilities and support.

SECTION 3. There is appropriated out of the airport special fund of the State of Hawaii the sum of \$5,661,084 or so much thereof as may be necessary for fiscal year 2002-2003 to be expended for security measures at state airports as follows:

<u>TRN 102 Honolulu International Airport</u>	
Security Services	3,658,305
Equipment, rental, and supplies	157,860
<u>TRN 111 Hilo International Airport</u>	
Security Services	481,436
Equipment, rental, and supplies	85,000
<u>TRN 114 Keahole Airport at Kona</u>	
Security Services	338,550
Equipment, rental, and supplies	85,000
<u>TRN 131 Kahului Airport</u>	
Security Services	313,808
Equipment, rental, and supplies	85,000

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<u>TRN 141 Molokai Airport</u>	
Security Services	104,108
Equipment, rental, and supplies	18,000
<u>TRN 151 Lanai Airport</u>	
Security Services	103,917
Equipment, rental, and supplies	18,000
<u>TRN 161 Lihue Airport</u>	
Security Services	127,100
Equipment, rental, and supplies	85,000

provided that any funds unexpended for this purpose shall lapse to the airport special fund.

SECTION 4. There is appropriated out of the harbor special fund of the State of Hawaii the sum of \$2,300,000 or so much thereof as may be necessary for fiscal year 2002-2003 to be expended to continue the heightened harbor security throughout the various state harbor locations as follows:

<u>TRN 395 Harbor Administration</u>	
Statewide Security Services	2,300,000

provided that any funds unexpended for this purpose shall lapse to the harbor special fund.

SECTION 5. There is appropriated out of the harbor special fund of the State of Hawaii for Honolulu harbor (TRN 301) the

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H.D. 1  
S.D. 2  
C.D. 1

following sums for fiscal year 2003-2004 for capital improvement projects:

1. J32 Snug Harbor Relocation, Honolulu Harbor, Oahu	
Plans for the relocation of facilities at Snug Harbor and other related improvements.	
Flans	<del>22,250,000</del>
Total Funding TRN	<del>22,250,000</del> B
2. J33 Kapalama Container Terminal Land Acquisition, Oahu	
Land acquisition for the development of a new container facility and other related improvements.	
Land	<del>22,250,000</del>
Total Funding TRN	<del>22,250,000</del> B

SECTION 6. There is appropriated out of the highway revenue bond funds and federal funds of the State of Hawaii for Oahu highways (HWY 501) the following sums for fiscal year 2003-2004 for capital improvement projects:

1. S269 Kamehameha Highway, South Punaluu Bridge Replacement, Oahu	
Construction for replacement of South Punaluu bridge. This project is deemed necessary to qualify for Federal aid financing and/or reimbursement.	
Construction	<del>22,250,000</del>

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1 Total Funding TRN ~~22~~ 2,450,000- E  
~~22~~ 3,000,000- N  
2  
3 2. S271 Interstate Route H-1 and Moanalua Freeways  
4 Improvements, Puuloa IC to Kapiolani IC, Oahu  
5 Construction for an additional lane on the H-1 freeway  
6 eastbound lanes from the vicinity of Middle street to the  
7 vicinity of Vineyard boulevard. This project is deemed  
8 necessary to qualify for Federal aid financing and/or  
9 reimbursement.  
10 Construction ~~22~~ 5,500,000-  
~~22~~ 2,300,000- E  
11 Total Funding TRN ~~22~~ 5,200,000- N  
12  
13 3. S323 Interstate Route H-1, Additional Westbound Lane,  
14 Vicinity of Pearl City Viaduct to Pa'ala IC, Oahu  
15 Design for construction of an additional H-1 west bound  
16 lane through the Waiawa interchange and an additional lane  
17 to the off-ramp at the Pa'ala interchange. This project is  
18 deemed necessary to qualify for Federal aid financing  
19 and/or reimbursement.  
20 Design ~~22~~ 5,500,000-  
~~22~~ 500,000- E  
21 Total Funding TRN ~~22~~ 2,000,000- N  
22

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1 4. SP9901 Fort Weaver Road Widening, Vicinity of Lauleunui  
2 Street to Geiger Road, Oahu  
3 Construction for widening of Fort Weaver road to a six-lane  
4 facility from the vicinity of Lauleunui street to the  
5 vicinity of Geiger road, including installing a traffic  
6 camera system from Maipahu street to Papipi road. This  
7 project is deemed necessary to qualify for Federal aid  
8 financing and/or reimbursement.  
9 Construction ~~22~~ 15,000,000-  
~~22~~ 3,000,000- E  
10 Total Funding TRN ~~22~~ 12,000,000- N  
11  
12 5. S324 Farrington Highway, Maipalaoa Bridge Replacement, Oahu  
13 Design for replacement of a prestressed tee-beam bridge on  
14 Farrington highway in the vicinity of Mai'ili. This  
15 project is deemed necessary to qualify for Federal aid  
16 financing and/or reimbursement.  
17 Land ~~22~~ 350,000-  
~~22~~ 2,000,000-  
18 Design ~~22~~ 3,250,000-  
~~22~~ 2,520,000- E  
19 Construction ~~22~~ 10,000,000- N  
20 Total Funding TRN  
21

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1 SECTION 7. There is appropriated out of the highway other  
2 funds of the State of Hawaii for Oahu highways (HMV 501) the  
3 following sum for fiscal year 2003-2004 for a capital  
4 improvement project:  
5 1. James Campbell Estate Property Land Acquisition, Kalaheo  
6 Barbers Point, Oahu  
7 Land acquisition of James Campbell Estate property for  
8 future expansion of roadways at Kalaheo Barbers Point.  
9 Land ~~22~~ 2,700,000-  
10 Total Funding TRN ~~22~~ 2,700,000- X  
11 SECTION 8. There is appropriated out of the airport  
12 special fund of the State of Hawaii the sum of ~~22~~ 400,000,000- or so  
13 much thereof as may be necessary for fiscal year 2003-2004 to be  
14 expended for additional positions, security services, equipment,  
15 rental, and supplies at state airports as follows:  
16 TRN 102 Honolulu International Airport  
17 Position Count 2.00  
18 Security Services ~~22~~ 2,344,320-  
19 Equipment, rental, and supplies ~~22~~ 6,800,000-  
20 TRN 111 Hilo International Airport  
21 Security Services ~~22~~ 3,026,746-  
22 Equipment, rental, and supplies ~~22~~ 10,000,000-

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1 TRN 114 Keahole Airport at Kona  
2 Security Services ~~22~~ 1,754,000-  
3 Equipment, rental, and supplies ~~22~~ 65,000-  
4 TRN 131 Kahului Airport  
5 Position Count 1.00  
6 Security Services ~~22~~ 1,255,000-  
7 Equipment, rental, and supplies ~~22~~ 65,000-  
8 TRN 141 Molokai Airport  
9 Security Services ~~22~~ 136,000-  
10 Equipment, rental, and supplies ~~22~~ 30,000-  
11 TRN 151 Lanai Airport  
12 Security Services ~~22~~ 125,000-  
13 Equipment, rental, and supplies ~~22~~ 10,000-  
14 TRN 161 Lihue Airport  
15 Security Services ~~22~~ 200,000-  
16 Equipment, rental, and supplies ~~22~~ 65,000-  
17 Airports Administration (TRN 195)  
18 Position Count 1.00  
19 provided that any funds unexpended for this purpose shall lapse  
20 to the airport special fund.  
21 SECTION 9. There is appropriated out of the harbor special  
22 fund of the State of Hawaii the sum of ~~22~~ 25,000,000- or so much

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1 thereof as may be necessary for fiscal year 2003-2004 to be  
 2 expended for security services and fringe benefits throughout  
 3 the various state harbor locations as follows:  
 4 Honolulu Harbor (TRN 301)  
 5 Security Services ~~-582,402~~ 0  
 6 Add Fringe Benefits ~~-526,862~~ 0  
 7 Harbor Administration (TRN 395)  
 8 Security Services - Statewide ~~-1,600,000~~ 0  
 9 Add Fringe Benefits ~~-262,402~~ 0

10 provided that any funds unexpended for this purpose shall lapse  
 11 to the harbor special fund.  
 12 SECTION 10. Due to the refinancing of revenue bonds and  
 13 other cost savings to debt service payments for highways  
 14 division, the following sum shall be used to reduced the total  
 15 debt service payment for fiscal year 2003-2004 for the  
 16 following:

17 Land Transportation Facilities and Support (TRN 595)  
 18 Reduce Debt Service Payments ~~44,867,783~~ 0

19 SECTION 11. For the fiscal biennium 2003-2005, where the  
 20 department of transportation is authorized to expend from  
 21 special funds under the department's control, the department may  
 22 expend so much as may be necessary in excess of the sums

1 appropriated by the legislature to carry out the purpose for  
 2 which the funds were appropriated; provided that such  
 3 expenditures in excess of the amounts appropriated by the  
 4 legislature are approved by the governor or by the director of  
 5 finance if so delegated by the governor, and shall not exceed  
 6 the amounts available in the respective special fund from which  
 7 the appropriation is made. A report on all expenditures made  
 8 pursuant to this Act shall be transmitted to the legislature not  
 9 later than twenty days prior to the convening of the 2004  
 10 regular session.

11 SECTION 12. The sums appropriated shall be expended by the  
 12 department of transportation for the purposes of this Part.

PART II

14 SECTION 13. Title 49 United States Code section 40117 and  
 15 14 Code of Federal Regulation Part 158 prohibit expenditure of  
 16 passenger facility charge revenue for other than approved  
 17 projects. The Federal Aviation Administration considers any  
 18 transfer of the passenger facility charges to reimburse  
 19 administrative expenses or to the works of art special fund to  
 20 be revenue diversion. Therefore, passenger facility charges  
 21 revenue needs to be exempt from the requirements of the

1 reimbursement for central service expenses and the works of art  
 2 special fund.

3 SECTION 14. Chapter 261, Hawaii Revised Statutes, is  
 4 amended by adding a new section to be appropriately designated  
 5 and to read as follows:

6 \*261- Passenger facility charge revenue fund. (a)  
 7 There is established in the state treasury the passenger  
 8 facility charge revenue fund, into which shall be deposited all  
 9 proceeds from any passenger facility charges.

10 (b) Moneys in the passenger facility charge revenue fund  
 11 shall be used for airport capital improvement program projects  
 12 approved by the legislature.

13 (c) The passenger facility charge revenue fund is exempted  
 14 from section 36-30.

15 (d) The passenger facility charge revenue fund is exempted  
 16 from section 103-8.5.

17 (e) The director of transportation shall administer the  
 18 passenger facility charge revenue fund."

19 SECTION 15. Section 36-30, Hawaii Revised Statutes, is  
 20 amended by amending subsection (a) to read as follows:

21 (a) Each special fund, except the:

- 1 (1) Transportation use special fund established by section
- 2 261D-1;
- 3 (2) Special out-of-school time instructional program fund
- 4 under section 302A-1310;
- 5 (3) School cafeteria special funds of the department of
- 6 education;
- 7 (4) Special funds of the University of Hawaii;
- 8 (5) State educational facilities improvement special fund;
- 9 (6) Special funds established by section 206E-6;
- 10 (7) Aloha Tower fund created by section 206J-17;
- 11 (8) Domestic violence prevention special fund under
- 12 section 321-1.3;
- 13 (9) Spouse and child abuse special account under section
- 14 346-7.5;
- 15 (10) Spouse and child abuse special account under section
- 16 601-3.6;
- 17 (11) Funds of the employees' retirement system created by
- 18 section 88-109;
- 19 (12) Unemployment compensation fund established under
- 20 section 383-121;
- 21 (13) Hawaii hurricane relief fund established under chapter
- 22 431P;

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- 1 (14) Convention center enterprise special fund established
- 2 under section 201B-8;
- 3 (15) Hawaii health systems corporation special funds;
- 4 (16) Tourism special fund established under section 201B-
- 5 11;
- 6 (17) Compliance resolution fund established under section
- 7 26-9;
- 8 (18) Universal service fund established under chapter 269;
- 9 (19) Integrated tax information management systems special
- 10 fund under section 231-3.2;
- 11 (20) Hawaii tobacco settlement special fund under section
- 12 328L-2;
- 13 (21) Emergency and budget reserve fund under section 328L-
- 14 3;
- 15 (22) Probation services special fund under section 706-649;
- 16 (23) High technology special fund under section 206M-15.5;
- 17 (24) Public schools special fees and charges fund under
- 18 section 302A-1130(f);
- 19 (25) Cigarette tax stamp enforcement special fund
- 20 established by section 24-14;
- 21 (26) Cigarette tax stamp administrative special fund
- 22 established by section 245-41.5;

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- 1 (27) Tobacco enforcement special fund established by
- 2 section 28-15;
- 3 (28) Sport fish special fund under section 187A-9.5; ~~and~~
- 4 (29) Neurotrauma special fund under section 321R-4; ~~and~~
- 5 (30) Passenger facility charge revenue fund established by
- 6 section 261-\_\_\_\_\_;
- 7 shall be responsible for its pro rata share of the
- 8 administrative expenses incurred by the department responsible
- 9 for the operations supported by the special fund concerned."
- 10 SECTION 16. Section 103-8.5, Hawaii Revised Statutes, is
- 11 amended by amending subsection (a) to read as follows:
- 12 " (a) There is created a works of art special fund, into
- 13 which shall be transferred one per cent of all state fund
- 14 appropriations for capital improvements designated for the
- 15 construction cost element; provided that this transfer shall
- 16 apply only to capital improvement appropriations that are
- 17 designated for the construction or renovation of state
- 18 buildings. The one per cent transfer requirement shall not
- 19 apply to appropriations from the passenger facility charge
- 20 revenue fund established by section 261-\_\_\_\_\_."

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- 1 PART III
- 2 SECTION 17. Statutory material to be repealed is bracketed
- 3 and stricken. New statutory material is underscored.
- 4 SECTION 18. This Act shall take effect on July 1, 2003;
- 5 provided that sections 3, 4, 13, 14, 15, and 16 shall take
- 6 effect upon approval.

HB1230 CD1 HMS 2003-5812

[This portion left intentionally blank.]

Gov. Msg. No. 457, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 58, SD 1, A BILL FOR AN ACT RELATING TO-  
HD 2, CD 1 SCHOOL REPAIR AND  
MAINTENANCE. (ACT 214)

Approved by the Governor  
on JUN 26 2003

ACT 214

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S.B. NO. 58  
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THE SENATE  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII

S.B. NO. 58  
S.D. 1  
H.D. 2  
C.D. 1

A BILL FOR AN ACT

RELATING TO SCHOOL REPAIR AND MAINTENANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 2. The legislature finds that the backlog of  
 repair and maintenance projects in public schools continues to  
 be of concern and that all means of addressing the problem  
 should be explored and supported.

The twenty-first legislature, in Act 309, Session Laws of  
 Hawaii 2001, laid the foundation for Hawaii 3R's, a project of  
 the private, nonprofit organization, Helping Hands Hawaii.

The legislature finds that Hawaii 3R's has saved the State  
 money by leveraging funds with volunteerism or "sweat equity."  
 Through remarkable community support, federal funds, private  
 donations, and state grant funds, repair and maintenance  
 projects estimated to cost \$2,885,000 have been completed or are  
 in progress. Of the \$1,000,000 in state grant funds  
 appropriated for Hawaii 3R's for the biennium ending June 30,  
 2003, \$625,000 has been expended thus far by Hawaii 3R's. This  
 means that for every state dollar expended, over four and one-  
 half dollars worth of work is completed. Or, in terms of  
 savings, the State has saved over \$2,200,000 in repair and

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maintenance costs. It is also noteworthy that Hawaii 3R's has  
 statewide reach, with thirty-eight grants awarded on the islands  
 of Oahu, Maui, Molokai, Kauai, and Hawaii.

The legislature also finds that the public-private  
 partnership between the State and Hawaii 3R's is effective and  
 essential to the success of the program. Specifically, the  
 legislature finds that the coordinator position within the  
 department of accounting and general services provides Hawaii  
 3R's with expertise, support, quick response, and access to  
 state resources and information. The coordinator position also  
 adds visibility and positive coverage to the efforts of the  
 State.

The legislature acknowledges that Hawaii 3R's also has  
 built a partnership with the military's Joint Venture Education  
 Forum. This relationship benefits not only military-impacted or  
 dependent schools but all of Hawaii's public schools through  
 increased military partnerships. Through Joint Venture  
 Education Forum (i.e., federal) funding, Hawaii 3R's can provide  
 grants to over one hundred military-impacted, dependent,  
 partnered schools.

The legislature understands that it is necessary to  
 maintain the current level of state funding to reach those

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estimated one hundred fifty public schools that cannot receive  
 grants through Joint Venture Education Forum funding.

The legislature is encouraged by the level of support that  
 the community has given to Hawaii 3R's and, more importantly,  
 the public schools. Skilled and unskilled volunteer labor from  
 the military, civic clubs, churches, teachers, parents, and  
 students, combined with donations from community restaurants and  
 businesses, have made Hawaii 3R's successful. Also, trade  
 unions and associations have been lending invaluable support.

Hawaii 3R's, with the assistance of the department of accounting  
 and general services and the community, has created a truly  
 successful public-private partnership.

While Hawaii 3R's has been a project of Helping Hands  
 Hawaii, it has developed the expertise to carry out its  
 operations as an independent entity. Hawaii 3R's has applied to  
 the Internal Revenue Service for designation as a qualified  
 nonprofit organization under section 501(c)(3) of the Internal  
 Revenue Code. The receipt of qualified nonprofit status would  
 enable Hawaii 3R's to receive state, federal, and private funds  
 through grants and contributions. The Internal Revenue Service  
 is expected to make its determination regarding Hawaii 3R's  
 nonprofit status by spring 2003.

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Given the uncertainty as to when the Internal Revenue  
 Service will make its determination regarding Hawaii 3R's  
 nonprofit status, the legislature believes that to ensure the  
 continuity of services provided by Helping Hands Hawaii and  
 Hawaii 3R's, moneys must be appropriated to Helping Hands Hawaii  
 for fiscal years 2003-2004 and 2004-2005 to address school  
 repair and maintenance projects. However, upon the Internal  
 Revenue Service's determination that Hawaii 3R's is a qualified  
 nonprofit organization under section 501(c)(3) of the Internal  
 Revenue Code, the legislature directs Helping Hands Hawaii to  
 transfer to Hawaii 3R's all unencumbered and unexpended moneys  
 in the Hawaii 3R's school repair and maintenance fund. In  
 addition, all appropriations made to Helping Hands Hawaii shall  
 be transferred to Hawaii 3R's at that time. After such  
 transfers have been made, the Hawaii school repair and  
 maintenance fund shall be repealed to avoid the possibility of  
 confusion that public and private donors may have given the  
 establishment of the Hawaii 3R's school repair and maintenance  
 fund.

Accordingly, the purpose of this Act is to improve public  
 education facilities by:

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1 policies that relate to the management of a potential  
 2 situation involving a conflict of interest;  
 3 (4) Have experience with the project or in the program  
 4 area for which the proposal is being made; and  
 5 (5) Be licensed and accredited, as applicable, in  
 6 accordance with the requirements of federal, state,  
 7 and county governments.  
 8 (j) All proposals submitted to Hawaii 3R's for moneys  
 9 shall be approved by the department of accounting and general  
 10 services for consistency in meeting design and materials  
 11 standards for public schools.  
 12 (k) Organizations or agencies to which moneys are awarded  
 13 shall agree to comply with the following conditions before  
 14 receiving the award:  
 15 (1) Use persons qualified to engage in the activity to be  
 16 funded;  
 17 (2) Comply with the applicable federal, state, and county  
 18 laws; and  
 19 (3) Comply with any other requirements prescribed by  
 20 Hawaii 3R's to ensure adherence by the recipient of  
 21 the award with applicable federal, state, and county  
 22 laws and with the purposes of this section.

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1 (1) Chapter 103D shall not apply to organizations or  
 2 agencies that apply for grants or contracts under this section;  
 3 provided that Hawaii 3R's shall be held accountable for the use  
 4 of the funds under a contract with the department of accounting  
 5 and general services.  
 6 (m) Any contract awarded by Hawaii 3R's shall be made with  
 7 as much competition as is practical to execute its purposes.  
 8 (n) The fund shall be audited annually by an independent  
 9 auditor. The results of each annual audit shall be submitted to  
 10 the department of accounting and general services not later than  
 11 thirty days from the date Hawaii 3R's receives the audit  
 12 results. In addition, Hawaii 3R's shall retain for a period of  
 13 three years and permit the department of accounting and general  
 14 services, the department of education, state legislators, and  
 15 the auditor, or their duly authorized representatives, to  
 16 inspect and have access to any documents, papers, books, records  
 17 and other evidence that is pertinent to the fund.  
 18 (o) The fund shall not be placed in the state treasury,  
 19 and the State shall not administer the fund, nor shall the State  
 20 be liable for the operation or solvency of the fund or Hawaii  
 21 3R's.

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1 (p) For every dollar of state moneys granted by the fund  
 2 to the project, there shall be a minimum of \$1 in value matched  
 3 by Hawaii 3R's from private, federal, county, or community  
 4 service.  
 5 (q) The state comptroller shall submit an annual report of  
 6 the progress of the Hawaii 3R's school repair and maintenance  
 7 fund no later than twenty days prior to the convening of each  
 8 regular session of the legislature.'  
 9 SECTION 3. There is appropriated out of the general  
 10 revenues of the State of Hawaii the sum of \$148,688, or so much  
 11 thereof as may be necessary for fiscal year 2003-2004 as a grant  
 12 pursuant to chapter 42F, Hawaii Revised Statutes, to Helping  
 13 Hands Hawaii for the Hawaii school repair and maintenance fund;  
 14 provided that upon the Internal Revenue Service's determination  
 15 that Hawaii 3R's is a qualified nonprofit organization under  
 16 section 501(c)(3) of the Internal Revenue Code, Helping Hands  
 17 Hawaii shall transfer to Hawaii 3R's all appropriations made to  
 18 Helping Hands Hawaii.  
 19 The sum appropriated shall be expended by the department of  
 20 accounting and general services for the purposes of this Act.  
 21 SECTION 4. There is appropriated out of the general  
 22 revenues of the State of Hawaii the sum of ~~\$55,322~~ <sup>0</sup>, or so much

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1 thereof as may be necessary for fiscal year 2003-2004 for a  
 2 position within the department of accounting and general  
 3 services to coordinate the public and private efforts to repair  
 4 and maintain public schools; provided that the coordinator shall  
 5 serve at the pleasure of the comptroller; and provided further  
 6 that chapter 76, Hawaii Revised Statutes, shall not apply to any  
 7 action taken by the comptroller pursuant to this Act.  
 8 The sum appropriated shall be expended by the department of  
 9 accounting and general services for the purposes of this  
 10 section.  
 11 SECTION 5. Upon the Internal Revenue Service's  
 12 determination that Hawaii 3R's is a qualified nonprofit  
 13 organization under section 501(c)(3) of the Internal Revenue  
 14 Code, Act 309, Session Laws of Hawaii 2001, is amended by  
 15 repealing section 3.  
 16 [~~SECTION 3. Hawaii school repair and maintenance fund.~~  
 17 ~~(a) There is established the Hawaii school repair and~~  
 18 ~~maintenance fund (hereinafter "fund") as a separate fund of~~  
 19 ~~Helping Hands Hawaii, a Hawaii nonprofit organization. Moneys~~  
 20 ~~received from the state, county, or federal government, private~~  
 21 ~~contributions of cash or other property, and the income and~~  
 22 ~~capital gains earned by the fund shall constitute its assets.~~

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1 (b) Helping Hands Hawaii shall expend moneys in the form  
2 of either grants to organizations or contracts with private  
3 vendors from the fund for the repairs and maintenance of public  
4 schools in Hawaii in accordance with this section.

5 (c) The fund may receive contributions, grants,  
6 endowments, or gifts in cash or otherwise from all sources,  
7 including corporations or other businesses, foundations,  
8 government, individuals, and other interested parties. The  
9 legislature intends that the public and private sectors work  
10 together as partners in securing contributions for the fund, and  
11 that Helping Hands Hawaii, through its project, Hawaii DR-G,  
12 assist the public and private sectors in reviewing and  
13 investigating all potential funding sources. The State may  
14 appropriate moneys to the fund, provided that any appropriations  
15 made by the State are not intended to supplant the funding of  
16 any existing public school repair and maintenance programs,  
17 including school-level minor repairs and maintenance accounts  
18 established under section 302A-1504, Hawaii Revised Statutes.

19 (d) Helping Hands Hawaii shall appoint the members of the  
20 Hawaii school maintenance and repair advisory board, which shall  
21 be responsible for:

- 22 (1) Soliciting and otherwise raising funds for the fund;

1 (4) Any organization submitting a proposal to Helping  
2 Hands Hawaii for fund moneys shall meet all of the following  
3 standards at the time of application:

4 (1) Be a for-profit organization duly registered under the  
5 laws of the State, or be a nonprofit organization  
6 determined by the Internal Revenue Service to be  
7 exempt from the federal income tax, or be an agency of  
8 the State or a county;

9 (2) In the case of a nonprofit organization, have a  
10 governing board whose members have no material  
11 conflict of interest and serve without compensation;

12 (3) In the case of an applicant that is not a state or  
13 county government agency, have bylaws or policies that  
14 describe the manner in which business is conducted and  
15 policies that relate to the management of potential  
16 conflict of interest situations;

17 (4) Have experience with the project or in the program  
18 area for which the proposal is being made; and

19 (5) Be licensed and accredited, an applicable, in  
20 accordance with the requirements of federal, state,  
21 and county governments.

- 1 (2) Establishing criteria for the expenditure of funds;
- 2 (3) Reviewing grant proposals utilizing criteria
- 3 established by Helping Hands Hawaii; and
- 4 (4) Making recommendations for grants and other specific
- 5 expenditures.

6 Members of the advisory board shall be stakeholders in Hawaii's  
7 public educational system, including students, parents, alumni,  
8 principals, community and business leaders, and representatives  
9 from the department of education and the department of  
10 accounting and general services, who shall be represented on the  
11 advisory board.

12 (c) The aggregate principal sum deposited in the fund, and  
13 any income and capital gains earned by the fund but not expended  
14 for administration, shall be invested in accordance with the  
15 provisions of Helping Hands Hawaii in a manner intended to  
16 maximize the rate of return on investment of the fund.

17 (f) There may be an endowment component of the funds

18 (g) The use of any state moneys may be restricted by the  
19 legislation appropriating these moneys to the fund.

20 (h) Helping Hands Hawaii is authorized to expend the  
21 principal from the fund for the purposes of the fund.

1 (j) All proposals submitted to Helping Hands Hawaii for  
2 fund moneys shall be approved by the department of accounting  
3 and general services for consistency in meeting design and  
4 materials standards for public schools.

5 (k) Organizations or agencies to which fund moneys are  
6 awarded shall agree to comply with the following conditions  
7 before receiving the award:

8 (1) Employ or have under contract persons qualified to  
9 engage in the activity to be funded;

10 (2) Comply with applicable federal, state, and county  
11 laws; and

12 (3) Comply with any other requirements prescribed by  
13 Helping Hands Hawaii to ensure adherence by the  
14 recipient of the award with applicable federal, state,  
15 and county law and with the purposes of this section.

16 (l) Chapter 102D, Hawaii Revised Statutes, shall not apply  
17 to organizations or agencies that apply for grants or contracts  
18 under this section; provided that Helping Hands Hawaii shall be  
19 held accountable for the use of the funds under a contract with  
20 the department of accounting and general services.

1 ~~(m) Any contracts awarded by Helping Hands Hawaii shall be~~  
2 ~~made under no such competition as is practical to execute its~~  
3 ~~purposes.~~  
4 ~~(n) The fund shall be audited annually by an independent~~  
5 ~~auditor. The results of each annual audit shall be submitted to~~  
6 ~~the department of accounting and general services not later than~~  
7 ~~thirty days from the date Helping Hands Hawaii receives the~~  
8 ~~audit results. In addition, Helping Hands Hawaii shall retain~~  
9 ~~for a period of three years and permit the department of~~  
10 ~~accounting and general services, the department of education,~~  
11 ~~state legislators, and the auditor, or their duly authorized~~  
12 ~~representatives, to inspect and have access to any documents,~~  
13 ~~papers, books, records, and other evidence that is pertinent to~~  
14 ~~the fund.~~  
15 ~~(o) The fund shall not be placed in the state treasury,~~  
16 ~~and the State shall not administer the fund, nor shall the State~~  
17 ~~be liable for the operation or solvency of the fund, Helping~~  
18 ~~Hands Hawaii, or Hawaii 3R's.~~  
19 ~~(p) For every dollar of state moneys granted by the fund~~  
20 ~~to the project, there shall be a minimum of \$1 in value received~~  
21 ~~by Helping Hands Hawaii from private, federal, county, or~~  
22 ~~community sources."~~

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1 SECTION 6. Upon the Internal Revenue Service's  
2 determination that Hawaii 3R's is a nonprofit organization under  
3 section 501(c)(3) of the Internal Revenue Code, Helping Hands  
4 Hawaii shall transfer to Hawaii 3R's:  
5 (1) All unencumbered and unexpended moneys in the Hawaii  
6 school repair and maintenance fund to the Hawaii 3R's  
7 school repair and maintenance fund; and  
8 (2) All appropriations, records, equipment, machines,  
9 files, supplies, contracts, books, papers, documents,  
10 and other personal property made, used, developed,  
11 acquired, or held by Helping Hands Hawaii, through its  
12 project, Hawaii 3R's.  
13 SECTION 7. Upon request of the comptroller, Helping Hands  
14 Hawaii shall submit a report to the comptroller, in the form  
15 prescribed by the comptroller, accounting for the receipts and  
16 disbursements of the Hawaii school repair and maintenance fund  
17 and any other information that the comptroller may require.  
18 SECTION 8. After the repeal of the Hawaii school repair  
19 and maintenance fund, Helping Hands Hawaii shall submit the  
20 results of the annual audit of the Hawaii school repair and  
21 maintenance fund to the department of accounting and general  
22 services not later than thirty days from the date that Helping

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1 Hands Hawaii receives the audit results. Helping Hands Hawaii  
2 shall permit the department of accounting and general services,  
3 the department of education, state legislators, and the auditor,  
4 or their duly authorized representatives, to inspect and have  
5 access to any documents, papers, books, records, and other  
6 evidence that is pertinent to the Hawaii school repair and  
7 maintenance fund.  
8 SECTION 9. If any provision of this Act, or the  
9 application thereof to any person or circumstance is held  
10 invalid, the invalidity does not affect other provisions or  
11 applications of the Act which can be given effect without the  
12 invalid provision or application, and to this end the provisions  
13 of this Act are severable.  
14 SECTION 10. It is the intent of this Act not to jeopardize  
15 the receipt of any federal aid nor to impair the obligation of  
16 the State or any agency thereof to the holders of any bond  
17 issued by the State or by any such agency, and to the extent,  
18 and only to the extent, necessary to effectuate this intent, the  
19 governor may modify the strict provisions of this Act, but shall  
20 promptly report any such modification with reasons therefore to  
21 the legislature at its next session thereafter for review by the  
22 legislature.

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1 SECTION 11. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3 SECTION 12. This Act shall take effect on July 1, 2003.

[This portion left intentionally blank.]

Gov. Msg. No. 458, informing the House that on June 26, 2003, the following bill was signed into law:

S.B. 1305, SD A BILL FOR AN ACT RELATING TO  
1, HD 1, CD 1 STATE FUNDS. (ACT 215)

Approved by the Governor  
ON JUN 26 2003

ACT 215

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THE SENATE  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII

S.B. NO. 1305  
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H.D. 1  
C.D. 1

S.B. NO. 1305  
S.D. 1  
H.D. 1  
C.D. 1

A BILL FOR AN ACT

RELATING TO STATE FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds that expenditures from the emergency and budget reserve fund established by section 328L-3, Hawaii Revised Statutes, are needed to meet the emergency economic situation currently facing the State. The legislature determines that the moneys are urgently needed to maintain levels of programs that are essential to the public health, safety, and welfare. The legislature further finds that the grants and subsidies under this Act are in the public interest and serve the public health, safety, and welfare.

PART II

SECTION 2. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$90,000, or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Hale Mahaolu for the personal care program for

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1 The sum appropriated shall be expended by the department of 2 human services for the purposes of this Act.

SECTION 5. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$100,000~~<sup>0</sup>, or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to the Hawaii Youth Services Network for its Transitional Living Program for Unserved Street Youth.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 6. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for substance abuse services for youth and adolescents, including, but not limited to, preventive services, school education programs, counseling, evaluation, treatment, therapy, family services, case management, recovery services, and substance abuse treatment services, and the coordination of such services.

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1 disabled or chronically ill frail adults and elders residing in 2 Maui county.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 3. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~<sup>0</sup>, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, to provide treatment services for child victims of intrafamilial sexual abuse, including psychological treatment and case management services for child victims and their families who are not covered under the child protective services system of the department of human services.

The sum appropriated shall be expended by the judiciary via the children's justice center for the purposes of this Act.

SECTION 4. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$150,000~~<sup>0</sup>, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for forensic medical examinations of children in foster custody placements.

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1 The sum appropriated shall be expended by the department of 2 health, alcohol and drug abuse division, for the purposes of 3 this Act.

SECTION 7. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 2003-2004, for the residential alternative community care program.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 8. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 2003-2004, for the chore services program.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 9. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$150,000~~<sup>0</sup>, or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for the bridge to hope program, including one position for outreach; provided that if federal funds are made available

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1 to fund any portion of bridge to hope Temporary Assistance to  
2 Needy Families program participant costs, then the sum  
3 appropriated by this section shall be reduced by the amount of  
4 federal funds received, and the state funds that were replaced  
5 by federal funds shall lapse to the emergency and budget reserve  
6 fund.

7 The sum appropriated shall be expended by the University of  
8 Hawaii for the purposes of this Act.

9 SECTION 10. There is appropriated out of the emergency and  
10 budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~<sup>220</sup>  
11 or so much thereof as may be necessary for fiscal year  
12 2003-2004, as a grant, pursuant to chapter 42F, Hawaii Revised  
13 Statutes, to Volunteer Legal Services Hawaii for its Na Keiki  
14 Law Center project focusing on protecting the legal rights of  
15 children.

16 The sum appropriated shall be expended by the office of  
17 community services, department of labor and industrial relations  
18 for the purposes of this Act.

19 SECTION 11. There is appropriated out of the emergency and  
20 budget reserve fund of the State of Hawaii the sum of ~~\$100,000~~<sup>220</sup> \$50,000  
21 or so much thereof as may be necessary for fiscal year  
22 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised

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1 Statutes, to fund the continuation of the Kaneohe Community  
2 Family Center's core services, particularly for families that  
3 are low income, unemployed, or underemployed and families of  
4 at-risk youths. Core services include information and referral,  
5 support and self-help, parenting education, family  
6 strengthening, job readiness and career development, and  
7 community leadership.

8 The sum appropriated shall be expended by the department of  
9 human services for the purposes of this Act.

10 SECTION 12. There is appropriated out of the emergency and  
11 budget reserve fund of the State of Hawaii the sum of ~~\$100,000~~<sup>220</sup> \$50,000  
12 or so much thereof as may be necessary for fiscal year

13 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
14 Statutes, to fund the continuation of the Kuhio Park Terrace  
15 Family Center's core services to low income individuals and  
16 families residing in Kuhio Park Terrace and Kuhio Homes. Core  
17 services include:

- 18 (1) Family strengthening activities such as linking  
19 families to supportive services, offering parenting  
20 classes and parent/child activities, and providing  
21 emergency rental assistance;

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- 1 (2) Education and life skills support, such as computer  
2 and literacy classes and training of volunteers;
- 3 (3) Pre-employment activities; and
- 4 (4) Community improvement through community celebrations.

5 The sum appropriated shall be expended by the department of  
6 human services for the purposes of this Act.

7 SECTION 13. There is appropriated out of the emergency and  
8 budget reserve fund of the State of Hawaii the sum of ~~\$300,000~~<sup>220</sup>  
9 or so much thereof as may be necessary for fiscal year  
10 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
11 Statutes, for the operation of the Waipahu Community Adult Day  
12 Health Center and Youth Day Care Center pilot project.

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

15 SECTION 14. There is appropriated out of the emergency and  
16 budget reserve fund of the State of Hawaii the sum of ~~\$150,000~~<sup>220</sup>  
17 or so much thereof as may be necessary for fiscal year

18 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
19 Statutes, for the Domestic Violence Clearinghouse and Legal  
20 Hotline for Maui program services.

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1 The sum appropriated shall be expended by the judiciary,  
2 circuit court of the second circuit, for the purposes of this  
3 Act.

4 SECTION 15. There is appropriated out of the emergency and  
5 budget reserve fund of the State of Hawaii the sum of \$421,000  
6 or so much thereof as may be necessary for fiscal year

7 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
8 Statutes, to the Blueprint for Change for the delivery of  
9 diversion services and child protective services to target  
10 families, including the establishment of additional sites for  
11 neighborhood places.

12 The sum appropriated shall be expended by the department of  
13 human services for the purposes of this Act.

14 SECTION 16. There is appropriated out of the emergency and  
15 budget reserve fund the sum of \$150,000 or so much thereof as  
16 may be necessary for fiscal year 2003-2004, pursuant to chapter  
17 103F, Hawaii Revised Statutes, for costs related to homeless  
18 assistance.

19 The sum appropriated shall be expended by the housing and  
20 community development corporation of Hawaii for the purposes of  
21 this Act.

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SECTION 17. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$500,000~~ 0 or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for existing Kalihi area youth service centers; provided that moneys not required by existing Kalihi area youth service centers may be used for other youth service centers in the State.

The sum appropriated shall be expended by the office of youth services for the purposes of this Act.

PART III

SECTION 18. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$750,000~~ \$700,000 or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to Molokai General Hospital.

SECTION 19. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$50,000~~ 0 or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Molokai General Hospital for Lanalana Ka 'Ili Community Health Services programs and general operating costs.

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SECTION 20. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$750,000~~ \$350,000 or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to Kahuku hospital to fund the costs of emergency room operations, inpatient and outpatient care for the underinsured, medical malpractice insurance, and labor.

SECTION 21. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$750,000~~ \$675,000 or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the Waianae Coast Comprehensive Health and Hospital Board, Inc. to fund its operations and programs.

SECTION 22. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$500,000~~ \$250,000 or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, for Wahiawa General Hospital to provide indigent care services.

SECTION 23. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$50,000~~ 0 or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the

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St. Francis Medical Center for the operations of the bone marrow registry.

SECTION 24. There is appropriated out of the emergency and budget reserve fund the sum of \$200,000, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, to enable the department of health to operate a hospital-based poison center twenty-four hours a day.

SECTION 25. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$75,000~~ 0 or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to the Maui AIDS Foundation for the case management program.

SECTION 26. There is appropriated out of the emergency and budget reserve fund the sum of \$700,000, or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the Hana Community Health Clinic for its operations and care services for uninsured patients.

SECTION 27. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$7,450,000~~ \$1,300,000 or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter

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103F, Hawaii Revised Statutes, to the department of health to provide resources to nonprofit, community-based health-care providers to care for the uninsured. This appropriation shall pay for providing direct care, which includes primary medical, dental, and mental health care, and may pay for the purchase of prescription drugs. The department of health may distribute moneys on a per-visit basis, taking into consideration need on all islands.

SECTION 28. There is appropriated out of the emergency and budget reserve fund the sum of ~~\$500,000~~ \$100,000 or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, for the Kapiolani Medical Center for Women and Children Sex Abuse Treatment Center master contract.

SECTION 29. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for the establishment of an adolescent treatment center to treat poly-drug abuse on the island of Hawaii.

SECTION 30. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$100,000

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1 or so much thereof as may be necessary for fiscal year  
2 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes,  
3 for community anti-drug efforts aimed at preventing crystal  
4 methamphetamine use on the island of Hawaii.

5 SECTION 31. There is appropriated out of the emergency and  
6 budget reserve fund the sum of ~~4450,000~~ <sup>0</sup> or so much thereof as  
7 may be necessary for fiscal year 2003-2004, pursuant to chapter  
8 103F, Hawaii Revised Statutes, for the department of health to  
9 contract with primary health care centers for comprehensive oral  
10 health services to underserved children.

11 SECTION 32. The sums appropriated in this part shall be  
12 expended by the department of health for their respective  
13 purposes; provided that the sums appropriated in sections 29 and  
14 30 shall be expended by the county of Hawaii.

PART IV

15 SECTION 33. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$200,000, or so much  
17 thereof as may be necessary for fiscal year 2003-2004, to  
18 develop a plan to implement the Hawaii Rx program to carry out  
19 the purposes of chapter 346, part XIII, Hawaii Revised Statutes.

20 The sum shall be expended by the department of human  
21 services; provided that the department shall provide a quarterly

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1 progress report on the plan development to the legislature; and  
2 provided further that the department shall provide a progress  
3 report to the legislature no later than twenty days prior to the  
4 convening of the 2004 regular session.

PART V

5 SECTION 34. This Act shall take effect on July 1, 2003.  
6

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Gov. Msg. No. 459, informing the House that on July 1, 2003, the following bill was signed into law:

S.B. 1134, SD 1, HD 1, CD 1 A BILL FOR AN ACT RELATING TO COURT COSTS. (ACT 216)

Gov. Msg. No. 460, informing the House that on July 2, 2003, the following bill was signed into law:

S.B. 1156, HD 2 A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS. (ACT 217)

Gov. Msg. No. 461, informing the House that on July 2, 2003, the following bill was signed into law:

S.B. 254, SD 2, HD 1, CD 1 A BILL FOR AN ACT RELATING TO AGRICULTURE. (ACT 218)

Gov. Msg. No. 462, informing the House that on July 2, 2003, the following bill was signed into law:

S.B. 773, HD 2 A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE. (ACT 219)

Gov. Msg. No. 463, informing the House that on July 2, 2003, the following bill was signed into law:

S.B. 1326, SD 1, HD 1 A BILL FOR AN ACT RELATING TO EDUCATION. (ACT 220)

Gov. Msg. No. 464, informing the House that on July 2, 2003, the following bill was signed into law:

H.B. 857, SD 2 A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES. (ACT 221)

Gov. Msg. No. 465, informing the House that after considerable study and reflection, she has decided to permit the following measure to become law on July 2, 2003, without her signature, pursuant to Section 16 of Article III of the State Constitution:

H.B. 595, HD 1, SD 1, CD 1 A BILL FOR AN ACT RELATING TO CHECK CASHING. (ACT 222)

Gov. Msg. No. 466, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith the following bills with specific appropriation items stricken or reduced and my official statements of objections to those specific appropriation items contained in the bills:

S.B. No. 58, A BILL FOR AN ACT RELATING TO SCHOOL REPAIR AND MAINTENANCE

S.B. No. 1305, A BILL FOR AN ACT RELATING TO STATE FUNDS

S.B. No. 1230, A BILL FOR AN ACT RELATING TO TRANSPORTATION

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 58

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 58, entitled "A Bill for an Act Relating to School Repair and Maintenance."

The purpose of this bill is to appropriate moneys for fiscal year 2003-2004 to support Hawaii 3R's, a Hawaii nonprofit organization, in its program to assist in the public and private efforts to repair and maintain Hawaii's public schools.

I strongly support the efforts and accomplishments of Hawaii 3R's and intend to approve the general fund appropriation in this bill of \$148,688 for fiscal year 2003-2004 as a grant for Hawaii 3R's. Given the State's critical fiscal condition, this amount represents a significant commitment by the State to Hawaii 3R's and reflects our belief in the effectiveness of our partnership to improve Hawaii's public schools.

However, I object to the \$51,312 general fund appropriation for fiscal year 2003-2004 to pay for a position in the Department of Accounting and General Services to coordinate the public and private efforts to repair and maintain public schools, designated in section 4 on pages 11-12 of the bill. I believe that we can assist Hawaii 3R's in a fiscally prudent manner by using existing resources to provide the needed coordination services.

Section 16 of Article III of the State Constitution provides that, "[e]xcept for items appropriated to be expended by the judicial and legislative branches, the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same." Because of the foregoing objection, pursuant to my line item veto authority, I have reduced the \$51,312 general fund appropriation for fiscal year 2003-2004 to pay for a position in the Department of Accounting and General Services to coordinate the public and private efforts to repair and maintain public schools (on pages 11-12) and changed it to \$0.

For the foregoing reason, I am returning Senate Bill No. 58 with the reduction set forth above totaling \$51,312 in general fund appropriations for fiscal year 2003-2004.

Respectfully,  
/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"



THE SENATE  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII

S.B. NO. 58  
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A BILL FOR AN ACT

RELATING TO SCHOOL REPAIR AND MAINTENANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the backlog of  
2 repair and maintenance projects in public schools continues to  
3 be of concern and that all means of addressing the problem  
4 should be explored and supported.

5 The twenty-first legislature, in Act 309, Session Laws of  
6 Hawaii 2001, laid the foundation for Hawaii 3R's, a project of  
7 the private, nonprofit organization, Helping Hands Hawaii.

8 The legislature finds that Hawaii 3R's has saved the State  
9 money by leveraging funds with volunteerism or "sweat equity."  
10 Through remarkable community support, federal funds, private  
11 donations, and state grant funds, repair and maintenance  
12 projects estimated to cost \$2,885,000 have been completed or are  
13 in progress. Of the \$1,000,000 in state grant funds  
14 appropriated for Hawaii 3R's for the biennium ending June 30,  
15 2001, \$621,000 has been expended thus far by Hawaii 3R's. This  
16 means that for every state dollar expended, over four and one-  
17 half dollars worth of work is completed. Or, in terms of  
18 savings, the State has saved over \$2,200,000 in repair and

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1 maintenance costs. It is also noteworthy that Hawaii 3R's has  
2 statewide reach, with thirty-eight grants awarded on the islands  
3 of Oahu, Maui, Molokai, Kauai, and Hawaii.

4 The legislature also finds that the public-private  
5 partnership between the State and Hawaii 3R's is effective and  
6 essential to the success of the program. Specifically, the  
7 legislature finds that the coordinator position within the  
8 department of accounting and general services provides Hawaii  
9 3R's with expertise, support, quick response, and access to  
10 state resources and information. The coordinator position also  
11 adds visibility and positive coverage to the efforts of the  
12 State.

13 The legislature acknowledges that Hawaii 3R's also has  
14 built a partnership with the military's Joint Venture Education  
15 Forum. This relationship benefits not only military-impacted or  
16 dependent schools but all of Hawaii's public schools through  
17 increased military partnerships. Through Joint Venture  
18 Education Forum (i.e., federal) funding, Hawaii 3R's can provide  
19 grants to over one hundred military-impacted, dependent,  
20 partnered schools.

21 The legislature understands that it is necessary to  
22 maintain the current level of state funding to reach those

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1 estimated one hundred fifty public schools that cannot receive  
2 grants through Joint Venture Education Forum funding.

3 The legislature is encouraged by the level of support that  
4 the community has given to Hawaii 3R's and, more importantly,  
5 the public schools. Skilled and unskilled volunteer labor from  
6 the military, civic clubs, churches, teachers, parents, and  
7 students, combined with donations from community restaurants and  
8 businesses, have made Hawaii 3R's successful. Also, trade  
9 unions and associations have been lending invaluable support.  
10 Hawaii 3R's, with the assistance of the department of accounting  
11 and general services and the community, has created a truly  
12 successful public-private partnership.

13 While Hawaii 3R's has been a project of Helping Hands  
14 Hawaii, it has developed the expertise to carry out its  
15 operations as an independent entity. Hawaii 3R's has applied to  
16 the Internal Revenue Service for designation as a qualified  
17 nonprofit organization under section 501(c)(3) of the Internal  
18 Revenue Code. The receipt of qualified nonprofit status would  
19 enable Hawaii 3R's to receive state, federal, and private funds  
20 through grants and contributions. The Internal Revenue Service  
21 is expected to make its determination regarding Hawaii 3R's  
22 nonprofit status by spring 2003.

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1 Given the uncertainty as to when the Internal Revenue  
2 Service will make its determination regarding Hawaii 3R's  
3 nonprofit status, the legislature believes that to ensure the  
4 continuity of services provided by Helping Hands Hawaii and  
5 Hawaii 3R's, moneys must be appropriated to Helping Hands Hawaii  
6 for fiscal years 2003-2004 and 2004-2005 to address school  
7 repair and maintenance projects. However, upon the Internal  
8 Revenue Service's determination that Hawaii 3R's is a qualified  
9 nonprofit organization under section 501(c)(3) of the Internal  
10 Revenue Code, the legislature directs Helping Hands Hawaii to  
11 transfer to Hawaii 3R's all unencumbered and unexpended moneys  
12 in the Hawaii 3R's school repair and maintenance fund. In  
13 addition, all appropriations made to Helping Hands Hawaii shall  
14 be transferred to Hawaii 3R's at that time. After such  
15 transfers have been made, the Hawaii school repair and  
16 maintenance fund shall be repealed to avoid the possibility of  
17 confusion that public and private donors may have given the  
18 establishment of the Hawaii 3R's school repair and maintenance  
19 fund.

20 Accordingly, the purpose of this Act is to improve public  
21 education facilities by:

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- 1 (1) Establishing the Hawaii 3R's school repair and
- 2 maintenance fund;
- 3 (2) Appropriating state funds to Helping Hands Hawaii; and
- 4 (3) Providing a position and funds for the department of
- 5 accounting and general services to coordinate public
- 6 and private efforts to repair and maintain public
- 7 schools.

8 Also, upon the determination that Hawaii 3R's is a qualified  
9 nonprofit organization, all moneys, appropriations, books,  
10 records, and property of Helping Hands Hawaii relating to its  
11 project, Hawaii 3R's, shall be transferred to Hawaii 3R's.

12 After the transfer of moneys to Hawaii 3R's, the Hawaii school  
13 repair and maintenance fund shall be repealed. The legislature  
14 finds that these actions further the public-private efforts to  
15 repair and maintain Hawaii's public schools.

16 Finally, the legislature finds that appropriating public  
17 funds to Helping Hands Hawaii and Hawaii 3R's serves the public  
18 purpose of expediting the repair and maintenance of Hawaii's  
19 public schools.

20 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
21 amended by adding a new section to be appropriately designated  
22 and to read as follows:

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1 ~~"302A-~~ Hawaii 3R's school repair and maintenance  
2 fund. (a) There is established the Hawaii 3R's school repair  
3 and maintenance fund (hereinafter, "fund") as a separate fund of  
4 Hawaii 3R's, a Hawaii nonprofit organization. Moneys received  
5 from the state, county, or federal government, private  
6 contributions of cash or other property, and the income and  
7 capital gains earned by the fund shall constitute its assets.

8 (b) Hawaii 3R's shall expend moneys from the fund in the  
9 form of either grants to organizations or contracts with private  
10 vendors for the repair and maintenance of public schools in  
11 Hawaii in accordance with this section.

12 (c) The fund may receive contributions, grants,  
13 endowments, or gifts in cash or otherwise from all sources,  
14 including corporations or other businesses, foundations,  
15 government, individuals, and other interested parties. The  
16 legislature intends that public and private sectors review and  
17 investigate all potential funding sources. The State may  
18 appropriate moneys to the fund; provided that any appropriations  
19 made by the State are not intended to supplant the funding of  
20 any existing school-level minor repairs and maintenance  
21 programs, including school-level minor repairs and maintenance  
22 accounts established under section 302A-1506.

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1 (d) Hawaii 3R's shall appoint the members of the Hawaii  
2 3R's school maintenance and repair advisory board, which shall  
3 be responsible for:

- 4 (1) Soliciting and otherwise raising funds for the fund;
- 5 (2) Establishing criteria for the expenditure of funds;
- 6 (3) Reviewing grant proposals using criteria established  
7 by Hawaii 3R's; and
- 8 (4) Making recommendations for grants and other specific  
9 expenditures.

10 Members of the advisory board shall be stakeholders in Hawaii's  
11 public educational system, including students, parents, alumni,  
12 principals, community and business leaders, and representatives  
13 from the department of education and the department of  
14 accounting and general services, who shall be represented on the  
15 advisory board.

16 (e) In managing the moneys in the fund, Hawaii 3R's shall  
17 exercise ordinary business care and prudence given the facts and  
18 circumstances prevailing at the time of action or decision. In  
19 doing so, Hawaii 3R's shall consider its long- and short-term  
20 needs in carrying out its purposes, its present and anticipated  
21 financial requirements, expected total return on its  
22 investments, price trends, and general economic conditions.

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1 (f) There may be an endowment component of the fund, and  
2 Hawaii 3R's may accumulate net income and add the same to the  
3 principal.

4 (g) The use of any state moneys may be restricted by the  
5 legislation appropriating these moneys to the fund.

6 (h) Hawaii 3R's may expend principal from the fund for the  
7 purposes of the fund.

8 (i) Any organization submitting a proposal to Hawaii 3R's  
9 for moneys shall meet the following standards at the time of  
10 application:

11 (1) Be a for-profit organization duly registered under the  
12 laws of the State, or be a nonprofit organization  
13 determined by the Internal Revenue Service to be  
14 exempt from the federal income tax, or be an agency of  
15 the State or a county;

16 (2) In the case of a nonprofit organization, have a  
17 governing board whose members have no material  
18 conflict of interest and serve without compensation;

19 (3) In the case of an applicant that is not a state or  
20 county government agency, have bylaws or policies that  
21 describe the manner in which business is conducted and

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1 policies that relate to the management of a potential  
 2 situation involving a conflict of interest;  
 3 (4) Have experience with the project or in the program  
 4 areas for which the proposal is being made; and  
 5 (5) Be licensed and accredited, as applicable, in  
 6 accordance with the requirements of federal, state,  
 7 and county governments.  
 8 (j) All proposals submitted to Hawaii 3R's for moneys  
 9 shall be approved by the department of accounting and general  
 10 services for consistency in meeting design and materials  
 11 standards for public schools.  
 12 (k) Organizations or agencies to which moneys are awarded  
 13 shall agree to comply with the following conditions before  
 14 receiving the award:  
 15 (1) Use persons qualified to engage in the activity to be  
 16 funded;  
 17 (2) Comply with the applicable federal, state, and county  
 18 laws; and  
 19 (3) Comply with any other requirements prescribed by  
 20 Hawaii 3R's to ensure adherence by the recipient of  
 21 the award with applicable federal, state, and county  
 22 laws and with the purposes of this section.

1 (l) Chapter 103D shall not apply to organizations or  
 2 agencies that apply for grants or contracts under this section;  
 3 provided that Hawaii 3R's shall be held accountable for the use  
 4 of the funds under a contract with the department of accounting  
 5 and general services.  
 6 (m) Any contract awarded by Hawaii 3R's shall be made with  
 7 as much competition as is practical to execute its purposes.  
 8 (n) The fund shall be audited annually by an independent  
 9 auditor. The results of each annual audit shall be submitted to  
 10 the department of accounting and general services not later than  
 11 thirty days from the date Hawaii 3R's receives the audit  
 12 results. In addition, Hawaii 3R's shall retain for a period of  
 13 three years and permit the department of accounting and general  
 14 services, the department of education, state legislators, and  
 15 the auditor, or their duly authorized representatives, to  
 16 inspect and have access to any documents, papers, books, records  
 17 and other evidence that is pertinent to the fund.  
 18 (o) The fund shall not be placed in the state treasury,  
 19 and the State shall not administer the fund, nor shall the State  
 20 be liable for the operation or solvency of the fund or Hawaii  
 21 3R's.

1 (p) For every dollar of state moneys granted by the fund  
 2 to the project, there shall be a minimum of \$1 in value matched  
 3 by Hawaii 3R's from private, federal, county, or community  
 4 service.  
 5 (q) The state comptroller shall submit an annual report of  
 6 the progress of the Hawaii 3R's school repair and maintenance  
 7 fund no later than twenty days prior to the convening of each  
 8 regular session of the legislature."  
 9 SECTION 3. There is appropriated out of the general  
 10 revenues of the State of Hawaii the sum of \$148,688, or so much  
 11 thereof as may be necessary for fiscal year 2003-2004 as a grant  
 12 pursuant to chapter 42F, Hawaii Revised Statutes, to Helping  
 13 Hands Hawaii for the Hawaii school repair and maintenance fund;  
 14 provided that upon the Internal Revenue Service's determination  
 15 that Hawaii 3R's is a qualified nonprofit organization under  
 16 section 501(c)(3) of the Internal Revenue Code, Helping Hands  
 17 Hawaii shall transfer to Hawaii 3R's all appropriations made to  
 18 Helping Hands Hawaii.  
 19 The sum appropriated shall be expended by the department of  
 20 accounting and general services for the purposes of this Act.  
 21 SECTION 4. There is appropriated out of the general  
 22 revenues of the State of Hawaii the sum of ~~\$51,000~~ <sup>0</sup> or so much  
 ZZ

1 thereof as may be necessary for fiscal year 2003-2004 for a  
 2 position within the department of accounting and general  
 3 services to coordinate the public and private efforts to repair  
 4 and maintain public schools; provided that the coordinator shall  
 5 serve at the pleasure of the comptroller; and provided further  
 6 that chapter 76, Hawaii Revised Statutes, shall not apply to any  
 7 action taken by the comptroller pursuant to this Act.  
 8 The sum appropriated shall be expended by the department of  
 9 accounting and general services for the purposes of this  
 10 section.  
 11 SECTION 5. Upon the Internal Revenue Service's  
 12 determination that Hawaii 3R's is a qualified nonprofit  
 13 organization under section 501(c)(3) of the Internal Revenue  
 14 Code, Act 309, Session Laws of Hawaii 2001, is amended by  
 15 repealing section 3.  
 16 ~~SECTION 3. Hawaii school repair and maintenance fund.~~  
 17 ~~(a) There is established the Hawaii school repair and~~  
 18 ~~maintenance fund (hereinafter, "fund") as a separate fund of~~  
 19 ~~Helping Hands Hawaii, a Hawaii nonprofit organization. Moneys~~  
 20 ~~received from the state, county, or federal government, private~~  
 21 ~~contributions of each or other property, and the income and~~  
 22 ~~capital gains earned by the fund shall constitute its assets.~~

1 (b) Helping Hands Hawaii shall expend moneys in the form  
 2 of either grants to organizations or contracts with private  
 3 vendors from the fund for the repair and maintenance of public  
 4 schools in Hawaii in accordance with this section.  
 5 (c) The fund may receive contributions, grants,  
 6 endowments, or gifts in cash or otherwise from all sources,  
 7 including corporations or other businesses, foundations,  
 8 government, individuals, and other interested parties. The  
 9 legislature intends that the public and private sectors work  
 10 together as partners in securing contributions for the fund, and  
 11 that Helping Hands Hawaii, through its project, Hawaii 2010,  
 12 assist the public and private sectors in reviewing and  
 13 investigating all potential funding sources. The State may  
 14 appropriate moneys to the fund, provided that any appropriations  
 15 made by the State are not intended to supplant the funding of  
 16 any existing public school repair and maintenance program,  
 17 including school level minor repairs and maintenance accounts  
 18 established under section 202A-1504, Hawaii Revised Statutes.  
 19 (d) Helping Hands Hawaii shall appoint the members of the  
 20 Hawaii school maintenance and repair advisory board, which shall  
 21 be responsible for:  
 22 (1) Collecting and otherwise raising funds for the fund;

1 (1) Any organization submitting a proposal to Helping  
 2 Hands Hawaii for fund moneys shall meet all of the following  
 3 standards at the time of application:  
 4 (1) Be a for-profit organization duly registered under the  
 5 laws of the State, or be a nonprofit organization  
 6 determined by the Internal Revenue Service to be  
 7 exempt from the federal income tax, or be an agency of  
 8 the State or a county.  
 9 (2) In the case of a nonprofit organization, have a  
 10 governing board whose members have no material  
 11 conflict of interest and serve without compensation.  
 12 (3) In the case of an applicant that is not a state or  
 13 county government agency, have bylaws or policies that  
 14 describe the manner in which business is conducted and  
 15 policies that relate to the management of potential  
 16 conflict of interest situations.  
 17 (4) Have experience with the project or in the program  
 18 area for which the proposal is being made, and  
 19 (5) Be licensed and accredited, as applicable, in  
 20 accordance with the requirements of federal, state,  
 21 and county governments.

1 (3) Establishing criteria for the expenditure of funds;  
 2 (3) Reviewing grant proposals utilizing criteria  
 3 established by Helping Hands Hawaii; and  
 4 (4) Making recommendations for grants and other specific  
 5 expenditures.  
 6 Members of the advisory board shall be stakeholders in Hawaii's  
 7 public educational system, including students, parents, alumni,  
 8 principals, community and business leaders, and representatives  
 9 from the department of education and the department of  
 10 accounting and general services, who shall be represented on the  
 11 advisory board.  
 12 (e) The aggregate principal sum deposited in the fund, and  
 13 any income and capital gains earned by the fund but not expended  
 14 for administration, shall be invested in accordance with the  
 15 provisions of Helping Hands Hawaii in a manner intended to  
 16 maximize the rate of return on investment of the fund.  
 17 (f) There may be an endowment component of the funds.  
 18 (g) The use of any state moneys may be restricted by the  
 19 legislature appropriating these moneys to the fund.  
 20 (h) Helping Hands Hawaii is authorized to expend the  
 21 principal from the fund for the purposes of the fund.

1 (1) All proposals submitted to Helping Hands Hawaii for  
 2 fund moneys shall be approved by the department of accounting  
 3 and general services for consistency in meeting design and  
 4 materials standards for public schools.  
 5 (b) Organizations or agencies to which fund moneys are  
 6 awarded shall agree to comply with the following conditions  
 7 before receiving the award:  
 8 (1) Employ or have under contract persons qualified to  
 9 engage in the activity to be funded;  
 10 (2) Comply with applicable federal, state, and county  
 11 laws; and  
 12 (3) Comply with any other requirements prescribed by  
 13 Helping Hands Hawaii to ensure adherence by the  
 14 recipient of the award with applicable federal, state,  
 15 and county laws and with the purposes of this section.  
 16 (1) Chapter 103B, Hawaii Revised Statutes, shall not apply  
 17 to organizations or agencies that apply for grants or contracts  
 18 under this section, provided that Helping Hands Hawaii shall be  
 19 held accountable for the use of the funds under a contract with  
 20 the department of accounting and general services.

1 ~~(m) Any contracts awarded by Helping Hands Hawaii shall be~~  
2 ~~made under as such competition as is practical to ensure its~~  
3 ~~purpose.~~  
4 ~~(n) The fund shall be audited annually by an independent~~  
5 ~~auditor. The results of each annual audit shall be submitted to~~  
6 ~~the department of accounting and general services not later than~~  
7 ~~thirty days from the date Helping Hands Hawaii receives the~~  
8 ~~audit results. In addition, Helping Hands Hawaii shall retain~~  
9 ~~for a period of three years and permit the department of~~  
10 ~~accounting and general services, the department of education,~~  
11 ~~state legislators, and the auditor, or their duly authorized~~  
12 ~~representatives, to inspect and have access to any documents,~~  
13 ~~papers, books, records, and other evidence that is pertinent to~~  
14 ~~the fund.~~  
15 ~~(o) The fund shall not be placed in the state treasury,~~  
16 ~~and the State shall not administer the fund, nor shall the State~~  
17 ~~be liable for the operation or solvency of the fund. Helping~~  
18 ~~Hands Hawaii, or Hawaii 3R's.~~  
19 ~~(p) For every dollar of state money granted by the fund~~  
20 ~~to the project, there shall be a minimum of \$1 in value matched~~  
21 ~~by Helping Hands Hawaii from private, federal, county, or~~  
22 ~~community sources."~~

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1 SECTION 6. Upon the Internal Revenue Service's  
2 determination that Hawaii 3R's is a nonprofit organization under  
3 section 501(c)(3) of the Internal Revenue Code, Helping Hands  
4 Hawaii shall transfer to Hawaii 3R's:  
5 (1) All unencumbered and unexpended moneys in the Hawaii  
6 school repair and maintenance fund to the Hawaii 3R's  
7 school repair and maintenance fund; and  
8 (2) All appropriations, records, equipment, machines,  
9 files, supplies, contracts, books, papers, documents,  
10 and other personal property made, used, developed,  
11 acquired, or held by Helping Hands Hawaii, through its  
12 project, Hawaii 3R's.  
13 SECTION 7. Upon request of the comptroller, Helping Hands  
14 Hawaii shall submit a report to the comptroller, in the form  
15 prescribed by the comptroller, accounting for the receipts and  
16 disbursements of the Hawaii school repair and maintenance fund  
17 and any other information that the comptroller may require.  
18 SECTION 8. After the repeal of the Hawaii school repair  
19 and maintenance fund, Helping Hands Hawaii shall submit the  
20 results of the annual audit of the Hawaii school repair and  
21 maintenance fund to the department of accounting and general  
22 services not later than thirty days from the date that Helping

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1 Hands Hawaii receives the audit results. Helping Hands Hawaii  
2 shall permit the department of accounting and general services,  
3 the department of education, state legislators, and the auditor,  
4 or their duly authorized representatives, to inspect and have  
5 access to any documents, papers, books, records, and other  
6 evidence that is pertinent to the Hawaii school repair and  
7 maintenance fund.  
8 SECTION 9. If any provision of this Act, or the  
9 application thereof to any person or circumstance is held  
10 invalid, the invalidity does not affect other provisions or  
11 applications of the Act which can be given effect without the  
12 invalid provision or application, and to this end the provisions  
13 of this Act are severable.  
14 SECTION 10. It is the intent of this Act not to jeopardize  
15 the receipt of any federal aid nor to impair the obligation of  
16 the State or any agency thereof to the holders of any bond  
17 issued by the State or by any such agency, and to the extent,  
18 and only to the extent, necessary to effectuate this intent, the  
19 governor may modify the strict provisions of this Act, but shall  
20 promptly report any such modification with reasons therefor to  
21 the legislature at its next session thereafter for review by the  
22 legislature.

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1 SECTION 11. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3 SECTION 12. This Act shall take effect on July 1, 2003.

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"EXECUTIVE CHAMBERS  
HONOLULU  
July 3, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1305

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1305, entitled "A Bill for an Act Relating to State Funds."

The purpose of this bill is to appropriate moneys out of the Emergency and Budget Reserve Fund, established under section 328L-3, Hawaii Revised Statutes (HRS), to maintain levels of programs that the Legislature has determined to be essential to the public health, safety, and welfare. The bill also appropriates general revenues to develop a plan to implement the Hawaii Rx program.

While I believe many of the programs funded by this bill are worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health System Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Use of the Emergency Budget and Reserve Fund bypasses the normal budget process and avoids the fiscal discipline of matching recurring expenses with recurring revenues. While the State is facing an unexpected reduction in revenues, prudent management of the State's budget requires that funds in the Emergency Budget and Reserve Fund be saved as much as possible for future needs. As such, there should be only sparing and judicious use of the Emergency Budget and Reserve Fund.

Under section 328L-3, HRS, the Emergency Budget and Reserve Fund shall be used as a "temporary" source of funding, and the Legislature may make appropriations from the Fund to "maintain levels of programs" determined to be "essential to public health, safety, welfare, and education."

For the reasons stated above, I object to the following appropriations in this bill:

1. \$150,000 appropriated pursuant to chapter 103F, HRS, for forensic medical examinations of children in foster custody placements in section 4, pages 2-3 of the bill.

2. \$100,000 appropriated as a grant to the Hawaii Youth Services Network in section 5, page 3 of the bill.

3. \$300,000 appropriated as a grant for the bridge to hope program in section 9, pages 4-5 of the bill.

4. \$200,000 appropriated as a grant to Volunteer Legal Services Hawaii in section 10, page 5 of the bill.

5. \$100,000 appropriated as a grant to fund the continuation of the Kaneohe Community Family Center's core services in section 11, pages 5-6 of the bill.

6. \$100,000 appropriated as a grant to fund the continuation of the Kuhio Park Terrace Family Center's core services in section 12, pages 6-7 of the bill.

7. \$300,000 appropriated as a grant for the operation of the Waipahu Community Adult Day Health Center and Youth Day Care Center pilot project in section 13, page 7 of the bill.

8. \$500,000 appropriated as a grant for existing Kalihi area youth service centers and other youth service centers in the State in section 17, page 9 of the bill. It should be noted that this appropriation violates section 42F-101, HRS, because the appropriation is not to a specified recipient.

9. \$750,000 appropriated as a subsidy to Molokai General Hospital in section 18, page 9 of the bill.

10. \$50,000 appropriated as a grant to Molokai General Hospital in section 19, page 9 of the bill.

11. \$750,000 appropriated as a subsidy to Waianae Coast Comprehensive Health and Hospital Board, Inc. in section 21, page 10 of the bill.

12. \$500,000 appropriated as a subsidy to Wahiawa General Hospital in section 22, page 10 of the bill.

13. \$50,000 appropriated as a subsidy to St. Francis Medical Center in section 23, pages 10-11 of the bill.

14. \$75,000 appropriated as a grant to the Maui AIDS Foundation in section 25, page 11 of the bill.

15. \$1,450,000 appropriated to the Department of Health to provide resources to nonprofit, community-based health-care providers to care for the uninsured in section 27, page 11-12 of the bill.

16. \$300,000 appropriated as a subsidy for the Kapiolani Medical Center for Women and Children Sex Abuse Treatment Center master contract in section 28, page 12 of the bill.

17. \$450,000 appropriated pursuant to chapter 103F, HRS, for the Department of Health to contract for comprehensive oral health services to underserved children in section 31, page 13 of the bill.

Because of the foregoing objections, I have taken the following actions:

1. Stricken the appropriation of \$150,000 for fiscal year 2003-2004 in section 4 of the bill (page 2, line 17) and changed it to zero.

2. Stricken the appropriation of \$100,000 for fiscal year 2003-2004 in section 5 of the bill (page 3, line 4) and changed it to zero.

3.Reduced the appropriation of \$300,000 for fiscal year 2003-2004 in section 9 of the bill (page 4, line 18) and changed it to \$150,000.

4.Stricken the appropriation of \$200,000 for fiscal year 2003-2004 in section 10 of the bill (page 5, line 10) and changed it to zero.

5.Reduced the appropriation of \$100,000 for fiscal year 2003-2004 in section 11 of the bill (page 5, line 20) and changed it to \$50,000.

6.Reduced the appropriation of \$100,000 for fiscal year 2003-2004 in section 12 of the bill (page 6, line 11) and changed it to \$50,000.

7.Stricken the appropriation of \$300,000 for fiscal year 2003-2004 in section 13 of the bill (page 7, line 8) and changed it to zero.

8.Stricken the appropriation of \$500,000 for fiscal year 2003-2004 in section 17 of the bill (page 9, line 2) and changed it to zero.

9.Reduced the appropriation of \$750,000 for fiscal year 2003-2004 in section 18 of the bill (page 9, line 13) and changed it to \$700,000.

10. Stricken the appropriation of \$50,000 for fiscal year 2003-2004 in section 19 of the bill (page 9, line 18) and changed it to zero.

11. Reduced the appropriation of \$750,000 for fiscal year 2003-2004 in section 21 of the bill (page 10, line 9) and changed it to \$675,000.

12. Reduced the appropriation of \$500,000 for fiscal year 2003-2004 in section 22. of the bill (page 10, line 15) and changed it to \$250,000.

13. Stricken the appropriation of \$50,000 for fiscal year 2003-2004 in section 23 of the bill (page 10, line 20) and changed it to zero.

14. Stricken the appropriation of \$75,000 for fiscal year 2003-2004 in section 25 of the bill (page 11, line 10) and changed it to zero.

15. Reduced the appropriation of \$1,450,000 for fiscal year 2003-2004 in section 27 of the bill (page 11, line 21) and changed it to \$1,300,000.

16. Reduced the appropriation of \$300,000 for fiscal year 2003-2004 in section 28 of the bill (page 12, line 10) and changed it to \$100,000.

17. Stricken the appropriation of \$450,000 for fiscal year 2003-2004 in section 31 of the bill (page 13, line 6) and changed it to zero.

Decisions like the one to veto many of the appropriations made under this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget, it would be impossible to restore trust and integrity in government and expand and diversify the economy. These are things that we must do to achieve a true New Beginning for the people of Hawaii. Too much is at stake for us to lose our focus or our resolve.

For the foregoing reasons, I am returning Senate Bill No. 1305 with the appropriations stricken or reduced as described above totaling \$2,850,000.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

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THE SENATE  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII

S.B. NO. 1305  
S.D. 1  
H.D. 1  
C.D. 1

A BILL FOR AN ACT

RELATING TO STATE FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds that expenditures from the emergency and budget reserve fund established by section 328L-3, Hawaii Revised Statutes, are needed to meet the emergency economic situation currently facing the State. The legislature determines that the moneys are urgently needed to maintain levels of programs that are essential to the public health, safety, and welfare. The legislature further finds that the grants and subsidies under this Act are in the public interest and serve the public health, safety, and welfare.

PART II

SECTION 2. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$90,000, or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Hale Mahalo for the personal care program for

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disabled or chronically ill frail adults and elders residing in Maui county.  
The sum appropriated shall be expended by the department of human services for the purposes of this Act.  
SECTION 3. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, to provide treatment services for child victims of intrafamilial sexual abuse, including psychological treatment and case management services for child victims and their families who are not covered under the child protective services system of the department of human services.  
The sum appropriated shall be expended by the judiciary via the children's justice center for the purposes of this Act.  
SECTION 4. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$250,000~~ <sup>0</sup>, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for forensic medical examinations of children in foster custody placements.

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The sum appropriated shall be expended by the department of human services for the purposes of this Act.  
SECTION 5. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$400,000~~ <sup>0</sup>, or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to the Hawaii Youth Services Network for its Transitional Living Program for Unserved Street Youth.  
The sum appropriated shall be expended by the department of human services for the purposes of this Act.  
SECTION 6. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for substance abuse services for youth and adolescents, including, but not limited to, preventive services, school education programs, counseling, evaluation, treatment, therapy, family services, case management, recovery services, and substance abuse treatment services, and the coordination of such services.

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The sum appropriated shall be expended by the department of health, alcohol and drug abuse division, for the purposes of this Act.  
SECTION 7. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 2003-2004, for the residential alternative community care program.  
The sum appropriated shall be expended by the department of human services for the purposes of this Act.  
SECTION 8. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 2003-2004, for the chore services program.  
The sum appropriated shall be expended by the department of human services for the purposes of this Act.  
SECTION 9. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of ~~\$300,000~~ <sup>0</sup> ~~\$150,000~~, or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for the bridge to hope program, including one position for outreach; provided that if federal funds are made available

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1 to fund any portion of bridge to hope Temporary Assistance to  
2 Needy Families program participant costs, then the sum  
3 appropriated by this section shall be reduced by the amount of  
4 federal funds received, and the state funds that were replaced  
5 by federal funds shall lapse to the emergency and budget reserve  
6 fund.

7 The sum appropriated shall be expended by the University of  
8 Hawaii for the purposes of this Act.

9 SECTION 10. There is appropriated out of the emergency and  
10 budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~  
11 or so much thereof as may be necessary for fiscal year  
12 2003-2004, as a grant, pursuant to chapter 42F, Hawaii Revised  
13 Statutes, to Volunteer Legal Services Hawaii for its Na Kaiki  
14 Law Center project focusing on protecting the legal rights of  
15 children.

16 The sum appropriated shall be expended by the office of  
17 community services, department of labor and industrial relations  
18 for the purposes of this Act.

19 SECTION 11. There is appropriated out of the emergency and  
20 budget reserve fund of the State of Hawaii the sum of ~~\$100,000~~ \$ 50,000  
21 or so much thereof as may be necessary for fiscal year  
22 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised

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1 Statutes, to fund the continuation of the Kaneohe Community  
2 Family Center's core services, particularly for families that  
3 are low income, unemployed, or underemployed and families of  
4 at-risk youths. Core services include information and referral,  
5 support and self-help, parenting education, family  
6 strengthening, job readiness and career development, and  
7 community leadership.

8 The sum appropriated shall be expended by the department of  
9 human services for the purposes of this Act.

10 SECTION 12. There is appropriated out of the emergency and  
11 budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~ \$ 50,000  
12 or so much thereof as may be necessary for fiscal year

13 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
14 Statutes, to fund the continuation of the Kuhio Park Terrace  
15 Family Center's core services to low income individuals and  
16 families residing in Kuhio Park Terrace and Kuhio Homes. Core  
17 services include:

- 18 (1) Family strengthening activities such as linking  
19 families to supportive services, offering parenting  
20 classes and parent/child activities, and providing  
21 emergency rental assistance;

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- 1 (2) Education and life skills support, such as computer  
2 and literacy classes and training of volunteers;
- 3 (3) Pre-employment activities; and
- 4 (4) Community improvement through community celebrations.

5 The sum appropriated shall be expended by the department of  
6 human services for the purposes of this Act.

7 SECTION 13. There is appropriated out of the emergency and  
8 budget reserve fund of the State of Hawaii the sum of ~~\$300,000~~ 0  
9 or so much thereof as may be necessary for fiscal year  
10 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
11 Statutes, for the operation of the Waipahu Community Adult Day  
12 Health Center and Youth Day Care Center pilot project.

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

15 SECTION 14. There is appropriated out of the emergency and  
16 budget reserve fund of the State of Hawaii the sum of \$150,000,  
17 or so much thereof as may be necessary for fiscal year  
18 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
19 Statutes, for the Domestic Violence Clearinghouse and Legal  
20 Hotline for Maui program services.

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1 The sum appropriated shall be expended by the judiciary,  
2 circuit court of the second circuit, for the purposes of this  
3 Act.

4 SECTION 15. There is appropriated out of the emergency and  
5 budget reserve fund of the State of Hawaii the sum of \$421,000  
6 or so much thereof as may be necessary for fiscal year  
7 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
8 Statutes, to the Blueprint for Change for the delivery of  
9 diversion services and child protective services to target  
10 families, including the establishment of additional sites for  
11 neighborhood places.

12 The sum appropriated shall be expended by the department of  
13 human services for the purposes of this Act.

14 SECTION 16. There is appropriated out of the emergency and  
15 budget reserve fund the sum of \$150,000 or so much thereof as  
16 may be necessary for fiscal year 2003-2004, pursuant to chapter  
17 103F, Hawaii Revised Statutes, for costs related to homeless  
18 assistance.

19 The sum appropriated shall be expended by the housing and  
20 community development corporation of Hawaii for the purposes of  
21 this Act.

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SECTION 17. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$500,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for existing Kalihi area youth service centers; provided that moneys not required by existing Kalihi area youth service centers may be used for other youth service centers in the State.

The sum appropriated shall be expended by the office of youth services for the purposes of this Act.

PART III

SECTION 18. There is appropriated out of the emergency and budget reserve fund the sum of \$700,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to Molokai General Hospital.

SECTION 19. There is appropriated out of the emergency and budget reserve fund the sum of \$50,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Molokai General Hospital for Lanalana Ke 'Ili Community Health Services programs and general operating costs.

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SECTION 20. There is appropriated out of the emergency and budget reserve fund the sum of \$750,000, or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to Kahuku hospital to fund the costs of emergency room operations, inpatient and outpatient care for the underinsured, medical malpractice insurance, and labor.

SECTION 21. There is appropriated out of the emergency and budget reserve fund the sum of \$35,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the Waianae Coast Comprehensive Health and Hospital Board, Inc., to fund its operations and programs.

SECTION 22. There is appropriated out of the emergency and budget reserve fund the sum of \$250,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, for Wahiawa General Hospital to provide indigent care services.

SECTION 23. There is appropriated out of the emergency and budget reserve fund the sum of \$61,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the

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St. Francis Medical Center for the operations of the bone marrow registry.

SECTION 24. There is appropriated out of the emergency and budget reserve fund the sum of \$200,000, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, to enable the department of health to operate a hospital-based poison center twenty-four hours a day.

SECTION 25. There is appropriated out of the emergency and budget reserve fund the sum of \$95,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to the Maui AIDS Foundation for the case management program.

SECTION 26. There is appropriated out of the emergency and budget reserve fund the sum of \$700,000, or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the Hana Community Health Clinic for its operations and care services for uninsured patients.

SECTION 27. There is appropriated out of the emergency and budget reserve fund the sum of \$1,300,000; or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter

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103F, Hawaii Revised Statutes, to the department of health to provide resources to nonprofit, community-based health-care providers to care for the uninsured. This appropriation shall pay for providing direct care, which includes primary medical, dental, and mental health care, and may pay for the purchase of prescription drugs. The department of health may distribute moneys on a per-visit basis, taking into consideration need on all islands.

SECTION 28. There is appropriated out of the emergency and budget reserve fund the sum of \$100,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, for the Kapiolani Medical Center for Women and Children Sex Abuse Treatment Center master contract.

SECTION 29. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for the establishment of an adolescent treatment center to treat poly-drug abuse on the island of Hawaii.

SECTION 30. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$100,000

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1 or so much thereof as may be necessary for fiscal year  
2 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes,  
3 for community anti-drug efforts aimed at preventing crystal  
4 methamphetamine use on the island of Hawaii.

5 SECTION 31. There is appropriated out of the emergency and  
6 budget reserve fund the sum of ~~450,000~~ <sup>0</sup> or so much thereof as  
7 may be necessary for fiscal year 2003-2004, pursuant to chapter  
8 103F, Hawaii Revised Statutes, for the department of health to  
9 contract with primary health care centers for comprehensive oral  
10 health services to underserved children.

11 SECTION 32. The sums appropriated in this part shall be  
12 expended by the department of health for their respective  
13 purposes; provided that the sums appropriated in sections 29 and  
14 30 shall be expended by the county of Hawaii.

PART IV

15 SECTION 33. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$200,000, or so much  
17 thereof as may be necessary for fiscal year 2003-2004, to  
18 develop a plan to implement the Hawaii Rx program to carry out  
19 the purposes of chapter 346, part XIII, Hawaii Revised Statutes.  
20 The sum shall be expended by the department of human  
21 services; provided that the department shall provide a quarterly

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1 progress report on the plan development to the legislature; and  
2 provided further that the department shall provide a progress  
3 report to the legislature no later than twenty days prior to the  
4 convening of the 2004 regular session.

PART V

5 SECTION 34. This Act shall take effect on July 1, 2003.  
6

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"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

## STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1230

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1230, entitled "A Bill for an Act Relating to Transportation."

The purposes of this bill are to appropriate moneys to fund heightened security measures throughout the State's airports and harbor systems, create a special fund for passenger facility charges, and make other appropriations.

While the first parts of this bill have merit, I object to the appropriations contained in sections 5 to 10, inclusive, because the appropriations for operating and capital improvement projects funds for the Department of Transportation for fiscal year 2003-2004 are already contained in the general appropriations bill (House Bill No. 200).

Section 16 of Article III of the State Constitution provides that, "[e]xcept for items appropriated to be expended by the judicial and legislative branches, the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same."

Because of the foregoing objections, I have taken the following actions pursuant to my line item veto authority:

1. Section 5, pages 3-4. Striking out by drawing a line through the \$350,000 and the \$8,191,000 special fund appropriations out of the harbor special fund for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0.

2. Section 6, pages 4-6. (a) Striking out by drawing a line through the \$12,250,000 appropriation, and its total funding source breakdown amounts of \$2,450,000 and \$9,800,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (b) striking out by drawing a line through the \$6,500,000 appropriation, and its total funding source breakdown amounts of \$1,300,000 and \$5,200,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (c) striking out by drawing a line through the \$2,500,000 appropriation, and its total funding source breakdown amounts of \$500,000 and \$2,000,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (d) striking out by drawing a line through the \$15,000,000 appropriation, and its total funding source breakdown amounts of \$3,000,000 and \$12,000,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0; (e) striking out by drawing a line through the \$350,000, \$2,000,000, and \$10,250,000 appropriations, and their total funding source breakdown amounts of \$2,520,000 and \$10,080,000, out of the highway revenue bond fund and federal funds for fiscal year 2003-2004 for capital improvement projects, and changing them to \$0.

3. Section 7, page 7. Striking out by drawing a line through the \$2,700,000 special fund appropriation out of the highway

other funds for fiscal year 2003-2004 for capital improvement projects, and changing it to \$0.

4. Section 8, pages 7-8. Striking out by drawing a line through all of the \$20,885,201 of the special fund appropriations out of the airports special fund for fiscal year 2003-2004 for additional positions, security services, equipment, rental, and supplies at state airports, and changing them to \$0.

5. Section 9, pages 8-9. Striking out by drawing a line through the \$5,981,676 of the special fund appropriations out of the harbors special fund for fiscal year 2003-2004 for security services and fringe benefits throughout the various state harbor locations, and changing it to \$0.

6. Section 10, page 9. Striking out by drawing a line through the \$4,067,783 of the reduce debt service payments for highways division for fiscal year 2003-2004, and changing it to \$0.

For the foregoing reasons, I am returning House Bill No. 1230 with the appropriations in sections 5 to 10 stricken as set forth above totaling \$91,025,660 in special fund appropriations for fiscal year 2003-2004.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

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HOUSE OF REPRESENTATIVES  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII

H.B. NO. 1230  
H.D. 1  
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A BILL FOR AN ACT.

RELATING TO TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Although funds were appropriated to the department of transportation for airport and harbor security measures throughout the State's airports and harbors for fiscal year 2002-2003, a critical funding emergency now exists. The program will expend all appropriated special funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide the heightened airport and harbor security measures.

The purpose of this Act is to:

- (1) Appropriate additional special fund moneys to allow the airports and harbors divisions to continue to meet the heightened security requirements throughout the airport and harbor systems:

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- (2) Appropriate additional funds to the department of transportation for various capital improvement projects; and
- (3) Appropriate funds to reduce the debt service payment for land transportation facilities and support.

SECTION 3. There is appropriated out of the airport special fund of the State of Hawaii the sum of \$5,661,084 or so much thereof as may be necessary for fiscal year 2002-2003 to be expended for security measures at state airports as follows:

<u>TRN 102 Honolulu International Airport</u>	
Security Services	3,658,305
Equipment, rental, and supplies	157,860
<u>TRN 111 Hilo International Airport</u>	
Security Services	481,436
Equipment, rental, and supplies	85,000
<u>TRN 114 Keahole Airport at Kona</u>	
Security Services	338,550
Equipment, rental, and supplies	85,000
<u>TRN 131 Kahului Airport</u>	
Security Services	313,808
Equipment, rental, and supplies	85,000

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<u>TRN 141 Molokai Airport</u>	
Security Services	104,108
Equipment, rental, and supplies	18,000
<u>TRN 151 Lanai Airport</u>	
Security Services	103,917
Equipment, rental, and supplies	18,000
<u>TRN 161 Lihue Airport</u>	
Security Services	127,100
Equipment, rental, and supplies	85,000

provided that any funds unexpended for this purpose shall lapse to the airport special fund.

SECTION 4. There is appropriated out of the harbor special fund of the State of Hawaii the sum or \$2,300,000 or so much thereof as may be necessary for fiscal year 2002-2003 to be expended to continue the heightened harbor security throughout the various state harbor locations as follows:

<u>TRN 395 Harbor Administration</u>	
Statewide Security Services	2,300,000

provided that any funds unexpended for this purpose shall lapse to the harbor special fund.

SECTION 5. There is appropriated out of the harbor special fund of the State of Hawaii for Honolulu harbor (TRN 301) the

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following sums for fiscal year 2003-2004 for capital improvement projects:

1. J32 Snug Harbor Relocation, Honolulu Harbor, Oahu	
Plans for the relocation of facilities at Snug Harbor and other related improvements.	
Plans	<del>22,250,000</del>
Total Funding TRN	<del>22,250,000</del> B
2. J33 Kapalama Container Terminal Land Acquisition, Oahu	
Land acquisition for the development of a new container facility and other related improvements.	
Land	<del>22,250,000</del>
Total Funding TRN	<del>22,250,000</del> B

SECTION 6. There is appropriated out of the highway revenue bond funds and federal funds of the State of Hawaii for Oahu highways (HNY 501) the following sums for fiscal year 2003-2004 for capital improvement projects:

1. S269 Kanehameha Highway, South Punaluu Bridge Replacement, Oahu	
Construction for replacement of South Punaluu bridge. This project is deemed necessary to qualify for Federal aid financing and/or reimbursement.	
Construction	<del>22,250,000</del>

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1 Total Funding TRN ~~22~~ 2,450,000- E  
~~22~~ 2,000,000- N

2  
3 2. S271 Interstate Route H-1 and Noanalua Freeways  
4 Improvements, Puuloa IC to Kapiolani IC, Oahu  
5 Construction for an additional lane on the H-1 freeway  
6 eastbound lanes from the vicinity of Middle street to the  
7 vicinity of Vineyard boulevard. This project is deemed  
8 necessary to qualify for Federal aid financing and/or  
9 reimbursement.  
10 Construction ~~22~~ 2,500,000-  
~~22~~ 2,500,000- E  
11 Total Funding TRN ~~22~~ 2,500,000- N

12  
13 3. S123 Interstate Route H-1, Additional Westbound Lane,  
14 Vicinity of Pearl City Viaduct to Paia IC, Oahu  
15 Design for construction of an additional H-1 west bound  
16 lane through the Waiawa interchange and an additional lane  
17 to the off-ramp at the Paia interchange. This project is  
18 deemed necessary to qualify for Federal aid financing  
19 and/or reimbursement.  
20 Design ~~22~~ 500,000-  
~~22~~ 500,000- E  
21 Total Funding TRN ~~22~~ 2,000,000- N

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1 SECTION 7. There is appropriated out of the highway other  
2 funds of the State of Hawaii for Oahu highways (HWY 501) the  
3 following sum for fiscal year 2003-2004 for a capital  
4 improvement project:  
5 1. James Campbell Estate Property Land Acquisition, Kalaheo  
6 Barbera Point, Oahu  
7 Land acquisition of James Campbell Estate property for  
8 future expansion of roadways at Kalaheo Barbera Point.  
9 Land ~~22~~ 2,700,000-  
~~22~~ 2,700,000- X  
10 Total Funding TRN

11 SECTION 8. There is appropriated out of the airport  
12 special fund of the State of Hawaii the sum of ~~22~~ 2,000,000- or so  
13 much thereof as may be necessary for fiscal year 2003-2004 to be  
14 expended for additional positions, security services, equipment,  
15 rental, and supplies at state airports as follows:  
16 TRN 102 Honolulu International Airport  
17 Position Count 2.00  
18 Security Services ~~22~~ 2,344,730-  
19 Equipment, rental, and supplies ~~22~~ 2,200,000-  
20 TRN 111 Hilo International Airport  
21 Security Services ~~22~~ 1,035,746-  
22 Equipment, rental, and supplies ~~22~~ 85,000-

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1 4. SP9901 Fort Weaver Road Widening, Vicinity of Laulaumi  
2 Street to Geiger Road, Oahu  
3 Construction for widening of Fort Weaver road to a six-lane  
4 facility from the vicinity of Laulaumi street to the  
5 vicinity of Geiger road, including installing a traffic  
6 camera system from Waipahu street to Papipi road. This  
7 project is deemed necessary to qualify for Federal aid  
8 financing and/or reimbursement.  
9 Construction ~~22~~ 15,000,000-  
~~22~~ 15,000,000- E  
10 Total Funding TRN ~~22~~ 15,000,000- N

11  
12 5. S324 Farrington Highway, Maipalaoa Bridge Replacement, Oahu  
13 Design for replacement of a prestressed tee-beam bridge on  
14 Farrington highway in the vicinity of Mai'ili. This  
15 project is deemed necessary to qualify for Federal aid  
16 financing and/or reimbursement.  
17 Land ~~22~~ 350,000-  
~~22~~ 3,000,000-  
18 Design ~~22~~ 2,250,000-  
~~22~~ 2,250,000- E  
19 Construction ~~22~~ 2,500,000-  
20 Total Funding TRN ~~22~~ 2,500,000- N

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1 TRN 114 Keshole Airport at Kona  
2 Security Services ~~22~~ 2,354,000-  
3 Equipment, rental, and supplies ~~22~~ 85,000-  
4 TRN 131 Kahului Airport  
5 Position Count 1.00  
6 Security Services ~~22~~ 1,855,234-  
7 Equipment, rental, and supplies ~~22~~ 85,000-  
8 TRN 141 Molokai Airport  
9 Security Services ~~22~~ 114,423-  
10 Equipment, rental, and supplies ~~22~~ 10,000-  
11 TRN 151 Lanai Airport  
12 Security Services ~~22~~ 122,700-  
13 Equipment, rental, and supplies ~~22~~ 10,000-  
14 TRN 161 Lihue Airport  
15 Security Services ~~22~~ 2,000,000-  
16 Equipment, rental, and supplies ~~22~~ 85,000-  
17 Airports Administration (TRN 195)  
18 Position Count 1.00  
19 provided that any funds unexpended for this purpose shall lapse  
20 to the airport special fund.  
21 SECTION 9. There is appropriated out of the harbor special  
22 fund of the State of Hawaii the sum of ~~22~~ 2,000,000- or so much

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1 thereof as may be necessary for fiscal year 2003-2004 to be  
 2 expended for security services and fringe benefits throughout  
 3 the various state harbor locations as follows:  
 4 Honolulu Harbor (TRN 301)  
 5 Security Services -500,000  
 6 Add Fringe Benefits -536,060  
 7 Harbor Administration (TRN 395)  
 8 Security Services - Statewide -1,600,000  
 9 Add Fringe Benefits -362,000  
 10 provided that any funds unexpended for this purpose shall lapse  
 11 to the harbor special fund.  
 12 SECTION 10. Due to the refinancing of revenue bonds and  
 13 other cost savings to debt service payments for highways  
 14 division, the following sum shall be used to reduced the total  
 15 debt service payment for fiscal year 2003-2004 for the  
 16 following:  
 17 Land Transportation Facilities and Support (TRN 338)  
 18 Reduce Debt Service Payments -4,067,000  
 19 SECTION 11. For the fiscal biennium 2003-2005, where the  
 20 department of transportation is authorized to expend from  
 21 special funds under the department's control, the department may  
 22 expend so much as may be necessary in excess of the sums

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1 appropriated by the legislature to carry out the purpose for  
 2 which the funds were appropriated; provided that such  
 3 expenditures in excess of the amounts appropriated by the  
 4 legislature are approved by the governor or by the director of  
 5 finance if so delegated by the governor, and shall not exceed  
 6 the amounts available in the respective special fund from which  
 7 the appropriation is made. A report on all expenditures made  
 8 pursuant to this Act shall be transmitted to the legislature not  
 9 later than twenty days prior to the convening of the 2004  
 10 regular session.  
 11 SECTION 12. The sums appropriated shall be expended by the  
 12 department of transportation for the purposes of this Part.  
 13 PART II  
 14 SECTION 13. Title 49 United States Code section 40117 and  
 15 14 Code of Federal Regulation Part 158 prohibit expenditure of  
 16 passenger facility charge revenue for other than approved  
 17 projects. The Federal Aviation Administration considers any  
 18 transfer of the passenger facility charges to reimburse  
 19 administrative expenses or to the works of art special fund to  
 20 be revenue diversion. Therefore, passenger facility charges  
 21 revenue needs to be exempt from the requirements of the

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1 reimbursement for central service expenses and the works of art  
 2 special fund.  
 3 SECTION 14. Chapter 261, Hawaii Revised Statutes, is  
 4 amended by adding a new section to be appropriately designated  
 5 and to read as follows:  
 6 "261- Passenger facility charge revenue fund. (a)  
 7 There is established in the state treasury the passenger  
 8 facility charge revenue fund, into which shall be deposited all  
 9 proceeds from any passenger facility charge.  
 10 (b) Moneys in the passenger facility charge revenue fund  
 11 shall be used for airport capital improvement program projects  
 12 approved by the legislature.  
 13 (c) The passenger facility charge revenue fund is exempted  
 14 from section 36-30.  
 15 (d) The passenger facility charge revenue fund is exempted  
 16 from section 103-8.5.  
 17 (e) The director of transportation shall administer the  
 18 passenger facility charge revenue fund."  
 19 SECTION 15. Section 36-30, Hawaii Revised Statutes, is  
 20 amended by amending subsection (a) to read as follows:  
 21 "(a) Each special fund, except the:

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- 1 (1) Transportation use special fund established by section
- 2 261D-1;
- 3 (2) Special out-of-school time instructional program fund
- 4 under section 302A-1310;
- 5 (3) School cafeteria special funds of the department of
- 6 education;
- 7 (4) Special funds of the University of Hawaii;
- 8 (5) State educational facilities improvement special fund;
- 9 (6) Special funds established by section 206E-6;
- 10 (7) Aloha Tower fund created by section 206J-17;
- 11 (8) Domestic violence prevention special fund under
- 12 section 321-1.3;
- 13 (9) Spouse and child abuse special account under section
- 14 346-7.5;
- 15 (10) Spouse and child abuse special account under section
- 16 601-3.6;
- 17 (11) Funds of the employees' retirement system created by
- 18 section 88-109;
- 19 (12) Unemployment compensation fund established under
- 20 section 383-121;
- 21 (13) Hawaii hurricane relief fund established under chapter
- 22 431P;

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- 1 (14) Convention center enterprise special fund established
- 2 under section 201B-8;
- 3 (15) Hawaii health systems corporation special funds;
- 4 (16) Tourism special fund established under section 201B-
- 5 13;
- 6 (17) Compliance resolution fund established under section
- 7 26-9;
- 8 (18) Universal service fund established under chapter 269;
- 9 (19) Integrated tax information management systems special
- 10 fund under section 231-3.2;
- 11 (20) Hawaii tobacco settlement special fund under section
- 12 328L-2;
- 13 (21) Emergency and budget reserve fund under section 328L-
- 14 3;
- 15 (22) Probation services special fund under section 706-649;
- 16 (23) High technology special fund under section 206N-15.5;
- 17 (24) Public schools special fees and charges fund under
- 18 section 302A-1330(E);
- 19 (25) Cigarette tax stamp enforcement special fund
- 20 established by section 28-14;
- 21 (26) Cigarette tax stamp administrative special fund
- 22 established by section 245-41.5;

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- 1 PART III
- 2 SECTION 17. Statutory material to be repealed is bracketed
- 3 and stricken. New statutory material is underscored.
- 4 SECTION 18. This Act shall take effect on July 1, 2003;
- 5 provided that sections 3, 4, 13, 14, 15, and 16 shall take
- 6 effect upon approval.

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- 1 (27) Tobacco enforcement special fund established by
- 2 section 28-15;
- 3 (28) Sport fish special fund under section 187A-9.5; [end]
- 4 (29) Neurotrauma special fund under section 321H-4; and
- 5 (30) Passenger facility charge revenue fund established by
- 6 section 261- . . .
- 7 shall be responsible for its pro rata share of the
- 8 administrative expenses incurred by the department responsible
- 9 for the operations supported by the special fund concerned."
- 10 SECTION 16. Section 103-6.5, Hawaii Revised Statutes, is
- 11 amended by amending subsection (a) to read as follows:
- 12 "(a) There is created a works of art special fund, into
- 13 which shall be transferred one per cent of all state fund
- 14 appropriations for capital improvements designated for the
- 15 construction cost element; provided that this transfer shall
- 16 apply only to capital improvement appropriations that are
- 17 designated for the construction or renovation of state
- 18 buildings. The one per cent transfer requirement shall not
- 19 apply to appropriations from the passenger facility charge
- 20 revenue fund established by section 261- . . ."

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Gov. Msg. No. 467, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith the following bills without my approval, together with my official statements of objections to the bills:

H.B. No. 29, A BILL FOR AN ACT RELATING  
HD1, SD1, CD TO MEAL BREAKS  
1

H.B. No. 32, A BILL FOR AN ACT RELATING  
HD2, SD2, CD TO EDUCATION  
1

H.B. No. 133, A BILL FOR AN ACT RELATING  
HD1, SD3, CD TO CHILD PROTECTION  
1

H.B. No. 282, A BILL FOR AN ACT RELATING  
HD2, SD1, CD TO THE AUDITOR  
1

H.B. No. 285, A BILL FOR AN ACT RELATING  
HD1, SD2 TO ADMINISTRATIVE  
PROCEDURE

H.B. No. 289, A BILL FOR AN ACT RELATING  
HD2, SD2, CD TO EDUCATION  
1

H.B. No. 290, A BILL FOR AN ACT RELATING  
HD2, SD1, CD TO UNEMPLOYMENT  
1

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 29

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 29, entitled "A Bill for an Act Relating to Meal Breaks."

The purpose of this bill is to require employers to provide employees with at least a thirty-minute meal break after more than eight hours of work, except when the employer is: (1) subject to a collective bargaining agreement that expressly

provides for employee meal breaks; (2) a carrier of passengers or property by motor vehicle or a power generating utility regulated under chapter 269, Hawaii Revised Statutes (HRS); or (3) the operator of a continuously operating facility that is regulated by environmental permits.

The impetus for the bill was the Hawaii Civil Rights Commission's concern that, because state law does not require a meal period or other break, enforcing section 378-10, HRS, would be problematic. This law, enacted in 1999, prohibits an employer from preventing an employee from expressing breast milk during any meal or other break period required by law or by a collective bargaining agreement. The Commission, however, has never received a complaint on this issue.

This bill also provides that no employer shall prohibit an employee from expressing breast milk during any meal break or other break that is required by law, required by a collective bargaining agreement, or provided by the employer on a voluntary basis. In addition, an employer is prohibited from discriminating against an employee for expressing milk during the meal break or any other break.

This bill is objectionable because it applies only to small businesses that do not engage in business outside of Hawaii. Chapter 387, Hawaii Revised Statutes, which this bill would amend, does not cover employers subject to the federal Fair Labor Standards Acts (i.e., employers with gross receipts of \$500,000 or more and those engaged in interstate commerce).

In short, there has been no demonstrated need for this bill. In those cases where employees work more than eight hours at a time, the employee and employer should have the flexibility to structure meal and other breaks in ways that make sense under the circumstances, rather than to have breaks mandated by law.

In sum, it makes no sense to burden businesses in Hawaii with a new regulation of this kind in the absence of a demonstrated need. It makes even less sense to target only small, local businesses.

For the foregoing reasons, I am returning House Bill No. 29 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 32

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 32, entitled "A Bill for an Act Relating to Education."

The purposes of this bill are to authorize schools to assess and collect annual fees for textbooks and to require schools to provide a copy of the current list of textbooks and instructional materials upon the request of a student or parent or guardian of a student attending the school. The bill also exempts publishers of library books from the requirement that the publisher furnish

the State with computer diskettes from which Braille versions can be produced.

This bill is objectionable on philosophical grounds, and also because it is legally flawed.

The Department of Education (DOE) annual budget is in excess of \$1.3 billion, and is scheduled to increase significantly over each year of the biennium. If more books and instructional materials are needed in our public schools, and I believe they are, then the DOE should pay for them with funds from its existing budget and not place further financial burden on parents and guardians of school children.

The fundamental problem that prompted this bill is not a shortage of textbooks and instructional materials. This is a symptom of the real problem, which is that Hawaii's totally unique, single-district statewide school system, including its overly centralized DOE, is poorly structured and is not getting enough of its \$1.3 billion annual budget into classrooms.

Bills like this one distract the public from the obvious need to decentralize control and build in greater accountability. Our focus must remain fixed on real solutions, such as establishing clear lines responsibility and accountability for performance, decentralizing control, empowering principals and holding them accountable through performance contracts, and redirecting to classrooms up to fifty percent of the funds currently spent on administration.

There also are internal inconsistencies and ambiguities in this bill. For example, the bill does not contain an appropriation provision authorizing the expenditure of moneys collected as fees for instructional materials and textbooks. As a result, it is legally questionable whether any such moneys could actually be expended. It would make no sense to collect fees solely for the sake of collecting fees.

The bill also appears to have inadvertently limited the DOE's ability to hold students accountable for losing or destroying books. At a minimum, there is unnecessary ambiguity in the bill that would cause administrative difficulties and could result in legal challenge to the statute itself.

Without the authority to collect restitution from students who negligently lose or destroy textbooks, the ability of teachers and principals to deter such actions and to hold students accountable would be compromised.

For the foregoing reasons, I am returning House Bill No. 32 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 133

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 133, entitled "A Bill for an Act Relating to Child Protection."

The purpose of this bill is to grant full immunity from prosecution for leaving an unharmed newborn at a hospital and provide immunity from liability for the hospitals and their personnel for receiving such a newborn.

This is a so-called safe-haven measure, intended to protect newborns from being killed by a mother who is unable or unwilling to care for the child.

My first reaction to this bill was mixed, but mostly positive. While questioning the need for such a law, I thought to myself, "but if it saves just one life it will be a good law." This mostly positive reaction seemed to be validated when I learned that forty-two other states have already enacted similar laws, and that the first to do so was Texas in 1999 under then-Governor George Bush.

However, additional research and lively discussions with people on both sides of the issue have caused me to reassess my initial thinking. In fact, I now believe that any good that might be accomplished by this bill is likely to be outweighed by the harm that it would cause.

I am concerned, for example, that the individual dropping off the newborn would not be required to prove that she is the baby's parent, or have to provide even minimal information about the baby. This could jeopardize the child's health and make it exceedingly difficult for the extended families, or the child's father, to learn of the baby's whereabouts and to assert their interests in caring for the child. The abandoned baby would be prevented from ever learning about its medical and genealogical history.

In Hawaii, the extended family is commonly recognized as an integral part of the nuclear family, and the Hawaiian cultural practice of open adoption called "hanai" is still common practice. It violates the constitutional right to the free exercise of religion of an individual and a religious hospital that provides emergency care. This bill could have an adverse impact on such support systems.

I believe that our focus should be on the long-term well being of the newborn, and that safe-haven measures like this one fall short in that critically important respect. Experts around the country are increasingly critical of such laws.

For the foregoing reasons, I am returning House Bill No. 133 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 282

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 282, entitled "A Bill for an Act Relating to the Auditor."

The purposes of this bill are to enable the Legislative Auditor to be reimbursed for all or part of the costs of an audit the Auditor conducts, when moneys for such costs have been appropriated or generated by any department, office, or agency of the State or its political subdivision, and to establish a revolving fund in which to deposit such moneys and legislative appropriations.

While this bill has a commendable intent, to provide funds to enable the Legislative Auditor to conduct audits, the mechanism selected to achieve that intent is unduly cumbersome and potentially wasteful. By allowing the Legislative Auditor to decide unilaterally when to conduct or contract for financial audits of executive branch agencies, and then to claim reimbursement for the cost of all such audits, this bill invites duplication and waste of limited resources for the many departments, offices, agencies, and political subdivisions that must budget for and schedule their own audits. If the Legislature wants the Legislative Auditor to conduct more audits of executive branch agencies, it should appropriate sufficient funds directly to the Legislative Auditor for that purpose.

For the foregoing reasons, I am returning House Bill No. 282 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 285

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 285, entitled "A Bill for an Act Relating to Administrative Procedure."

The purpose of this bill is to require that administrative rules conform to enabling statutes, to provide for the automatic repeal of administrative rules when the enabling statute or ordinance is repealed, and to require the Small Business Regulatory Review Board to include in its report to the Legislature recommendations as to whether a rule is an appropriate function of state government and whether its goal can be implemented as cost-effectively by the private sector as by state government.

This bill is objectionable because it is unnecessary to accomplish its goals, and it could result in confusion and wasteful litigation over the legal status of certain rules.

Although under current law, administrative rules could theoretically remain "on the books" indefinitely after repeal of the underlying statute, such rules would cease to be enforceable upon such repeal, without some other statutory authority. Our administration will periodically review existing rules to determine if they continue to serve a valid purpose, and section 91-3(f), Hawaii Revised Statutes, already provides a relatively simple process for the repeal of rules that are null and void or unnecessary, while ensuring that the public is notified and that any interested person may petition the agency seeking to repeal rules.

The automatic repeal of rules as mandated by this bill may or may not result in the repeal of rules that were implemented under, or relate to, more than one statute. This uncertainty would invite litigation.

Other provisions of this bill, such as the requirement to conform to federal mandates, already are part of existing policy.

The requirement that the Small Business Regulatory Review Board review rules and recommend whether the private sector can more cost-effectively provide the same goal can also be implemented through an administrative directive.

For the foregoing reasons, I am returning House Bill No. 285 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 289

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 289, entitled "A Bill for an Act Relating to Education."

The stated purpose of this bill is to establish fifteen complex areas comprised of multiple school complexes as determined by the Superintendent of Education (Superintendent) in consultation with the Board of Education (BOE).

In truth, this bill would simply codify an internal reorganization that was proposed by the Superintendent in December of 2001 and approved by the BOE on January 10, 2002, and already has been implemented by the Department of Education (DOE).

This bill is objectionable because it pretends to be education reform when in reality it is the opposite. It would "etch into stone" the latest of the DOE's many reorganizations, and make it that much more difficult not just to achieve real reform, but also to manage the system. For example, if the Superintendent were to determine at some future point in time that it made more sense to have 16 complex areas, or 14, such a change would require another act of the Legislature. That would be an intolerable situation.

The Superintendent should have a reasonable degree of managerial freedom to do her job, and should not be required to get bills passed in the legislature any and every time she wants to exercise her managerial prerogative. The BOE has the authority and responsibility to provide oversight and to hold the Superintendent accountable.

The Legislature's penchant to micromanage has not led to better schools in the past, nor will it in the future. This bill is yet another example of such micromanagement.

The time has come for the Legislature to release its stranglehold on public education. It should let the people decide the issue of local school boards, and stop offering doing bills in the guise of education reform.

For the foregoing reasons, I am returning House Bill No. 289 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 290

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 290, entitled "A Bill for an Act Relating to Unemployment."

The primary purpose of this bill is to create a temporary state program to extend unemployment insurance benefits for an additional thirteen weeks for unemployed workers who had claims for unemployment benefits on or after September 11, 2001, and have exhausted their right to collect state, federal, and other unemployment benefits. Eligibility is conditioned on the federal Temporary Extended Unemployment Compensation (TEUC) program not being extended after May 31, 2003.

This bill is objectionable because it is unnecessary. On May 28, 2003, President George W. Bush signed federal legislation, Public Law No. 108-26, to extend the federal TEUC program until December 31, 2003. Because an individual would be eligible for the additional benefits under this bill only if the federal TEUC program was not extended and because that program has been extended, no individual can qualify for the additional benefits under this bill.

For the foregoing reasons, I am returning House Bill No. 290 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 468, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith the following bills without my approval, together with my official statements of objections to the bills:

H.B. No. 293, A BILL FOR AN ACT RELATING  
HD1, SD2, CD TO THE FARMERS' MARKET  
1

H.B. No. 298, A BILL FOR AN ACT RELATING  
HD2, SD2, CD TO CORRECTIONAL FACILITIES  
1

H.B. No. 426, A BILL FOR AN ACT RELATING  
HD1, SD2, CD TO PUBLIC LANDS  
1

H.B. No. 531, A BILL FOR AN ACT RELATING  
SD1, CD 1 TO PUBLIC EMPLOYEES

H.B. No. 640, MAKING AN APPROPRIATION  
HD1, SD2, CD1 FOR THE LOSS MITIGATION  
GRANT PROGRAM

H.B. No. 968, A BILL FOR AN ACT RELATING  
HD1, SD1, CD TO UNEMPLOYMENT BENEFITS  
1

H.B. No. 993, A BILL FOR AN ACT RELATING  
SD1, CD 1 TO RECONSTRUCTED VEHICLES

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 293

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 293, entitled "A Bill for an Act Relating to the Farmers' Market."

The purpose of this bill is to appropriate \$7,000 for the Department of Agriculture to assess the economic feasibility of establishing a world-class farmers' market in Hawaii.

This bill is objectionable because this appropriation would result only in a feasibility study for something that goes beyond essential or core services. In fiscally challenging time like these, we must exercise fiscal discipline and stay focused on the core functions of government.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May

16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning House Bill No. 293 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 298

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 298, entitled "A Bill for an Act Relating to Correctional Facilities."

The purpose of this bill is to direct the executive branch to initiate the process to develop a replacement facility for the Oahu Community Correctional Center (OCCC) on the undeveloped portion of the Halawa Correctional Facility (HCF) site.

This bill is objectionable because it prevents the consideration of alternative, possibly more appropriate, sites and because it requires expensive soil testing and a feasibility and planning study without appropriating any funds to do so. If the HCF site is later determined to be the best site upon which to construct a replacement facility for OCCC, existing laws already allow the administration to take steps necessary to pursue that option. Accordingly, this bill is also unnecessary.

For the foregoing reasons, I am returning House Bill No. 298 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU

June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 426

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 426, entitled "A Bill for an Act Relating to Public Lands."

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to issue new leases to the Kauai Beachfront Hotel (now known as the Aloha Beach Resort Kauai), the existing state lessee of resort properties at Wailua, Lihue, Kauai (Kauai Beachfront Leases).

This bill raises a serious policy question because it provides a special benefit to one entity that is not available to similarly situated entities. The State has a general policy, stated in section 171-14, Hawaii Revised Statutes, to award leases through public auction, thereby providing a fair opportunity for the public to bid on the lease and for the State to obtain the best deal possible.

This bill also is unnecessary in order to issue new leases on this property. Under section 171-61, Hawaii Revised Statutes, leases can be canceled and re-auctioned by the Board of Land and Natural Resources (BLNR) whenever land can be re-leased for a higher or better use or for an existing use to a greater economic benefit to the State. In fact, the BLNR took action at its meeting held on May 24, 2002, to approve the cancellation and re-auction of the Kauai Beachfront Leases.

Finally, there is a serious concern that this bill may be unconstitutional pursuant to Section 5 of Article XI of the State Constitution, which provides that the legislative power over the lands owned by the State and its political subdivisions shall be exercised only by general law.

For the foregoing reasons, I am returning House Bill No. 426 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 531

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 531, entitled "A Bill for an Act Relating to Public Employees."

This bill amends provisions relating to compensation and benefit adjustments for excluded managerial civil service employees. The bill provides that, in formulating recommendations to the appropriate authority, the respective director shall ensure that proposed adjustments are consistent with civil service laws and equivalent or not less than

adjustments provided for counterpart included civil service employees within the employer's jurisdiction.

This bill is objectionable and poor public policy, because the compensation and benefits packages for high-level excluded managerial employees will be linked to benefits obtained by the Unions through negotiation. This creates a conflict of interest for excluded managers, it reduces management's flexibility in employing excluded personnel, and it is contrary to the underlying rationale for creating excluded positions that are not subject to collective bargaining. In addition, the establishment of a compensation "floor" that is no less than the compensation negotiated for counterpart included civil service employees undermines the effort to establish pay for performance. Poor excluded performers receive the same as included counterparts, leaving less resources available to reward outstanding performers.

For the foregoing reasons, I am returning House Bill No. 531 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 640

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 640, entitled "A Bill for an Act Making an Appropriation for the Loss Mitigation Grant Program."

The purpose of this bill is to use \$500,000 from the Hawaii Hurricane Relief Fund for fiscal year 2003-2004 and another \$500,000 in fiscal year 2004-2005 to develop and implement the grant program established under Act 179, Session Laws of Hawaii 2002.

This bill is objectionable because it would take money from the Hawaii Hurricane Relief Fund to *[sic]* fund a relatively small program that would involve significant administration costs.

Although there is a logical relationship between the Hurricane Relief Fund and the purpose of this bill since the grants funded under this bill should reduce hurricane losses, too few property owners would benefit from this bill to justify the use of the moneys in the Hawaii Hurricane Relief Fund. There are administrative costs that would be incurred in operating this program, including costs for providing notice of the availability of the grant program, processing applications, and other staffing functions that are not funded in this bill. These administrative costs would reasonably be expected to consume a significant portion of the funds provided by this bill.

This bill also has a fiscal impact on the State. The State's general fund financial plan assumes a transfer of interest income of \$9 million annually from the principal balance of the Hurricane Relief Fund. Reducing that principal will reduce general fund revenues.

It should be noted that hurricane mitigation is a worthwhile concept, and the potential to use money provided by this bill as matching funds to qualify for additional federal money is attractive. Even so, the State must resist the urge to dip into the Hurricane Relief Fund so that the principal of this fund will be available to provide coverage for future hurricane losses. This bill represents the kind of "painless" decision that led to the current fiscal challenge. Faced now with a projected budget deficit of more than \$230 million, the State must make the hard choices necessary to put our financial house back in order.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget, it would be impossible to restore trust and integrity in government and expand and diversify the economy. These are things that we must do to achieve a true New Beginning for the people of Hawaii. Too much is at stake for us to lose our focus or our resolve.

For the foregoing reasons, I am returning House Bill No. 640 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 968

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 968, entitled "A Bill for an Act Relating to Unemployment Benefits."

The purpose of this bill is to allow unemployment insurance (UI) claimants to receive their weekly benefit amount without regard to earnings received from current employment.

This bill is objectionable because the unemployment system was established to provide jobless workers with a means of getting through a temporary period of unemployment and not as an entitlement that should continue to be paid in full even after a job has been found.

This bill also is objectionable because it would apply retroactively to weeks beginning January 1, 2003 and cost approximately \$800,000 per month in benefits expended from the UI trust fund, or a seven percent increase from current levels. Employers in Hawaii have already been subject to higher tax assessments because the contribution rate schedule increased from Schedule C in 2002 to Schedule D in 2003, due to a lower trust fund balance. By permanently drawing from trust fund reserves, this measure would put upward pressure on the unemployment tax rate and thereby make it more difficult to hold down the costs of doing business in Hawaii.

For the foregoing reasons, I am returning House Bill No. 968 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE

Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 993

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 993, entitled "A Bill for an Act Relating to Reconstructed Vehicles."

The purpose of this bill is to make the state law relating to reconstructed vehicles applicable beginning on July 1, 2004, in counties with a population of less than 500,000, unless a county decides to adopt ordinances regulating reconstructed vehicles.

Currently, the City and County of Honolulu is the only county administering the Director of Transportation's rules relating to the inspection and certification of reconstructed vehicles. Thus, a reconstructed vehicle that may be operating in the counties of Maui, Kauai, and Hawaii may not be legally operated in the City and County of Honolulu unless it is inspected and certified by Honolulu, and a reconstructed vehicle permit is obtained.

This bill is objectionable because it would force counties to either enact their own ordinances regarding the specifications and requirements governing reconstructed vehicles by July 1, 2004, or be subject to state provisions. Counties should be able to choose whether to regulate reconstructed vehicles, and if they do, have the ability to structure the regulation to meet their own particular needs.

The mayors of all four counties requested that I veto this bill.

For the foregoing reasons, I am returning House Bill No. 993 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 469, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith the following bills without my approval, together with my official statements of objections to the bills:

H.B. No. 1003, A BILL FOR AN ACT RELATING  
HD1, SD2, CD TO CRIME VICTIM  
1 COMPENSATION

H.B. No. 1013, A BILL FOR AN ACT RELATING  
HD3, SD2 TO EXAMINATIONS FOR THE  
DETERMINATION OF  
PERMANENT IMPAIRMENT

H.B. No. 1400, A BILL FOR AN ACT RELATING  
HD1, SD2, CD TO HOTEL CONSTRUCTION AND  
2 REMODELING TAX CREDIT

H.B. No. 1456, A BILL FOR AN ACT RELATING  
HD1, SD1, CD TO THE DEPOSIT BEVERAGE  
1 CONTAINER PROGRAM

H.B. No. 1579, A BILL FOR AN ACT RELATING  
HD1, SD2, CD1 TO THE ECONOMIC  
DIVERSIFICATION AUTHORITY

H.B. No. 1613, A BILL FOR AN ACT RELATING  
HD2, SD1, CD TO NORTH KOHALA  
1

H.B. No. 1652, MAKING AN APPROPRIATION TO  
SD1, CD 1 THE MEDICAID PRESCRIPTION  
DRUG REBATE SPECIAL FUND

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1003

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1003, entitled "A Bill for an Act Relating to Crime Victim Compensation."

The purpose of this bill is to assist the Crime Victim Compensation Commission (CVCC) by doing the following: (1) allowing the CVCC to transfer a minor's compensation award to an appropriate custodian for the minor's benefit under the Uniform Transfers to Minors Act; (2) allowing compensation (a) for mental health services to children or elderly individuals who witness a crime, and (b) to surviving relatives of victims of sexual assault and death; (3) renaming the award for "pain and suffering" as the award for an "acknowledgment of harm"; (4) authorizing the CVCC to hire new employees without regard to civil service; (5) requiring the Judiciary to provide information demonstrating compliance with section 351-62.6, Hawaii Revised Statutes; and (6) escheating any unclaimed victim restitution moneys to the CVCC special fund after public notice.

Although there are several positive aspects to this bill, the bill is objectionable because the removal of civil service protection is unnecessary and because funds should not escheat to the CVCC when the CVCC is the organization currently responsible for locating victims.

This bill removes civil service protections from new staff at the CVCC. No sufficient justification has been provided to demonstrate the need for these workers to be exempt from the civil service.

Furthermore, the CVCC is currently responsible for locating and paying victims. Under this bill, if the CVCC does not locate the victim, the restitution funds escheat to the CVCC special fund. Accordingly, this bill would appear to create a financial incentive for the CVCC when victims are not found. Laws that create such perceptions of government do not serve to restore trust and integrity in government.

The positive parts of this bill may and should be passed next year.

For the foregoing reasons, I am returning House Bill No. 1003 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1013

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1013, entitled "A Bill for an Act Relating to Examinations for the Determination of Permanent Impairment."

The purpose of this bill is to require an employer and an employee in a workers' compensation case to mutually agree upon a physician to conduct an examination for the determination of permanent impairment when an employer requests the examination. If no agreement is reached, the Director of Labor and Industrial Relations ("Director") is required to appoint a physician from a list of duly qualified physicians that the Director is required to compile and maintain. The Director is required to appoint the physicians in the order they appear on the list. The employer is required to pay for the cost of any examination it requests.

This bill is objectionable because there has been no demonstrated need for a change in the present system. Currently, the employer and employee either agree on a physician and the employer usually pays for the examination and report, or the employer and the employee each obtain and pay for their own examinations and reports. If the employee will not voluntarily attend an examination requested by the employer, the employer may ask the Director or the Labor and Industrial Relations Appeals Board for an order requiring the employee to attend the examination. The employer pays the physician it selects to do the examination and report. Under House Bill No. 1013, however, the employer might have no say in selection of the physician who would conduct the examination, but still be required to pay the cost of that examination.

This bill is also objectionable because it may make the system more adversarial and lengthy, and may increase workers' compensation costs for employers, including the State.

Additionally, no appropriation was included to implement this bill.

For the foregoing reasons, I am returning House Bill No. 1013 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1400

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1400, entitled "A Bill for an Act Relating to Hotel Construction and Remodeling Tax Credit."

The purposes of this bill are to: (1) extend the period during which the Hotel Construction and Remodeling Tax Credit ("Credit") may be claimed; (2) implement a phased-in decrease in the amount of the Credit; and (3) expand the types of costs that may be included in the calculation of the Credit.

This bill is objectionable because it: (1) greatly expands the types of costs eligible for the Credit; (2) does not provide an overall cap on the amount of the Credit claimed; and (3) places too much of a burden on general fund revenue.

The provisions of this bill expand the definition of "qualified hotel facility" to include commercial facilities in a "qualified resort area." Virtually any construction costs incurred by a hotel operator or owner would be eligible for the Credit. This broad expansion of the credit could dramatically increase claims for the Credit in unpredictable ways.

Lack of an overall cap on Credits claimed, combined with the greatly expanded eligible costs, make it exceptionally difficult to predict the fiscal impact of this bill. While such unpredictability might be tolerable under different fiscal circumstances, it could be disastrous at a time when the State is facing a projected budget deficit of more than \$230 million.

For the foregoing reasons, I am returning House Bill No. 1400 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1456

Honorable Members  
Twenty-Second Legislature  
State of Hawaii



Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1456, entitled "A Bill for an Act Relating to the Deposit Beverage Container Program."

The purpose of this bill is to amend statutes pertaining to the deposit beverage container program, part VIII of chapter 342G, Hawaii Revised Statutes (HRS), the so-called "bottle law," to clarify various ambiguities.

Since enactment of the bottle law, there has been uncertainty and disagreement over the meaning of various provisions, including the effective date of the provision requiring distributors to pay a per-container fee. According to a report of the Senate Committee on Ways and Means, the Legislature intended that this bill would provide an effective date of January 1, 2005. The bill itself, however, does not do this, at least not clearly. In fact, in one section there is language calling for a retroactive effective date: "Beginning October 1, 2002, payment of the deposit beverage container fee and deposits as described in section 342G-110 shall be made monthly based on sale reports of the deposit beverage distributors."

Another provision of this bill makes it possible for dealers under certain conditions to charge customers for deposits on containers prior to January 1, 2005, but the bill leaves customers with no way to get back their deposits until after that date. Therefore, this bill would require such customers to bear the cost of the deposit and store the deposit beverage container until it could be redeemed on or after January 1, 2005.

This bill is objectionable because at best it fails to clarify existing confusion over the effective date for the payment of deposits. Such uncertainty invites wasteful litigation. At worst, the bill establishes a retroactive effective date of October 1, 2002, which would be unfair.

I called for repeal of the bottle law this past session, and I intend to do so again next session. I am convinced that the bottle law, once implemented, would be costly and bureaucratic, providing minimal benefit for our environment while hindering the adoption of more effective and efficient alternatives. The bottle law makes little sense under the best of fiscal circumstances. Faced with a projected budget deficit of more than \$230 million, and knowing that there are more effective ways to deal with the litter and landfill problems, it makes no sense to spend millions of dollars creating a new Bottle Division within the Department of Health, and mandating costly and cumbersome regulations.

Beverage containers account for only 7.3 percent of litter in Hawaii, and less than 2 percent of all solid waste. The bottle law ignores all but a tiny percentage of the problem. It would make far more sense to provide funding and other forms of support to community-based litter programs and county efforts to develop curbside and drop-off recycling.

Hawaii's Community Workday Program was thriving and highly successful before being largely dismantled in the mid-1990s. That community-based litter control program involved the public and private sectors plus thousands of volunteers in a campaign of education, anti-litter publicity, volunteer cleanup programs including adopt-a-highway and a litter hotline. At that time, Hawaii's litter rate was substantially lower than the average in states with bottle laws.

Clearly, bottle laws are not the wave of the future, they are a relic of the past. Actual experience in the 10 states that have bottle laws is telling: overall litter has not been substantially reduced, bottle laws contribute little to overall recycling levels, container return rates are at record low levels, and costs to

operate and administer the programs are high. It has been more than 17 years since another state has enacted a bottle law.

One reason for the lack of new bottle laws is the development of infrastructure to provide recycling services to homes and apartments. These comprehensive recycling programs handle many other types of materials in addition to beverage containers. When California passed the last bottle law in 1986, curbside recycling was still a new idea. Today there are nearly 10,000 curbside programs in the US.

Bottle laws compete with these comprehensive programs -- both provide the infrastructure to handle the same containers, but bottle laws pull the most valuable commodities out of the curbside programs, making them less efficient. This conflict spurred the repeal of Columbia, Missouri's deposit ordinance in April 2002 and underlies bottle bill repeal legislation that has been filed and/or heard in Iowa, Connecticut, New York, and Massachusetts.

We in Hawaii have a special pride in our environment, as well as an unusually strong economic incentive to protect it. The bottle law hastily enacted in Hawaii in anticipation of the last elections is a poorly thought-out, unnecessarily expensive, big-government program that would achieve relatively little. A non-bureaucratic, consumer-friendly recycling and litter-control plan would protect the environment better.

Last session, I proposed that substantial funding be appropriated to restart the Community Workday Program and to assist the counties in developing recycling programs. Both of these proposals were rejected by the Legislature. Next session, I will propose that the bottle law be repealed, and that we make major investments in litter control and recycling efforts. Without doubt, such initiatives would accomplish more for less.

For the foregoing reasons, I am returning House Bill No. 1456 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1579

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1579, entitled "A Bill for an Act Relating to the Economic Diversification Authority."

The purpose of this bill is to explicitly and specifically enumerate the duties of the Department of Business, Economic Development, and Tourism (DBEDT) to identify and implement ways to diversify Hawaii's economy. The bill requires DBEDT to develop and implement plans, programs, and initiatives to facilitate economic diversification.

This bill is objectionable because it is unnecessary. The enumerated duties already fall within the general objectives, functions, and duties of DBEDT. Section 201-2, Hawaii Revised Statutes, states that DBEDT's function is to "make

broad policy determinations with respect to economic development in the State and to stimulate through research and demonstration projects those industrial and economic development efforts which offer the most immediate promise of expanding the economy of the State."

DBEDT has already accomplished what this bill intends to achieve, and continues to update its plans on an ongoing basis. Legislative micromanagement of the methods that DBEDT employs to achieve its objectives is inappropriate and reduces the DBEDT's flexibility to use its resources in the most efficient and productive way possible. Such flexibility is especially important in these lean fiscal times.

For the foregoing reasons, I am returning House Bill No. 1579 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1613

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1613, entitled "A Bill for an Act Relating to North Kohala."

The purpose of this bill is to encourage the Department of Land and Natural Resources (DLNR) to renew its efforts to acquire, through land exchanges, lands necessary to provide additional protection of, and public access to, the Kohala Historical Sites State Monument, and to name a specific entity as caretaker for the Mo'okini Heiau.

This bill is unnecessary because the DLNR is already required by Act 166, Session Laws of Hawaii 1992, to acquire such lands. In fact, the DLNR is currently engaged in a number of actions relative to this matter. These have included discussions regarding land exchanges for buffer zones and easements for public access. The DLNR also will be seeking a commitment from the adjoining landowner to refrain from selling potential buffer parcels of land to others while these discussions continue. Finally, the DLNR is planning a community meeting to seek input regarding the care of Mo'okini Heiau.

This bill inappropriately designates a specific entity to serve as caretaker of the Mo'okini Heiau. To ensure fairness and accountability, management decisions such as this one should be made by the DLNR, consistent with established practice and in accordance with all applicable law and administrative rules. In any event, the DLNR will continue to consult with the Kahuna Nui of the Mo'okini Heiau, as required by the deed to the property.

For the foregoing reasons, I am returning House Bill No. 1613 without my approval.

Respectfully,

/s/ Linda Lingle

LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1652

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1652, entitled "A Bill for an Act Making an Appropriation to the Medicaid Prescription Drug Rebate Special Fund."

The purpose of this bill is to appropriate \$500,000 to the Department of Human Services' Medicaid prescription drug rebate special fund for the development of a prescription drug benefits expansion program and for obtaining a waiver for the program from the Centers for Medicare and Medicaid Services.

This bill is objectionable because it is flawed legally. While the bill contains an appropriation making it possible to put money into the Medicaid prescription drug rebate special fund, the bill lacks an appropriation of money for expending out of this fund. Without additional legislation, the \$500,000 could not be used for anything, including the intended purpose.

In this time of pressing needs and budgetary constraints, it would make no sense to sign this bill under the circumstances. I believe that this money should remain in the general fund where it will be available for general fund appropriations made for other purposes.

This veto should not be seen as a criticism of the ultimate goal of this bill, which is to help make the cost of pharmaceuticals affordable to the people of this State. I am determined to do all that I can to accomplish this goal within the context of the State's fiscal situation.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the

economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning House Bill No. 1652 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 470, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K. Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith the following bills without my approval, together with my official statements of objections to the bills:

S.B. No. 38, A BILL FOR AN ACT RELATING  
HD2, CD1 TO THE HAWAII TOURISM  
AUTHORITY

S.B. No. 41, A BILL FOR AN ACT RELATING  
HD1, CD1 TO PUBLIC CONTRACTS

S.B. No. 44, A BILL FOR AN ACT RELATING  
SD2, HD2, CD1 TO TRANSPORTATION

S.B. No. 209, A BILL FOR AN ACT RELATING  
SD3, HD1, CD TO PUBLIC EMPLOYMENT  
1

S.B. No. 255, A BILL FOR AN ACT RELATING  
SD2, HD1, CD1 TO AGRICULTURE

S.B. No. 317, MAKING A APPROPRIATION FOR  
SD2, HD1, CD1 THE FIFTIETH ANNIVERSARY  
COMMEMORATION OF THE  
KOREAN WAR COMMISSION

S.B. No. 319, A BILL FOR AN ACT RELATING  
SD2, HD1 TO COUNTIES

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 38

Honorable Members

Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning without my approval, Senate Bill No. 38, entitled "A Bill for an Act Relating to the Hawaii Tourism Authority."

The purpose of this bill is to authorize the Hawaii Tourism Authority (HTA) to hire attorneys independent of the Attorney General. At present, the HTA's legal services are provided through the Department of the Attorney General.

This bill is unnecessary because the Attorney General is capable of providing the services needed by the HTA either through regular or special deputy attorneys general. Furthermore, existing statutes provide for the contracting of private attorneys with special expertise when needed for specific projects, and the Attorney General has never denied a request from the HTA for an attorney with special expertise.

If the HTA were authorized to hire or retain attorneys independent of the Attorney General, the advice of private counsel may conflict with the advice given to other state agencies by the Attorney General and result in litigation that could have been avoided if the advice had been coordinated and reviewed by the Attorney General.

For the foregoing reasons, I am returning Senate Bill No. 38 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 41

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 41, entitled, "A Bill for an Act Relating to Public Contracts."

The purpose of this bill is to require the Hawaii Tourism Authority (HTA) to disclose its publicly funded contracts and subcontracts by specifically subjecting them to the disclosure requirements of the Uniform Information Practices Act (UIPA), chapter 92F, Hawaii Revised Statutes, except for any information deemed proprietary by the person providing the information to the HTA.

This bill is objectionable because it invites confusion and accomplishes the opposite of the intent of disclosure and openness that was articulated by the Legislature in its committee reports.

The HTA is already subject to the disclosure requirements of the UIPA. Instead of requiring full disclosure, this bill provides an exemption from disclosure. Under this bill, this exemption would be invoked by persons providing information to the HTA.

Whether or not information is proprietary should be determined by the Office of Information Practices (OIP) under the provisions of chapter 92F, and not by the provider of the information.

This bill needs to be reworked by changing who determines whether information is proprietary from the provider of the information to the OIP. So changed, it could receive my enthusiastic support.

For the foregoing reasons, I am returning Senate Bill No. 41 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 6, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 44

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 44, entitled "A Bill for an Act Relating to Transportation."

The purpose of Senate Bill No. 44 is to ensure that economic relief is provided to airport concessionaires, either in an amount agreed to in negotiations between the State Department of Transportation (the "State") and the concessionaires or as mandated by this bill.

This bill is fiscally irresponsible and philosophically objectionable for a number of reasons. First, it implies that each and every concessionaire is deserving of more relief than is likely to be agreed to by the State in separate arms-length negotiations with each concessionaire. While it is true and proper that the State will always put the interests of the public ahead of those of concessionaires, this does not mean that the State would be unreasonable or shortsighted in negotiating agreements. This bill implies the opposite.

Second, this bill essentially mandates open-ended relief that could easily exceed \$100 million, with the bulk of that relief going to a single airport concessionaire, DFS Group L.P. ("DFS"), who holds the statewide in-bond concession and the retail concessions at Honolulu International Airport and Kona International Airport at Keahole. It is relevant that the State has a lawsuit pending against DFS, alleging that DFS fraudulently transferred significant sums of moneys to its corporate parent at a time when DFS owed the State tens of millions of dollars. Such a transfer to its controlling shareholder is highly relevant because DFS subsequently claimed to be financially unable to pay amounts due to the State, and then threatened to declare bankruptcy if the State attempted to enforce its contract with DFS.

The State and DFS are presently discussing a possible settlement of this lawsuit. A few weeks ago, DFS made a \$25 million payment, meeting one of the preconditions for these discussions. If Senate Bill No. 44 were to become law, it would dramatically and adversely affect these discussions. Based on DFS' original position, the State anticipates that DFS

would, at a minimum, either demand return of the \$25 million payment, or insist that the State forgive most of DFS' back rent obligation, as if the State had guaranteed that DFS would never lose money.

Third, the mandated open-ended relief required by this bill poses an unacceptable threat to the continued viability of the State's airport system. It would make it impossible for the State to guarantee the financial integrity of the airport revenue fund. This, in turn, could result in sanctions by the Federal Aviation Administration and in potential violations of agreements with the State's bondholders.

Fourth, this bill singles out a tiny number of businesses for an unprecedented amount of economic relief. While the events of September 11, 2001, and resulting changes in our society certainly have had a big impact on airport concessionaires, they are not alone. It would be inherently unfair for the State to provide tens of millions of dollars, or more, in relief to such a narrow group of affected businesses.

Fifth, this bill would have the airport system's primary mission be one of serving the concessionaires rather than serving the public. While the State has no desire to put any existing concessionaire out of business, it would be wrong to make that the primary goal of negotiations. That is exactly what this bill would do.

Sixth, many of the terms of this bill are vague, ambiguous, or even inconsistent. Deciphering the rights and entitlements of the airport concessionaires and ensuring that all of the relief mechanisms are properly followed would be an administrative nightmare. For example, it is difficult to understand and harmonize the subsections within section 4 of the bill, as well as discern how section 4 would be applied in conjunction with other sections such as section 5. It appears that under section 4 of the bill, those concessions that receive relief under section 5 of the bill could potentially receive substantial additional relief over and above the relief mandated under section 5.

Section 4 of the bill provides that, if cancellation or modification of the contract cannot be agreed to within sixty days, "a party may seek relief through the courts." But this bill also states, "[t]he concessionaire shall have no right to make any claims against the State due to such cancellation." Inconsistencies like this one would virtually guarantee the need for expensive litigation to sort out the controlling rule.

Further, under sections 1 and 4 of this bill, the State would have to negotiate relief with any concessionaires that had contracts as of January 1, 2003, which would include at least two concessionaires whose contracts have since been terminated and are no longer airport tenants.

Also of note is that under section 5 of this bill, one concession could potentially continue receiving mandated "break-even no profit" relief through 2008.

While section 7 seems to be intended to prevent concessionaires receiving relief under section 5 from receiving duplicate relief or benefits, it is unclear what such concessionaires could receive or what the State would be required to do or negotiate if an event similar to September 11, 2001, were to occur in the future.

Based on sections 3, 4, and 5 of the bill, the State could easily find itself caught in an unending cycle of renegotiations with no ability to determine whether and to what extent relief should be granted.

Seventh, under section 5 of the bill, if, for example, the State is unable to reach agreement with a concessionaire who had

previously received relief under Act 15, Third Special Session Laws of Hawaii 2001, the State must either: (1) terminate the contract, give up any right to claim the concessionaire's performance bond, and give up the right to collect most (if not all) of any back rent amounts or (2) permit a court-appointed certified public accountant to determine the amount of relief the State must provide to the airport concession.

Preventing the State from calling upon the very security it obtained to ensure that each concessionaire completed performance under each respective contract would be unwise and extremely detrimental to the State. For example, the performance bonds provided by DFS alone to secure its performance add up to approximately \$50 million.

Eighth, as a property owner and lessor, the State should have the discretion to determine if relief is warranted and at what level. These rights are basic to any property owner or lessor. The bill denies these rights to the State.

Ninth, and particularly troubling, is the tenor of distrust that runs through this bill. Without having given this administration a meaningful opportunity to work with the concessionaires, some legislators may have assumed or already concluded that this administration cannot be trusted to negotiate settlements that are fair and reasonable, and in the best interests of all of the people of Hawaii.

Tenth, and most troubling of all, is the possibility that this bill was motivated by a fear that the administration would indeed put the best interests of all of the people of this State ahead of all other interests. Under this bill, the airport concessions seemingly are guaranteed relief regardless of the impact on the public or the State's ability to operate the state airport system. To the extent that this bill reflects narrow-minded favoritism of a single special-interest group over the interests of the public, that alone is reason enough to veto it.

For the foregoing reasons, I am returning Senate Bill No. 44 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 209

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 209, entitled "A Bill for an Act Relating to Public Employment."

The purpose of this bill is to appropriate \$60,000 for fiscal year 2003-2004 to the Department of Education to convert ten-month certificated positions to twelve-month certificated positions to provide services for multi-track year-round schools within the State of Hawaii.

While I believe that services are needed for multi-track schools, I also believe that the Department of Education already has existing capacity within its budget to provide the additional services that are required by the four schools in question. It

would not be fiscally prudent to fund these services with a new appropriation from the general fund at a time when the State is facing a projected budget deficit of more than \$230 million.

For the foregoing reasons, I am returning Senate Bill No. 209 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 255

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 255, entitled "A Bill for an Act Relating to Agriculture."

The purpose of this bill is to amend chapter 205 (land use) of the Hawaii Revised Statutes by adding a new section to prohibit private restrictions on agricultural uses and activities on lands classified as agricultural by the Land Use Commission, except for restrictions intended to protect environmental or cultural resources.

This bill was introduced to address concerns regarding the proliferation on agricultural lands of residential subdivisions, gentleman farmer estates, and gated communities. Such developments often restrict agricultural activities by covenants or other types of servitudes.

I wholeheartedly support agriculture, which is a vital component of our economy, and I believe that most restrictive covenants against agricultural uses are contrary to the public good. This bill, however, is too far-reaching, and would prohibit landowners from placing any restrictions on agricultural uses of their agricultural lands.

I believe that the problems this bill attempted to remedy should be addressed in a fashion that will ensure the ability to use agricultural lands for agricultural activities, while allowing for reasonable restrictions where appropriate. My administration intends to work with all stakeholders to draft a bill for the next legislative regular session that accommodates the interests of both agriculture and private property owners.

For the foregoing reasons, I am returning Senate Bill No. 255 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 317

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 317, entitled "A Bill for an Act Making an Appropriation for the Fiftieth Anniversary Commemoration of the Korean War Commission."

The purpose of this bill is to appropriate \$30,000 additional funds to allow the Fiftieth Anniversary Commemoration of the Korean War Commission to complete its activities commemorating the fiftieth anniversary of the end of the Korean War.

While I believe this project to be worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 317 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 319

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval,

Senate Bill No. 319, entitled "A Bill for an Act Relating to Counties."

The purpose of this bill is to reduce solid waste in the State of Hawaii by requiring counties with a population of at least 500,000 to establish a food waste recycling program. The program would require the owners or operators of certain food establishments to arrange for the collection, and delivery to a recycling facility, of a minimum of fifty percent of the establishments' food waste.

The bill is objectionable because it is unnecessary and goes against the concept of home rule.

According to the 2000 census, the City and County of Honolulu is the only county that would be required to comply with this bill. Yet, Honolulu is also the only county that currently has a mandatory food waste recycling program, pursuant to section 9-3.5, Revised Ordinances of Honolulu.

Regulation of food waste removal is best left to the counties so that the people most directly affected by such regulation can determine for themselves how best to implement it. The City and County of Honolulu testified against this bill because it prefers its own food waste recycling program to the one that would be forced upon it by this bill.

For the foregoing reasons, I am returning Senate Bill No. 319 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 471, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith the following bills without my approval, together with my official statements of objections to the bills:

S.B. No. 464, A BILL FOR AN ACT RELATING  
SD 2, HD2, TO IMPLEMENTATION OF A  
CD1 FIXED RAIL TRANSIT SYSTEM

S.B. No. 474, A BILL FOR AN ACT RELATING  
SD2, HD1 TO THE AUDITOR

S.B. No. 534, A BILL FOR AN ACT RELATING  
SD2, HD1, CD1 TO AGRICULTURE

S.B. No. 540, MAKING AN APPROPRIATION  
SD1, HD2, CD FOR AGRICULTURAL RESEARCH  
1 AND DEVELOPMENT

S.B. No. 576, A BILL FOR AN ACT RELATING  
HD2, CD1 TO THE UNIVERSITY OF HAWAII

S.B. No. 658, A BILL FOR AN ACT RELATING  
SD1, HD3 TO EMERGENCY  
CONTRACEPTIVES FOR SEX  
ASSAULT SURVIVORS IN  
EMERGENCY ROOMS

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 464

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 464, entitled "A Bill for an Act Relating to Implementation of a Fixed Rail Transit System."

The purpose of this bill is to address growing traffic congestion problems by requiring the State Department of Transportation, in conjunction with both the Oahu Metropolitan Planning Organization (OMPO) and the City and County of Honolulu, to develop an action plan for the implementation of a fixed rail transit system for Oahu.

This bill is objectionable because I have already created a task force that includes representatives of the Legislature, the Honolulu City Council, the Mayor, OMPO, the Federal Highway Administration, the Federal Transit Administration, and both state and city transportation departments to study all possible transportation options that could help alleviate the traffic congestion problem on Oahu. This task force is taking a broad view of the transportation options available, and is looking at a variety of alternatives, including but not limited to rail transit, as a means of addressing this pressing issue that is of tremendous concern to our residents and families on Oahu.

Additionally, I note that the development of the action plan required by this bill would be a large undertaking for which no funding has been provided.

For the foregoing reasons, I am returning Senate Bill No. 464 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 474

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 474, entitled "A Bill for an Act Relating to the Auditor."

The purpose of Senate Bill No. 474 is to facilitate the acquisition of FERPA-protected information by making the Legislative Auditor an "authorized representative" of the Department of Education (DOE) and of the Department of Health (DOH).

The Federal Family Educational and Privacy Rights Act, 20 U.S.C. § 1232g (FERPA), generally prohibits the disclosure of personally identifiable information about students. There are, however, exceptions. The DOE may disclose such records pursuant to a subpoena together with prior notification to the students' parents, or to a recipient who is an "authorized representative" of the DOE. FERPA sometimes slows down the work of the Hawaii State Legislative Auditor ("Legislative Auditor") when auditing programs within the DOE and DOH by necessitating the issuance of a subpoena and notification to parents.

According to the Department of the Attorney General, enactment of Senate Bill No. 474 would subject the State to a significant risk of lawsuits. Specifically, the disclosure of education records without prior parental notification or issuance of a subpoena would probably result in expensive lawsuits filed by parents challenging this bill as an invalid attempt to circumvent federal law. In my opinion, this potential liability clearly exceeds any possible benefit that might result from this bill.

It should be noted that auditors in some states are automatically considered authorized representatives of educational agencies for purposes of FERPA compliance. These are states in which the person or organization conducting the audit is hired by the educational agency and conducts a single audit of federal funds received by the educational agency, which is clearly not the case with the Legislative Auditor in Hawaii.

The Family Policy Compliance Office ("Compliance Office"), U.S. Department of Education, which is the federal agency authorized to administer FERPA, contends that the FERPA exception in question applies only when the "authorized representative" is an executive branch auditor or an outside auditor hired by the educational agency or the state to conduct a single audit of federal funds received by the educational agency or the state. Hawaii's Legislative Auditor does not conduct the type of single audit that falls within the FERPA exception. Therefore, under the Compliance Office's interpretation of FERPA, the DOE would not be allowed to disclose education records to the Legislative Auditor even after enactment of Senate Bill No. 474, and so this bill would not accomplish its intended goal in any event.

For the foregoing reasons, I am returning Senate Bill No. 474 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 534

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 534, entitled "A Bill for an Act Relating to Agriculture."

The purpose of this bill is to appropriate \$400,000 to the University of Hawaii College of Tropical Agriculture and Human Resources for various agricultural research and outreach programs, including the development of high value agricultural products, breeding programs, and related activities.

While I believe this project to be worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 534 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 540

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval,

Senate Bill No. 540, entitled "A Bill for an Act Making an Appropriation for Agricultural Research and Development."

The purpose of this bill is to appropriate \$850,000 for agricultural research and market development and pineapple research projects. The amount of \$800,000 is appropriated to the Department of Agriculture as a grant to the Hawaii Farm Bureau Federation with the requirements that the money be disbursed to the Hawaii Agriculture Research Center and that \$500,000 of the money be used for sugar research. The remaining \$50,000 is appropriated to the Department of Agriculture for specific pineapple research projects.

While I believe this project to be worthwhile, the State's current fiscal condition cannot be ignored. The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 540 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 576

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 576, entitled "A Bill for an Act Relating to the University of Hawaii."



Current law, section 304-16.5, Hawaii Revised Statutes, authorizes expenditures from the University of Hawaii (UH) tuition and fees special fund in order to generate private donations for deposit into the UH Foundation. The purpose of Senate Bill No. 576 is to provide that any expenditure from the UH tuition and fees special fund shall be subject to section 42F-103(a)(4), Hawaii Revised Statutes, which gives the UH and legislative committees and their staff, as well as the legislative auditor (Auditor), full access to the records, reports, and files of the individual or organization receiving the funds, such as the UH Foundation.

This bill is objectionable because it would make it impossible for the UH Foundation to assure prospective donors that their privacy rights would be protected, and would thereby jeopardize the UH Foundation's ability to raise money for UH's needs.

While the bill does subject the Auditor to the same restrictions on disclosure of records as currently apply to the UH Foundation, and provides that upon written request from a private donor the Auditor would be prohibited from disclosing that donor's name and personal information, it does not place these limitations on legislative committees and members of their staff. This would have a chilling effect on private donors not wanting the public to know information about their personal assets, business plan, estate plan, or in some cases their identity.

If there is a perceived need for greater accountability by the UH Foundation, I am confident it can be achieved without the adverse consequences that surely would flow from enactment of this bill.

For the foregoing reasons, I am returning Senate Bill No. 576 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 658

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 658, entitled "A Bill for an Act Relating to Emergency Contraceptives for Sex Assault Survivors in Emergency Rooms."

The purpose of this bill is to require hospitals that provide emergency care to sexual assault survivors, to provide information on emergency contraceptives, and to offer and provide emergency contraceptives to sexual assault survivors.

This bill is objectionable because it would not withstand a legal challenge. According to the Department of the Attorney General, this bill violates the constitutional right to the free exercise of religion.

Individuals and religious institutions, such as St. Francis Hospital (St. Francis), have a constitutional right to the free exercise of religion. Citing religious beliefs, St. Francis does

not allow its medical personnel to dispense emergency contraception drugs while carrying out their duties at St. Francis.

This bill directly interferes with the constitutional right to the free exercise of religion by requiring hospital personnel to administer emergency contraception drugs even if such an act is in contravention of religious beliefs and hospital policies which reflect those beliefs, as is the case at St. Francis.

When the State interferes with an individual's or an institution's right to the free exercise of religion, the State must show not only that the limitation in question furthers a compelling state interest, but also that the desired result is accomplished in a reasonable and least-restrictive manner.

The penalty provisions of this bill are unusually severe. After the first two violations, this bill would require the Department of Health to suspend or revoke the license of a hospital violating the bill.

This bill would not have been objectionable if the Legislature had included an "opt-out" provision for religious hospitals. During the legislative session, I indicated that I would sign an emergency contraception bill only if it included an "opt out" provision for religious hospitals. For whatever reason, the Legislature chose not to include such a provision.

Another possible alternative would be the approach taken by the State of Illinois. In 2001, Illinois enacted a bill that requires all hospitals to provide emergency contraception information to sexual assault victims. This law does not require the hospital to actually administer the drug if requested, but only requires that the hospital provide the victim with "a description of how and when victims may be provided emergency contraception upon the written order of a physician." Like an "opt out" provision, such a requirement would not force the religious hospital to administer emergency contraception drugs in contravention of its religious beliefs.

The current practice at St. Francis is to do what the Illinois law requires, and also to arrange for transportation of the victim to another hospital that does not have an objection to providing emergency contraception drugs.

For the foregoing reasons, I am returning Senate Bill No. 658 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 472, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith

the following bills without my approval, together with my official statements of objections to the bills:

S.B. No. 740, HD2, CD1	A BILL FOR AN ACT RELATING TO HEALTH
S.B. No. 745, SD2, HD2, CD1	A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES
S.B. No. 748, SD2, HD2, CD1	A BILL FOR AN ACT RELATING TO NURSING EDUCATION
S.B. No. 768, SD1, HD2, CD1	A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING
S.B. No. 1088, SD2, HD2, CD1	A BILL FOR AN ACT RELATING TO LONG-TERM CARE
S.B. No. 1135, SD1, HD1, CD1	A BILL FOR AN ACT RELATING TO COURT FEES

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 740

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 740, entitled "A Bill for an Act Relating to Health."

The purpose of this bill is to establish statutorily within the Department of Health the public health nursing (PHN) services program. The bill enumerates specific services that the program shall provide.

This attempt to codify the PHN program, which has been in existence since 1923, is commendable to the extent that it recognizes the importance and value of the services that have been provided to the community for the last eighty years. The PHN program provides essential services to some of the State's most vulnerable populations including special needs infants, the elderly, and victims of natural disasters. Although I believe it is a vital program, this bill is objectionable for a number of reasons.

First, the bill creates an overly broad mandate. For instance, it provides that the PHN program "shall" provide health care services when no other resources are available in the community. There is no limitation that the services will be provided only to the extent that staff and other resources are available. Without some explicitly stated restrictions, the mandate could result in community demands that far exceed the program's current abilities to respond.

Second, the broad mandatory language may result in excessive financial liability. If the needs of the community exceed the program's ability to respond, there is potential legal liability from assuming an obligation that we know cannot be met. In this time of fiscal austerity, there is no guarantee of increased resources to meet the increased demands. It would

not be fiscally prudent to expand services at a time when funding is scarce and the prospect of increasing funding is unlikely.

Third, the mandatory language in this bill would unnecessarily restrict the flexibility of the program to adapt to changing community needs. As the program currently operates and, presumably, will continue to operate, it is not restricted to providing a limited set of services. If the bill becomes law, however, the statute would need to be amended before the program could discontinue one of the enumerated services, or before adding a service not enumerated, which would be an inefficient use of time and resources.

I envision a bill being crafted in the future that would not only recognize the immense value of the PHN program, but would also be tailored to limit unnecessary liability and allow for the flexibility the program currently has to meet the changing needs of the community. This bill does not satisfy those requirements.

For the foregoing reasons, I am returning Senate Bill No. 740 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 745

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 745, entitled "A Bill for an Act Relating to Emergency Medical Services."

The purposes of this bill are to require the State to provide emergency aeromedical helicopter services statewide and to appropriate \$611,500 for fiscal year 2004-2005 to the Emergency Medical Services System of the Department of Health for emergency aeromedical helicopter services for the County of Maui, with matching funds to be provided by the County of Maui. This bill further appropriates \$388,500 for fiscal year 2004-2005 to the Emergency Medical Services System for the integration of additional ground ambulance services with the emergency aeromedical helicopter services.

This bill is objectionable because it requires the State through the Department of Health to establish emergency aeromedical helicopter services statewide, but without statewide funding. The State would be open to liability if emergency aeromedical helicopter services were not available to a person who needed them in a county other than Maui.

Through its appropriations, this bill also would impose a substantial financial burden on the State during a fiscally challenging time. While it truly would be wonderful to have emergency aeromedical helicopter services statewide, the State cannot spend money that it does not have.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the

biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. The challenge presented by this budget increased when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 745 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 748

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 748, entitled "A Bill for an Act Relating to Nursing Education."

The purpose of this bill is to establish a nursing education loan program, administered by the University of Hawaii, to provide loans to qualified nursing students who agree to later secure employment as a nurse in Hawaii. Repayment of the principal and interest will be waived in an amount dependent upon the student's length of employment in Hawaii.

This bill is objectionable because it is questionable whether the partial and total waivers on the principal and interest of the student loans will actually alleviate the nursing shortage in Hawaii enough to justify the cost. Representatives of the School of Nursing testified that qualified applicants for the program have to be turned away because of limitations placed on the number of students that can be admitted to the school. There also is an insufficient number of clinical sites where students can be provided with clinical training and experience.

Furthermore, the bill establishes a special fund to provide loans to qualified nursing students but does not appropriate any moneys into the fund. It is not good policy to establish a special fund without any appropriation or dedicated funding source.

For the foregoing reasons, I am returning Senate Bill No. 748 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

#### STATEMENT OF OBJECTIONS TO SENATE BILL NO. 768

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 768, entitled "A Bill for an Act Relating to Collective Bargaining."

The purpose of this bill is to amend section 89-11(d), Hawaii Revised Statutes, to restore binding arbitration as the impasse resolution mechanism in labor contract disputes involving government workers in bargaining units 2, 3, 4, 6, 8, and 13.

If enacted, this bill would repeal these workers' right to strike, which had been reinstated as the impasse resolution mechanism by Act 90, Session Laws of Hawaii 2001, after six years of experience with binding arbitration.

Public worker strikes inconvenience the public, and are hard on public workers and their families. Elected officials and labor leaders all have a strong incentive to avoid them. In short, public worker strikes are a no-win proposition.

Because binding arbitration is one way to avoid even the possibility of a public worker strike, it has some appeal as an impasse resolution mechanism. Experience has demonstrated, however, that binding arbitration does not work as well in practice. We have learned that having binding arbitration to fall back on tends to lessen the incentive public worker union leaders and government employers otherwise have to engage in meaningful negotiation and good faith collective bargaining. One apparent reason is a universal expectation that arbitrators will "split the baby," choosing a number somewhere between the last offers of the two sides. This has had the perverse effect of encouraging both sides to take extreme positions, making negotiated settlements the exception rather than the rule.

Under a system of binding arbitration, recent negotiations often have been effectively replaced by decisions of third-party arbitrators. This has dramatically reduced accountability of union leaders and public officials.

Not having the safety net of binding arbitration forces both sides to get serious, stay focused, and negotiate in good faith. It also forces them to be accountable for positions taken, and for end results.

Reasonable settlements seem more likely to result when the alternative is a strike. Public officials must balance the ability to maintain a well-paid workforce against other government priorities and public resources. Unlike outside arbitrators, the Governor and mayors must keep all these interests in mind and then be accountable to the public. With binding arbitration, arbitrators make what amounts to the final call, and they do so with virtually no accountability.

The Legislature's concern regarding the impact a strike would have on the provision of necessary governmental services is alleviated by the fact that most employees involved in public safety services (i.e., health care, police protection, firefighting, and corrections) maintain their rights to binding arbitration.

Assuming appropriate modifications and limitations could be agreed upon by myself and the four county mayors, binding arbitration perhaps could be extended to other government workers in a way that would prove beneficial to the affected workers, their government employers, and the public. Binding arbitration as provided for in this bill, however, would not be in the best interests of the State, the counties, or the public.

For the foregoing reasons, I am returning Senate Bill No. 768 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1088

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1088, entitled "A Bill for an Act Relating to Long-Term Care."

The purpose of Senate Bill No. 1088 is to establish a long-term care tax and provide long-term care benefits.

This bill is objectionable for the following reasons:

First, it does not adequately address the needs for long-term care for the people of Hawaii. In exchange for taxes paid over a lifetime, individuals would qualify for only 365 days of benefits too small to cover the current average daily cost of long-term care, much less what such costs might be at the time benefits were actually paid. Some individuals who would otherwise plan for their own long-term care needs might instead rely entirely on this program and end up much worse off as a result.

Second, the bill is fundamentally unfair and regressive. It would be disproportionately burdensome on low-income and middle-income taxpayers. The percentage of income that would have to be paid under this bill by a person earning \$20,000 is five times greater than the rate on someone earning \$100,000.

Third, the bill imposes unreasonable financial and administrative burdens on the State and private employers. The Department of Taxation estimates that it would cost the State approximately \$1 million to set up this program, and approximately \$320,000 each year for administration.

More funds would be needed to ensure compliance, but compliance costs for the collection of a \$120 tax would be an inefficient use of resources in any event.

The bill creates additional complications in the administration of taxes because of a mismatching of funds — the tax would be deposited into a special fund while a partial credit for the cost of long-term care insurance would be awarded from the general fund.

All employers would need to modify their payroll systems to account for the collection of the tax from their employees.

The cost of keeping track of the program itself, as opposed to just tax administration, is unknown at this time.

Fourth, the long-term care tax provided for by this bill would drain financial resources from Hawaii's economy. This loss is estimated to be approximately \$100 million per year.

Finally, I am concerned that the long-term care special fund, which is projected to grow to approximately \$1.2 billion over the next ten years, might not be used for the intended purpose. Given relatively recent raids on the state retirement fund and other special funds, I am concerned that the Legislature might be tempted to use this fund for other worthwhile purposes, leaving the State with yet another unfunded liability and taxpayers in doubt of whether they would ever receive the benefits that they had already paid for.

For the foregoing reasons, I am returning Senate Bill No. 1088 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1135

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1135, entitled "A Bill for an Act Relating to Court Fees."

The purpose of this bill is to authorize certain district court fees to be deposited in the judiciary computer system special fund and to appropriate \$3.5 million from that fund in each year of the biennium to implement the judiciary information management system.

This bill is objectionable because it takes amounts that would have been deposited into the general fund and deposits those funds in a special fund instead. This has a negative impact on the State's limited resources.

While I believe this project to be worthwhile, I am confident that there are other, more appropriate financing mechanisms available to the Judiciary. Meanwhile, the State's current fiscal condition cannot be ignored.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now.

Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

Furthermore, Judiciary personnel have assured my administration that a veto of this bill will not stop the Judiciary from continuing to upgrade its information management system during the coming year.

For the foregoing reasons, I am returning Senate Bill No. 1135 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

Gov. Msg. No. 473, transmitting bills without her approval and her signed official statements of objections, which were previously submitted without her signature on the following:

"July 2, 2003

The Honorable Calvin K.Y. Say, Speaker  
and Members of the House of Representatives  
Twenty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Having previously given notice by proclamations of my plan to return these bills pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am transmitting herewith the following bills without my approval, together with my official statements of objections to the bills:

S.B. No. 1237, A BILL FOR AN ACT RELATING  
SD1, HD2, CD1 TO EDUCATION

S.B. No. 1460, A BILL FOR AN ACT RELATING  
SD1, HD2, CD1 TO CONTRACTS ENTERED INTO  
BY THE HAWAII TOURISM  
AUTHORITY

S.B. No. 1462, A BILL FOR AN ACT RELATING  
HD2, CD2 TO THE HAWAII TOURISM  
AUTHORITY

S.B. No. 1647, A BILL FOR AN ACT RELATING  
SD2, HD2, CD TO SERVICES FOR INDIVIDUALS  
1 WHO ARE BLIND OR VISUALLY  
IMPAIRED

S.B. No. 1661, A BILL FOR AN ACT RELATING  
SD2, HD1, CD1 TO THE HOUSING AND  
COMMUNITY DEVELOPMENT  
CORPORATION OF HAWAII

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1237

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1237, entitled "A Bill for an Act Relating to Education."

The purposes of this bill are to define "out of field teacher" to mean an individual who is teaching outside the teacher's authorized licensing field as indicated on the individual's license issued by the Hawaii Teacher Standards Board; define "teaching out of field" and "out of field teaching" to mean teaching outside the teacher's authorized licensing field as indicated on a teacher's license issued by the Board; require that the Department of Education's report on teachers and emergency hires to the Board be posted on the Department's Internet website; establish provisions relating to reporting violations of teacher licensing or credentialing; require any licensed teacher, employees, or officers of the Department of Education, and employees or officers of any teacher preparation institution to report violations to the Hawaii Teacher Standards Board; establish petty misdemeanor non-reporting penalties, provisions for reports by other people, confidentiality, and action on reporting; authorize the Board to fund its currently established positions without having to reestablish them and authorize the positions to be made permanent.

This bill is objectionable because it makes it a petty misdemeanor crime for any licensed teacher, employee, or officer of the Department of Education, or employee or officer of any teacher preparation institution, to fail to report to the Board of Education the identity of any person who they have reason to believe is teaching outside of that person's area of certification. This imposes the burden of monitoring proper licensing of teachers on an overly broad group.

For the foregoing reasons, I am returning Senate Bill No. 1237 without my approval.

Respectfully,

/s/ Linda Lingle

LINDA LINGLE  
Governor of Hawaii"

Twenty-Second Legislature  
State of Hawaii

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1460

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1460, entitled "A Bill for an Act Relating to Contracts Entered Into by the Hawaii Tourism Authority."

This bill requires the Hawaii Tourism Authority (HTA) to put certain provisions into its contracts that exceed \$6,000,000 or those that are of a level of complexity (as determined by the Executive Director of the HTA) that a reasonably prudent person would expect of a complex contract. Such contract provisions would include language on intellectual property, loyalty to and in support of the HTA, subcontracting only with prior consent, no subcontracting beyond the term of the contract, standards of conduct, confidentiality, best efforts, payments related to deliverables, and performance standards with detailed goals and timelines.

The HTA's Executive Director may suspend these required provisions if the Executive Director notes the reasons for the suspension in a memorandum attached to the contract, and forwards it to the Legislature within ten days.

This bill violates the fundamental government principal of separation of powers, under which the legislative branch of government enacts laws that are then carried out by the executive branch in its discretion. This bill mandates, in minute detail, what provisions must be included in a contract. Such legislative micromanagement of an executive function is inappropriate, especially where there has been no showing of need and the Legislature has acknowledged that "the current executive director of the HTA has strived to include these provisions in all HTA contracts."

Although this bill allows for the suspension of a required provision under certain circumstances, it could still unnecessarily limit HTA's contracting options. Such discretion should properly rest with the executive branch. Moreover, the bill's requirement that all such suspensions be reported to the Legislature within ten days is a further example of legislative micromanagement.

For the foregoing reasons, I am returning Senate Bill No. 1460 without my approval.

Respectfully,  
  
/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1462

Honorable Members

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning without my approval, Senate Bill No. 1462, entitled "A Bill for an Act Relating to the Hawaii Tourism Authority."

This bill contains many provisions affecting the Hawaii Tourism Authority (HTA). One major change would provide HTA with complete autonomy with regard to the expenditure of tourism special funds and convention center enterprise special funds by exempting it from chapters 38 and 40, Hawaii Revised Statutes. These chapters govern deposits of public funds and audit and accounting procedures. The bill would also allow disbursements from the tourism special fund and convention center enterprise special fund to be drawn upon checks prepared and signed as approved by the HTA Executive Director and a member of the HTA board.

This bill is objectionable because, by exempting HTA from chapters 38 and 40, there would be no controls to ensure the proper expenditure and protection of HTA funds, which are public funds. Presently the Department of Accounting and General Services (DAGS) supervises and pre-audits HTA expenditures to make certain that amounts appropriated are not exceeded, and that there is full compliance with executive orders and rules. If this bill were to become law, HTA would have to implement a system of internal controls and cash management procedures to replace those currently provided by DAGS and the Department of Budget and Finance. Hiring its own staff to ensure such fiscal accountability would be duplicative and wasteful.

Moreover, HTA's financial transactions are an integral part of the State's Comprehensive Annual Financial Report (CAFR), which is used to determine the State's bond rating. Reporting HTA's transactions after-the-fact, as this bill allows, could negatively impact the CAFR, and thereby damage state interests.

HTA's contracting issues can be addressed without adding more people and systems to government. Our Administration has worked, and will continue to work, with HTA to streamline the contracting process and expedite payment to vendors, while still ensuring efficiency, accountability, and responsible use of public funds. Even now, HTA is in the process of scrutinizing its past performance, and clarifying its proper roles and functions.

This bill would also appropriate \$8,000,000 out of the tourism special fund for fiscal year 2003-2004 to respond to any adverse effects due to world conflicts, terrorist threats, and SARs, and to strengthen the programs and operations of the HTA. I am not opposed to this appropriation and would support it if appropriate next session.

Some other provisions of this bill, such as the establishment of a tourism registry, the appointment of a sports coordinator, and the performing of an annual financial audit, are being done administratively.

For the foregoing reasons, I am returning Senate Bill No. 1462 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS

HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1647

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1647, entitled "A Bill for an Act Relating to Services for Individuals Who Are Blind or Visually Impaired."

The purposes of this bill are to appropriate \$43,000 for fiscal year 2003-2004 to the Public Utilities Commission for a telephone reading system that provides individuals who are blind or visually impaired with toll-free statewide telephone access to time-sensitive information for one year, and to authorize the Public Utilities Commission to contract with a qualified private nonprofit organization to provide these services.

While I believe this project to be worthwhile, releasing these funds would mean spending money that we do not have.

The two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

The challenge presented by this budget increased after the Legislature adjourned when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues.

Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.

For the foregoing reasons, I am returning Senate Bill No. 1647 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

"EXECUTIVE CHAMBERS  
HONOLULU  
June 20, 2003

STATEMENT OF OBJECTIONS TO SENATE BILL NO.  
1661

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1661, entitled "A Bill for an Act Relating to the Housing and Community Development Corporation of Hawaii."

The purpose of this bill is to require the Housing and Community Development Corporation of Hawaii (HCDCH) to complete construction of the Villages of Kapolei by June 30, 2011, and to to [sic] collaborate and coordinate with the State Department of Transportation (DOT) and the City and County of Honolulu (City) in implementing the recommendations of the private traffic study for the Villages of Kapolei prepared by Walkable Communities, Inc.

This bill is objectionable because it requires the HCDCH to complete the construction of the Villages of Kapolei by a specific date without consideration of factors beyond the HCDCH's control that could make it impossible to comply with the law. For example, the HCDCH has little or no control over fluctuating real estate market conditions and the City's ability to complete water and sewer infrastructure.

This bill further requires the HCDCH to collaborate and coordinate with the City and the DOT to implement the recommendations of the traffic study. However, some recommendations may negatively impact the larger Kapolei region or the Ewa Transportation Master Plan and jeopardize the dedication of the roadway infrastructure to the City.

Even without this bill, completion of the Villages of Kapolei remains one of the HCDCH's top priorities. Approximately 2,600 housing units, three schools -- the Kapolei Elementary, Middle, and High Schools -- and the Kapolei Recreation Center have been built. The remainder will be completed as soon as practicable, consistent with community concerns and financial and engineering realities.

For the foregoing reasons, I am returning Senate Bill No. 1661 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii"

**ORDER OF THE DAY**

At 11:45 o'clock a.m., Representative Lee requested a recess the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:28 o'clock p.m.

At this time, the Chair stated:

"The Chair would like to recognize Representative Saiki, but before recognizing Representative Saiki, let me share with the Members of this House the procedures we will be using. The first bill we will be entertaining will be H.B. 282, because we have to wait for the other Senate bills that come over, if they do come over, as far as the overrides. So what is in the property of

the House this afternoon, so far, are the House bills with the messages that you have on your desk. Representative Saiki."

Representative Saiki moved to override the veto of H.B. No. 282, HD 2, SD 1, CD 1 as contained in Gov. Msg. No. 467, seconded by Representative Lee.

Representative Magaoay rose to speak in support of the motion, stating:

"Mr. Speaker and colleagues, I stand in strong support of the override of the Governor's veto message of H.B. No. 282. The purpose of this measure is to enable the Office of the Auditor to conduct financial statement audits and audits required under federal law of all of the departments, offices and agencies of the State and the counties. This measure also provides for a mechanism to preserve the State's ability to maximize the underwriting of the audits from non-general fund sources.

"The State Auditor is a constitutional officer of the Legislative branch responsible for conducting post audits of all programs and expenditures. The Auditor ensures that audits of State government, including financial audits are independent and credible.

"Presently, the current practice of allowing DAGS to be responsible for the external audits of Executive department and agencies raises questions about the independence of the auditing function. DAGS selects the contractor audit firm that audits the various departments, offices and agencies of the State. Thereafter, DAGS is no longer involved with the audit.

"The department then signs the contract with the auditor, is billed directly by the auditor, pays the auditor with moneys that are appropriated to the auditee, works directly with the staff and management of the auditor, and reviews and approves the final report from the auditor. In effect, the auditee is the client of the auditor. This arrangement results in reduced independence between the auditee and the auditor. This bill corrects this flawed relationship and maximizes audit independence by funding the entire responsibility for financial audits through the Office of the Auditor.

"Reimbursement moneys for financial audits: when any part of the costs of financial audits conducted by or contracted for by the Auditor are reimbursable by moneys appropriated to or generated by any department, office or agency of the State or its political subdivisions, the affected department, office or agency of the State shall transmit those cost reimbursements to the Auditor. Moneys collected shall be deposited in the Audit Revolving Fund.

"Approximately half of the State's external audit costs are paid from federal, special, revolving, CIP and trust funds, and to prevent any loss of such funds, this bill establishes that revolving fund. Money in the Audit Revolving Fund shall be expended by the Auditor to conduct audits of the State's departments, etc. The same model is used successfully by several other states, for example, Arizona, Illinois, Kansas and Maine.

"Last year, Governor Cayetano vetoed H.B. No. 1821, a similar type of audit bill. The difference between H.B. No. 1821 and the current H.B. No. 282 is due to the method of financing. H.B. 1821 was to be funded from the general revenue funds, and H.B. 282's method of financing is through reimbursement moneys for financial audits deposited into the revolving fund.

"Also, in the 1950 ConCon, SCR Report No. 51, section 12 provides an auditor, and I quote: "One of the most important

positions in the field of financial management is held by the State's auditor. The auditor is one of the most important elements in financial management. It is his responsibility to analyze appropriations, authorizations and expenditures, to determine whether payments comply with legal requirements and to ascertain whether all revenues have been properly accounted for. It should also be the responsibility of an auditor to submit recommendations covering means and methods for improving financial management. His work can never be completely divorced from either budget making, expenditure controls or financial planning." The 1968 ConCon, SCR No. 52 and 1968 ConCon debate reaffirms the 1950 ConCon role of the State's auditor.

"Therefore, Mr. Speaker and colleagues, I ask for your strong support to override the Governor's veto message on H.B. No. 282 dated June 20 of this year. Thank you."

Representative Halford rose to speak in opposition to the motion, stating:

"Thank you Mr. Speaker, in opposition. Thank you. The goal of having the State Auditor audit all State finances is laudable. The intent is good. As the previous speaker pointed out, it is in our Constitution that this function take place. He also pointed out, if one followed the calendar, that throughout statehood, since we've been a state, we have never funded the Legislative Auditor to audit all State finances as required in our Constitution.

"Mr. Speaker, as you know, the State of Hawaii, our government, has essentially been a one-party system that has not provided the checks and balances upon itself. Even leaving out core functions of government as required in the Constitution. I believe that, that is part of the reason that this State has spent itself into deficit. That our surpluses that we enjoyed in the late 80s are now gone. That the need for the Legislative Auditor to audit all State finances, I believe, is a good thing. But as I pointed out, Mr. Speaker, during this Session, that the funding mechanism is flawed.

"I can understand why this Legislative Branch hasn't really figured it out, because we've never implemented this before. But Mr. Speaker, as the previous speaker pointed out, that last year's bill suggested that the funding for this come from the general fund. That this time, it's a process of taking money from the Administration and putting it into a special fund. Well, neither of those really are appropriate to this legislative function. The Legislative Auditor, our auditor. We should fund this process through the legislative budget. I pointed this out this Session. It's really a serious flaw in the implementation of this, which should be a good public policy.

"I believe that the process of going into the Executive's budget, taking money from the Executive's budget into a special fund, this complex scheme of moving money to fund to our Legislative Auditor will create chaos in the process. Unfortunately, we didn't fund her in Act 1, or fund this function in Act 1. At this point, I believe, to avoid the chaos that will be created by this funding scheme, that we should just come back next year and do it correctly. Thank you."

Representative Pendleton rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. I rise in opposition to the motion. Thank you. Mr. Speaker, I want to make it clear right from the outset that I supported this bill in concept, previously. After receiving the Governor's message regarding her Statement of Objection to this particular bill, I looked into the bill a little bit more and realized that a predecessor governor had done



essentially the same action on a very, very similar bill, although not virtually identical.

"Mr. Speaker, I think the previous speaker has focused in on the real problem. The problem here is not personality. We have no quarrels with the Legislative Auditor. I have tremendous respect for her. Her work is vital, important, and key to our State. We need a Legislative Auditor. It is not about personality, but about process. How do you fund that? It needs to be paid somehow.

"We have chosen a strange way, or an odd way to fund this. One, we create a new revolving fund. We already have the problem of the proliferation of all of these funds that are making larger and larger segments of government further and further away from the legislative purview. We should really try to narrow down everything to the general fund so we can have control over spending and how money is being used. So we do this by establishing a revolving fund. That's problematic.

"The other thing is that we could have easily have just funded. We could say we want 'x' number of audits done and performed. They cost 'x' number of dollars, and this is the funding. And have this directly given to the Legislative Auditor, would be a cleaner, more accountable way of making sure we are getting the biggest 'bang for the buck'.

"I think we all are aware that having DAGS do audits, at least, may give less of a perception of objectivity than we would like. So the best way to do it would be to fund the Legislative Auditor directly. So because of that, I agree with the Governor's veto. This bill is less than perfect.

"In closing, I would like to raise the concern that not only is the process outlined in the bill flawed, but it seems odd that we are bringing this up in a Special Session. When we look at what a previous governor did with a very similar bill, we didn't say, "Let's spend 4 grand; bring the Legislature together and override." We felt that was something that we could work on during the Legislative interim. That we could wait until the following Session and bring that up. In future years, seek to address the concerns raised by the Executive.

"But in this situation, we say that, no, this is so pressing, so important, so vital, that we have to bring it up in a Special Session like this. And so, the process that our House, the Legislature, both chambers, are engaged in, in bringing this up, raises the question: Is this really about the Legislative Auditor? Is this really about auditing or is this about making some sort of statement. And I hope that certainly the latter is not the case. That we are not just trying to make some statement about our Governor or about our power, *vis-a-vis* the Executive branch.

"But again, I do find that the Governor had strong and very good and very valid reasons for vetoing it, and I oppose this. What I would support is a direct funding of the Legislative Auditor. We say how many audits we want. We find out how much that costs, and we fund her to do the job. That would be the best way to do that. Not using this vehicle. So for those reasons Mr. Speaker, I oppose the motion."

Representative Meyer rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. I rise in strong opposition to overriding this veto. This bill is unnecessary and gains nothing for the taxpayers. It will increase bureaucracy and costs, may jeopardize the State's bond rating, does not increase audit independence. Instead of having an external company or CPA do the audit, we are going to have somebody within the State government doing the audits. It's flawed as it does not outline an implementation schedule or identify which financial or

single audits the Legislative Auditor will perform. It creates conflicts of interest for the Legislative Auditor to monitor her own revolving fund, which is something the Auditor has always done. Special funds and revolving funds. It jeopardizes control of financial performance of the State by the Governor.

"There is a misconception that having the Legislative Auditor arrange the financial audits, would somehow make them more independent. This is simply not true. I would like to read some quotes from the State Comptroller's opinion piece that he's put in the paper. Many of you may have read it. Some of these are very valid points.

"There is also a practical concern with the audit bill. The State's financial audits are reviewed by bond-rating agencies in evaluating the State as a credit risk, and by federal agencies in sizing up how well federal funds are being used by the State.

The State's excellent bond ratings by the various rating agencies, and the approval of federal funds for much needed State projects are very real benefits we are receiving based on the audits as they are currently done. I firmly believe that the audit bill could jeopardize this.

The State's financial audits have received the prestigious Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers of United States and Canada for each of the past 13 years."

"So what are we trying to solve here? The financial audit process is running smoothly and efficiently, and the State has maintained its excellent bond rating.

"It makes sense for Mrs. Higa to do more management audits. It makes no sense to turn over the entire financial audit function to the legislative branch of government."

"And for these reasons, and I think they are all excellent and valid, and perhaps many people are not aware of them, I just don't understand why, during this Special Session, we are trying to overturn the Governor's veto that is based on such clear thinking. Thank you, Mr. Speaker."

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

"I rise in support of this override motion. Mr. Speaker, passage of this bill is not merely a statement because this bill has a really simple concept behind it. It is meant to assure the public that its taxpayer dollars are being spent appropriately. The public has called for more government accountability and wants us to take the means necessary to accomplish this. The Legislature has the constitutional duty, not simply to appropriate taxpayer dollars, but to also ensure that those taxpayer dollars are not wasted or abused.

"The Legislature carries out this constitutional mandate through the State Auditor's office, and the reason why we do that is that the delegates to the 1950 Constitutional Convention created the Office of the State Auditor and placed it within the Legislative branch. Not the Executive branch. Within the Legislative branch, for the purpose of creating a check and balance on the Executive department.

"And I want to read the constitutional provision that creates the Auditor's office, because it is actually very detailed and it is quite telling of the intent of the delegates to the Constitutional Convention. This is what Article VII, Section 10 reads, in part:

It shall be duty of the Auditor to conduct post audits of the transactions, accounts, programs and performance of all

departments, offices and agencies of this State, and its political subdivisions, to certify as to the accuracy of all financial statements issued by the respective accounting officers, and to report the Auditor's finding and recommendations to the Governor and to the Legislature at such times as shall be provided by law.

"Mr. Speaker, the purpose of H.B. 282 is to carry out this constitutional mandate which the voters in 1950 ratified, following the Constitutional Convention. This bill will place the ultimate check and balance upon the Executive department because it will end the practice where the Governor and the Comptroller select and pay their own auditors. This bill will result in better transparency, as was noted by the *Honolulu Advertiser* editorial board on July 1st, 2003, and I would like to request permission to inset that editorial as a part of my comments," and the Chair "so ordered."

Representative Saiki continued, stating:

"I wanted to also address an argument that has been raised on the floor today, and that is that the funding mechanism is flawed. This is the situation, Mr. Speaker. We currently spend approximately \$5 million per year on audits. This money is spent through the Department of Accounting and General Services. About half of that amount, or \$2.5 million is paid by the federal government. The federal government requires the State to conduct these kinds of audits. The federal government also requires that the monies that are paid for the audits be paid to the Executive branch, and not to the Legislative branch. And that is why we had to create a revolving fund through this bill. The Legislature, through the Auditor's office, cannot directly tap the funds that are paid by the federal government. If we do not create a revolving fund to tap into this \$2.5 million that is paid by the federal government, then in effect, we would be giving a windfall to the Executive branch.

"I stated before that H.B. 282 is somewhat of an innocuous bill, but its ramifications are far-reaching because this bill simply makes sense. It makes sense for government and for our taxpayers. The reason why I say that is that one of our own colleagues a couple of years ago, encouraged us to override vetoes when bills simply make sense. In that respect, I would like to draw upon the words of the Representative from Kahaluu, the Minority Floor Leader, who stated a couple of years ago, and I'll quote this:

I think it is something we should pass without any concerns. This is the kind of action that the Legislature is supposed to do when it makes sense. So I hope the people will not be concerned. This is not a big bill. This is perfectly appropriate for us to do and I hope we will show that we have the gumption to step up to the plate when it makes perfect sense for the people of the State of Hawaii.

"Mr. Speaker, I strongly support H.B. 282 because it makes perfect sense for the people of Hawaii. Thank you."

Representative Saiki submitted the following editorial from *The Honolulu Advertiser*:

"What of Lingle's grand plans for Higa?

It wasn't that long ago that Gov. Linda Lingle was heralding state Auditor Marion Higa as the government fat buster. Under the heading of Making Government Work Better in her "New Beginning" pamphlet, she pledged to authorize a complete, independent audit of the state's finances in cooperation with Higa.

But that mission to root out government waste begins to ring hollow in the face of Lingle's veto of legislation that would

have boosted Higa's ability to scrutinize the administration's spending of public money and create a centralized government auditing system.

As it is, Higa conducts managerial audits, and private firms conduct financial audits. The money state departments spend on federal government-required audits is generally reimbursed.

Under one of the vetoed bills, Higa's office would have administered all contracts for external audits, which cost about \$5 million a year. A revolving fund would pay for the audits, and that money would be reimbursed.

But Lingle finds that system to be "unduly cumbersome and potentially wasteful." If the Legislature wants to take a closer look at certain departments, it's free to do so but would have to appropriate the money, the governor said.

So after all the campaign rhetoric about having Higa track down government waste and fraud, Lingle leaves the state auditor to do pretty much the same job she's always done.

In fact, now she's complaining that the problems uncovered in previous audits were often ignored. The simple solution here is to give Higa the authority to do her job, and not ignore the results"

*The Honolulu Advertiser*  
July 1, 2003

Representative Moses rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. In opposition. I have great respect for Marian Higa, the Legislative Auditor. I think she has done a wonderful job. And I agreed with the Governor this last Session when she offered to double the number of audits that the Legislative Auditor does. Those are management audits. We're not talking about management audits here. We're talking about financial audits. Most of the people in the public probably don't understand the difference. But there's a tremendous difference.

"We're not looking here for fraud, waste and abuse. That's not what a financial audit is all about. It's a different mechanism. It's a different reason for doing it. And as we just heard, the Executive branch is mandated by the federal government to receive the money for these audits. Must be a reason for that, Mr. Speaker. If we want the Legislative Auditor to do audits, give her the money to do the audits. But you can't give her the money that the feds say must go to the Executive branch.

"I'm very concerned about the independency of these audits that we've heard so much about because how can they be independent, again, when the Legislative Auditor will be auditing the special funds that she gets for audits and she has to audit then, the money coming in and the money going out, and how it's expended. There's no independency there. You're taking out of the loop, the independency that we have now with the separation of powers between the Legislature and the Executive branch.

"Likewise I have great concern that this bill will allow the Legislative Auditor to audit the counties. Again, the financial audits of the counties. Not the management audits which she should do, and she could do well. But this is financial audits, again, of the counties.

"I'm very concerned also, that Marion Higa has never done, or any Legislative Auditor in this State, hasn't done financial audits. They must be done in a timely fashion or we could lose our bond rating again. And if people think that's not important,

it's extremely important. If that changes, our whole financial outlook changes. Believe me. So we have to be very certain that we get these done on time.

"During the Session, again, the Governor offered to double the number of management audits. I don't understand why this Legislature was so opposed to that unless it was because they thought there wasn't enough money to do it. And if there wasn't enough money to do it, and we already know that when we passed Act 1 to fund the Executive branch, we downsize that tremendously. So now we gave her less money already, the Governor of this State, to perform her functions, and we're going to take away even more. Is that by design? I believe it is. I believe this is purely a political move. Again, we already talked about last year. The Governor vetoed it. What did we do about it? Nothing. It's basically the same bill.

"This is going to be more costly. Again, it goes into that money that we don't have. It's going to cost us more because I can guarantee you, the Executive branch must still perform financial audits of itself. It must do that. Ask the feds. So, they're still going to do it. They still have to give the money to the Legislature. In most departments there aren't line item numbers that say this money's for audits. So where is that money going to come from? It's going to come from their operating budgets.

"These audits must be done on time. I fear that the Legislative Auditor will not be able to conduct them on a timely fashion. Thank you, Mr. Speaker."

Representative Jernigan rose to speak in opposition to the motion, stating:

"In opposition. I received a communication this morning from Mayor Harry Kim, the mayor of Hawaii County, and I would like to read this letter to the House and to you, Mr. Speaker.

This administration supports the governor's veto of H.B. 282 C.D. 1 on the simple consideration of cost. The only change that this bill would make to Chapter 23 of HRS is to require the reimbursement of the cost of audits of departments or political subdivision conducted by or contracted for by the state auditor.

This County administration will generally oppose measures that will impose additional costs on the County of Hawai'i.

"Something my colleagues from the Big Island should take into consideration.

Our opposition is not the audit requirement of Chapter 23, HRS, but to costs being passed on to the County of Hawai'i.

For your information, financial audits of the County of Hawai'i are conducted annually as mandated by §10-13 of the Charter of the County of Hawai'i: "The county council shall provide at least once every year for an independent audit of the accounts and other evidences of financial transactions of the county and every county agency and executive agency." The council contracts with an independent firm of certified public accountants to have this done each year. The cost of this post-audit for fiscal year ended June 30, 2002, was \$78,000. In past years this audit has been accepted by the state auditor as fulfilling the requirements of HRS §23-4 that requires the auditor to conduct post-audits of the state's political subdivisions. This is done at the discretion of the state auditor. It can accept our audit report, or conduct its own audit, which we would welcome.

"The Mayor goes on to say that he apologize for this very late input, however he was not aware of H.B. 282 C.D. 1 until just recently.

"I support the veto. I do not want increased cost to government or duplication. Thank you."

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

"Thank you. Mr. Speaker, I am in opposition to the motion. I have no problem with the Auditor. I feel that Mrs. Higa has been doing an exceptional job. We have a prize-winning Auditor's office, much to her leadership. When she was up for reappointment before the Joint Session, I was very privileged to speak in favor of her reappointment. However, I would like to read one sentence from the veto message from the Governor.

By allowing the Legislative Auditor to decide unilaterally when to conduct or contract for financial audits of the Executive branch agencies, and then to claim reimbursements for the costs of all such audits, this bill invites duplication and waste of limited resources for the many departments, offices, agencies and political subdivisions which must budget for and schedule their own audits.

"The word 'unilaterally', I'd like to address what that means, briefly. I believe that the Auditor should not decide unilaterally what audits to conduct, whether management or financial. I feel that the Legislature should direct the Legislative Auditor. We generally do this by concurrent resolution and this would be a true departure. This would give the Auditor, and subsequent Auditors an extraordinary power over which audits to perform. It would give the Auditor total control.

"In addition, similar to the previous speaker, I do have concerns regarding the political subdivisions of this State, which to me are the counties. I think that this extends a control over the counties and which audits the Auditor may choose to perform on the counties which would make them pay for whatever audits are done. For this reason, I have real concerns about this measure.

"In a letter to the Editor, I think it appeared in one of the papers today, from the Senior Policy Advisor to the Governor, Mr. Randy Roth. He said it makes little sense to give the Legislature control over financial audits of the Executive branch of State government. It makes even less sense to extend such control over audits of the counties. I would ask that I have the remainder of the letter inserted into the Journal, with your permission Mr. Speaker," and the Chair "so ordered."

Representative Marumoto submitted the following Letter to the Editor:

"Audit bill was vetoed for good reasons

The so-called audit bill would have given control over financial audits of the state and counties to the Office of the Legislative Auditor. Governor Lingle vetoed this bill for philosophical and practical reasons.

First, it violates separation of power principles.

Second, it would almost certainly prove to be cumbersome and wasteful. Anyone who thinks otherwise has probably not read the bill.

Third, as little sense as it makes to give the Legislature control over financial audits of the executive branch of state

government, it makes even less sense to extend such control over audits of the counties.

Some legislators have portrayed the governor's opposition to the bill as a retreat from her earlier positive comments about the legislative auditor. A comparison of the governor's pre-election words to her post-election actions show otherwise.

As a candidate, the governor proposed that Marion Higa be given more funding so she could do more management audits. Once elected, the governor proposed to the Ways and Means and conference committee chairmen that Higa be given funding to double the number of management audits.

As a candidate, the governor said that state agencies should pay more attention to Higa's audit reports. As governor, she distributed Higa's prior reports to all agency directors, and instructed them to take appropriate action in response to Higa's recommendations.

Also as a candidate, the governor stated that within the first 180 days of her term she would authorize a complete, independent audit of the state's finances in cooperation with Higa. The governor did so with many days to spare.

Governor Lingle exercised her veto power this year because the audit bill was poorly conceived and poorly drafted. Governor Cayetano vetoed a similar bill last year for basically the same reasons.

The governor intends to ask the Legislature again next year to provide more funding for Higa's audits. For whatever reason, the Legislature ignored that request this year, and instead passed a bill that it knew any governor would veto.

Randy Roth  
Senior Policy Adviser to Governor Lingle"

*The Star-Bulletin*  
July 7, 2003

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

"Thank you, Mr. Speaker. I rise to speak in favor of the override motion. I just wanted to make it clear to the Members. I hope the Members understand that the Auditor herself does not conduct the audit. She doesn't go into the department and say, "Okay, I'm going to audit you." She hires people. So the argument about timeliness is not germane to this motion.

"The other point that I wanted to clarify is that the Auditor, Marion Higa, has conducted financial audits in the past.

"I think this bill is pretty clear. I think what we are dealing with right now is whether you want the departments themselves to audit themselves, or do you want a separate body like the Auditor to audit the departments. I think that is what we need to vote on. Do we want the departments themselves to audit themselves? Or do you want the Auditor to audit the departments?

"If we're talking about waste of money, this is going to transfer the audit function to the Auditor herself. If we're looking at waste of money, if the departments, at that point are not satisfied with the Auditor's recommendation and chooses to do their own audit in their favor, that would be a waste of money. If they choose to do another audit because oftentimes, departments don't agree with the audit, that would truly be a waste of money.

"I think this is the right thing to do. We need to transfer the audit function to the Auditor. We need to give her the

constitutionally mandated duties which were set forth in the Constitution. We need to do it right now. Thank you."

Representative Fox rose to speak in opposition to the motion, stating:

"Thank you very much, Mr. Speaker. In opposition. I would like to address my remarks to those just made by the Vice Speaker relating to what's actually going on here. Basically, we have two separate auditing functions going on. We have the financial audits that in many cases are required by federal legislation that must be performed by the departments. And by financial audits we mean the process where you contract out to somebody like KPMG or Coopers & Lybrand, responsibility for auditing independently, the work of the departments.

"Then we have this separate function that is being performed by the Legislative Auditor and as the Majority Leader correctly pointed out, the Constitution requires that we do a lot more of this function than we are currently doing.

"What's the problem? We haven't committed the resources to doing the latter of the two functions. It costs much more money to do the full kinds of management audits that we would like the Auditor to do. So what's really happening to us, and I spoke against this bill every time it came on the floor of the House. What we're doing here is instead of funding the Auditor as we should, we're taking money that is intended for an entirely different purpose, money that is in the Executive branch to do financial audits, and we're pretending that if we take that financial audit money and we give it to the Auditor, the Auditor will be able to do more audits. But she can't. Those same financial audits have to be performed. So we're failing in our basic duty to fund the need for the more audits that have to be done.

"Now, what we're tripping over ourselves, unfortunately, and that's why this bill must be vetoed, is when we make this shift, is because we're creating this special fund. Now, Mr. Speaker, you know very well who's charged with the responsibility for auditing special funds. That is the Auditor.

"Now we're going to create a special fund that the Auditor herself is in charge of monitoring, and that is a flaw. That is a flaw that we are creating through this bill that is quite properly vetoed, and I would like, if I could Mr. Speaker, to quote from a former Deputy Auditor of the State of Hawaii, now working for the State of Oregon, Dallas Weyand. He said to the Governor:

I support your veto of the bill that would allow the State Auditor to have a revolving fund to bill agencies the cost of audits over which agencies have no control. I worked in the State of Hawaii Auditor's office until 1998. Now, in Oregon, we, the Legislative Fiscal Office have concerns about our Secretary of State Audits Division's ability to pick and choose audits and to bill State agencies for time and expenses – all without State agencies being able to influence or control costs. Here – the only audit cost containment efforts reside with the Legislature through the budget process.

"So he and Oregon, see the very same concern in the area that we would create if we pass this bill by overriding the Governor's veto. The right thing to do is to sustain the veto. Governor Cayetano was correct when he said that we have to keep doing these audits in the Executive branch, and Governor Lingle is correct when she makes the same point. Thank you, Mr. Speaker."

Representative B. Oshiro rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. I rise in strong support of this override. Thank you. I just want to bring a different perspective to this. I was very fortunate in that you appointed me as the Co-Vice Chair for the *Felix* Investigative Committee, and at that time, one of the main divisions that we were taking a look at was CAMHD with the Department of Health. There were many, many significant questions about not only the way they were managing their resources, but how they were actually allocating those resources. And because they have federal funding, part of it comes through the IDEA, they had to do an audit. But if you ask any single person that sat on that *Felix* Investigative Committee, whether they trusted the division head coming up and telling them, "Our audit says we're okay." I will tell you that unanimously, they would say no.

"The *Felix* Investigative Committee was set up for the specific purpose of taking a look at whether the money we allocate gets down to the actual services and the children, and actually provide the services that we are being billed for. That sounds like a financial audit to me. It sounds like what we need to do is get Marion Higa that kind of authority because when the division head comes before us and tells us, "Yes, we're spending the money properly," unfortunately there are times when we don't believe them. Especially when it comes to things like the *Felix* Consent Decree, where we spend over \$1 billion since being under the Decree, and after that point, every year we had emergency appropriations. But only after the *Felix* Investigative Committee, suddenly there were no emergency appropriation requests. I think the function of the Committee itself, and Marion Higa's presence really brought some accountability. And to me that's truly the impetus and the main purpose of this bill. It's all about accountability.

"Other people have talked about maybe it's political motivations. I would strongly disagree with that. I think when they criticize us because last year, Governor Cayetano vetoed this measure, they really need to take a look at why he vetoed it. He vetoed it because it specifically set up a mechanism for a 'reasonable fee', and nobody knew what that was. And that's why he vetoed it. This year they took out that provision in the CD 1 and we no longer have that concern. Really, the two vetoes are entirely different. It's not the same bill. It's not the same motivation that we are here to override, because everybody wants accountability.

"Other people have talked about the ability of the Auditor to go into counties, and while that may be a legitimate concern, that's part of a constitutional provision. It specifically allows the Auditor that power. That has nothing to do with this bill. That has nothing to do with this bill, and is instead a part of the constitutional provision. I think the Majority Leader spoke about the constitutional provision and the history behind it. One of the main findings by the study behind that Constitutional Convention was that:

The objectivity of a post-audit rests on its conduct as an independent examination. Because it is designed as a check on the Executive branch, the function should be located outside that branch.

"And that's exactly what we're doing. We're making sure that these audits are located outside of that branch to grant true independence, and truly live up to the meaning of the constitutional provision when we set up the Office of the Auditor.

"Finally, there was some criticism as to whether this will affect our bond rating. I really don't think that's a genuine concern. Really what people want is to be sure that there is honesty and transparency in government. That's their primary concern. It's not about the bond rating. And I don't see how our bond rating would be affected when we are bringing that

honesty and accountability to the system. So it is for those reasons that I stand in strong support."

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

"Thank you, Mr. Speaker. I rise in support of the override. I think the bottom line here, Mr. Speaker is, who is going to select the CPA firms to do the internal audits? Is it going to be the departments themselves and on what basis? Is it on the basis of how friendly that CPA firm is to that department? Whether or not they can be influenced to give a friendly audit? Or is it some political considerations? If you don't think that doesn't happen, look what happened with ENRON.

"I would rather have Marion Higa selecting CPA firms to do internal audits because I think that we can trust Marion Higa to make those selections based on the capability of the firm and not on any political considerations. Thank you."

Representative Schatz rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. I rise in strong support of the override motion. I'd like to reiterate what the Representative from Ka'u said about Marion Higa's independence. I want to direct the Members' attention to the latest *Management and Financial Audit of the Hawaii Tourism Authority's Major Contracts*. I want to quote from the summary:

In what is perhaps our most serious finding, our consultant CPA firm declared a qualified opinion on HVCB's financial statements for the year ending December 31, 2002.

"For those of you who are not aware. A qualified opinion may sound good, but it's actually the worst kind of opinion that you can get from an auditor. I will quote again:

We also found that the Authority's tax monitoring and enforcement of its contracts with HVCB left little assurance that \$151.7 million in state funds were effectively spent.

"I guess the question for Members to consider is would these troubling findings, which will ultimately result in taxpayer dollars being spent more efficiently, would these findings had been made public if State departments were retaining firms to perform these audits. I believe that it's very likely that they would have found a friendly auditor who would have offered a friendly opinion.

"I think the Representative from Ka'u is right. That is very common practice with audit firms and government and outside of government. And that's the reason we have to give the Legislative Auditor this authority to be independent from State departments, and independent from any political considerations. Thank you."

Representative Halford rose to respond, stating:

"Thank you, Mr. Speaker. I just wanted to point out that it's been made clear, some of the 'fuzzy thinking' that has gone on to create this bill. I think that everyone, or almost everyone agrees that the Legislative Auditor should audit State finances. It's in our Constitution. I don't really see where there's much debate about that. The confusion brought by this bill, and obviously Members of that side of the aisle are still confused. While the Legislative branch should do audits, and the logic is clearly there. That doesn't mean that while we should do audits for our purposes, as a Legislative branch we're a check. It's part of our function in democracy, to be a check on the Executive. That we should do the audits that we think are necessary for us to feel like we have a handle on the purse

strings, and to provide the check needed. But that doesn't mean that those are the only audits that ever should be done. What this bill is doing is saying that the Executive branch cannot audit.

"This bill raids \$2.5 million of federal funds that the feds give to the Administration to fulfill a responsibility that the Administration has to the federal government. That's really not our purview. I think the Executive needs to follow through with those commitments that the Executive is receiving federal funding. Part of the *quid pro quo* with the federal government is to do the audits and let the Executive do those audits. And if the Executive feels it is useful, if any department head feels that it is useful that they do their own internal audits for management or fiscal controls or for whatever reason, they should be allowed to do that. We shouldn't be telling the Executive that they can't do their job of being a good manager.

"What this bill is doing is it is saying that if an audit is done at all, ever, it's going to be done by the Legislative Auditor. And that's a mistake. We should let the Executive do what they know to do. We should audit what we know we should audit. And let the Executive audit whatever they want, or what they are required by federal agreement. So, that's one problem.

"And the other problem is the mechanism by which money transfers through a special fund who has the potential conflict of interest that the Legislative Auditor is auditing the fund that funds herself, rather than having it done through the Legislative budget. This is just chaotic. We should just come back next Session and repair this bill. Thank you."

Representative Caldwell rose to speak in support of the motion, stating:

"Mr. Speaker, I rise in support.

"Mr. Speaker, never since statehood has this Legislature overridden a veto, an essential element in American democracy. Without it, the Executive becomes too autocratic and too powerful, which is counterproductive both to good government and to our people. The Constitution states ..."

Representative Fox rose, stating:

"Point of information. Isn't this the second time we're meeting for the purpose of overriding vetoes?"

The Chair responded, stating:

"Second time? This is the first Special Session for this Legislative Session, the Twenty-Second Legislature."

Representative Fox: "I misunderstood the speaker. I thought he said it was the first time we've ever done it. I'm sorry."

Speaker Say: "Maybe the speaker from Manoa is correct as far as he being a freshman of this particular House and Chamber.

Representative Thielen rose, stating:

"Mr. Speaker, just following up on our Minority Leader's statement. I believe we met to override Governor Cayetano's veto, and that happened last ..."

Speaker Say: "Two years ago. But that was during the Twenty-First Legislature. What I stated to the Minority Leader was the Twenty-Second Legislature that we are in."

Representative Thielen: "The other thing, Mr. Speaker, is I would like to protest the language. I think it is offensive to

governors, with an 's', of our State. I think it is really inappropriate and I saw a few looks of surprise from the Majority side when he started to rail in that manner. Thank you."

Speaker Say: "The Chair will allow the speaker from Manoa to continue on, since it affects all governors, as far as his statement. Please proceed."

Representative Caldwell continued, stating:

"Thank you very much, Mr. Speaker. I think it will become clear when I finish.

"The Constitution of the United States of America and the State of Hawaii did not simply give the Legislature the right to override vetoes. It points out the responsibility of the Legislature as a participant of American democracy to override vetoes. As legislators it is our job, it is the job of each of us, to stand up for our branch of government. Thank you.

"This is an exact quote, Mr. Speaker, delivered by the Representative from South Maui, who just spoke previously to me, in the House Journal ..."

Representative Thielen rose, stating:

"Mr. Speaker, may I? Yes, Mr. Speaker. I think we are supposed to be debating the motion before us. And I've noticed in a couple of statements or speeches from Majority Members that they've really strayed afar and tried to attack some of the Republicans in this Body. I think that demeans the Legislature. We're supposed to be debating the motion before us."

Speaker Say: "The motion of the override, that's one. And secondly, the content of the measure that we are overriding at this time. So, Representative ..."

Representative Thielen: "Correct, Mr. Speaker. But not as to what various Members have done. He's straying again into that area of personal attacks and I would ask him to limit his comments to the motion before us, to the measure before, the bill before us. Not as to individual Members."

Speaker Say: "Representative Caldwell, please proceed and confine your remarks as much as possible. There will not be any personal attacks on the floor of this House. Please proceed."

Representative Caldwell: "Thank you very much, Mr. Speaker. This is not meant as a personal attack. I am quoting, and the reason why I am quoting Mr. Speaker, is that a previous speaker emphasized the point about checks and balances, and the fact that we were giving too much power to Legislative branch. And I found it interesting that the previous speaker, previously ..."

Representative Fox rose to a point of order, stating:

"Point of order, Mr. Speaker. Since he's made that point clear, I have heard the very speaker that he referred to make it quite clear that he wants a strong Legislative Auditor. He said so on the floor this very afternoon."

The Chair responded, stating:

"Your point is well taken. Representative Caldwell, please proceed."

Representative Caldwell continued, stating:

"Thank you very much, Mr. Speaker. Perhaps I can get through this in the next minute and finish my comments.

"The point is that I agree with the previous speaker. That I do think that we have a check and balance system, and I do think that we do, as a Legislative branch, have a responsibility. It's not anti-Governor. It's not anti-Executive branch. It's our duty as a Legislature, and I agree whole-heartedly with the speaker from South Maui, the last time we met to override a veto. And that is my point. I don't think it's a matter of usurping power. It's something that we have. It's a duty under our Constitution. Thank you very much, Mr. Speaker."

Representative Bukoski rose, stating:

"Mr. Speaker. Thank you, Mr. Speaker. As a veteran legislator, in a bipartisan effort, I feel it is my duty just to educate the freshmen legislators that in the beginning of this ..."

Representative Lee rose, stating:

"Mr. Speaker, point of order."

The Chair addressed Representative Bukoski, stating:

"Representative Bukoski, state if you are for or against the override first."

Representative Bukoski continued in opposition to the motion, stating:

"I am against the override. I would just like to clarify that in the beginning of his statement, he mentioned that never before in history, was there an override of any governor in the State of Hawaii. I would like to clarify that we did override a year or so ago. So that statement is incorrect. And I would also like to say that we are for democracy and for overriding vetoes, and if I can quote the words said by the Majority Leader, 'if it makes sense,' and this doesn't make sense, Mr. Speaker. Thank you."

The Chair then stated:

"Thank you. Members, we had a lot of discussion on this particular measure. Representative Meyer, on what point do you rise?"

Representative Meyer rose to respond, stating:

"Mr. Speaker, I appreciate your allowing me one more time to get up."

The Chair responded, stating:

"Okay, and then I'll recognize Representative Sonson later, and that will be the final."

Representative Meyer continued, stating:

"With all this debate, I'm still not convinced, and I'm still very strongly against the override. I'm flattered that the Majority Leader would take the time to go through the old Journals to come up with some comments that I made on a similar bill. But with time, and with much more information, I think the record will show that this year, I was one of three Republican legislators that voted no on this bill, and I haven't wavered from that this year.

"The audit bill should not be confused with the need to hold government accountable for how it spends taxpayer dollars. This year we passed a very good procurement bill which is going to make the whole procurement process much more

transparent. HRS 26-6 sanctions DAGS to do the financial audits, so I'm somewhat confused when people talk about the departments choosing the CPAs. It's DAGS that chooses the CPAs. CPAs are under professional services and there's a different criteria for selecting them. I still am very convinced that the department, DAGS is in a better position to be independent because they will be sending these out to individual CPA companies and the whole process for selecting those professional services is going to be much improved after the bill that we passed.

"I am pleased to have the opportunity to get up and set the record straight, that I may have voted on a similar bill a year or two ago, but I certainly did not support this bill this year, and the record will show that. Thank you, Mr. Speaker."

Representative Sonson rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. I stand up in support of the override. It got really tense here for a while, and I'd like to simplify the issues for people like myself. In thinking how to do that, I thought of the movie *Batman*, where Jack Nicholson was playing the part of the Joker. And in one part of the film, Jack Nicholson goes, "Who do trust? Hubba hubba hubba." And I think that just sums up this whole discussion. Who do we trust? Who will be accountable? How do we hold the Administration accountable? Well, do we let the so-called wolf, or the rooster ... I'm sorry, the fox? The fox to guard the chicken coop. I don't know that story too well. But I know what accountability means. And I know what efficiency means. And I think that's what we are talking about.

"We have to make sure that the so-called fox will not be conducting these audits. I'm not referring to the Representative from Waikiki, of course. I'm sort of getting so scared and excited because I'm a freshman, and a lot of the discussion about motives and political motives do not belong in this discussion."

Representative Fox rose, stating:

"Objection. And I don't object because my name was used by the current speaker. I object to the tone that is going on. That something emerging on criminal activity is going on in the Executive branch. The references to ENRON and now the reference to this. In fact, in most cases audits are very cleanly done and we have a great record in the State of Hawaii having been cleanly done. I think it's highly inappropriate to take on the motives of the Executive branch in the sense that the current Representative is in his speech and that previous speakers have, and I would like you to stop this kind of talk if you could, Mr. Speaker. Thank you."

The Chair responded, stating:

"Representative Sonson, could you confine your remarks to the override of the bill."

Representative Sonson continued, stating:

"Thank you, Mr. Speaker. Yes, I support the override because I think the current bill will enhance accountability and efficiency in government. Thank you very much."

The Chair then stated:

"Thank you very much. We've had a lot of debate Members, at this point. And at this time ... Representative Saiki, for what purpose do you rise?"

At this time, Representative Saiki requested a roll call vote and called for the previous question.

The Chair then stated:

"Yes, Members for all of the measures on the floor of the House, it will be a roll call vote. Representative Takai."

Representative Takai rose, stating:

"Mr. Speaker, can I ask for a recess please?"

Speaker Say: "Representative Takai, for what purpose ...?"

Representative Takai: "I'd like to talk to you. Thank you, Mr. Speaker."

At 1:24 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:27 o'clock p.m.

Representative Marumoto rose, stating:

"Mr. Speaker, may I rise on a point of personal privilege? I'm married to a CPA and I feel that CPAs were somehow insulted on the floor of the House by many speakers today. He's retired of course, but if feel that many speakers here, in favor of the motion, alluded to the Executive department or DAGS contracting with friendly CPAs with a mind to obtaining a favorable audit. And I just wanted to stand up for the profession.

"I feel that there are many very good and honest certified public accountants in this State and I feel they all do a fine job, and they would call it as they see it. As one speaker said, they recently issued a qualified statement. I don't think they are for sale."

The Chair responded, stating:

"Your point is well taken. Representative Takai."

Representative Takai rose in support of the motion, stating:

"Thank you, Mr. Speaker. I rise in support of this motion."

Representative Fox rose, stating:

"Mr. Speaker, you called for the question."

The Chair responded, stating:

"Yes. Would you like to submit your ..."

Representative Takai continued, stating:

"Yes, Mr. Speaker. In line with that support, I would like to request your permission to insert into the Journal an article written on Sunday, July 6th in the *Star-Bulletin*, page D1, and some additional comments," and the Chair "so ordered."

Representative Takai's written remarks are as follows:

"Dangerous Equations  
University of Hawaii's Money Crisis  
President Evan Dobbelle has run UH's finances into the red with  
huge pay raises and empty promises

By Dr. Amy Agbayani, Sen. Donna Mercado Kim,  
Dr. Ralph Moberly and Rep. K. Mark Takai

Evan Dobbelle became president of the University of Hawaii system on July 1, 2001. (1) As we look back on his two years as president, we don't see the world-class university Dobbelle claimed he would deliver if we set him free from bureaucratic constraints. We don't see students better served with campus resources. We don't see faculty and researchers better nurtured to innovate. We don't see our communities enriched by a better town-gown relationship.

In Dobbelle's two years, we see an institution where student tuition is being raised while administrative salaries are boosted by more than \$4 million, where substance and services take a back seat to marketing and public relations, and where a globe-trotting president fails to bring home the money he promised.

While claiming credit for boosting public perceptions about the university and its role in our community, Dobbelle has lost the confidence of significant campus and community leaders, including some members of the Board of Regents. Dobbelle is disrespectful of the regents, ignoring their counsel and failing to work cooperatively with the entire board, exceeding his delegated authority, displaying poor judgment, failing to follow through on commitments, and failing to be a proper steward of our university's limited financial and human resources.

Dobbelle's administration now faces an internal crisis of confidence and a credibility gap between what he promised he would do and what he actually has done.

#### Salary increases

President Dobbelle's policies have significantly increased overall administrative costs for the university system despite the Board of Regents' repeated and continuing admonitions that such changes shouldn't require more money. A broad administrative reorganization pressed by Dobbelle, including new positions and higher administrative salaries, has boosted overall salary costs of the top layer of administrators by more than \$4 million annually, while the university is facing severe budget challenges. (The \$4 million figure does not include the recent pay hikes for UH Manoa deans and coaches, including June Jones.)

In September 2000, before Dobbelle's appointment, the regents adopted a plan to establish a UH Manoa chancellor separate from the president. According to the minutes of the regents' January 2001 meeting, the regents agreed to separate the positions with the condition that the move "was to incur no additional costs." (2) Except for the new UH Manoa chancellor position, the idea was simply to shift administrative tasks and positions dealing primarily with the Manoa campus to the new chancellor's office, leaving the president's office to handle issues common to the system as a whole. (3)

Despite the absence of additional resources for this reorganization, salaries for Dobbelle's current top-level administrators at all 10 campuses have increased from \$3.58 million in June 2001 to \$7.64 million today - an increase of more than \$4 million. In other words, to administer the same educational system, the university now is paying twice as much money for similar high-level administrators. (4)

In justifying his reorganization plan to legislators earlier this year, Dobbelle said the university is spending "\$1.89 million a year less on administrative costs than it did 10 years ago." (5-6) Yet, according to the UH personnel office, the salaries for UH executive and managerial positions actually increased by more than 23 percent from October 1994 to October 2002 (from \$16.3 million in October 1994 to \$20.2 million in October 2002). (7-8)



The reorganization alarmed Manoa faculty members because of the academic budgetary and communication impacts that would follow, and because the stealthy process repelled them. Policy that affects academic matters calls for prior consultation. Lack of consultation between the faculty and administration on the reorganization plan led to a resolution to censure Dobbelle, which was placed before the faculty senate in November 2002. After a meeting in which Dobbelle apologized to the senate's executive committee, the resolution was tabled. But it was not withdrawn, and the resolution may be brought up for a vote the next time collegial governance is ignored. (9)

In a legislative briefing earlier this year, J.N. Musto, the faculty union's executive director, pointed out that while salaries for some university administrators have increased substantially during the past two years, faculty members will receive no increases in salaries for the next couple of years. (10) Each of the 2,800 full-time faculty members state-wide could have received a pay raise of more than \$1,400 using the \$4 million now going to higher salaries for administrators. (11)

#### An analysis of UH executive salaries

This chart shows the salaries of several University of Hawaii top administrators and the percentage increases in pay before and after Evan Dobbelle became president. The asterisks denote positions created after Dobbelle assumed the president's job.

Position	Before Dobbelle	Under Dobbelle	Percent Increase
President	\$167,184	\$442,008	164%
Chief of Staff*	N/A	\$200,000	
General Counsel	\$130,008	\$256,248	97%
Vice President for Academic Affairs	\$133,968	\$260,000	94%
Vice President for External Affairs	\$82,440	\$210,768	156%
Vice President for Administration	\$125,664	\$227,016	81%
Vice President for International Education*	N/A	\$218,520	N/A
Vice President for Research*	N/A	\$234,000	N/A
UH Manoa Chancellor*	N/A	\$254,016	N/A
UH Hilo Chancellor	\$130,000	\$227,976	75%
Hawaii Community College Chancellor	\$85,680	\$200,000	133%
<b>Sub-Total</b>	<b>\$854,944</b>	<b>\$2,730,544</b>	<b>219%</b>
Additional Administrative Salaries	\$2,727,933	\$4,905,221	80%
<b>Total</b>	<b>\$3,582,877</b>	<b>\$7,635,765</b>	<b>113%</b>

#### 'A few key people'

Dobbelle's own initial salary of \$442,000, approved by the regents, was nearly triple that of his predecessor, Kenneth Mortimer, and, with benefits, was ranked fourth highest in the nation in a survey of university presidents by the Chronicle of Higher Education. (12) By comparison, the new president of the massive University of California system is paid \$375,000. The UC system has an enrollment of 200,000 students, whereas the UH system has 46,000 students. (13)

Dobbelle insisted that his picks for several key UH positions receive generous compensation packages, justifying his approach as "a few key people with higher salaries and a lot of responsibility." (14-15)

Eyebrows were raised when Dobbelle's first appointments were announced. J.R. "Wick" Sloane, vice president for administration, is paid \$227,000, an increase of \$100,000 over the former salary for the same position. Paul Costello, vice president for external affairs and university relations, earns more than twice the salary of his predecessor. With the approval of the regents, neither position was advertised in open competition, as is generally required by state law.

Dobbelle has appointed six friends or former associates to highly paid executive and managerial positions. These include Sloane; his wife, UH Foundation President Elizabeth "Betsy" Sloane; Costello; Executive Assistant Prescott Stewart; Assistant Kristin Blanchfield; and Senior Adviser for Global Affairs Michael Lestz. Dobbelle has hired other friends and former associates as well-paid consultants.

The hiring of Costello and Sloane was the focus of a February 2002 article in the Chronicle of Higher Education. Dobbelle told the Chronicle that he couldn't imagine why anyone would see his hiring of Costello and Sloane as "cronyism," which he defined as "hiring people you know who aren't qualified." (16)

According to a financial disclosure filed with the State Ethics Commission, in the year prior to becoming the chief financial officer of the university, Sloane received a \$70,000 salary in 2001 for providing "finance advice" to a company called B China B Plastics. (17) Despite a lack of significant experience in large and complex public university administration and financing (18), Sloane now receives \$227,016 each year as chief financial officer of our university - a 224 percent increase in pay.

Equally surprising are the salaries Dobbelle awarded two personal aides - Stewart, his executive assistant, who is paid \$111,552, and Blanchfield, his assistant, paid \$93,168. Each receives substantially more than a UH full professor, the highest faculty rank, earning an average of \$80,500, and more than members of the governor's cabinet, who earn \$85,302 a year. A faculty member may take 20 years or longer to reach the rank of full professor, with tough peer reviews and productivity requirements along the way. Meanwhile, Dobbelle brings in relatively young staffers well above that full professor level.

#### Retirement bonuses

Dobbelle also recommended large bonuses for retiring administrators, costing taxpayers and current and future retirees hundreds of thousands of dollars and incurring inflated retirement costs over the longer term. For example, a Manoa executive turned his duties over to a successor and then got a 50 percent raise, from \$120,000 to \$180,000, and was effectively given a one-year leave at the higher salary until he retired June 30.

Similarly, a high-level Bachman Hall interim executive will step down soon and then will return to the faculty ranks, going on a "professional improvement leave" for nine months at an annual salary of \$254,040 before retiring.

Normally, any university staffer granted such a paid leave must pay back the university by returning to work so that the university and the public will benefit from his or her new or sharpened professional skills. In these cases, that requirement was waived and both UH executives will retire or have retired with substantial boosts to their retirement benefits as a result of the extra time at high salaries.

Interim administrative appointees who return to the faculty ranks typically return to the lower faculty salary level. However, in this situation, Dobelle is allowing this interim appointee to continue to receive his interim executive's salary of \$254,040 while on the nine-month leave.

Before working at Bachman Hall, the interim executive was a 30-year faculty member making about \$85,000 a year. He received \$238,800 the first year and \$254,040 the second year as an executive.

Retirement benefits for state employees who work for more than 30 years, who are in the contributory system and who receive more than \$200,000 for their final three years will receive approximately \$120,000 annually. If these employees were working for approximately \$85,000 for their highest three years, each would receive approximately \$51,000 annually in pension income. In other words, these employees will receive a boost of more than 100 percent in their retirement income - the \$120,000 annually is even higher than their original \$85,000 salary! (19)

#### **\$1.5 million for a logo**

Dobelle shelved the proposed UH logos after a public uproar because of the inappropriate designs and high costs. (20-21) This marketing initiative was \$1.5 million for this year, recently reduced to \$1.1 million. However, since Bachman Hall does not have money even for the scaled-back initiative, Dobelle has required each campus to pay an assessment to fund the effort. (22)

According to Costello, the Manoa campus was assessed \$749,582 taken from the student tuition account. Likewise, the community colleges this year were collectively assessed \$305,743. (23) With the university facing multimillion-dollar budget cuts, it is highly unwise, if not irresponsible, to spend so much money on marketing.

#### **Dobelle's fund raising**

In several instances, Dobelle has deflected criticism of his spending decisions by publicly promising to raise money to cover specific expenditures, but these commitments have so far proved hollow.

Soon after assuming office, Dobelle responded to criticism of the \$1 million in renovations to College Hill, the president's home, by pledging to raise private funds to cover the cost overruns. (24) In November 2001, Dobelle said he had raised \$50,000 from a private foundation. (25) But more than a year later, in a legislative hearing in January 2003, Dobelle had nothing more to show beyond the initial foundation grant. (26)

"I haven't made that a highest priority," Dobelle said. "We will begin to raise the money, but I couldn't make that a priority over scholarships for students." He told lawmakers that "it's very hard to raise capital costs" for the house. "We continue to ask, but it is not the major priority." (27)

A letter in March from the UH Foundation clarified that Dobelle had raised \$112,270 from private sources for the College Hill project, leaving him nearly \$900,000 short of his promise. (28)

Legislators now are worried about Dobelle's commitment to raise \$150 million in private funds to match state spending for the new medical school in Kakaako. (29) At an October 2001 legislative hearing, Dobelle was asked what would happen if the university doesn't raise the \$150 million. "I don't think that way," he answered. "We will raise the \$150 million." (30)

Fifteen months later, in a January 2003 legislative hearing, the president again was asked to update the Legislature about the fund-raising efforts for the medical school. "We will raise the funds," was Dobelle's answer once again. (31) In March, legislators learned that only \$500,000 had been raised to date -- less than 1 percent of the total promised. (32)

On May 1, the Legislature finally received a "preliminary fund-raising plan" for the campaign. Despite taking more than one year to formulate this preliminary plan, Dobelle admitted that it must be presented to the Board of Regents for its "review and approval prior to any presentation to donor prospects." (33) To date, the regents have yet to receive this proposal.

#### **University nearly broke**

Although the university ended the 2003 fiscal year on June 30 in the black, this fiscal year is already looking bleak. It has been suggested that the university is facing at least a \$2.4 million budget deficit overall by June 2004. Additionally, the system-wide administration faces nearly a \$500,000 deficit in funds to cover the salaries of Dobelle's highly paid administrators. (34) Moreover, the chancellor of Manoa has asked for an additional \$10 million in cuts from Manoa's academic and research units to cover an anticipated budget deficit and new campus initiatives for the budget year that began on July 1. (35)

The budget situation for Manoa is so critical that on June 27, administrators sent an e-mail saying that "effective immediately, campus mail services will be temporarily suspending the processing of any outgoing mail until Monday, July 7." (36) In a June 30 follow-up e-mail, university employees were told that mail requiring postage was temporarily suspended "due to the depletion of the campus mailroom's postage meter account." (37)

During discussions on the budget at the June regents' meeting, Regent Ted Hong asked about a \$439,000 shortfall in the budget for administrative salaries. Sloane explained that the university will be using \$1 million in interest from university accounts to pay for the shortfall. (38)

After being questioned further about the use of interest income on "fixed costs," Sloane replied: "This is not a way to do this . . . Some of these positions are only going to be here for a year and so we are taking this one year at a time, but we take seriously where this is heading us towards." (39)

As early as last October, Sloane began looking into every budgetary nook, including the use of research overhead funds, to pay for Bachman Hall administrators. These funds are required by the Legislature to be spent in support of research. (40) The funds come from reimbursements for indirect overhead costs like electricity incurred in connection with federal research projects.

Their use is regulated, and misuse may result in the loss of federal research funds. A state law requiring that the university set aside 12 percent of the overhead funds to pay for several faculty housing projects was dropped by the Legislature in 2001. (41) However, the university has continued to set aside the 12 percent for the housing projects. (42)

Although budgeting \$2.5 million for 2002 and \$3.1 million for 2003 from the research overhead for these housing costs, Dobelle's administration has transferred only \$1.27 million to the housing account each of the past two years. (43-44)

Researchers who earned the grants have a basic question: Have the additional millions that were budgeted for housing assistance been used to cover Dobelle's administrative overruns? (45) State law specifies that the regents - and only

the regents - have the authority to determine the amount of this transfer. (46) To date, they have not done so.

In her March 2003 audit, the state legislative auditor also found that the monies from the research and training revolving fund have been used for "questionable purposes," such as aesthetic improvements to Hamilton Library. (47)

The expenditure of research overhead funds has been a "major source of discontent among the faculty researchers," a faculty union leader told legislators. Faculty members "are very dissatisfied about the possible misuse of these funds and the auditor's report only reinforces their continued skepticism and concerns. . . This is bad for morale," said faculty union director Musto. (48)

#### Defiance of board

Signaling a loss of confidence in Dobelle's judgment, the Board of Regents voted last October to limit substantially or remove the president's discretionary authority. The board, concerned about Dobelle's habit of informing regents of his plans only at the last minute, inserted a definition for "consultation" in the regents' administrative rules to make clear that the president must "obtain input, comment and advice from the board or the board's designee prior to making a recommendation to the board for decision-making and, in certain instances, prior to administrative action." (49-50)

Additionally, in the minutes of the October meeting, the regents clarified that "the interpretation of board policies rests with the board." (51-52) Other changes reflect the regents' concerns about high administrative salaries.

"The amendments further clarify that all actions pertaining to executive employees as well as exceptions to policies requires the prior approval of the board," according to minutes of the regents' Oct. 18 meeting. (53) In addition, the board now requires that it approve all consultant contracts of \$100,000 or more, and any with significant policy or systemwide impact. (54)

In a slap at Dobelle's travel costs, including first-class upgrades for Dobelle's staff as well as himself, the board imposed a new requirement for the president to submit a monthly travel report that includes "total expenses of each trip and funding sources." (55)

Dobelle has indicated he has spent nearly half his tenure on the road. "Almost 240 of the 570 days I've been president in a hotel room somewhere in the country raising money," he said at one point. (56)

#### Conclusion

Our beloved university is in turmoil - from highly paid administrators who have not proven their worth to concerns about cronyism, from constituencies who have been ignored and million-dollar logo and marketing plans to questionable expenditures of research funds, from inattention to administrative arrogance and deception.

We all welcomed Evan Dobelle's arrival in July 2001. Many of us, including the media, have given Dobelle much latitude to succeed. However, after two years of high expectations from the Dobelle administration, the 10-campus university is in disarray, is unfocused and faces an uncertain future.

We care about our University of Hawaii - and the university is at a critical point.

#### How to start getting things under control

- The Board of Regents, in its current review of the president, should carefully consider the issues raised

here, critically assess his responses, then seek a concrete plan for dealing with these multiple concerns. The board also should consider hiring its own external auditor and its own external attorney to investigate these issues.

- Members of the Board of Regents are restrained from complaining publicly. The board's traditions discourage public criticism of the president or his practices. However, breaking with their tradition of deference to the administration, the regents should provide sufficient information for the public to be assured that the criticisms and concerns are being addressed, and that there is improved accountability for how the funds of the university and the University of Hawaii Foundation are being expended.
- The legislative auditor should continue her efforts to audit specific university funds and accounts.
- Taxpayers and members of the UH community across all 10 campuses must demand a full accounting of all tuition and taxpayer money entrusted to Hawaii's only public institution of higher education. These individuals should identify other issues and problems and bring them to the attention of the regents."

*The Star-Bulletin*  
July 6, 2003

#### Footnotes

- (1) "Regent Ikawa moved to appoint Evan S. Dobelle as the 12th President of the University of Hawaii at a salary of \$442,000 effective July 1, 2001 through June 30, 2008. The motion was seconded by Regent Kobayashi." [Minutes of Board of Regents, March 12, 2001]
- (2) "The separation (president and UH Manoa chancellor positions) was to incur no additional costs and with the understanding that no movement would take place until reorganization plans, charts, and budgets were first approved by the Board." [Minutes of Board of Regents, January 19, 2001]
- (3) "No additional resources are being programmed for the staffing and operation of the UHM Chancellor's Office." [Minutes of Board of Regents, January 19, 2001]  
"The proposed reorganization and implementation plan should meet the directives as expressed by the Board at its September 2000 meeting, with one exception. The Board had originally called for a budget on the assumption that significant transfers of funds would be required from systemwide support appropriations to Manoa as a result of the reorganization. Current budgets, however, already reflect most of the affected units within Manoa's appropriation. Nevertheless, the administration will adhere to the Board's requirement that this reorganization incur no additional costs to the University." [Minutes of Board of Regents, January 19, 2001]
- (4) Cost of Reorganization. See Resources.
- (5) "The administration is lean, down 21 percent in actual funded administrative FTE positions. Actually, \$1.89 million less in administrative costs than it was 10 years ago. There are few higher salaries representing the collapsing of positions that has allowed recruit for some of the best minds in higher education administration." Dobelle, Evan. [Testimony at the Senate Committee on Ways and Means and Senate Committee on Education Information Briefing, January 27, 2003]
- (6) "He (Dobelle) also told legislators that UH is spending about \$1.9 million less in administrative costs than it did 10 years ago." "Pay doubles for new UH dean." Apgar, Sally. [Honolulu Star-Bulletin, March 16, 2003]

- (7) Historical Report of Total Exec/Mgr Salary and FTE Data. [Moriyama, David; Attachment to Response Letter to K. Mark Takai, February 27, 2003]
- (8) "Cost of Administration. There have been statements about the cost of (the) administration being \$1.89 million less than it was a decade ago at the University of Hawaii system. Can you provide the documentation showing this decrease in administrative costs? Response: There are fewer filled administrative positions (than) 10 years ago, but the overall cost has increased." [Moriyama, David; Response Letter to K. Mark Takai, February 27, 2003, Page 2]
- (9) "In the wake of neglecting to consult the senate on the proposal, which the Board of Regents will vote on this Friday, Dobbelle and Interim Vice President for Academic Affairs Deane Neubauer faced a proposed resolution for censure from the senate yesterday. After an hour of discussion, the senate tabled the resolution for censure - so that it can be discussed at a later meeting - in favor of a second resolution that asked the administration to consult them on future faculty-impacting endeavors. Frank Sansone, a liaison officer with the senate's committee on administration and budget, which proposed the censure, said the administration never consulted the senate during the creation of the proposal. He said the censure vote was necessary because communication between faculty and administration "is an integral part of American higher education." "Senate resolves Prez's faux pas: Faculty Senate tables censure resolution; adds changes to reorganization." [Fukumoto, Beth; Ka Leo O Hawaii, November 21, 2002]
- (10) "It must be stated that the salaries and compensation being paid to excluded administrators at UH have increased very substantially over the last two years, while, at the same time, faculty members (who are being paid in the bottom 20 percentile, and below, in comparison with faculty at peer institutions) are facing a situation where they are anticipating no increases in salary in the next two fiscal years." [Musto, J.N., Executive Director, UHPA; Testimony before the Senate Committee on Education and the House Committee on Higher Education. April 9, 2003]
- (11) Calculation: \$4 million divided by 2,800 full-time faculty could have resulted in a \$1,428 raise for each of the 2,800 faculty members.
- (12) "4. Evan S. Dobbelle, University of Hawaii System, Total annual compensation: \$599,500 (\$442,000 base salary, \$157,500 in deferred compensation if he completes his seven-year contract and is not offered another term, and a house and car)." "Private Funds Drive Up Pay of Public-University Presidents." [Basinger, Julianne and Perry, Seth; The Chronicle of Higher Education]
- (13) The Regents approved a salary of \$395,000 per year for the new president. That figure is 18 percent less than the \$465,872 average presidential salary of the public and private universities across the nation that UC uses for salary-comparison purposes. It is consistent with the \$394,640 average presidential salary of UC's public comparison institutions. . . The University of California, founded 135 years ago in 1868, today is widely considered the pre-eminent public university system in the world. UC enrolls more than 200,000 students and employs more than 160,000 faculty and staff." [Reese, Michael; June 11, 2003, press release from the University of California]
- (14) Dobbelle, Evan. [Testimony at the House Committee on Higher Education informational briefing, January 7, 2003]
- (15) Dobbelle has been criticized for his hiring practices and salaries. At a session with legislators in January, he said his leadership style is to have a few key people with higher salaries and a lot of responsibility, rather than five or six people with lower salaries and the same responsibility but no one who is clearly accountable." "Pay doubles for new UH dean." [Apgar, Sally; Honolulu Star-Bulletin, March 16, 2003]
- (16) Mr. Dobbelle can't imagine why anyone would see his hiring of Mr. Costello and Mr. Sloane as cronyism, which he says 'is defined as hiring people you know who aren't qualified.'" "Hiring Their Friends." [Jacobson, Jennifer; The Chronicle of Higher Education, February 21, 2003]
- (17) Sloane, James. [Disclosure of Financial Interest Form, 2002]
- (18) "Before joining UH as chief financial officer in December 2001, Sloane founded Cambridge-based financial consulting company K@tapult, Inc. He previously served as chief operating officer for North America for Baring Asset Management. He has also been a partner at Handley International and managing director at Aetna Life and Casualty, where he was architect of a partnership with Bank of China and adviser to the speaker of the U.S. House of Representatives on reengineering and decision analysis." [UH Website]
- (19) Calculation: 30 years at 2 percent/year equals 60 percent of the highest three years, which is capped at \$200,000 per year. 60 percent of \$200,000 is \$120,000 per year. Whereas, 60 percent of \$85,000 is \$51,000 per year.
- (20) "UH logo controversy intensifies debate over priorities." [Perez, Rob; Honolulu Star-Bulletin, April 27, 2003]
- (21) "University of Hawai'i President Evan S. Dobbelle today announced that the two final designs for the new system-wide identity will be withdrawn from consideration due to overwhelming concern from the community." [Wester, Kate; press release from the University of Hawaii]
- (22) "We have listened. Attached is a copy of the press release issued on April 30 regarding withdrawing the two designs." [Costello, Paul; Response Letter to K. Mark Takai, May 1, 2003]
- (23) "Specific branding/marketing assessment for each campus. UH Manoa: \$986,292 adjusted to \$749,582. UH Hilo: \$111,415 adjusted to \$84,675. Community Colleges: \$402,293 adjusted to \$305,743." [Costello, Paul; Response Letter to K. Mark Takai, May 1, 2003]
- (24) "UH President Evan Dobbelle, who took over in July, has said he will personally raise funds from private sources to cover the renovation costs, possibly by naming rooms after donors who underwrite some of the costs." "Dobbelle residence fixes cost \$1 million: Renovation funds will be raised from private donations, he says." [Shapiro, Treena; Honolulu Star-Bulletin, November 2, 2001]
- (25) "Dobbelle said that he was concerned about where the money to pay for the projects would come from, and he insisted that it not be taken out of student fees and tuition. He said he has already raised \$50,000 from a historical foundation interested in helping preserve the home." "Dobbelle house under scrutiny: Many critics question university approval for renovation funding." [Shapiro, Treena; Honolulu Star-Bulletin, November 3, 2001]
- (26) "I think that we got one donation of \$50,000." [Dobbelle, Evan; Testimony at the Senate Committee on Ways and Means and Senate Committee on Education Information Briefing, January 27, 2003]
- (27) "I haven't made that a highest priority. We will begin to raise money, but I couldn't make that a priority over scholarships for students. . . My commitment was to make that effort (to raise \$1 million), but after 9-11 it just seems to me that I had to set priorities. But I don't see any reason why ultimately we can't do that. It's very hard to raise capitol costs. We continue to ask but it not the highest priority." [Dobbelle, Evan; Testimony at the Senate Committee on Ways and Means and Senate Committee on Education Information Briefing, January 27, 2003]
- (28) "Finally, you inquired about fund raising efforts for College Hill. \$112,270.07 has been provided by private sources for the College Hill project. The interior design services for the project were a contribution. In addition

- there is a foundation grant of \$25,000 per year made to the President each year which he has designated for College Hill. . . As stated in his testimony to the Legislature earlier this year, President Dobelle does not feel that requests to donors for College Hill renovations are appropriate given the decline in the state's economy based on the events in New York and the threat of war." [Sloane, Elizabeth; Response Letter to K. Mark Takai, March 17, 2003, Page 1]
- (29) "The remaining \$150 million will be financed through a private fundraising campaign. . . In effect, we are offering a 1-to-1 match. For every dollar the state invests in the biomedical plan, the university will raise one." [Dobelle, Evan; Testimony at the Senate Committee on Ways and Means and the House Committee on Finance Hearing on HB 13/SB 13, October 23, 2001]
- (30) Discussion between Sen. Donna Mercado Kim and Dobelle:  
Kim: "What happens if you don't raise the \$150 million matching funds?"  
Dobelle: "I don't think that way, senator. It's not the way I think. We will raise the \$150 million. . . Senator, it's not a question that I will allow my staff to ask. We will accomplish (this) because we will will ourselves to do it."  
Kim: "I understand, but as a responsible legislator who often says that we need to have back up plans and reasonable plans to do things. In some event that you happen to not be here and we do not raise the \$150 million matching funds, what would happen?"  
Dobelle: "Again senator, I respectively suggest that we will raise the money."  
[Testimony at the Senate Committee on Ways and Means and the House Committee on Finance Hearing on HB 13/SB 13, October 23, 2001]
- (31) "We will raise the funds (for the \$150 million match). We are committed to the partnership. We have a commitment to raise the \$150 million. I've spent almost 240 of the 570 days I've been president being in a hotel room somewhere in the country raising money. What will not happen is we will not be returning to the Legislature for the \$150 million. We said we would raise it. We have every indication that there is an energized alumni base out there. We will raise it." [Dobelle, Evan; Testimony at the Senate Committee on Ways and Means and the Senate Committee on Education Hearing, January 27, 2003]
- (32) Senate Committee on Education and House Committee on Higher Education hearing, March 20, 2003
- (33) "Fundraising plans for the Kakaako Biomedical Complex require a comprehensive and highly competent team of individuals working on shaping fundraising opportunities from a variety of funding sources. . . It is thus appropriate and expected that our plans include several major components to drive such a significant effort. . . This plan will be presented to the UH Board of Regents for their review and approval prior to any presentation to donor prospects. This preliminary fundraising plan will be refined as we expand our volunteer efforts and further our prospect research efforts for this campaign." [Dobelle, Evan; Letter to Calvin Say, Dwight Takamine and K. Mark Takai, May 1, 2003. pp. 2-3]
- (34) "In the 903 account (budget) it shows a shortfall of \$439,000." [Hong, Ted; In questioning Wick Sloane at the UH Board of Regents' meeting, June 20, 2003]
- (35) Englert, Peter [Presentation to Legislators. June 18, 2003]
- (36) "Subject: Temporary Suspension of Outgoing Mail. Effective immediately, Campus Mail Services will be temporarily suspending the processing of any outgoing mail until Monday, July 7. We are sorry for this short inconvenience. Thank you for your patience in this matter." [Ohigashi, Glenn; Email to UH Manoa campus staff, June 27, 2003, 13:32:18]
- (37) "Subject: Campus Mailroom Statement - June 30, 2003. Due to the depletion of the Campus Mailroom's postage meter account, there will be a temporary suspension of outgoing mail requiring postage. Campus and outgoing mail (with stamps) service will not be affected. Service for outgoing mail requiring postage is expected to resume by July 2 or 3. Non-priority mail should be delayed until full service is restored. Departments with time-sensitive mail that requires immediate attention should contact the Campus Mailroom at 956-5246 to discuss mailing alternatives." [Ohigashi, Glenn; Email to UH Manoa campus staff, June 30, 2003, 13:52:21]
- (38) Discussion between Regent Ted Hong and Sloane:  
Regent Hong: "In the 903 account (UOH 903) it shows a shortfall of \$439,000. . . Based on the assumption that the chief of staff and secretary positions are funded are only \$187,625, which is less than is requested here. I know in your memo you talked about having \$1 million in interest income to cover those expenses and I did tell you yesterday that I wanted to have you talk to us about that."  
Sloane: "The surplus shortfall in the accounting conventions determines what is paid for general funds versus other funds and as you know the university has multiple sources on income - and there is no requirement that all things have to be balanced with general funds. There were times that general funds have come down so one of the sources of income which has been available but which we are not projecting strongly for the future is interest on special and revolving funds."  
[Board of Regents' meeting, June, 20 2003]
- (39) Discussion between Regent Ted Hong and Sloane:  
Regent Hong: "The 903 account are fixed costs?"  
Sloane: "If you take salaries as fixed costs . . . yes."  
Hong: "But that interest that you talking about from that account . . . it fluctuates . . . correct?"  
Sloane: "No . . . this is interest which has been earned in this fiscal year which is a carryover balance for the year coming."  
Hong: "But you are not going to get a million dollars for every year."  
Sloane: "No . . . this is not a way to do this, but as you pointed out, some of these positions are only going to be here for a year and so we are taking this one year time but we take seriously where this is heading us towards."  
[Board of Regents' meeting, June, 20 2003]
- (40) "The board of regents of the University of Hawaii is authorized to expend one hundred per cent of the revenues deposited in the fund for: (1) research and training purposes which may result in additional research and training purposes which may result in additional research and training grants and contracts; (2) facilitating research and training and the university; and (3) further deposit into the discoveries and inventions revolving fund and the University of Hawaii housing assistance revolving fund." [Hawaii Revised Statutes, Section 304-8.1]
- (41) "SECTION 3. Section 304-8.96, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows: "(a) There is established a housing assistance revolving fund into which shall be deposited [twelve per cent] a portion of the total indirect overhead funds generated by the university for research and training purposes in the prior fiscal year [.] as determined by the board of regents. The fund shall be used to: (1) Implement the University of Hawaii housing assistance master plan, in accordance with policies adopted by the board of regents; and (2) Account for all transactions of the university housing assistance program, including but not limited to revenues, expenditures, loans, and transfers." [House Bill 730 (2001), Act 114]
- (42) "Housing Assistance - \$3,094,381." [FY 2003 RTRF Allocation Summary, April 14, 2003]

- (43) “For FY 2002, \$423,600 was deposited in the Discoveries and Inventions Revolving Fund and \$1,270,800 was deposited into the UH Housing Assistance Revolving Fund.” [Sloane, James R. W.; Letter to K. Mark Takai, April 22, 2003]
- (44) “Please allocate \$1,272,284 from FY 2003 UH System RTRF funds to the Housing Assistance Revolving Fund. Per Mike Unebasami’s memo to you of April 3, this amount will reimburse the fund for debt service paid in September and April of this fiscal year.” [McClain, David; Memorandum to James R. W. Sloane, June 17, 2003]
- (45) Discussion between Sloane and K. Mark Takai:  
Takai: “Are there any plans to use RTRF funds to fund any administration positions or expenses? Were there any expenditures from RTRF funds to fund any administrative positions or expenses in FY 2002?”  
Response from Sloane: “Yes, we are currently funding the office of the Vice-President for Research through the RTRF. The FY 2003 allocation includes funding for the Vice-President, secretary, and related office expenses for five months at approximately \$200,000. An additional \$400,000 is being allocated for the annual financial audit required for receipt of federal funds.”  
“For FY 2002, no administrative positions were charged to RTRF. A total of \$479,188 was expended in the systemwide programs for administrative expenses in support of research and training activities. These expenses include legal services incurred directly attributable to research activities, institutional membership fees required for recognition as a research institution, annual software licensing fees, etc.”  
[Memorandum from Sloane, James R. W, April 22, 2003]
- (46) “There is established a housing assistance revolving fund into which shall be deposited a portion of the total indirect overhead funds generated by the university for research and training purposes in the prior fiscal year as determined by the board of regents.” [Section 304-8.96 (a), Hawaii Revised Statutes]
- (47) “We found that the revolving fund has been used for questionable purposes. . . We found that the Research and Training Revolving Fund was used to pay for aesthetic improvements to the library. . . . When asked about these questionable expenditures, the university’s chief financial officer stated that the revolving fund’s intended purpose is very broad. The officer clarified his belief that any expenditure could be related to research and training, except for expenditures pertaining to athletics. Although the fund’s original purpose is broad, we believe that the fund should be used for expenditures that directly relate to research or training.” [Higa, Marion; Review of Selected University of Hawaii Non-General Funds and Accounts, Report No. 03-04, March 2003, p. 15]
- (48) “The use of the Research and Training Revolving Fund by the administration has been a major source of discontent among the faculty researchers at UH-Manoa who are the individuals primarily responsible for the creation of this revenue source through their federal grants and contracts. They are very dissatisfied about the possible misuse of these funds, and the auditor’s report only reinforces their continuing skepticism and concerns. . . . These are the people who bring in the money, and they are seeing much of it spent in ways that they do not believe to be legitimate. This is bad for morale.” [Musto, J. N.; Testimony at the Senate Committee on Education and the House Committee on Higher Education Hearing, April 9, 2003.]
- (49) “Aside from some housekeeping amendments, the only significant change is the addition of a definition for consultation with the Board. This amendment is intended to assist the Board and the administration in determining a preferred course of action when handling certain administrative matters. Amendments to this chapter would also clarify that the interpretation of Board policy rests with the Board.” [Minutes of the Board of Regents, October 18, 2002, p. 10]
- (50) “‘In consultation’ and/or ‘consult with the Board’ means to obtain input, comment, advice and direction from the Board or the Board’s designee prior to making a recommendation to the Board for decision-making and in certain instances, prior to administrative action by the President or the administration.” [Board of Regents’ Administrative Procedures Information System, Chapter 1: General Provisions, Section 1-1 (i): (This provision was added by the Board of Regents on October 18, 2002.)]
- (51) “Amendments to this chapter would also clarify that the interpretation of Board policy rests with the Board.” [Minutes of the UH Board of Regents, October 18, 2002, p. 10]
- (52) “The interpretation of all Board policies rests exclusively with the Board. Where no policy has been established by the Board, the President shall consult with the Board prior to taking action, however, the President shall be free to exercise his/her judgment in taking action on emergency matters of major importance provided that in consultation with the Board of its designee, it is determined that a special meeting of the Board cannot be held in time to address the emergency. Therefore, every attempt shall be made to have the Board convene in special session. The President shall inform the Board of such circumstances, advising it prior to taking any action(s) where Board policy is silent.” [Board of Regents’ Administrative Procedures Information System, Chapter 1: General Provisions, Section 1-2 (a) (2) (e)]  
(The above section was amended by the Board of Regents in October 2002. The old section reads as follows: “Where no policy has been established by the Board, the President shall be free to exercise his judgment in taking action on matters where immediate action is required that cannot await approval of the Board provided, however, that if emergency matters of major importance, the Board will be convened in special session.”)
- (53) “Chapter IX: Personnel. The significant changes in this chapter occur primarily in the Executive/Managerial section where further clarity was needed on the appointment, assignment, and compensation of executive personnel. The amendments further clarify that all actions pertaining to executive employees as well as exceptions to policies requires the prior approval of the Board.” [Minutes of the Board of Regents, October 18, 2002, p. 11-12]
- (54) “Consultant Contracts. Contracts to engage consultant services, including, but not limited to, consultants to study or review University programs and/or operations for the purpose of recommending courses of action which are anticipated to require changes in Board policies and/or have significant impact on policy, programs or operations, or have a systemwide impact, shall require the prior approval of the Board regardless of amount or source of funding. Consultant services shall include but are not limited to architects, engineers, designers, financial analysis, audit providers, and planners. Consultant contracts which are estimated to be \$100,000 or less, consultant expenses included, and not expected to result in changes in Board policies and/or have a significant impact on programs, operations and contingencies as stated in this section, shall be approved by the President or the President’s designees. All consultant contracts in excess of \$100,000, expenses included, shall require the prior approval of the Board of Regents. This requirement may not be circumvented by parceling the amount of the contract or by engaging the services of consultants through entities or organizations other than the University of Hawaii.” [Board of Regents’ Administrative Procedures Information System, Chapter 8: Business and Finance, Section 8-1 (c)]

(The above section was amended by the Board of Regents in October 2002. The old section reads as follows: "Consultant Contracts. Contracts to engage consultants to study or review University programs and/or operations for the purpose of recommending courses of action which are anticipated to require changes in Board policies and/or have significant impact on programs or operations, shall require the prior approval of the Board. Consultant contracts which are estimated to be \$100,000 or less, and not expected to result in changes in Board policies and/or have a significant impact on programs, operations, shall be approved by the President or the President's designees. All consultant contracts in excess of \$100,000, shall require the prior approval of the Board of Regents.")

Additionally, the Board also approved changes that require prior Board approval "regardless of amount and funding source" for all procurement that "will have a significant impact on policy, programs or operations or have a systemwide impact."

"Procurement Procedures. Subject to the provisions set forth herein, the President is authorized to develop internal policies and procedures for the procurement of goods, services and construction in accordance with law and Board policy, provided such procedures are approved by the Board prior to implementation. Except as otherwise provided herein, the procurement of goods or services exceeding \$500,000 shall require the prior approval of the Board unless, in consultation with the Board, it is anticipated that such procurement will have a significant impact on policy, programs or operations, or have a systemwide impact, in which cases, prior Board approval is required regardless of amount and funding source. The specified threshold may not be circumvented by parceling." [Board of Regents' Administrative Procedures Information System, Chapter 8: Business and Finance, Section 8-1 (e)]

- (55) "Section 8-7 Travel. . . The President shall provide a monthly travel report to the Board including total expenses of each trip and funding source(s). . . . All travel on official University business financed by University funds, regardless of their source, shall be by the lowest possible air fare available. Exceptions to the requirement of travel by the lowest possible air fare may be authorized by the President or his/her designees who shall include information on all exceptions, regardless of funding source, in the monthly travel report to the Board. [Board of Regents' Administrative Procedures Information System, Chapter 8: Business and Finance, Section 8-7 Travel]

(The above section was amended by the Board of Regents in October 2002. The old section reads as follows: "Section 8-7 Travel. . . The President shall provide such reports as may be requested by the Board from time to time. . . All travel financed by University funds, regardless of their source, shall be by the lowest possible air fare available. Exceptions to the requirement of travel by the lowest possible air fare may be authorized by the President or his designees.")

- (56) "I've spent almost 240 of the 570 days I've been president being in a hotel room somewhere in the country raising money." [Dobelle, Evan; Testimony at the Senate Committee on Ways and Means and Senate Committee on Education Information Briefing, January 27, 2003]

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

Representative Lee's written remarks are as follows:

"This bill provides for independent, external audits of State agencies by allowing the Auditor to perform her

constitutionally-mandated duty to post-audit all agency finances and programs, and certify to the accuracy of the State's financial records. The bill funds these audits out of the Audit Revolving Fund administered by the Auditor. The cost of the audit is reimbursed into the fund by the audited department.

"Some have said this violates the constitutional principle of separation of powers, but precisely the opposite is true. The Hawaii Constitution expressly requires that the Legislative Auditor conduct post-audits of the transactions, accounts, programs, and performance of all State departments, offices, agencies, and political subdivisions. The Constitution does this to allow the checks and balances under the principle of separation of powers to work. The Constitution gives the Legislative branch control of the audit, so that the audit is an accurate check on the abuse of power by the Executive branch.

"Others say it makes little sense to give the Legislature control over financial audits of the Executive Branch and the counties but the Hawaii Constitution gives the Legislature this control to ensure the independence of the audit. A study done for the delegates of the 1978 Hawaii Constitutional Convention stated that, "the objectivity of a post-audit rests on its conduct as an independent examination. Because it is designed as a check on the executive branch, the function should be located outside that branch."

"Another criticism has been that the bill diffuses responsibility and accountability; however, the primary objective of the bill is to make Executive agency audits independent of the Executive branch. This will increase the accuracy and reliability of these audits and make agencies more responsible and accountable to the people.

"Some have said that the Executive branch already uses formal, federal auditing standards to ensure independent, but, regardless of what kind of standards are used, if the agency is self-auditing then the audit is not independent, and the standards are not being objectively applied in that agency audit. Self-auditing is like grading yourself. It is not objective or independent. In an audit conducted by a CPA firm under contract to the Executive branch, the Executive agency determines the scope of the examination and the particular areas to be covered, and the contractual relationship gives the CPA firm an incentive to shade the audit to please its client agency.

"Would changing it risk our good bond rating? No! The argument that we should avoid increasing the independence and accuracy of the State's financial audits to avoid affecting the State's current bond rating is ridiculous. It seems to put the State's bond rating ahead of honesty and transparency in government. Our past bond rating is based on the performance of our agencies. We need accurate audit information to ensure that agency performance and our bond rating remains top notch.

"To say that the veto this year was comparable to last year's veto is not an accurate statement because there is a significant difference between the two bills, and the basis for each veto. Last year, Governor Cayetano vetoed a similar bill because there were questions about what might be a "reasonable" fee that the Auditor was authorized to collect from the audited agencies. This year, the bill vetoed by Governor Lingle had been amended to address that problem. In place of the "reasonable fee," it substituted a funding mechanism allowing the Legislative Auditor to be reimbursed by the agencies for the actual cost of an audit. Thus the two vetoes are not the same.

"There is a cost to everything in government. The question is whether those costs are justified. Internal agency audits are flawed by their lack of independence and objectivity. The

external audits that this bill would allow would correct that flaw.

"The bill's funding mechanism is necessary for an independent, accurate audit, because it removes the contractual relationship between an agency and an agency's auditor.

"Many agency audits are partially funded by the federal government. The funding mechanism allows funding for audits from sources in addition to general funds, such as federal funds, and actually helps to centralize and manage audit moneys that come from various sources."

At this time, the Chair called for a roll call vote and by unanimous consent, the roll call was approved.

Roll call having been approved, the motion to override the veto of H.B. No. 282 HD 2, SD 1, CD 1, entitled, "A BILL FOR AN ACT RELATING TO THE AUDITOR," as contained in Gov. Msg. No. 467 was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes and Noes:

Ayes, 34: Representatives Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanohe, Karamatsu, Kawakami, Lee, Luke, Magaoy, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai and Waters.

Noes, 15: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton, Stonebraker and Thielen.

Excused, 2: Representatives Abinsay and Tamayo.

At 1:31 o'clock p.m., the Chair noted that the motion to override the veto of the H.B. No. 282, HD 2, SD 1, CD 1, as contained in Gov. Msg. No. 467 was carried.

### SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 829) was received and announced by the Clerk:

Sen. Com. No. 829, informing the House that the Senate has reconsidered S.B. No. 317, SD 2, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 2, 2003, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

At this time, the Chair announced:

"Members, we are now addressing S.B. No. 317, relating to the Korean War commemoration. Representative Saiki."

At 1:32 o'clock p.m., Representative Saiki requested a recess the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:44 o'clock p.m.

At this time, the Chair announced:

"Prior to recessing Members, we did have a communication from the Senate in their override of S.B. No. 317 relating to the Korean War. The Chair recognizes Representative Saiki."

Representative Saiki moved to override the veto of S.B. No. 317, SD 2, HD 1, CD 1, as contained in Gov. Msg. No. 470, seconded by Representative Lee.

Representative Ito rose to speak in support of the motion, stating:

"Mr. Speaker, I rise in strong support of the override. Thank you, Mr. Speaker. The Battle of Pork Chop Hill, Heartbreak Ridge, the Chosen Reservoir. Those names will always be remembered by the thousands of veterans in Hawaii who fought for freedom fifty years ago. But not enough Americans recall the reasons for their sacrifice. That's why the Korean conflict has often been called, 'the Forgotten War.'

"We are here today because our own Governor seems to have forgotten the importance of honoring the memory of these brave men and women who served their country. Mr. Speaker, more than 400 of Hawaii's own sons died in Korea, and yet the Governor has vetoed the money the legislature set aside to help honor their names.

"Harry Truman was our President during the Korean War. President Truman said he liked to tell it like it is. When Truman talked, they called it 'plain speaking.' So let me speak plainly today – the Governor's veto is wrong. We cannot allow the memory of these brave soldiers to be forgotten.

"Fifty years ago this month, the truce was signed that ended the Korean War. Just outside, not far from this Chamber is a memorial where, carved in stone, are the names of those who died.

"Mr. Speaker, I want to close today with the story of one brave Hawaiian, Private First Class Herbert K. Pililaa. Back in 1951, everyone in Waianae knew this young man. His father was a famous Hawaiian cowboy. Herbert had nine brothers and five sisters.

"On the night of September 17, 1951, a battalion of North Korean came charging out of the darkness to attack a place that became known as Heartbreak Ridge. Private Herbert Pililaa was one of the soldiers in Company C, 23rd Infantry Regiment. He was on that ridge when the enemy attacked.

"Company C was running out of ammunition and forced to retreat, but they regrouped and advanced again. By dawn, they had recaptured the ridge. Again, the North Koreans attacked and Company C's commander was forced to call a retreat, but Herbert Pililaa volunteered to stay behind and cover the withdrawal.

"While his buddies scrambled to safety, Private Pililaa fired from his Browning automatic rifle until he had no bullets left. Then he started throwing grenades, and when those were gone, he pulled out his trench knife and kept fighting until a group of North Korean soldiers shot and killed him. His comrades looked on helplessly from a sheltered position 200 yards down the slope.

"The men of Company C swept back up the mountain to avenge Herbert's death. When they recaptured the position, they found more than forty dead North Koreans clustered around Private Pililaa's body. Herbert Pililaa's sacrifice saved his comrades. He was awarded the Medal of Honor.

"Mr. Speaker, today, the people of Hawaii remember his sacrifice, and the sacrifice of more than 400 others who are memorialized on the State Capitol grounds.

"Mr. Speaker, this House will override Governor Lingle's veto of the funds set aside to honor the brave men and women



of the Korean War. We will override the Governor's veto because it is the right thing to do. Any state that can find millions of dollars to build an aquarium can find \$30,000 to honor these men who gave their lives for freedom.

"Mr. Speaker, I stand before this Body and ask my Republican colleagues to put aside their partisan politics for just a few minutes, join your votes with ours so that the 'Forgotten War' and these heroes will never be forgotten again. Thank you."

Representative Moses rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. I'm rising in opposition. I think many of you know, especially those of you who are veteran legislators, that I've always supported the Korean War veterans, the memorials, the marches, everything. I'm always at the functions. My wife is Korean. My children are half Korean. I've been to the DMZ. I've served there. I understand the Korean conflict. And I've been a participant in the exercises and the operations to maintain the DMZ. I've worked with these Korean War veterans, and current Korean War veterans that are still on active duty and have been for many years. And I've always supported these endeavors.

"The problem is, and I don't know how any times we have to say this, we don't have the money. Now, that doesn't mean that this measure that the Korean War veterans are trying to perform, is not going to happen. It is going to happen. Nothing will stop this event from happening. I'm sure most of you are aware, and those of you who aren't should be, that of the \$30,000 ..."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order. The Representative should address the Speaker's rostrum."

Representative Moses continued, stating:

"Thank you, Mr. Speaker. I guess many people are ashamed to represent the facts here, or don't understand the facts."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order. No personal comments allowed."

The Chair responded, stating:

"No personal comments? There wasn't any personal comment. Please proceed Representative Moses."

Representative Moses continued, stating:

"Thank you, Mr. Speaker. We've already given \$90,000 in the past, and \$60,000 recently. This is asking for another \$30,000. Sounds like a drop in the bucket. Well, of that \$30,000, the Adjutant General has found within his budget, \$18,000 which has already been made known, that was going to be returned to the general fund. That \$18,000, with the Governor's blessing, is going to the function of this bill. That leaves \$12,000 that is not there.

"The Adjutant General, and the rest of the departments of the State, have already been working with service providers and other non-charitable organizations and other organizations to try to come up with the \$12,000. They're very near that.

"They're also working with vendors to provide services without cost to the State or to anybody else. In-kind services.

Like one of the things we discussed is, if you need porta-toilets, ask Chem-Toi to provide them. Or somebody else. Things like this are going to be done. One of the things that they wanted was bottles of water. Well, we have water companies here, Menehune and others. Ask them to provide it. They're not going to refuse it. The events will occur. The \$30,000 or the in-kind services will be provided. Nothing is going to stop the event.

"The Governor in her veto message said, 'The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy ...' I'm sorry. With one hand, it's hard to turn the page. 'Healthy business climate that will lead to more and better paying jobs, and a quality standard of living in Hawaii's families. Decisions like this one,' like the one to veto this bill, 'are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in the government and expand and diversity the economy in the years ahead. This kind of tough decision is needed in order to achieve a true New Beginning for the people of Hawaii.'"

"She said in here, that the purpose of this bill is to appropriate the \$30,000 and she said, 'I believe this project to be worthwhile.' So, it's not that she is anti-military, or anti-veteran, or anti-Korean War veteran, or anything of the such. She just believes that we can come up with the money without the expenditure from this bill. If this bill is passed, there'll be expenditures that are not necessary, because there are already in-kind services being provide.

"Now, I appreciate the previous speaker giving us his speech about Herbert Piliilau. I believe he was true hero. And I heard the same speech at the recent Punchbowl memorial ceremony we had from the General who was ..."

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

Representative Moses continued, stating:

"Thank you. So, it is not at all that people are forgetting. We had a tremendous service just a few days ago at Punchbowl. There are other ones planned. We already have a memorial here on the State Capitol grounds. That's not to say it's enough. We need more. And we need a lot more. And we should do it when our finances dictate that we can. I will keep pushing for measures to commemorate the Korean War veterans.

"I was still in school at the time of the Korean War, so I was unable to serve. I enlisted shortly after the war, and I've served 25 years since. But, my brother-in-law did fight in the Korean War. My father-in-law fought in the Korean War, and he lives here in Hawaii. So, it's not that I am at all opposed to this.

"We have talked recently, with the heads of most of these service organizations, representing the Korean War. Whether it's the VFW, the Chosen Few, many of the other ones. The Korean War vets organizations. And they are all happy and pleased to know that they are getting the \$18,000 and that the Office of Veterans Services and others in the State, and the Adjutant General, and the departments are working to getting them the funding. All the of the ones I have talked to have been satisfied with that, and they understand that we no longer need this measure. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in support of the override. Mr. Speaker, I think the importance of this bill is that it is an

expression from the people of this State to those who served in the Korean War. I served in the Army from 1951 to 1953 during the Korean War. I went through basic training at Schofield with many young men from the Big Island, and months after the end of that basic, a number of those young men were killed in action, and I still remember them.

"I have a very dear friend on Kauai who served at the front for six months in Korea, and it took him 40 years before he was able to talk about it. Again, the importance of this bill is its expression from the people of this State to honor those Korean War veterans. We lost more people from this State in the Korea War, by ratio, than any other state of the nation, and I think it is deserved. Thank you."

Representative Hale rose to speak in support of the motion, stating:

"Mr. Speaker, I rise in support of the bill. This bill went through our International Relations Committee with a recommendation that we appropriate \$100,000. It went to Finance and they did the very best that they could to carry out what the previous speaker has said: to honor the Korean War veterans.

"Fifty years only comes once in fifty years. So, if we don't do this, this time, we're not supporting a very memorable occasion that I think all of us are at least familiar with, if not personally, through history. And I think it is very important for Hawaii in particular because of our large Korean population, and because of the threat of what's going on in Korea today, to remember the sacrifice that was made over 50 years ago. So the fact that the Governor has found \$18,000 more adds to the \$30,000. We might even get up to the \$100,000 that, in order to balance the budget in May, the Finance Committee was not able to do. But at least they did honor the significance by finding \$30,000. And \$30,000 is not going to solve our budget problems today.

"This is a once in a lifetime opportunity to show our feelings for what happened 50 years ago. Thank you."

Representative Fox rose to speak in opposition to the motion, stating:

"Thank you very much, Mr. Speaker. In opposition. We're in the 52nd day since the Council on Revenues came out with its new projections telling us we don't have enough money. The Governor, when she decided whether or not to sign bills was up against this fact, that we don't have enough money. We have to reduce the amount of money that we spend or we have to find new sources of revenue. We have no choice. This bill is the first bill coming before the House that, should it be overridden, will throw the budget further out of balance and will require under Article VII, Section 7 that we make public the reasons for unbalancing the budget.

"What the Governor is trying to do is to reduce the expenses the without reducing the services, and she is looking for ways to cover the cost of items like supporting the Korean War 50th anniversary in a way that does not require the use of additional general funds. If an empty gesture on the part of this Legislature to meet here and try to tell the Governor ..."

Representative Saiki rose and stated:

"Mr. Speaker. I'm not sure if graphics are allowed on the House floor."

The Chair responded, stating:

"Representative Moses, could you put the graphics away at this point in time? Please continue, Representative Fox."

Representative Fox continued, stating:

"As I was saying, Mr. Speaker, it is an empty gesture for this Body to pass resolutions telling the Governor to spend money when her obligation under the Constitution is to try to bring the budget in balance. And Mr. Speaker, as the former Finance Committee Chair, you are well aware of the deep gravity of this responsibility on the part of the Governor. And the Governor is acting within that responsibility when she finds alternative ways to fund programs that otherwise would have to be funded by additional general fund appropriations.

"So first, let's try to stand up here and turn ourselves around and face in the direction that we have to go as a Body, post-May 17th, post-Council on Revenues telling us we don't have enough money. Let's as a Body, work to reduce expenditures and to find alternative methods of financing programs that are worthy, such as honoring this anniversary. Let's not go through empty gestures of trying to tell the Governor to spend money that the State does not have. Thank you, Mr. Speaker."

Representative Bukoski rose to a point of order, stating:

"Point of order. Mr. Speaker, I would like an official ruling on whether or not visuals are allowed on the floor."

The Chair responded, stating:

"At this point, the Chair would recommend that visuals are not allowed on the floor, and I'll get the House Rules on behalf of the Members of the House after we have our debate. Is that fair for all of you? Or would you like to call a recess to get the official ... Recess subject to the call of the Chair."

At 2:03 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:06 o'clock a.m.

At this time, the Chair announced:

"At this time, in response to the question that has been posed by a Minority member, in our House Rules, rule number 2, The Speaker, subsection 2: "To maintain order in the House chamber and to require proper decorum on the part of the members of this House."

"The graphic that Representative Moses had presented was not in conjunction with the speech that was given by the Minority Leader, if I stand corrected Representative Fox.

"I have allowed in the past, Members of the House to use graphics the size of a Xerox paper. It would be too obtrusive to have a graphic as large as what has been presented to this Chamber at this particular point in time. So that is the ruling of the Chair."

Representative Moses rose, stating:

"Thank you, Mr. Speaker. I understand your ruling. My only question about it is that it did have everything to do with what the Representative from Waikiki was talking about, as far as the Council on Revenues and our responsibility as the Legislature to abide by their estimates."

The Chair responded, stating:

"Yes, you are correct. But we are talking about the decorum of the House where the graphic that you had was too large and obtrusive for the Members of this Chamber. You may have made that presentation in your Caucus, to the members of your respective Caucus, and you could also have the courtesy to share it with the members of the Majority Caucus at some future point in time. But to put it up and have that be deflected from the speaker who was the Minority Leader speaking on this particular measure, I think was very obstructive on the part of what you have done. Because you would have interrupted the speech given by the Minority Leader."

Representative Bukoski rose, stating:

"Mr. Speaker, just for clarification. So, what you are saying is it's a discretionary decision, on a case by case basis by the Speaker of the House."

The Chair responded, stating:

"I would believe so. It would, in the future, depend on any Speaker, the new or sitting Speaker. But I did share with you that Representative Thielen did educate me that she did have a Xerox sheet of a pie chart of the budget that she had regarding the environmental bills in the past Session, or two Sessions ago."

Representative Thielen rose, stating:

"Mr. Speaker, thank you. It was bigger than that. It was like from my head to ..."

Representative Saiki rose to a point of order, stating:

"Point of order. The Chair has already made a ruling."

Speaker Say: "Yes, but I'm allowing the Representative from Kailua to state what she had done and what we had approved at that point in time."

Representative Thielen: "That's correct. It was a pie chart showing the little fraction that was given to the environment. Mr. Speaker, I think maybe the distinction was that when I was speaking, I myself was holding up the pie chart, and maybe that would be a better way to do it."

Speaker Say: "But I would like to rule to all of you that it should not be as large as what we have on the floor of the House."

Representative Fox rose, stating:

"Thank you, Mr. Speaker. I just want to make it clear that I had no objection. If this ruling was based on decorum and possible interference with my speech, I had no objection to that being made."

Speaker Say: "But as the Chair, I have ruled at this point in time."

Representative Kahikina rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. May I be allowed to speak in support of the override? And I appreciate your ruling because the gentleman in front of us was obstructing my view of you and that was very inconsiderate, Mr. Speaker."

"Mr. Speaker, I stand in support of this patriotic bill. You know, Mr. Speaker, when I hear about emptiness and hollowness, and about 'no more money', Mr. Speaker, it really offends a veteran such as me. I served in the United States Air

Force from 1968 to 1972. In 1971 when we closed Ramey Air Force Base in Puerto Rico, stepping off the airplane in San Francisco, I was spat on by people who were protesting the war."

"Mr. Speaker, this bill talks about patriotism. In fact, we have one of our colleagues, right now, a patriotic woman, serving her basic training right now. Mr. Speaker, this is about what's going on in this world right now. If we don't have money, what are we telling our soldiers in Iran and Iraq? What are we telling everyone who is serving this country? That to defend this country it talks about money?"

"Mr. Speaker, this bill talks about our support for the men and women who are the true patriots. Who put their life up. You either support or you don't support, Mr. Speaker."

Representative Pendleton rose, stating:

"I rise on a point of personal privilege. The current Representative who is addressing this Body is implying that if we believe that the private sector can pay for this same service, rather than using this vehicle, he's suggesting that we are unpatriotic or unsupportive. I take personal umbrage at that as a person whose father is a Korean War veteran. I support the private sector taking care of this. Not necessarily the way the bill is using government funds. But he is suggesting that we are unpatriotic, that we don't care for those veterans. I find that really offensive, Mr. Speaker. I hope that's not the intent of the speaker."

Representative Kahikina responded, stating:

"Well, I am offended by this remark too. You know, if you're patriotic, I don't rely on my daddy. I served on my own. That's patriotic."

Representative Fox rose, stating:

"Objection, Mr. Speaker."

The Chair responded, stating:

"Your point is well taken. Representative Kahikina, could you confine your remarks to the measure that is before all of us."

Representative Kahikina: "Well, I wish you would confine the other people's remarks too, Mr. Speaker. Because there's a lot of offensiveness going on, on this floor."

At 2:13 o'clock p.m., Representative Bukoski requested a recess the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:14 o'clock p.m.

Representative Kahikina continued, stating:

"Thank you, Mr. Speaker. I guess there's nothing much more to say except that if you're patriotic, then ... And I am patriotic. And I support this bill. Thank you."

Representative Halford rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. I'm in opposition. Mr. Speaker, I voted for this bill in the Session. I voted for it both for providing symbolic reasons and tangible support for this event."

Mr. Speaker, two things have changed since then. One is that there has been a commitment to fund this \$30,000 by other sources. The \$18,000 has already been mentioned so I won't belabor it. The \$18,000 of it is described by the Deputy Adjutant General. The elements of the Administration are looking for other ways to support. I believe that the full \$30,000 will be in place and the event will proceed as planned.

"Mr. Speaker, the other thing that has changed since I voted, since we voted for this, is a new prediction from the Council on Revenues. Mr. Speaker, when we voted for this, we voted for this in the context, theoretically, in the context of a balanced budget. Since the Council on Revenues, after we voted, came with a lower projection by over \$100 million of our revenues. Our budget is clearly out of balance by over \$100 million.

"I believe we have a responsibility, as the Legislative branch, the branch in control of the purse strings, if we are going to override this veto, commit these funds, in light of the fact that we do not have a balanced budget, it's a mistake. We should sit down and look at how we are going to balance the budget and be in confirmation with the constitutional requirement of a balanced budget. Had the Council on Revenues predicted a larger amount, then I don't think this would be a problem. But this veto came down in the context of a reduction in revenues and we, as the branch that supposedly controls the purse strings, has the responsibility to implement a balanced budget. For us to take this action now, to commit to spend \$30,000, or any amount of money, even \$10, I think puts us in the position to look at the whole picture and say, "How are we going to balance the budget?" It makes us revisit that now.

"We were on balance, theoretically, at the end of the Session. But now we know that we certainly are not. And for that technical reason, I support the veto. And the other reason is that the money, apparently, will be available. Thank you."

Representative Wakai rose to speak in support of the motion, stating:

"Mr. Speaker, I rise in support of this veto override effort. Mr. Speaker, I applaud the Representative from Kapolei for displaying his visual aide. Now, allow me to show you mine. They sit up there. They're flesh and blood, not pieces of paper. The Korean War may be a 'Forgotten War' to the rest of the nation, but it should not be forgotten here. \$30,000 is not a huge sum, but it is a meaningful gesture in displaying a measure of gratitude to those who ensured our freedom.

"More than 43,000 Americans lost their lives in Korea, and 456 of them were from Hawaii. That is four times the national average for those who were killed in that particular war. There has not been a peace treaty signed, so the war is officially not over. Now we have an opportunity to provide some closure to these veterans. That \$30,000 will allow for a proper ceremony on Veteran's Day and other ceremonies, thus providing a small measure of dignity for these heroes.

"While we display fiscal responsibility, let's not forget our civic responsibility. Thank you, Mr. Speaker."

Representative Ontai rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. In opposition. You know, Mr. Speaker, I want to make one point. I think that a lot of veterans don't equate money with honor and recognition. For example, I think right out here at the Capitol, one day week, we have some Korean veterans that come and clean the Korean War memorial, right out here. I was really surprised that they do that. They don't do it for money, Mr. Speaker. I think they

would be offended if you offered them money for what they do. They do a fantastic service.

"Mr. Speaker, I think that these comments, that somebody might be unpatriotic or that the Governor is forgetting to honor these veterans because of this money, I think, is misplaced. And I think that most veterans understand the fiscal needs and responsibilities of the Governor and of this Body. So what we're arguing about is whether or not there might be other means to make up for this shortfall, this money.

"We need to honor our veterans. We know that. However, I think by our actions, by attempting to find money, find other sources, find private donations to account for that. I think that because of the love for, and the memory of our Korean veterans, we're going to find that money, Mr. Speaker. I have very high hopes that we will find that money without having to do this veto override.

"And so, Mr. Speaker, because of that, I personally have served in Korea. I spent a year away from my family. Even though I didn't have to duck bullets, fortunately, the fact that you're there, and you see the affects of the country, and this is about 30 years after. You can still see some of the potholes from the war. It's an incredible experience to see that we went and helped the Koreans, and they still remember us for that. I think that we're making a mistake, and that no one really actually believes that by opposing this expenditures, that for some reason you could be considered unpatriotic and not remembering. Thank you, Mr. Speaker."

Representative Pendleton rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. I rise in opposition to the motion to override. Mr. Speaker, I voted consistently in support of this measure, all the way through. As you know, we adjourned our Legislative Session prior to the mid-May report regarding our fiscal situation. And so when we voted on this, the money was there. We were working within the context of a balanced budget situation. But we have had since, new information. We find ourselves having to find millions of dollars in terms of efficiency and savings, to be able to balance the budget as is required by our State Constitution.

"My agreement with the Governor, that we should fund this in some other way other than using taxpayer dollars should in no way be seen as disrespectful of Korean War veterans. Again, my father is a Korean War veteran. I am a person who loves this country. As a person of descendants who immigrated here and have enjoyed the privileges and benefits, I am proud to be an American.

"When my fellow USC students were protesting the Gulf War, I went up and signed on to be a JAG officer with the United States Marine Corp. During OCS in Quantico, I injured my back and was told that I would have to return to law school and then return after being well, and so that part of my life never happened. So the suggestion that you either support this way of funding it, either you support tax dollars funding it, or you're unpatriotic, that's really a false and misleading way of picturing this."

"Basically there are people in the Executive branch, including the Governor, who are very supportive of the Korean War veterans. Want to be able to see this happen. Recognize that we may not have the tax dollar for it. And so we are creatively looking for ways in which the private sector can make this happen. I support that. I back that. We will honor them. We will remember. But we'll just have to do it in a way that we can afford. Passing this bill, again, is something that we can't afford. And I believe that by the time this bill gets

back up to the Governor, they may already have the partnerships and private sector input to make this happen anyway.

"So again, I support the Governor's fiscally prudent approach, and I want to laud our Korean War veterans and I want to urge them not to conceive of this thing as either you are pro-veteran or you're anti-veteran. This is really about how do we pay for this. How do we afford? How do we go about making something like this happen in times of austerity? None of us asked for fiscally austere time. We've found ourselves in this situation so we're creatively trying to solve this. Trying to find a win-win. I think the Governor's on the right track on this. Thank you, Mr. Speaker."

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

"Mr. Speaker, thank you very much. I wish to speak in favor of the override, very strongly. Mr. Speaker and Members, I am off that era. I did not serve in Korea, however, a lot of my friends did. And Mr. Speaker, to say that we don't have enough money is kind of disingenuous in a way. Mr. Speaker, if the Governor and my friends on the other side of the aisle really felt as strongly as we do for the Korean War veterans, they would have allowed the bill to remain. And it doesn't limit the Governor to go and seek additional funds, or not to use State funds. But she should allow the bill to be there. She could hold the money back and go and seek private funds.

"Mr. Speaker and Members, to veto this bill for veterans of the Korean War, which had one of the highest casualty rates per capita during that period of time, is a slap in the face to those veterans. You don't have to spend the money, but let the bill remain as a symbol that we have not forgotten the Korean veterans. With this, Members I urge you, strongly, and from both sides of the aisle, to override the bill. Thank you, Mr. Speaker."

Representative M. Oshiro rose to speak in support of the motion, stating:

"Mr. Speaker, I rise in strong support. Mr. Speaker, when I first heard of the Governor's veto, I kind of laughed because it seemed like a 'no-brainer'. A measure like this to appropriate \$30,000 to honor veterans at the 50th anniversary of the Korean War seemed quite remarkable. And I thought it was a 'no-brainer' because it didn't take much brain to realize that this was important ..."

Representative Fox rose, stating:

"Objection, Mr. Speaker. We're talking about the lack of brain power on the part of Governor. Can we just knock this stuff off?"

The Chair responded, stating:

"Representative Marcus Oshiro, would you try to confine your remarks as far as your statements being made."

Representative M. Oshiro continued, stating:

"I will not make comments about the Governor's brain power. But let me talk about something else, Mr. Speaker. Let me talk about heart. And I'll read from her ..."

Representative Thielen rose, stating:

"Mr. Speaker, could we stop these demeaning attacks on the head of our State? I think it really reflects very poorly on the Speaker and on this Chamber. To talk about this bill ..."

The Chair responded, stating:

"Representative Thielen, your point is well taken and I believe the speaker from Wahiawa will continue on with his speech. You may proceed on Representative Marcus Oshiro."

Representative M. Oshiro continued, stating:

"Mr. Speaker, and I quote from the Governor's message. "Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it would be impossible to restore trust and integrity in government."

"Mr. Speaker, to the contrary. It is actions like this that thwart any restoration of trust and integrity in government. This is a legislative appropriation, created by the Legislative branch of government who are elected and selected by the people from all walks of life throughout our community. This is a legislative decision of appropriation. And I question some of the remarks that I've heard earlier about some goodwill gesture from the private sector to come in with \$18,000. Or to remove \$18,000 or \$12,000 that has been so-called 'found' for this particular purpose. I don't think you have the legal authority or the appropriation authority to take money and use it in this manner. And that's why we have this appropriation measure before us.

"Mr. Speaker, I think this reveals a lot about our Governor. Reveals the character of our Governor. Reveals the priority of the Governor. And as is any kind of budgetary decision ..."

Representative Thielen rose, stating:

"Mr. Speaker. May we please stop those, Mr. Speaker? This is so inappropriate."

At 2:29 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:48 o'clock p.m.

At this time, the Chair stated:

"At this time, prior to the recess, speaking was Representative Marcus Oshiro."

Representative M. Oshiro continued, stating:

"Thank you, Mr. Speaker. I'd just like to wrap up my comments here. I'd just like to state that often times in our legislative debates, we tend to get emotionally involved in. We feel passion about them. If I offended anyone, I apologize to them. I didn't mean any offense. It's just that in the community of Wahiawa where I come from, I have a lot of Korean veterans who are my neighbors and who are activists in my community, and I think that more so, for a 50th anniversary, I mean, look at the amount of money we're trying to spend here. It's \$30,000 in a \$7 billion budget. It just doesn't make sense to me.

"Again, I apologize and hope that we can all reason ourselves to see this, and the compassionate meaningfulness expressed in supporting this override. Thank you, Mr. Speaker."

Representative Waters rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. I stand in support of the override. Basically my opinion is this. The \$30,000 is simply a token

gesture. It's symbolic. It's saying that we remember and that we care. I urge all of you against this override to be courageous, to stand up and do it because it's the right thing to do.

"When we talk about being fiscally responsible and tightening our belt, what comes to mind is, and I voted for this, but we are allocating \$75 million for an aquarium. Again, this is just a token. It's not going to break the bank. Thank you."

Representative Bukoski rose to speak in opposition to the motion, stating:

"Mr. Speaker, I rise against the veto override. I can't believe I just heard what I heard from a former classmate and a friend, that this is just merely a token gesture to the Korean War veterans. You know, it's easy to just write a check. It's easy to just sign a check for, you know, whatever, a couple thousand. If \$30,000 is not so much, then why not \$100,000? Why don't we just fund it fully like in the original bill? It's easy to write a check.

"For people who aren't gifted, or who don't have the privilege of wealth, such as myself, there's a term called 'sweat equity'. I think that's what the private industry is trying to do. That's what the Administration is trying to do through in-kind service. We're trying to come up with the money through alternative means other than just writing a check. That's the easy way out. We talk about civic duty. Civic duty is volunteering your time, volunteering your efforts, and not just simply writing a check as a token gesture.

"Mr. Speaker, I stand against the veto override. I had a chance to speak with the veterans who are here in the gallery during the break, and I wanted to tell them face to face that this isn't an easy decision to make. But there are other ways. Just because one avenue doesn't work doesn't mean there aren't other ways to accomplish the same goals if we all work together. I'm sure that my fellow Representatives from Maui will agree with me that as a county, we find other ways. It's called public-private partnerships to do things like this. To have events to commemorate activities or groups of people or ethnicities. And we do it through private and public partnerships. For those reasons Mr. Speaker, I stand in opposition to this override."

Representative Finnegan rose to speak in opposition to the motion, stating:

"In opposition. You know, when we talk about the Governor, and how could she do this, how could she veto the \$30,000 ..."

The Chair addressed Representative Finnegan, stating:

"Representative Finnegan, I did not allow Representative Marcus Oshiro to continue that debate, making references to the Chief Executive Officer of this State. If you want to make references, I may open up a can of worms if I allow the Majority Caucus to do the same thing. Representative Finnegan, please proceed."

Representative Finnegan continued, stating:

"What I would like to ask is, we went from \$100,000 to \$30,000. Why did we go from \$100,000 to \$30,000? It was because of budget constraints. Does that make us less patriotic? Does that make our brain shrink or our heart shrink? No. This is very important to all of us. If you were to compare, we can compare that at least we are looking at somehow getting the \$30,000. We went from \$100,000 to less than a third of the amount that they asked for. We did that. So

it upsets me that we can use that same kind of logic, and when it comes to ourselves, we don't put it in regards to our own decisions that we are making. We were struggling with our own budget, but it's okay to do that."

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

"Mr. Speaker, I'd like to speak in favor of the override. Recently, I had the chance to travel to Washington DC, and Representative Morita, the Representative from Kauai was also with me. During that time, we visited the Women's Memorial which was located directly across the bridge in Arlington.

"As you may remember, this House passed an appropriation for the Women's Memorial. When we got to the Memorial, we were really proud to see that Hawaii, finally, has its name on the Memorial. We asked for \$25,000 that year, but only got \$6,800, but it still made us feel really, really proud.

"I think this is, in a way, the same thing. We weren't able to give \$100,000. We were able to give \$30,000. If we override this veto today, I'm going to feel really proud. Thank you."

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

"Thank you, Mr. Speaker. I rise to speak in support of the motion. Thank you, Mr. Speaker. Mr. Speaker, to begin with, I don't think for all of us who sit on the floor, there is any real question of real patriotism. Nor is there any real question about fiscal responsibility, because I believe we all take that responsibility seriously.

"I guess one concern that I had during this entire debate is that the reason for not overriding the veto seems to be almost singularly focused on one event. Certainly that's a major event. That is the Council of Revenues and their adjustments.

"Mr. Speaker, as you are aware of, because you served very well as Finance Chair, that there has been a consistency in terms of the need for adjustments. Certainly, we are on the verge of having the final numbers for the previous fiscal year transmitted to this Body.

"I guess the concern was primarily what points haven't been made yet and if I may very quickly, Mr. Speaker. I think one of the things that haven't been said is that while we are all concerned about the fiscal health of our State, sitting in the Hawaii Hurricane Fund is over \$200 million. I think what hasn't been said is that in the Rainy Day Fund we have over \$50 million currently. I think what hasn't been said yet is that the State of Hawaii is in the process of receiving \$80 million from the Federal Government. What hasn't been pointed out is that the Governor prudently asked her departments to cut 20% off their discretionary spending by her memorandum of June 23, 2003. Certainly the Governor is acting under her spending power and does have the ability to restrict spending and is exercising that power.

"Mr. Speaker, I guess as a final note, if we were to take a look at how we compare to other states this year, in 2003. We know that California has a \$38 billion deficit. We know that at least 12 other states have increased substantially, taxes to address the needs and essentially services. And given that, there are other states that have significantly increased fees, again to their balance their budget.

"It was just 68 days ago, Mr. Speaker, our Legislature passed a balance budget without any general tax increase. I think given sort of this more comprehensive view of the circumstances that we face, and as we listen to the purpose of

this particular bill and the importance that so many of us have placed on it, it seems to me that especially when it was recently demonstrated how important all of these veterans are and what they gave to us, it seems to me, especially in light of those circumstances, I am for one, willing to support his override. Thank you very much."

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

"Thank you, Mr. Speaker. Mr. Speaker, I rise in opposition of this override. Thank you. I believe, true, many of the comments made by many of our Representatives. It is symbolic, the legislative support of our veterans. This is important. True, it is an expression. And true, we will never thank our veterans enough, this is true, for the debt we owe them.

"My office overlooks the Korean Memorial, and I find myself more times than not, looking at this Korean Memorial and being inspired by this Memorial. I look at it and I know there are people who have sacrificed so that I can enjoy the things that I enjoy.

"When I was back as a teacher, it was my joy and privilege to have a program where we taught children about the veterans, and the veterans would come visit. Those were mostly from the 442nd back then, but many Korean War veterans attended as well. We appreciate that because children learn so much from their veterans. They learn honor, and they learn dignity, and they learn all the character traits that we need our young people have. So it was with great honor that I was participating in that.

"Veterans are so important to our society, and personally, I feel veterans are most important. My father was drafted to the Korean War. But my question is this. This is my question. My question is: Do we have to have one at the expense of the other? Are we looking at creativity? Are we looking out of the box when we approach these types of fiscal questions? Do we think we must not give the private sector an opportunity to participate because we legislators must have this stamp and signature on this support for the veterans? Or can we think we think out of the box and share the glory of honoring our veterans? We share this maybe with the business sector that, if they were approached in a wise manner, to give them also the glory to honor our veterans. Or do we want to keep it within ourselves? Do we want to say that we are the ones who gave all of the money?

"I see many opportunities, creative opportunities, to vie in contest for who is the gold sponsor for this event, because think it would translate to honor for those companies. And so I'm wondering that if we asked, if we did our best to even invite to participate, businesses who might want to, in fact, would love to have their stamp on this event as well.

"And so I ask, is there more than one way to finance a project? Or is there only one way? Do we have to do it, one at the expense of the other? Or is there a nice win-win situation where we can have an excellent event and also rebuild our economy through some fiscal responsibility? So I ask this question: Can we explore creative ways to allow others to participate in honoring our great veterans? Mahalo."

Representative Jernigan rose to speak in opposition to the motion, stating:

"Thank you, Mr. Speaker. In opposition. We've heard a lot about symbolic gestures and pride. Also in some previous testimony, it was discovered that Governor's found \$18,000

that was not used and can be moved over to fund this particular event.

"I appreciate what our veterans have done for us. The past veterans in past wars, and also in this last war. We sent aloha to Saddam when our troops were in harm's way. That was wrong. We should honor them. We should honor the Korean veterans also. I proposed, for us all to feel proud to make up this \$12,000 shortfall, we get our checkbooks out, we get with the Senate, possibly call a recess, and we all write a check for \$158 apiece."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order. Could the Representative please address the rostrum?"

Representative Jernigan continued, stating:

"Thank you. We all write a check for \$158 apiece, more if we're able, and we make up this \$12,000, and we have real pride. And we help the State out at the same time. Thank you, Mr. Speaker."

Representative Evans rose in support of the measure and asked that the remarks of Representatives Hale, Herkes and Souki be entered in the Journal as her own, and the Chair "so ordered."

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

"Thank you Mr. Speaker. I'm speaking in support of the motion. I don't think anyone in this room is opposed to alternative means of financing this event. But frankly, the truth is, that's something yet to be seen. What we have done in this legislative year, is come up with a compromise. We do want \$100,000, and exercising fiscal responsibility and fiscal discipline as best as we could with the numbers that we had at that time, we came up with \$30,000.

"Personally though, Mr. Speaker, I don't put much faith in those numbers because they change all the time. What I do put faith in is the truth. The truth is we all say we believe. We all say we appreciate. We all say how good we are that we appreciate these people that sacrificed for us. And then at the same time, we're saying, "Get in the back of the line." That's what we're doing. If we are truly discussing money here, then we should at least come up with what's more important, right? Because we do have a huge budget.

"The Chair of Finance is here and he's basically saying, "We found the money then. We can find the money now." Really, then the debate comes to, what is important to us. By passing this bill, we thought it was important to honor these people who have sacrificed for us. That is not a mere gesture. It is putting our money where our mouth is. And I think we should all really support this veto override. Thank you, Mr. Speaker."

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

"Mr. Speaker, I'm in support of this motion, and I would like to briefly give some remarks. The motion before us really presents the Legislature with a policy decision. The Governor vetoed 50 bills, and this is one of the few bills that we chose to override. And the reason for that is because the Legislature believes it is a priority that we allow the Korean War Commission to complete its work in organizing the 50th commemoration of the Korean War. And there are three brief reasons why this is important to us.

"The first is that the Korean War was the first real battle against communism. Second was that it was the first real test of our restraint in the use of nuclear weapons. And third and most significantly, the Legislature wants to recognize those who served in the war. There were 1.5 million Americans who served in the Korean War. And 55,000 of those died, including 456 from Hawaii.

"There's been some discussion on the floor today as to whether or not this bill unbalances the budget, but that is not correct. When the Legislature convened on May 1st, we adopted and approved a balanced State budget. That is why the budget bill enjoyed bipartisan support in both Chambers on May 1st. This bill was a part of the budget. The \$30,000 that is included in this bill was budgeted for on May 1st.

"The Council on Revenues did reconvene on May 16th, but the Governor has the flexibility and the management tools to deal with any changed circumstances resulting from the Council's new projects. The Governor has the ability to restrict funds and to deal with any shortfall that is anticipated by the Council. This bill does not preclude anyone, the Governor or any Member of the Legislature or the community, from raising private funds for this effort.

"This war was known as the Forgotten War. The Legislature does not want to forget those, especially those from Hawaii, who served and gave their lives to this effort."

Representative Moses rose to respond, stating:

"Thank you, Mr. Speaker. First of all, as a retired senior United States Marine Corp officer, I would welcome any challenges to my patriotism that this Body would have to offer.

"Secondly, it was stated on this floor that the Governor would only create negative impact upon herself by vetoing this bill. Well, why would she do that? I ask this Body. Why would she do that if she didn't think that it was justified for some reason? She would not unnecessarily say, "Come attack me Korean War veterans," unless she thought it was a prudent thing to do because of the budget situation.

"Somebody else has stated that we allocated \$75 million for an aquarium. That is an untrue statement. We did no such thing in this Body. There was no allocation of funds for an aquarium.

"Let me say another thing. And I'm sorry I can't face the Korean War veterans because I'm not allowed to address the personnel in the gallery. I would like to directly address them but, I believe it is an insult to them and to any of our veterans to believe that they want to continue to serve their State, but won't sacrifice at a time like this when our State is in dire financial need. I think they would be the first ones to say that they are willing to make a sacrifice, if necessary. They've done it before. I'm sure they'll do it again.

"Now, what are we talking about? The things that are in this bill include a parade, a banquet, educational activities, mobile public displays, veterans' tribute, veterans' reunion, dedication of the Waipahu Veterans Memorial, and a Massing of Colors. Does anybody see a big cost need in there? That's not saying that it won't cost something. That's why we already appropriated tens of thousands of dollars from this Body for this commemoration, which again I think is worthy and necessary.

"I have here a letter from the State Department of Defense, Office of the Adjutant General. "The Office of Veterans Services (OVS) will provide \$18,000 ..." There's your proof, it's in writing. "... in fiscal year '04 to the 50th anniversary

commemoration of the Korean War Commission that will allow the Commission to complete the activities regarding the 50th anniversary of the Korean War. In order to provide the funds, the Department of Defense assisted the Office of Veterans Services to purchase maintenance equipment in fiscal year '03. These equipment, i.e., TurfMake ..." I'm not sure if that's spelled right, but 'TurfMake' it says in the letter. "... hydro-mulcher and reel deal, and an aerator, will allow the staff to repair and maintain the grounds of the Hawaii State Veterans Cemetery in fiscal year '04. The projected savings in the R&M for grounds is estimated at \$18,000 in fiscal year '04."

Representative Lee rose to a point of order, stating:

"Point of order. I believe the speaker's time has run out."

The Chair stated:

"Yes. Representative Leong, will you yield your time?"

Representative Leong responded, stating:

"Can I speak a little after this though, sir?"

The Chair responded, stating:

"Okay, the Chair will allow you."

Representative Moses continued, stating:

"The savings generated by five vacant positions in other areas of the Department account for the other \$10,000." That's your \$10,000.

"Although three of the positions are occupied by temporary workers, savings continue to accrue because they are paid on an hourly basis with no holiday or leave benefits. Although the Department of Defense cannot solicit private donations ...

"That answers another complaint that was raised by this Body earlier.

"Although the Department of Defense cannot solicit private donation, the Department is able to provide information to local businesses on how they can support Korean War commemorative activities and events. The non-profit, The Friends of the Fiftieth Anniversary Commemoration of the Korean War Inc. is the organization that is accepting donations for these events. These funds will help support a veterans parade in Waikiki on July 26th, and a musical tribute to be held at the Waikiki Shell on July 27th. The State Department of Defense will continue to lend its support to ensure that our Korean War veterans receive the recognition they so richly deserve.

"Now, the visual aid that I held up earlier, which I will not do, is reduced in size. I hope you can all read it. But in case you cannot, I will read it to you.

Legislative appropriations through veto overrides. The Legislature should consider the latest Council on Revenues report because a veto override is a reappropriation of the monies vetoed. Attorney General Opinion 77-03. If the Legislature ..."

Representative Lee rose to a point of order, stating:

"Mr. Speaker, point of order. I think the speaker's time is up, his additional two minutes."

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



Representative Moses continued, stating:

"Thank you, Mr. Speaker. I was almost through.

"If the Legislature, in appropriating funds, exceeds the estimated revenues, this fact shall be made public, including the reasons therefore. Hi Con Article VII, Section 7. Thank you, Mr. Speaker."

Representative Leong rose, stating:

"Thank you, Mr. Speaker. I had given my time earlier to Representative Moses, but I just want your permission to enter my remarks in the Journal. First, that I support the veterans. Number two, why I am overriding the veto. Thank you."

Representative Leong's written remarks are as follows:

"Mr. Speaker, I am opposed to this override. This is a long thought-out decision for me as I acknowledge the Korean Veterans in the gallery as my personal family friends. They are indeed heroes who joined my husband on the battlefield during that time in our history. Today, however, I strongly urge projects and programs of this sort to seek alternative ways of funding through the private sector and our many charitable Hawaiian community foundations. Certainly this is a worthy project and one that I am more than proud and pleased to support monetarily and emotionally. Again, it is most difficult for me to appear to not join with the Veterans in this request, but I feel that it truly is time for all of us to not rely on government finance sources for these kinds of programs. I ask for their understanding.

"I am forwarding a check to the Korean War Commission in memory of my husband, Dr. Wilfred Leong, a Purple Heart recipient of the Korean War. Thank you."

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

"Mr. Speaker, real briefly. I just wanted to make a couple points in support of the override motion. The first thing is that we are here to say that this is a priority. If it's a priority, then make it a priority. Find the money. Make it a priority.

"The second thing is that I heard that we can do this when the money becomes available. Well this is the 50th anniversary celebration. There is no such thing as a 51st anniversary, and at this point in time, I call for the question."

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

Representative Meyer rose in opposition to the motion, stating:

"And also, just sort of a point of information. I wonder if Representative Leong could repeat. I don't know whether she said she wants to explain in her written remarks that she's going to vote for the override, or did she says she's going to not support the override."

The Chair responded, stating:

"Not support the override."

Representative Leong responded, stating:

"I would vote for the override of the veto, but I'd also add some comments why I am supporting these veterans. Thank you."

At this time, the Chair called for a roll call vote and by unanimous consent, the roll call was approved.

Roll call having been approved, the motion to override the veto of S.B. No. 317, SD 2, HD 1, CD 1, entitled, "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE FIFTIETH ANNIVERSARY COMMEMORATION OF THE KOREAN WAR COMMISSION," as contained in Gov. Msg. No. 470 was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes and Noes:

Ayes, 34: Representatives Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai and Waters.

Noes, 14: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Excused, 3: Representatives Abinsay, Stonebraker and Tamayo.

At 3:19 o'clock p.m., the Chair noted that the motion to override the veto of the S.B. No. 317, SD 2, HD 1, CD 1, as contained in Gov. Msg. No. 470 was carried, and since the override of this bill was approved by two-thirds vote of all the members to which each house is entitled, pursuant to Article III, Section 17 of the Hawaii State Constitution, said measure shall become law.

At this time, the Chair announced:

"Members, at this time we'll take a recess until 5:00 to wait for ... Representative Moses, the Chair recognizes you."

Representative Moses rose and stated:

"Thank you, Mr. Speaker. Just a brief question. Then, are we going to comply with the Constitution and make known to the public why we are doing such a thing?"

Speaker Say: "At a certain point in time, we will be addressing that. Yes."

Representative Moses: "Because we have to address that now, we have an unbalanced budget."

Speaker Say: "Okay, so said measure now becomes law. At this point .... Yes, Representative Thielen."

Representative Thielen rose and stated:

"Yes, Mr. Speaker. There is an Attorney General's Opinion that does state that we are now dealing with an unbalanced budget. I would like to request that that Attorney General's Opinion be placed into the Journal."

Speaker Say: "At this point, the vote has been called already so I will not allow you to submit that particular position into the Journal."

Representative Thielen: "Alright. Then Mr. Speaker, if we're going to deal with any other fiscal matters while we're in Special Session, I'll make the same request. Thank you."

Speaker Say: "You may as an elected official of the House. So, Members at this point, the Senate has just reconvened their session. They're on their second bill. We've completed two measures. And we have to await the other four Senate bills, for their approval. So we'll recess until 5:00 p.m."

Representative Fox rose, stating:

"Point of information, Mr. Speaker. Are you just saying that there are no more House bills to be overridden?"

Speaker Say: "Out of all the bills that we are taking up today in the Special Session, one was a House bill, the other five are all Senate bills. Yes, for the record."

Representative Pendleton rose, stating:

"I'm rising on a point of information. Mr. Speaker, is it your intent then that we will have a recess so that we will also continue tomorrow? Or do you foresee us completing work this calendar day?"

Speaker Say: "My goal is to finish the work during this calendar day, but if the debate continues on for the other four measures that are not before this House, I cannot say if we are going to extend until tomorrow at this point in time or before that."

Representative Pendleton: "Thank you for clarifying that."

Speaker Say: "And the reason why, Members, is that in the procedures that we have with both houses, the Senate has to act on their Senate bills first. Then they send it over to the House if they've adopted it, and that's where we have our Senate Communications to say that this particular measure was overridden by the Senate. For example, like I shared with you earlier, we did address the House bill which was the first bill that we had to address because it was the in the property of the House."

Representative Saiki rose, stating:

"Mr. Speaker, point of information, since questions have arisen regarding our potential recess this evening. It is possible that the House can recess at 12:00 midnight, and reconvene at 12:01 a.m. to finish business."

Speaker Say: "But my goal, Representative Saiki, is to finish before that 12:00 midnight deadline."

Representative Bukoski rose, stating:

"Point of information, Mr. Speaker. You mentioned four Senate bills. Do we know what those four Senate bills are?"

Speaker Say: "The Chair will share it with you. It's going to be Senate bill ..."

At 3:22 o'clock p.m., Representative Luke requested a recess the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 3:23 o'clock p.m.

At this time, the Chair stated:

"I will restate my message to all of you that we will reconvene at 5:00 to await the Senate bills that are adopted, that will be coming over for our action in the House. Does everyone understand that? Okay, recess until 5:00."

Representative Hamakawa rose, stating:

"Mr. Speaker, may I be permitted one last introduction before we recess?"

The Chair responded, stating"

"Okay, late introduction Members, if you don't mind."

#### LATE INTRODUCTION

The following introduction was made to the members of the House.

Representative Hamakawa introduced the Korean War veterans who were led by his uncle, Mr. Shigeo Robert Hamakawa.

Representative Thielen rose, stating:

"Mr. Speaker, could you please tell us the Senate bill numbers that are being considered and that may come over here?"

The Chair responded, stating:

"Let me share this with the Members at this point, because one of them will be S.B. No. 457 [745], air ambulance, if it ever comes over. S.B. No. 1305, which I think everybody has had heavy discussion on prior to this Special Session, which is the Rainy Day Fund, the social services, safety net and hospitals. The agricultural bill, if it comes over also. Also S.B. No. 685 [768], binding arbitration, which may be, if the Senate has the votes. Those are the four.

"So we will reconvene at 5:00 p.m. Also Members, you are invited to go to the Senate to watch their debate at this particular point in time. Recess to 5:00 p.m."

At 3:25 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 5:14 o'clock p.m. with Vice Speaker Luke presiding.

#### SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 830) was announced by the Clerk:

Sen. Com. No. 830, informing the House that the Senate has reconsidered S.B. No. 745, SD 2, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 2, 2003, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Representative Saiki moved to override the veto of S.B. No. 745, SD 2, HD 2, CD 1, as contained in Gov. Msg. No. 472, seconded by Representative Lee.

Representative Blundell rose to speak in opposition to the motion, stating:

"Thank you, Madam Speaker. I rise in opposition to the override. It's very hard for me to not get this helicopter on Maui because I think it's very important. I voted, through Session and through all of the hearings on it, I voted for it. To

pass a bill knowing that there is a legal fault with it is just something I cannot do.

"This bill, as well meaning as it is, and it would benefit me and my constituents, is flawed because what we have done with this bill, and it was never brought up in the Committee hearings, is that there is a liability because we made this helicopter service statewide, and yet we're only funding Maui county. This means that somebody on Kauai that could have been saved by an air helicopter and was not, could sue the State. I think by us passing this bill in its present form, is irresponsible, and for that reason I speak against this override. Thank you, Madame Speaker."

Representative B. Oshiro rose to speak in support of the motion, stating:

"Thank you, Madame Speaker. I rise in support of the override. Just to clarify. I think somebody raised some concerns about the legality of this bill. I was taking a look at an Attorney General's Opinion dated July 7, 2003 to the Honorable Fred Hemmings wherein the Attorney General, Mark Bennett indicates that similar to the arguments made by the previous speaker, this bill may be illegal and subject the ... Not illegal, but it may subject the State to tort liability because we're not providing services on Kauai. However, that legal opinion is actually just that. It's only an opinion.

"In my years that I've seen Attorney General's Opinions, I've never seen one that doesn't have any legal citations. This Attorney General's Opinion only cites to sections of the bill. Normally when you have an Attorney General's Opinion, usually what you try to do is take a look at some law or case law so at least you have a basis for the opinion, rather than it just being what you believe. However, that's not what we have here.

"Under Chapter 662 HRS, Section 2, Waiver and liability of the State. In that Section, the State has immunity from all tort actions except for actions by its employees. This does not fall within that exception, and therefore there is no tort liability. So I don't see the basis for the Attorney General's Opinion. And I don't believe that there's any possible subject to tort liability for us not having services on Kauai. Thank you."

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

"Thank you, Madame Speaker. The Attorney General is probably ... I'm speaking in opposition to vetoing the Governor's veto. Thank you. The Attorney General is probably the most qualified and the most brilliant Attorney General that this State has had the fortune to have serve in that office. His opinion is authored by himself and signed by himself. Specifically, his Opinion states:

If someone on Kauai were critically injured and serious injury or death could have been avoided had emergency medical helicopter services been available, that person or that person's estate could sue the State because this bill make the provision of such services an expressly stated, mandatory component of the State Comprehensive Emergency Medical Services System.

"He continues:

If this State does not have the resources to provide the service throughout the State, a mandatory, statutory duty to provide that service throughout the State should not be imposed.

"I believe that Attorney General Bennett knows his law, knows what he is stating, and is protecting the taxpayers of the State from tort liability. I think the price tag could be serious. Could impact many of the other programs that we want to be able to fund. And I believe that we should pay attention to, as I stated, probably the best Attorney General we have ever had serving in that Office."

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

"Madame Speaker, I rise in support of this override motion. Unfortunately, it appears that the Attorney General wrote this Opinion at the last minute because it is very sparse, as mentioned by the Vice Chair of the Judiciary Committee. The analysis really requires much more rigorous thought than what is contained in the four paragraphs provided by the Attorney General because when you look at his Opinion, he is basically alluding to, or contending that the State could be held liable for its failure to appropriate funds for Kauai air ambulance services. And the analysis really begins with whether or not the State has immunity over these kinds of claims.

"There are two ways of looking at it. First, can the State be sued in federal court? Probably not, because the Eleventh Amendment provides a broad blanket of sovereign immunity to the states through the Eleventh Amendment.

"States generally cannot be sued for money damages, or injunctive relief in federal courts, unless one of three situations applies. First, where Congress abrogates the state immunity through a statute. Second, where the State has consented to be sued, and this usually occurs in situations where states accept federal funding in exchange for waiver of its sovereign immunity. Or third, in situations where state statute or constitutional provision provides for a lawsuit against the state in federal court. None of these exceptions would apply in this air ambulance situation.

"The second issue that would have to be looked at is whether or not the State can be sued in State court. Does the State have sovereign immunity from a claim for its failure to appropriate funds in State court? And as mentioned by the Vice Chair of the Judiciary Committee, the analysis would begin with the State Tort Liability Act.

"The State is generally not held liable for its acts unless a tortious act is committed by its agents, its employees or workers. This statute is very specific. This is in HRS Chapter 662, that the State can be held liable for actions for the torts of its employees of the State. The question of whether or not this is a tort, the failure to appropriate funds is a tort. And it's really unclear in the second instance, whether or not this section would even apply to legislative action. There is an exception for lawsuits in State court under the State Tort Liability Act, and that is an exception where the State engages in discretionary functions. That is where its workers or employees engage in discretionary functions. This is limited to situations where a government agent is engaged in the "effectuation of broad public policy".

"So the question there is whether or not, first of all, a government agent includes legislators or employees who fail to appropriate funds. And second, whether or not the decision to appropriate or not appropriate is a broad public policy function which would come under the exception under the Tort Liability Act. So as you can see, just based on these few issues, there's a lot of research that needs to be done on whether or not the State can in fact be held liable for its failure to appropriate funds.

"Justice Antonin Scalia of the United States Supreme Court, in fact, has frowned upon stray comments made on legislative

floors for the purpose of determining legislative intent or liability of states. It requires much more than just discourse on the floor. I would urge the Attorney General to provide us with a more detailed opinion so that we can make a reasoned opinion. Thank you."

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

"Yes, Madame Speaker. Thank you very much. I wish to speak in favor of the bill. First I would want to include the remarks of the learned Majority Leader as if it was my own," and the Chair "so ordered."

Representative Souki continued, stating:

"Thank you very much. And Members of the House, I am quite displeased with the Attorney General and the Administration to come in, in the last minute, that this measure might create a possibility of suits. The Attorney General had all the time to review this, especially when the bill was in the process, to come up with this. And even if he did, he couldn't make a very convincing argument. So in some respect, this is quite disingenuous of the learned Attorney General to come up with this Opinion.

"On the other major item, Maui county, and the island of Maui, only has one acute care hospital to serve an area that is widely dispersed, and quite inaccessible in many areas. It is separated by mountains, and roads that are not easy to travel. You would need a four-wheel drive or tank to drive around in certain parts of the island, especially in the back of Ulupalakua. And on the county level, we're separated by water. The Island of Molokai, Lanai, and Kahoolawe. And in Lahaina where you only have a two-lane highway to Wailuku, there is no hospital in Lahaina, no acute care. And Lahaina, from one end of Lahaina to the other could take as long as 45 minutes, from Puamana, all the way to Kahana and beyond. And this is not even counting the *mauka* area, and the people living *mauka*.

"Now they have no hospital care over there, so when there is an emergency, in Lahaina, Hana, Ulupalakua, and you need an ambulance there in a relatively short time, it's not going to happen. They'll probably die because they're so far away from the hospital. For years, Madame Speaker and Members, we've been trying to get a hospital in Lahaina or a helicopter service like this. Now we finally have it, or will have it in the second half of the biennium. Not even in the first half, but the second half. So I don't see how it can affect the budget right now.

"Finally, maybe the people of Molokai, Lanai, Lahaina, Kula, Haiku, Huelo, can have some assistance in case of an emergency. If you recall some years ago, one of former Speakers, and I hate to say this with his wife being present here, in Lanai, past away because they did not have facilities over there. Now this happens all the time on an Island like Maui or Molokai or Lanai. I had an employee working for me when I was with MEO. She was a Headstart teacher who lived on Molokai, in Maunaloa. She has an asthmatic attack. She died. There was no ambulance.

"So this is the situation that you have on the Neighbor Island where you're not surrounded by five or six hospitals in a square mile area. You have 728 miles on Maui and you only have one hospital. So Members, consider this when you look at this. This is not asking too much. The people have long waited for this. So Members on both sides of the aisle, vote your heart. Vote right. Vote for the override. Thank you very much."

Representative Moses rose, stating:

"Thank you, Madame Speaker. I guess we have to judge legal opinions in the future by the wordiness and not by the content. I'll bear that in mind. Thank you."

The Chair addressed Representative Moses, stating:

"Are you speaking in favor or opposed?"

Representative Moses continued in opposition to the motion, stating:

"I'm opposed to the override. I think an air ambulance for Maui and for the other counties is necessary. It's greatly needed and is warranted. I fear though, that we do open ourselves up to liability. I also have indicated already to this Body, we are talking about general funds. These general funds have been vetoed. We override a veto, we open up Pandora's box, and we must address the issue of dealing with an unbalanced budget. If you care to, I can read what I read into the record already, again. But we must deal with an unbalanced budget now. Since we passed the budget, we've had new Council on Revenue reports which we are bound by the Constitution to abide by. Why aren't we doing that? So, Madame Speaker, I think we ought to tread very carefully in this matter.

"Also, this measure does not provide any money at all until 2004. So let's not hear it from Maui legislators or anybody else that we're providing an air ambulance for Maui because we are not. We have time to come back and fix the bill and do whatever it takes to make it uncontestable. We're not doing that, and we're not providing the ambulance. It's not going to be funded for a year. Why are we talking about it now? Let's fix it.

"I don't believe that the real point that we're making here today is that we're talking about providing an air ambulance for Maui. We're talking about needed services anywhere and we're not addressing the issue. You can't provide something that you're not paying for. We are obligating the State to provide the service and not providing money to do it. I don't know what we're doing. We're wringing hearts here, or what?

"Let's be prudent and address the needs of the State and actually come up with solutions, instead of posturing for the public. We're already wasting their money by simply being here today. And now we're talking about maybe we can't finish today. We're wasting more money. We're wasting a lot of time. We're frustrating the people, and I think there will be payment in the end. Thank you, Madame Speaker."

Representative Fox rose to speak in opposition to the motion, stating:

"Thank you, Madame Speaker. In opposition. Now, I am not a lawyer. And sometimes when I listen to lawyers I think that maybe law is about confusing people rather than clarifying people. To me, in my non-lawyer reading of the what's going on here, this is the clearest, most obvious veto that we've looked at today. This is a flawed bill on its face. It appropriates money only for Maui. It calls for air ambulance service for all islands. So the flaw is just so obvious that anybody can see it.

"In addition, as the Representative from Makakilo pointed out, this is a bill that does not go into effect until 2004, so it's the easiest kind of bill to veto. It just occurs to me just without the slightest bit of doubt, that in the previous 40 years, if this basic Legislature had met, and the governor had said, "This bill is flawed. Let's fix it. It doesn't go into effect for another year." This bill would have never been overridden. And of course it wasn't. Never, in the previous 40 years, did a

Democratic governor come forth with a bill that was flawed on its face, like this bill is, and the Legislature come back into Session and try to override an obviously flawed bill. It simply makes no sense.

"Now, beyond that. This bill costs a million dollars, so we clearly are breaking the balanced budget requirement that was imposed on us. On May 17th, we were told we were way short of money. And I want to briefly respond to that particular issue, to the remarks of the Finance Committee Chair who said, "Well, we've got money in the Hurricane Relief Fund." He gave a larger figure than what I'm familiar with. I think because he wasn't excluding the interest that the Administration is in fact spending. He said that there is money in the Rainy Day Fund. The Administration has carefully used both the Hurricane Relief Fund and the Rainy Day Fund to provide bond raters the assurance they need that Hawaii has the money to cover any emergencies that come up. And they've spent down the regular general fund budget to within an inch of its life, really petrifying the people over at Budget and Finance in the process. But the only reason we can do it is because we are holding that Rainy Day Fund and the Hurricane Relief Fund in reserve to meet those purposes.

"The Finance Committee Chair mentioned \$80 million that is available because the federal government gave us that money. That money is included when the Governor says that we are short \$152 million. That is after the \$80 million has been subjected.

"Madame Speaker and other Members here, we have an obligation to find \$152 in savings. Spending \$1 million on an ambulance service bill that doesn't go into effect until 2004, but does affect our biennium budget which we are required to balance over the biennium, is absolutely the wrong thing to do. We should be facing the task of reducing spending, not jacking it up. We have a responsibility to reduce spending. It's something the Speaker Emeritus is familiar with. It's something the Finance Committee Chair is familiar with. And it's something the Speaker is familiar with. This is our charge, our responsibility. We have to reduce costs. We can't be sending them up. We're doing the wrong thing here. This is an absolutely flawed bill. This is a total mistake to vote for an override on this. Let's face up to our constitutional responsibility to have a balanced budget, post-5/17. Thank you, Madame Speaker."

Representative Halford rose to speak in opposition to the motion, stating:

"Thank you, Madame Speaker. In opposition. Madame Speaker, I guess it's up to each of us to decide if we believe if the Attorney General is making a reasonable comment or not. I'm not an attorney, but I haven't found a flaw in his arguments yet and I'm inclined to consider his view. Along the lines of his thinking, mentioning that Kauai is included in the mandated services however we have no funding. We have no intention even, to fund Kauai. In extension of that argument, and I've actually talked to the Administration about this, is that we're mandated services for Maui yet we're not funding it for a year. So, even if we start ambulance service a year from now, we're creating a potential liability even on Maui for this next year. The service is mandated yet we will not be providing the service. So we have this one year of exposure.

"Madame Speaker, this bill is flawed, in my view. I guess some might say that the Attorney General's arguments are not useful. But we could save the potential problem just by passing this bill again next Session and have the time to think through the legal arguments that were brought forward today, and put together a bill that we feel that clearly does not have a potential liability.

"Another point, and it's a point that has been brought up several times so I won't dwell on it. The funding does not occur with this bill until a year from now. We have lots of time to look for ways where we would find the funding. We could easily come back and redo what I believe is a poorly-crafted bill. Create a well-crafted bill, and fund the service a year from now. I'm in favor of providing the service. I don't see that overriding this veto brings us any closer to a solution. I think we should just operate with a well-crafted bill. We can do that in January. And go ahead and fund on-time funding in July of next year. Thank you."

Representative Saiki rose to respond, stating:

"Madame Speaker, I stand in brief rebuttal in support of this override motion. This is yet again, one of the bills that sets a very clear policy decision for the Legislature. And that is when the private sector does not provide a lifesaving service to people, should the government supplement or provide that service?

"As I mentioned earlier, the Governor vetoed 50 bills. This is one of the few bills that the Legislature decided to override because this is a priority. We want to provide lifesaving services to the people of Maui county. This is clearly within the jurisdiction of the Legislature. The Legislature is here to set policy. It is here to set priorities, and to make these hard decisions even if the governor disagrees with us. This is a principle that is fundamental to our democratic system. And it is a principle that was enunciated two years ago by one of our own colleagues, the Representative from Kihei, who spoke two years ago in Special Session, to urge us to override a veto by the governor. And this is what the Representative from Kihei said:

Never since statehood has this Legislature overridden a veto, an essential element in American democracy. Without it, the Executive becomes too autocratic and too powerful, which is counterproductive both to good government and to our people. The Constitutions of the United States of America and the State of Hawaii do not simply give the Legislature the right to override vetoes. It points out the responsibility of the Legislature as a participant in American democracy to override vetoes. As legislators, it is our job. It's the job of each of us to stand up for our branch of government.

"Madame Speaker, this is exactly what we are doing with this bill. The Legislature is standing up as a co-equal branch of government to exert its policy decision to let the people of Maui county know that we will provide these services to them. Thank you."

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

"Madame Speaker, I stand in support of the override.

"Madame Speaker, this bill is really a matter of life or death. In rural areas, when an accident or medical emergency occurs, there is often a long delay between the time help is called for and help arrives. In emergencies, there is a short window of opportunity, to reverse an otherwise fatal outcome. Some call it the golden hour. Many times it is less than an hour. I know this very intimately.

"We cannot afford to put residents and tourists at risk because of slow response or no response to emergencies in isolated areas. The veto message states, "This bill would impose a substantial financial burden on the State during a fiscally challenging time.

"Madame Speaker, human life should not have a price tag. The veto of this bill and other bills have shown an insensitivity to the needs of people. I urge the members to support the override."

Representative Bukoski rose to speak in opposition to the motion, stating:

"Thank you, Madame Speaker. I rise in opposition to the override. I'd like to just offer some comments on some information that was shared by the Majority Leader. I don't think we're here debating the concept of veto overrides. I think we're debating the merits of this particular override. And in a comment he made earlier in the session: "if it makes sense." And again I say, this particular measure doesn't make sense.

"I want to apologize to my constituents and my colleagues, because I sat on the Conference Committee on this particular bill. I campaigned on emergency services for my district. That was one of my major issues that I wanted to deal with, and this bill would have addressed a lot of what I have been fighting for since I became a Representative. And I really wished that I had caught the errors that the AG's office had pointed out after the fact. Regardless of whether it was before the fact, after the fact, the fact of the matter is that he is bringing it to our attention now and he is saying that you could, you may, open the State up to potential liability.

"The Vice Chair of Judiciary mentioned some reference to case law that may or may not exist. I'm not sure if it does. I'm sure if it did exist, he would have quoted it because he's pretty good at that. But just because there isn't any current case law, or previous history case law, doesn't mean it precludes us from future possible law suits or the potential of future possible law suits that may occur because of the flaws in this particular bill. I would hate to waste more taxpayer's money trying to prove that argument, right or wrong, in a court.

"I think the Majority Leader made it very clear that this issue needs far more vigorous review. That's a quote. And a lot of research to be done. And I don't think passing this measure now in an override is actually doing that research. The AG's office is telling us that there may be potential problems with it, and if the Majority Leader is sincere in his comments on this floor, then maybe we should come back next Session and revisit those concern, rather than rushing through and overriding it now.

"I want to correct my colleague, the Minority Leader, in saying that this bill doesn't happen until 2004. No, it happens the day we override it. The State will be liable the minute we override this bill. The bill becomes in effect, and becomes law. The mandate that we're placing on the State, to provide aeromedical services statewide will become effective the minute this bill is overridden. The money will not be provided until 2004-2005. So we can come back next Session, clean up the errors, address them, and pass a clean bill. The Governor has already supported the efforts made by the Committee on Health, in both houses, in this area. She just wants to make sure that we're not open to the liability that the AG's office is saying may exist.

"I kind of find it interesting that a lot of our Members here are saying how concerned they are lifesaving, emergency services when there was money appropriated in the Governor's budget, the Executive budget, to provide 24-hour service ambulance for Kula which doesn't have 24-hour service. And I can share stories of people who have died because there was no ambulance there at 1:00 in the morning. But that was stricken from the Executive budget. So where were the hearts then when I had money to provide 24-hour service to outreach areas,

rural areas. But now all of a sudden it's a big issue. And we're talking about 3, 4 times the amount.

"As hard as it is, and again, I want to apologize because I wish I had caught it because I sat on this Conference Committee. I want to apologize that I didn't catch it. But I want to take it back, fix it, and let's appropriate the money as it was planned to do it anyway. For those reasons Madame Speaker, I stand in opposition."

At time, the Chair stated:

"Members, at this point, the arguments are getting repetitive and duplicative. Does anyone have any new arguments because I get the gist from both sides. Do you have any further new arguments or would you be willing to submit your written comments?"

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

Representative Marumoto's written remarks are as follows:

"I rise to speak in opposition to the motion to override SB 745. There have been many comments made on the floor of this House that the Governor is not concerned about health and welfare issues facing the people of Hawaii. That is not the case. On the contrary, the Governor is looking at the bigger picture and has considered the financial wall that we will hit in formulating next year's budget.

"In the veto message of this bill, the Governor cites the vital need to fund the State hospitals next year. It takes some difficult decision-making and priority planning to provide for the needs, not just for this year, but in future years as well. The hospital system treats thousands of patients every year and employs over 3,000 workers. The Neighbor Islands are particularly dependent on the HHCS for health care. Like a parent, she watches out for the family and withholds those items that the family cannot afford.

"The statement reads in part: "Through its appropriations, this bill also would impose a substantial financial burden on the state during a fiscally challenging time. While it truly would be wonderful to have emergency aeromedical helicopter services statewide, the State cannot spend money that it does not have. This two-year budget recently passed by the Legislature is not balanced. The Legislature failed to include funding for the Hawaii Health Systems Corporation for the second year of the biennium. Such action would make sense only if one assumed that all state hospitals would be shut down one year from now. The challenge presented by this budget increased when the Council on Revenues on May 16 reduced the revenue projection for the current year and the upcoming biennium by the \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

"The State must now make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with revenues.

"Decisions like the one to veto this bill are not easy, but they are necessary. Without fiscal discipline and prudent management of the budget now, it will be impossible to restore trust and integrity in government and expand and diversify the economy in the years ahead. This kind of tough decision is

needed in order to achieve a true New Beginning for the people of Hawaii...."

"Some decisions to cut new and expanded programs and appropriations are indeed painful, but necessary during a poor economy."

Representative Kaho'ohalahala rose to speak in support of the motion, stating:

"Thank you, Madame Speaker. I would like to have a few minutes to speak in favor of the override. I would like everyone to understand that this particular bill was supported by the people of Maui county. From the Islands of Lanai, Molokai, Maui. And if you consider the people of Kalaupapa who need this kind of potential help, there is a need is being expressed as well. But I think I do not want to leave this floor with the idea that no thought was placed into crafting this bill. In fact, a lot of time was spent. So much time that the Mayor of Maui County came here to support the bill and provide staff people that worked to help design the language of the bill. I would like to remind us all that the emergency medical staff were here in the halls to support the bill and help to craft the language that would be acceptable to all. I want to also add to that fact that the Hawaii Air Ambulance Services came here to support the bill as well, even though there was a perceived notion that perhaps supporting a bill like this would be to the demise of Air Ambulance. That was resolved as well. So after much discussion and support, there comes this bill to the table, and it was something that was supported by this House as a nonpartisan effort to recognize one basic thing: that emergency medical services are needed desperately in Maui county.

"I want to appeal to all of you from an island perspective. Understand that in this particular county of islands, we bear much more of the burden in trying to provide services. And it is time that the State of Hawaii take the policy and the position to render that kind of service to a county of islands. Here is an opportunity where that service can quickly be provided to the Island of Molokai in inclement weather when planes cannot land on Molokai or Lanai. There is an opportunity for emergency services to still be rendered. When on West Maui, or East Maui, there are times when it is impassable on the roads, that helicopter service can be provided. It is also to be provided to the Island of Kahoolawe which is currently being worked at in terms of trying to restore that island, and how do we dispatch that kind of help to that island. Add to that the Island of Molokini, one of the most favorite diving spots in the State of Hawaii, where thousands access it. Here is another opportunity where there is no opportunity for a fixed-wing aircraft to land there.

"I think it goes without saying that the people of Maui county strongly support this bill, and therefore, it is our responsibility to at least allow this measure to move forward. It will ultimately rest with the Governor to release the funds. I think that we, by our override, will allow the people of Maui county to continue that discussion with the Administration, because it will be the next step that will be involved once we succeed at today's override. But I can tell you right now, that you can talk to anyone on Maui, anyone on Molokai, anyone on Lanai. Go to Kalaupapa and ask them. Go to East Maui, Hana. Go to Kaupou and ask them whether they think this is a needed service and that the State of Hawaii should make that policy decision. I think that you will get a resounding, yes. So therefore, I am asking this Body to support the override of this bill so that the people of Maui county can receive the same level of services that we provide to all of our islands. Mahalo."

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

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

"Madame Speaker, I rise in support of overriding the Governor's veto on Senate Bill No. 745, Conference Draft 1, Relating to Emergency Medical Services.

"When one must choose between mere threat of a lawsuit, or certainty of injury or death and the negligence therein, I choose the former over the latter any day. For as an attorney I understand that people can file a suit no matter the merits, fault or blame, law or fact. That is part and parcel of our American system of jurisprudence. So I don't worry about that too much, especially when one tells me there will be certain injury and possible death because of my inaction for fear of a lawsuit. For what is certain and known this day is that the lives of many people are jeopardized on Maui, Molokai, Lanai, and Kaho'olawe because they lack of a medical helicopter service. That is fact, not fiction. Not conjecture. And, no legal machinations nor hypotheticals will address the present and immediate harm of my neighbors on these islands. Public policy must be forged in the harsh rays of reality, not in ghostly tales or in shadowy nightmares.

"What the opponents of this override fail to appreciate is that their vote to support Governor Lingle's veto demonstrates their non-support for these people or in some instances ones own constituents. Imagine that, putting the interest of the Chief Executive over the interest of ones own community, neighbor, and constituent. Not only is this suspect, but seemingly political suicide. And, in case the argument be attempted, it does not raise to the level of anything discussed in Profiles in Courage. There is no greater cause, nor greater value to be upheld. But, why do they do this? Only because of a cursory legal theory, a non-substantive memorandum without rule of law, case law citation, or precedent in common law to substantiate it. A mere possibility of lawsuit stacked against a mountain of evidence of certain injury and death. Or, the cynics would say, because of "politics", mere politics. Sadly, even to the extent of breaking a campaign promise to one's constituents does this veto come to be memorialized. But, the record will remain and hold each of us accountable for our vote.

"Madame. Speaker, I am only grateful that my conscience and commitment empowers me to my vote despite all the rhetoric and bluster -- all the flash and loud sounds. And, I am compelled to cast my vote and face certain wrath despite not knowing who these endangered citizens might be or regardless of their relationship to my political persuasion or philosophy or belief, but simply because I am a State Representative and these are our citizens and our neighbors.

"In all, this is a standard public policy call drafted into an appropriation device for medical helicopter services. It is to protect the people of Maui County and insure that they receive the same type of care we in Oahu are afforded. When it is between the money or the life, the life must always prevail. That we are here today to argue the threats to people's lives without this measure says volumes of its proponents, and reveals the philosophical underpinnings of its detractors and their priorities herein.

"I humbly ask my fellow Democrats to elevate people over politics, and vote to override the Governor's veto of Senate Bill No. 745, Conference Draft 1. Thank you."

Representative Bukoski rose to respond, stating:

"I just want to make a real quick point of clarification that the entire State does not have aero-medical services. I understand that Kauai does not have aero-medical services as well.

"In hearing testimony, I was under the impression that Kauai did have aero-medical service, and I thought that Maui county was the only one that didn't have. Recently, I have learned otherwise, that Kauai as well, does not have aero-medical services. So, I think that needs to be made clear. Thank you."

Representative Halford rose to respond, stating:

"I would like to make a brief rebuttal. I wanted to say Madame Speaker, that I am honored to be quoted on the floor of this Body. After 40 years since statehood, finally the legislative leadership is understanding that there is value in overriding vetoes in implementing this important tool of American style democracy. So I see that grasping that is really an advance for not just this Body, but for the State.

"But if I could further add to the admonition that veto overrides are useful where the Executive is clearly misguided. Vetoes are not useful when new information comes to the table to point out that the legislation is flawed or is bad legislation, which is certainly the case in this and other bills that we are overriding today. I will leave it at that. Thank you."

Representative Meyer rose to speak in opposition to the motion, stating:

"I would just like to make one clarification to follow up on what the Representative from Kula had said. And I am in opposition. Not only does the State not provide emergency helicopter service on Kauai, on the Big Island, there's a private party bought the helicopter and the State does provide the money to run that. But on Oahu, the largest island with the largest population, the State spends no money on aero-medical services. So I think it is important that we have the clarified that it is not like Maui is sitting there, the lone island that has not coverage. Thank you."

Representative Fox rose to respond, stating:

"Thank you, Madame Speaker. Briefly, because I was referred to by another member of our Caucus as having made a mistake. I would like to clarify that. The Representative from Upcountry Maui is correct. I did make a mistake. There is only a downside with this bill. The downside is if we pass it, we subject ourselves to liability throughout the State for not providing air-ambulance service.

"If we allow the veto to be sustained, we work on the bill next year, we get it right, and we get it right by the time the funding goes in place, and we have the additional advantage of not breaking the balanced budget requirement that requires us to take further action. So the right thing to do, really the right thing to do, is not go for the 100% downside of subjecting the State to liability. Let's fix it next year. Let's get the ambulance service funded the right way. Thank you, Madame Speaker."

Representative Thielen rose, stating:

"Madame Speaker, mine is procedural question. The Attorney General's Opinion, a different Attorney General's Opinion, states that, "We believe that when the Legislature convenes in Special Session to consider overriding the bills vetoed by the Governor that contain appropriations, the Legislature should consider the latest Council on Revenues report even if it used a previous report during the preceding Regular Session because the override operates as a reappropriation of the moneys vetoed." That's the first issue.

"The second issue is that there is a requirement for public disclosure if we enact legislation that exceeds our budget because of the Council on Revenues report. So we then have to

do a publication, and that means to put into circulation or publish or to make known before the public. I would like to ask if the Majority is operating under this understanding?"

The Chair responded, stating:

"No. Is that your second time speaking?"

Representative Thielen: "It's my procedural question to the Chair. Is the Majority ..."

Vice Speaker Luke: "My answer was, "No."

Representative Thielen: "You're not operating under that."

Vice Speaker Luke: "No."

Representative Thielen: "And could you explain why?"

Vice Speaker Luke: "The arguments put forth by the Attorney General are argumentative, so we'll have our legal counsel take a look at it."

Representative Thielen: "But you're suggesting that we go ahead with it and act on a bill that will exceed our spending limit without your attorney or the House ..."

Representative Saiki rose to a point of order, stating:

"Madame Speaker, point of order. This running discourse is not proper. The Representative should state a point."

Representative Thielen: "My point is whether or not we should act on this now because of our exceeding our ceiling."

Vice Speaker Luke: "The Majority disagrees with the Attorney General's Opinion, ..."

Representative Thielen: "But the Majority does not have an attorney's opinion to support its disagreement."

Vice Speaker Luke: "Representative Thielen, I think the Chair has answered your question."

Representative Souki rose, stating:

"Yes, Madame Speaker. Will you call a recess? I believe the Representative is out of order with this line of questioning that she has. It's the second time that she is using it. Either she should be called out of order or we should have a recess at this point."

Vice Speaker Luke: "Representative Souki, I think we can proceed to a roll call vote at this time. Representative Thielen, if you are going to proceed, we are going to call a recess to prolong this discussion."

Representative Thielen: "I don't need a recess. That's okay."

Vice Speaker Luke: "Representative Thielen, I think I answered your question."

Representative Thielen: "No, not really. Because there is no attorney's opinion before us."

Representative Saiki rose, stating:

"Madame Speaker, point of order."

Representative Thielen: "If you want to call a recess, then go ahead."



At 5:59 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:02 o'clock p.m.

Representative Moses rose, stating:

"Thank you. I have a point of information, Madame Speaker. I'm wondering if this Body admits that we are now going to operate under an unbalanced budget, and abide by the Constitution as provided?"

The Chair responded, stating:

"Is that a rhetorical question?"

Representative Moses: "No. Is this Body willing to acknowledge the fact that we will be under an unbalanced budget, not only from the last bill ..."

Representative Saiki rose to a point of order, stating:

"Madame Speaker, point of order. That is not a proper point of information."

Vice Speaker Luke: "Representative Moses, that is not a proper use of your point. I'm going to ..."

Representative Moses: "Point of inquiry, Madame Speaker."

Vice Speaker Luke: "I'm going to say that it's your second time speaking. It's your substantive argument. Please proceed."

Representative Moses: "I'm not making an argument. I'm asking if this Body acknowledges the fact that we are operating under an unbalanced budget at this point in time?"

Vice Speaker Luke: "No. Please have a seat."

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

Representative Morita's written remarks are as follows:

"Madame Speaker, I rise in support of this veto override. With regard to the Attorney General's July 7, 2003 informal opinion, I find the Minority's arguments illogical. Using their arguments we should deny counties without rotary winged aircraft the ability to improve or upgrade of emergency medical services just to avoid lawsuits. Personally, as a policymaker, I find the Attorney General's arguments disingenuous, specious, without any legal foundation.

"The County of Maui, which consists of three major Hawaiian Islands, has clearly shown a compelling need to supplement the present service of fixed winged aircraft with a rotary winged aircraft (helicopter). As the former representative from East Maui, prior to the 2000 reapportionment, I can attest to the need for aeromedical transportation to complement and supplement existing services due to the areas isolated and rural nature. The County of Maui is asking the State to work in partnership to meet this critical need. We should support this effort that can mean life or death for the residents and many visitors to Maui County."

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

Representative Say's written remarks are as follows:

"I note that some concern has arisen in connection with appropriation measures that are subject to a veto override. The question arose on the floor today in our discussion of whether to override the Governor's veto of the bill that appropriated \$30,000 to help Korean War Veterans celebrate the 50th Anniversary of the end of the Korean conflict.

"Earlier in the day, it was brought to my attention that in a letter to Dr. Pearl Imada Iboshi dated the day prior to this override special session, Deputy Attorney General Russell A. Suzuki asserted his belief that a vote to override a vetoed appropriation measure operates as a re-appropriation, thus triggering certain constitutional provisions regarding public disclosure. Although this letter was not directed to the Legislature and does not cite to any legal authority for its underlying proposition (perhaps because of time constraints), nonetheless I believe it important to point out that prior to the final action on the appropriation measures, the Legislature fully complied with all public disclosure requirements, whether or not the Constitutional provisions were triggered.

"Specifically, in the July 7, 2003 letter, Mr. Suzuki advises Dr. Iboshi of his belief that the Legislature should publicly consider the latest Council on Revenues' report in exercising its power to override the Governor's veto with respect to items previously appropriated during the regular session.

"Counsel for the Legislature have advised House and Senate leadership that in a veto override the Constitution does not permit insertion of additional language in the vetoed bill or items under reconsideration, thereby foreclosing such an avenue for public disclosure as part of the veto override process.

"However, as noted in Mr. Suzuki's letter, no particular form of public disclosure is required. In this case, statements on the floor of the Chambers and the record of the House and Senate Journals have served that purpose.

"Debate in both Chambers was public, lively and often directed specifically to discussions about the latest Council of Revenues' report and the effect of the veto overrides in light of that report.

"In this Chamber, the House Finance Chair discussed the matter extensively in his remarks on the floor, and indicated why the override of appropriation vetoes as contemplated by the Legislature could be reconciled with those estimates. He also referred to those factors that may affect the latest estimate. Numerous other speakers expressed the reasons why appropriation measures should be approved over the Governor's veto, all clearly with reference to the latest Council of Revenue estimates.

"Public debate on the chamber floor and insertion of remarks into the Chambers' Journals serve as a most public, open and appropriate forum for the dissemination of these facts affecting all vetoed appropriation measure which were reconsidered.

"In sum, whether or not Constitutional provisions regarding public disclosure were triggered, the statements made in open debate and the Journals themselves (the official public records of our actions) reflect all of the disclosures that may arguably have been contemplated by the framers of our Constitution."

Representative Kawakami rose to speak in support of the motion, stating:

"Madame Speaker, I would like to just make a few comments if I can? I'd like to say, and I thank Speaker Souki, this is a very, very important bill. I want it overridden. It is a policy issue as was mentioned by the Majority Leader.

"But I'd like to say that in 1987, my husband had a heart attack on the Island of Lanai. There was no means of transportation to bring him to Honolulu. I will say to you that you will lose many lives because you have many islands there that do not have any means of transporting, aero-medical services, directly to Honolulu, to save lives. So, that is my pitch, and I say we should override this measure. Thank you."

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

"Thank you, Madame Speaker. I ask to make a few comments if you don't mind. Thank you. And I'd like to insert the comments of the Representative from Upcountry Maui, if you don't mind" and the Chair "so ordered." (By reference only.)

Representative Ching continued, stating:

"What I wanted to communicate is that this is an important bill. And my position is that I am in opposition to the override. It is an important bill. It does serve a lot of needs. If it were your own parent, your own child, yes, you want to see them saved by the 'golden hour', as Representatives have mentioned. But that, in my mind, is not the objection to this bill. I don't think anyone wants to put our citizens in harm's way.

"I believe that the objection to this bill is that if you're going to do it, you pass it, you pass it right. Because in my mind, if the Attorney General is telling us that this puts us at liability of lawsuits, my question is, how much of the deficit that we suffer under today is caused by well-intentioned, "yeah, it's a good idea" kind of legislation, that is not thoughtful, not careful, and so has exposed us to liability. All of these lawsuits, we all know it. We all read the paper. How many times are we getting sued? And how much of that is supporting the deficit right now? So my question is, if there are just a few words in this well-thought out, well-intentioned bill that we can just do it right the first time, rather than cleaning up later on? And how many of our citizens are going to be happy when the lawsuits start adding up and they find out that our Legislature could have passed it right. That they were alerted by the Attorney General that this means lawsuits.

"I personally am not an attorney. As you well know, am not an attorney by trade, but I do have many good friends who are. And I say the best among them are ambitious attorneys. And ambitious attorneys, in my mind, are creative attorneys. And creative attorneys are attorneys who are going to research that detail, and argue and argue it so well, that I can't see a jury not awarding money because somebody's mom died because the State did not get to her within the 'golden hour'.

"So I'm just asking that, you know, the old adage, 'Look before we leap,' and 'Do things right the first time.' Both those adages. If we could just fix the bill, pass it right. We all agree we like the bill. Let's just do it right the first time. That's all. Mahalo."

At this time, the Chair called for a roll call vote, and by unanimous consent, the roll call was approved.

Roll call having been approved, the motion to override the veto of S.B. No. 745, SD 2 HD 2, CD 1, entitled, "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," as contained in Gov. Msg. No. 472 was put to vote by the Chair and carried, and was approved by the

required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes and Noes:

Ayes, 34: Representatives Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai and Waters.

Noes, 14: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Excused, 3: Representatives Abinsay, Stonebraker and Tamayo.

At 6:11 o'clock p.m., the Chair noted that the motion to override the veto of the S.B. No. 745, SD 2, HD 2, CD 1, as contained in Gov. Msg. No. 472 was carried, and since the override of this bill was approved by two-thirds vote of all the members to which each house is entitled, pursuant to Article III, Section 17 of the Hawaii State Constitution, said measure shall become law.

At 6:11 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:40 o'clock p.m.

At this time, the Chair addressed the Body, stating:

"Members, this is to inform you that with the agreement between the Majority Leader and the Minority Leader, all Members will be submitting their written remarks and there will be no verbal debate on the following issue."

#### SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 831) was announced by the Clerk:

Sen. Com. No. 831, informing the House that the Senate has reconsidered certain line item appropriations set forth in Sections 3, 4, 5, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 25, 27, 28, and 31 of S.B. No. 1305, SD 1, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated June 26, 2003, and approved said line item appropriations in said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Representative Saiki moved to override the line item vetoes set forth in Sections 3, 4, 5, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 25, 27, 28, and 31 of S.B. No. 1305, SD 1, HD 1, CD 1, as contained in Gov. Msg. No. 458, seconded by Representative Lee.

At this time, the Chair stated:

"Per the agreement between the Majority Leader and the Minority Leader at this point in time which members would like to submit their written comments?"

Representative Arakaki rose to speak in support of the motion, stating:

"Madam Speaker, good evening. I came thousands of miles to be here, just to vote on this bill. Thank you."

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

Representative Shimabukuro's written remarks are as follows:

"Madam Speaker, I rise in support. Madam Speaker, I come from a community that has been forgotten and let down so many times.

"Madam Speaker, the latest statistics show that over half of Wai'anae's residents receive welfare. Further, over half of Wai'anae's residents are Hawaiian.

"Many who are against this measure characterize it simply as wasteful spending.

"People who think of this measure as wasteful don't live in a community where jobs, education, and other basic necessities are extremely scarce.

"We in this room largely take it for granted that anyone can make it if they just try and work hard.

"But how many of you have had friends who were sexually abused as children? Who were abandoned by their parents? Who were never given the chance to succeed because their lives were fraught by unimaginable trauma, grief, and loss?

"And how many of you can imagine what it would be like to have your homeland, language, culture, religion, and values stripped from you by a foreign country?

"Madam Speaker, I don't think anyone in this room would be here today had it not been for the help and support of others.

"If you can admit that you could not have made it this far in a vacuum, than how can you possibly be against this Bill?

"Madam Speaker, I completely agree that we must be fiscally disciplined.

"But vetoing this bill is as irresponsible as sending children into battle."

#### LATE INTRODUCTION

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

Representative Shimabukuro introduced Mr. Jeff Mikulina, of the Sierra Club; Ms. Alison Hikida of the Commission on of the Status of Women; Ms. Adriana Ramelli of the Sex Abuse Treatment Center; Ms. Debbie Shimizu of the National Association Social Workers; and Ms. Nancy Kreidman of the Domestic Violence Clearinghouse and Legal Hotline.

Main Motion:

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

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

Representative Kahikina's written remarks are as follows:

"Madame Speaker, I rise in support of the override of the Governor's veto of this bill to serve the very poor and needy people of our State of Hawaii. This State is known for its Aloha Spirit and compassion for people. In fact, the foreigners who came to Hawaii exploited the Native Hawaiian people's aloha and stole their land. This bill exemplifies the Native Hawaiian people's love for each other. This bill is about love, aloha, and compassion. It provides needed services for our youths, elderly and families who are "at risk" due to circumstances they have no control of.

"Those who oppose this bill say we don't have the money or that we are violating the State Constitution by not passing a balanced budget. Well this has nothing to do with General Funds, but the "Rainy Day" funds. I hope the general public will not be fooled by this argument of not balancing the State's budget. I hope you all support this love, Aloha, and compassionate and worthy cause of restoring the safety net services we need for our very needy citizens of our State.

"Mahalo."

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

Representative Ching's written remarks are as follows:

"Madam Speaker, I rise today, in opposition to the veto override of Senate Bill 1305, Relating to State Funds. The Departments of Human Services (DHS) and Health (DOH) help the most vulnerable people in our State to expand their capacity for self-sufficiency, and to improve the quality of their lives. The safety net in Hawaii is wider and stronger than in just about any other state. While I believe in the worthiness of many of the programs funded by this bill, the State's current fiscal condition cannot be balanced.

"To paraphrase the Governor, in the budget bill passed in May, the Legislature "balanced" the budget by failing to include funding for the Hawaii Health System Corporation for the second year of the biennium. Such actions only make sense if we were to assume that all state hospitals are to be shut down one year from now. Because this assumption is not realistic, the budget passed by the Legislature is not fiscally sound.

"Two weeks after the Legislature adjourned, the Council on Revenues reduced the revenue projection for the current year and the upcoming biennium by \$186.7 million. The combined impact of lower revenue projections and unrealistic assumptions by the Legislature has resulted in a budget deficit of more than \$230 million.

"The Governor stated, and I agree, that "Now is the time that we must make the hard choices to restrict spending and resist tax increases in order to create a healthy business climate that will lead to more and better-paying jobs and a quality standard of living for Hawaii's families. In short, we must begin to put our financial house back in order by doing all that we can to match recurring expenses with recurring revenues. We cannot do this by spending our Emergency Budget and Reserve Fund to fund new and expanded programs, or ones that duplicate services already provided, as was the case with respect to the items vetoed. The intent of this fund is to help in emergencies.

"Use of the Emergency Budget and Reserve Fund bypasses the normal budget process and avoids the fiscal discipline of matching recurring expenses with recurring revenues. While the State is facing an unexpected reduction in revenues, prudent management of the State's budget requires that funds in the

Emergency Budget and Reserve Fund be saved as much as possible for future needs. As such, there should be only sparing and judicious use of the Emergency Budget and Reserve Fund. In doing so we hold recipient agencies accountable for accomplishing more than just spending money."

"In addition, according to Dr. Chiyome Fukino, M.D., Director of the State Department of Health, and Lillian Koller, Director of the State Department of Human Services, both have publicly stated that the recent line-item vetoes of approximately \$3 million of social service programs were the right thing to do. The line-item vetoes clearly do not jeopardize the health, safety, or welfare of their clientele.

"DHS and DOH personnel are now taking direct actions, as well as working with the affected agencies to find creative ways to enhance their services. In some cases, they have identified federal and private foundation dollars, and are helping to tap into those funds to ensure that these services will be continued to be provided, despite the Governor's tough decision to line-item veto them from this bill.

"Anyone who takes the time to look at the appropriated budgets of DHS and DOH, and the specific steps taken to assist all the affected agencies, can readily see that the recent vetoes have not compromised the State's extraordinarily strong social and health services safety net. DHS and DOH have reassured the State that despite budget deficits and the line-item vetoes of the rainy day fund appropriations, that they do indeed have the resources, focus, and determination necessary to achieve their mission.

"Like the Governor when she vetoed this bill, it hurts to make decisions like the ones to vote against a veto override for programs as worthy as the ones in S.B. 1305, but they are necessary. Without fiscal discipline and prudent management of the budget, it would be impossible to restore trust and integrity in government and expand and diversify the economy. The concentrated and joint efforts of the Executive Office, the DHS and the DOH have shown that it is possible exercise fiscal discipline and still provide these essential services, things that we must do to achieve a true New Beginning for the people of Hawaii. Too much is at stake for us to lose our focus or our resolve. For these reasons Mr. Speaker, I will be opposing a veto override of Senate Bill 1305."

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

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

Representative Magaoay's written remarks are as follows:

"Madame Speaker, I stand in strong support to override Governor's Veto Message No. 458 for SB No. 1305 SD1, HD1, CD1.

"Section 20 appropriated out of the Emergency and Budget Reserve Fund of \$750,000 for Kahuku Hospital to fund the costs of emergency room operations, inpatient and outpatient care for the underinsured, medical malpractice insurance, and labor. The Governor's line item veto reduces the appropriation from \$750,000 to \$350,000, a cut of \$400,000. This reduced appropriation does more harm than any good for the North Shore residents. This hospital is the only facility to provide medical assistance for residents on the North Shore. The nearest facilities are Wahiawa General Hospital or Castle Medical Center. The distance and time of travel to both of

these hospitals are approximately 45 to 60 minutes driving time on a two-lane roadway.

"The financial stability in operating and maintaining a hospital has tremendously increase in cost, especially for Kahuku Hospital, four-fold within the last few years. This has put a tremendous financial cost burden to fund the costs of emergency room operations; inpatient and outpatient care for the underinsured, medical malpractice insurance, and labor. Also, this hospital has not been upgraded and the facility has not maintained the needed repair and maintenance.

"Therefore Madame Speaker and colleagues, I ask for your strong support to override the Governor's veto message on SB No. 1305. Thank you."

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

Representative Ontai's written remarks are as follows:

"Appropriating money from the Rainy Day Fund sounds like a good idea. However, it masks irresponsibility. The Rainy Day Fund is not meant to provide ongoing operational funds to State agencies or contractors. A one-time appropriation is not a systemic, rational way to manage State programs, no matter how worthy."

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

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

Representative Karamatsu's written remarks are as follows:

"Madame Speaker, I rise in support. The Governor believes the Legislature took money out of the Rainy Day Fund for programs she does not consider as true emergencies. I don't know of a greater emergency than to help our elderly, victims of domestic violence, sexual assault survivors, and those who need a bridge to hope through education.

"The Governor publicly made a commitment to alleviate Hawaii's drug problem. However, keep in mind that many of the programs the Governor wants to cut affect issues that have a direct correlation with drug use. For example, according to the Sex Abuse Treatment Center, a large scale study found that compared to non-victims, rape survivors were 3.4 times more likely to use marijuana, 6 times more likely to use cocaine, and 10 times more likely to use other major drugs.

"The Governor needs to know that there are people in our community who face critical emergencies every day. We must help our people now or the problems in our community will compound, our economy will be hurt because of a lower amount of participants, and the cost of government will rise. Thank you, Madame Speaker."

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

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

Representative Bukoski written remarks are as follows:

"We all have witnessed the many heart-felt pleas against the line-item vetoes of social programs funding on July 7, the day

before the 2003 Special Legislative Session. From the testimony, it appears as though the "safety net" in Hawaii is about to be greatly compromised and that Hawaii's needy, disadvantaged, and vulnerable population stands to lose the help they desperately need.

"What the public did not witness were the efforts that DHS and DOH personnel have been putting in to ensure the integrity of the safety net.

"In a joint statement by the directors of DOH and DHS, Dr. Chiyome Fukino and Lillian Koller respectively, dated July 5th, 2003 in the Hawaii Reporter, the aggregate amounts DHS and DOH spend each year to assist needy individuals are broken down, attesting to the depth and strength of this safety net:

DHS Total: \$1.2 billion

Cash assistance to low-income families and individuals - \$109 million;  
 Cash assistance to aged, blind and disabled - \$13.5 million;  
 Health care coverage for low-income children, adults and families, plus aged, blind and disabled - \$800 million;  
 Child care for low income families - \$43 million;  
 Foster care for children - \$39 million;  
 Long-term care for the elderly and disabled - \$83 million;  
 Cash assistance to help pay utility bills - \$1.6 million;  
 Food stamp benefits - \$157 million.

DOH Total: \$167 million, including more than \$141 million through 375 non-profit agencies.

"In short, the State spends around \$3.8 million each and every day of the year for social service programs. True, line-item vetoes total approximately \$3 million. But when we put these two numbers side by side, it is easy to see that there is a long way to go before our safety net is jeopardized. Most monies are really still in place for the health, safety, and welfare of the State's needy. Let's not distort the reach or extent of the Governor's vetoes.

"In fact, DHS and DOH have been working with affected agencies to identify and tap into federal and private foundation monies. Some examples are: 1) the Kapiolani Women and Children Sex Abuse Treatment Center, 2) forensic medical examinations of child-abuse victims through tele-medicine, 3) Bridge to Hope, 4) Legal Aid Society of Hawaii for domestic violence legal services, 5) the youth service center programs in Kalihi, and 6) the Federal Technical Community Assistance Program Grant to address juvenile justice issues.

"Imperative as it is to sustain/uphold the safety net, funding social service programs out of the Rainy Day Fund makes it difficult, if not impossible, to hold recipient agencies accountable. Further, this Fund is intended to help in emergencies, not to fund duplicate services already provided, as were the items vetoed.

"More critically, let's not forget that the State already faces a \$152 million deficit. Spending money that the State does not have is exactly the kind of fiscal irresponsibility that plagues states such as California which must now deal with enormous deficits. Going down that path will only lead Hawaii to a more profound predicament than we are already in.

"Finally, implying that the Governor lacks caring and compassion for the downtrodden is simply too far-fetched. It is precisely for the future well-being of the State of Hawaii, and for all of the people of Hawaii that the Governor chooses to exercise fiscal discipline. Then and only then can we preserve and safeguard the safety net that we hold so vital."

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

Representative Lee's written remarks are as follows:

"I speak in favor of the override. Madame Speaker, we have been told that Hawaii's social safety net is intact -- that we continue to be strong -- however, the multi-million dollar cuts in the veto of this bill are a factor in the continuing erosion of our capacity to help the most vulnerable.

"Recently, we have been told that federal and private foundation services have been identified and the affected programs and agencies can easily tap into them.

"I challenge that. A recent *Washington Post* article by Jacqueline Salmon on Sunday, July 6, 2003, states, "These are parched times for non-profits. There is evaporating corporate support. Each year corporations channel millions of dollars in cash and products to local non-profits, but these days, that valuable source of funding is shrinking. Among the reasons are the sour national economy, corporate financial scandals, company mergers and the business world's changing taste in philanthropy."

"In addition, the federal government is increasingly burdened by the aftermath of the events in the Middle East and proposed intervention in Africa. It is doubtful that the federal government will become increasingly more generous.

"Our support of these appropriations is proof of our concern for the human needs of our people, who are indeed suffering through a "rainy season.""

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

At 6:45 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 6:47 o'clock p.m.

At this time, the Chair addressed the Body, stating:

"Members, are there any other Members who would like to submit their written remarks into the Journal for S.B. No. 1305? If not, by agreement between the Majority and Minority, in order to record the vote, instead of having a roll call vote, I'm going to ask the Majority Floor Leader to state the Majority vote, and the Minority Floor Leader to state the Minority vote. This is to just announce that even if it's stated that way, your record of votes will be recorded in the Journal."

The motion was put to vote by the Chair and carried, and the override of the veto of certain line item appropriations in Sections 3, 4, 5, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 25, 27, 28, and 31 of S.B. No. 1305, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," as contained in Gov. Msg. No. 458, was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes and Noes:

Ayes, 34: Representatives Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoyay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M.

Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai and Waters.

Noes, 14: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Excused, 3: Representatives Abinsay, Stonebraker and Tamayo.

At 6:50 o'clock p.m., the Chair noted that the motion to override the line item vetoes in Sections 3, 4, 5, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 25, 27, 28, and 31 of S.B. No. 1305, SD 1, HD 1, CD 1, as contained in Gov. Msg. No. 458 was carried, and since the override of these line items were approved by two-thirds vote of all the members to which each house is entitled, pursuant to Article III, Section 17 of the Hawaii State Constitution, the measure containing said line items shall become law.

At 6:50 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 7:09 o'clock p.m. with Speaker Say presiding.

#### SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 832) was announced by the Clerk:

Sen. Com. No. 832, informing the House that the Senate has reconsidered S.B. No. 255, SD 2, HD 1, CD 1, heretofore vetoed in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Representative Saiki moved to override the veto of S.B. No. 255, SD 2, HD 1, CD 1, as contained in Gov. Msg. No. 470, seconded by Representative Lee.

Representative Thielen then offered Floor Amendment No. 1, Special Session 2003, amending S.B. No. 255, SD 2, HD 1, CD 1, as follows:

SECTION 1. Senate Bill No. 255, SD2, HD1, CD1, is amended by amending Section 2 to read as follows:

"SECTION 2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§205- Private restrictions on agricultural uses and activities; not allowed. Agricultural uses and activities as defined in sections 205-2(d) and 205-4.5(a) on lands classified as agricultural that are subdivided into lots on which dwellings are allowed by county ordinance, and such dwellings are residential rather than agricultural in nature, shall not be restricted by any private agreement contained in any deed, agreement of sale, or other conveyance of land recorded in the bureau of conveyances after the effective date of this section, except leases, utility easements, and access easements, that subject such agricultural lands to any servitude, including but not limited to covenants or equitable and reciprocal negative servitudes. Any such private restriction limiting or prohibiting agricultural use or activity shall be voidable subject to zoning restrictions enacted by the county ordinance pursuant to section**

46-4, except that restrictions taken to protect environmental or cultural resources shall not be void or voidable."

Representative Thielen moved that Floor Amendment No. 1, Special Session 2003, be adopted, seconded by Representative Ching.

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

"Mr. Speaker, Thank you. I know that we all in this Body, I'm rising to speak in favor of the amendment. I know that all of us in this Body are concerned about the proliferation of gentleman farms. These gentleman farms are sort of a quirk in our land use scheme. Developers will place residences on agricultural lands, usually a rather small agricultural parcel of about 2 acres, sometimes of a bit more. And they will put residential projects onto the ag land, clearly with the intent that these are going to be used as residences and not for farming. Then if someone is in that same parcel, that same subdivision, and actually is there for *bona fide* farming, the covenants, the CC&Rs, the covenants and restrictions for that agricultural subdivision, many times will prevent the farmer from doing *bona fide* farming activity. Sometimes the farmer needs to put up windbreaks to protect her or his plants. There are different things that are really necessary to do.

"So what happened was that we ended up with S.B. 255 to address this problem. The difficulty is that S.B. 255 is way too broad and can actually end up hurting farmers. I'd like to just read from a few comments that I had made that appeared in the Star Bulletin today. "We know that S.B. 255 was intended to stop the proliferation of these gentleman farms and gated projects on agricultural land. However, the bill was too broad and actually can prevent *bona fide* agricultural operations.

"I believe Governor Lingle was correct in vetoing the bill. She supports agriculture but she was unwilling to sign a flawed bill. For example, Mr. Speaker, under the existing S.B. 255, a landowner who leases farmland could not restrict the lessee's farming operations to be only organic farming, even when use of chemicals could debase adjacent organic operations. Under S.B. 255, an organic farming restriction would be voidable.

"Similarly, State agricultural parks have contract provisions with farmer lessees, limiting types of farming activities to specific and compatible categories. The key word there is 'compatible categories'. The State's ability to group specific activities, such as animal farming, could be eliminated under S.B. 255. I think the obvious solution is to enact a bill that addresses those problems and gets right the gentleman farmer issue, the gentleman problem.

"I would like to read you an email that I received. I think many of us at the Capitol did. It is from a farmer in Ka'u. The farmer in Ka'u talks about this situation. "Calvin Kubota moves back to the Big Island from the mainland. He buys 20 acres in Ka'u. He intends to grow tea, a new crop with good potential for Hawaii. He will market it as Hawaii-grown tea. When he buys his land, there are a number of beehives on the property. He asks the beekeeper to remove them because Mr. Kubota's daughter is allergic to bees. He plants 15 acres in tea, and 5 acres is not suitable so he leaves it in grass. His tea operation is successful and he soon employs 10 people. He builds a tea tasting room looking out over the 5 acres of grass at the ocean.

"One day George stops by. He says to Mr. Kubota, "Hey, are you going to use that grass? Because my cattle are really hungry. How about I fence off that and let my cattle graze there." Mr. Kubota gives George a 5-year lease. His only

conditions are that George not plant any trees to block the view, that he not have any beehives on the property, that he not grow any regular Camellia plants because they might carry a disease that could harm his tea plants, and that he not raise any pigs as the odor would disturb the tea tasting area."

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

Representative Thielen continued, stating:

"Thank you. "The agreement is signed on July 10th, 2003. The next week, George moves a bunch of beehives, a bunch of pigs, and plants some fast-growing eucalyptus and a bunch of camellias. Mr. Kubota is irate. "My daughter is allergic to bees. No one will taste tea anymore. My tea plants will get diseased." And George waives a copy of S.B. 255 at him and laughs.

"Soon, Mr. Kubota sells his land and house to Henry and moves back to the mainland. Henry is George's cousin. He turns the house into an 'ice' manufacturing plant. He likes the bees and the smell of pigs because they block the smell of this factory and keep the police away. George and Henry laugh. They keep a copy of S.B. 255 on the wall."

"Mr. Speaker, unless we amend the bill, this is exactly the scenario that the farmer from Ka'u wrote about, that could happen. The bill is too broad. We should not enact it at this point. We will do grave damage to many farmers out there, particularly the ones that want to have compatible activities within their area, and organic farmers. We should not enact the underlying legislation and that is why I ask the Members to support this amendment.

"The amendment may not be perfect. I imagine there are people poised to leap out of their seat on the other side and challenge the amendment. But the amendment is far better than the defective underlying bill. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support of the amendment. I voted for S.B. 255, but have since discovered some flaws in the bill as it reaches too far. State agricultural parks, when they were created, have pretty strict leases for the lessees. It requires them to only engage in certain activities, agricultural activities. They are grouped together for specific reason, so those activities will flourish instead of being hurt by somebody bringing adverse activity in next to it that's going to be detrimental to their crops. This bill, S.B. 255, would allow these detrimental activities to take place not only on State lands but also on private agricultural subdivisions. There are some large landowners in the State that have agricultural subdivisions and they don't allow animal husbandry on farms that are going to be next to organic farms. So, I thought the bill was too far-reaching after this discovery, and I support the amendment. Thank you."

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

"Thank you, Mr. Speaker. In strong opposition to the amendment. First of all, Mr. Speaker, procedurally the Senate has considered but rejected the amendment, so it's a moot point that we even discuss it.

"Secondly, in the amendment deemed necessary, including the suggested proposal, can really wait and be considered in the next Session where there can be opportunity for public input and we can work with the counties. Incidentally, the counties

are in strong support of S.B. No. 255, and strongly agree with our position that any amendments deemed necessary can be done in the 2004 Session.

"Additionally, any amendments considered now, as we all know, would require a 48-hour wait, which I don't feel is necessary. So, I am strongly in opposition to the amendment. Thank you."

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

"Thank you, Mr. Speaker. In favor. Mr. Speaker, I believe there is almost universal support for the intent of the underlying bill. In just a few months, the underlying bill was deliberated. We did not fully address all of the issues, complex issues, of land use, land tenure, that have been developed over last 500 years in our legal system.

"This amendment addresses some one those flaws that have been illuminated just in the last couple months. It's responsible for us to pass this amendment to improve the bill. We can still improve it more in January upon further information.

"If I can just make one example. If I can just magnify one small point, regarding the access easements, or, egress easements in a property that is otherwise landlocked except an easement across another property to get to a government road. This bill diminishes the ability or the value of that kind of easement because the farmer who is providing the easement to the landlocked property, if they decide they want to grow a crop on that easement, the underlying bill will make that otherwise landlocked property certainly landlocked. That easement would just become unusable. I think that one point needs to be addressed, and it's addressed in here.

"There are other points that, you know for the sake of time, I won't go illuminate all the bad possibilities that can occur in the underlying bill. It's responsible for us to present as good a bill as possible. This amendment addresses some of the real problems in the underlying bill. We have assurances from the Administration to support this bill with these amendments. I recommend that we accept it. Thank you."

The Chair then recognized Representative Sonson who stated:

"I yield to the Vice Chair of Judiciary."

Representative B. Oshiro rose to speak in opposition to the proposed floor amendment, stating:

"Thank you, I rise in opposition to the amendment. Very briefly. I think the main provision, the main intent of this is to keep the country, country. That's what it's really all about, and unfortunately this amendment does nothing toward that goal. If you look at what they added in on page 9, line 1 through 3, they've essentially allowed any residential, rather than agricultural in nature, dwelling. So, what you have here is, you take look back at Chapter 205-4.5, and you have the definition of an allowable use, it's called a farm dwelling. And that's the whole problem.

"The whole problem is that you are not supposed to have residential houses on agricultural lands. That's the overall restriction. We made an exception for what we call farm dwelling. The problem is the counties have allowed farm dwellings to be included, or to include things like these huge gentleman farm estates, where these multi-million homes are being called farm dwellings. I don't see how they are called farm dwellings. Really we've seen the proliferation these 'fake farms' throughout our country lands, taking away agricultural

lands, viable agricultural lands, that could be use for their primary purpose which is agricultural.

"I just want to briefly comment that I find it very odd that now the bill is being talked about as being overly broad. We heard testimony in the Agriculture Committee, which I am a member of, on March 19. The Department of Agriculture was in support. We heard testimony in Judiciary on March 27. The Department of Agriculture was in support. At the Committee on Conference on April 22, they submitted amendments, but the amendments were more towards the findings and purposes and not anything about the substantive changes that we see here. So, I'm really at odds to see where this attack of broadness and vagueness is coming from.

"If people really take a look, the County of Maui already has a similar provision. For the past 4 years, the Representative of Lanai and Molokai was a part of that Council when they came up with it 4 years ago. Section 19.30A.040d specifically says, "no deed, lease, agreement of sale, mortgage or other instrument, or conveyance shall contain any covenant or clause which restricts directly or indirectly the operation of agricultural activities on the lands within the agricultural district." In the 4 years, I haven't heard any problems about Maui and all of these real, legitimate farmers out there being excluded from their use. I think that is very disingenuous.

"Really, what this bill is about, is about rich developer interest that want to continue to build 'fake farms' on agricultural lands because that's the best way they get the 'bang for their buck.' They get to use these lands, not for agricultural use, but to sell them to rich people who then have orchards or water farms or other kinds of non-agricultural activities, and have these huge estates. That's what this underlying bill is trying to attack and defeat. So, it's for those reasons that I am opposed. Thank you."

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

"Thank you very much, Mr. Speaker. I would like to speak in opposition to the amendment. I've been reading this over and over and trying to figure out how this amendment would address the flaws or the perceived flaws in the underlying bill. What I understand from this amendment is that it seeks to limit the breadth of the underlying bill by making a distinction between a residential dwelling and agricultural dwelling. However, it does not explain fully in this amendment, it's not very clear if they are talking about residential lots for instance. But residential lots are not agricultural lots. The concern is really is that it is the dwellings on agricultural lots. It's zoned agricultural and there dwellings upon it. What would you consider a small one-bedroom, thatch-roof house on a farm? Is that still residential? Is that considered a residential dwelling or is that a farm dwelling?

"I think the definition goes along with the zoning. So if you build a castle on farm land, it still should be considered, at least that is how I understand it. It still should be considered an agricultural dwelling, therefore it is only subject to agricultural taxes, etcetera, etcetera. And this is the kind, if you build a castle or you can build a nice mansion a 10 or 20 acre lot, it would not fall within these restrictions because you are only talking about residential lots or residential dwellings. This restriction or limitation does not address the gentleman farms. You can still have an undivided 20-acre lot then. And somebody would purchase a 10-acre, 20-acre lot. Build upon it. It's certainly in a farm or agricultural zoning, but it will not prevent anything because you consider that outside of the privy of this amendment. It is more confusing than anything. I believe that the underlying bill is much stronger, and this amendment leads to a lot of confusion.

"And the fear of the previous speaker regarding the Kubota family is somewhat of a fantasy. I don't see that as a reality. What we see as reality are gentleman farms being built. Gentleman farms. These are huge lots that should be used to grow agriculture, but are being used for growing these nice houses.

"I think the underlying bill is much stronger, and a lot better starting point. If there are any flaws, and there may be although it hasn't been fully explained. But as I read the objections that are in the newspaper, and from the debate on this floor, I'm not convinced that this amendment is a better starting point than the underlying bill. Therefore, I hope that everyone will vote this amendment down. Thank you very much."

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

"The purpose of the amendment is to, like a rifle shot, aim directly at the gentleman farms, the 'fake farms' that are built on agricultural land. The reason for the Kubota example was to show how this bill, unless it's amended, sweeps up perfectly legitimate agricultural operations and renders them incapable of operating. And the objections to this bill that the amendment was designed to fix, come from the agricultural community which discovered that this bill was seriously flawed and is going to prevent all sorts of restrictions that are legitimately needed in order to operate agricultural operations. So the right thing to do is to agree as a Body, that what we want to take a shot at is the misuse of agricultural land.

"So let's focus on the dwelling. Is the dwelling residential dwelling? Or is it a house on agricultural land? If it's a serious residential dwelling, a gentleman's farm, then let's take away the ability of the person who has that dwelling to restrict the use of agriculture on that land. Let's make sure that in that situation, you are able to do whatever agriculture you want to do, and thus undermine the ability to turn these dwellings into an extension of urbanization in the agricultural area. That's the purpose. The problem is the gentleman farm. Let's deal with the gentlemen farm, and let's please leave the rest of agricultural land alone so that the people who are true farmers can deal with the restrictions they need in order to their job.

"It's a serious, serious flaw in the bill and this amendment is a way to fix it. Why pass a flawed bill? We can deal with it next year. We have a chance under the Constitution, by majority vote, not by 2/3rd vote, to pass this amendment. To send it back to the Senate. Get a majority vote amendment over there and put it before the Governor. Then we'll have the right kind of bill to deal with the problem of gentleman farms. Thank you."

Representative Herkes rose, stating:

"Mr. Speaker. I rise on a point of inquiry. I wonder if the sponsor of the amendment would yield to a question?"

The Chair addressed Representative Thielen, stating:

"Representative Thielen would you like to yield to a question or recess?"

Representative Thielen responded, stating:

"I don't mind yielding to a question."

Representative Herkes: "Mr. Speaker, the communication that she received from one of my constituents, I'm just curious as to why she didn't read the rest of it?"



Representative Thielen: "Mr. Speaker, there were two statements in the communication that were very directly negative toward the Democrats and positive toward the Republicans, and just for decorum on the floor, I felt that it would be better to leave that out. I thought that I would probably be called out of order if I did it anyway, even though I would be quoting from the farmer from Ka'u. But I just thought it was better to leave those out. They were positive toward Republicans and negative towards Democrats."

Representative Herkes: "Isn't it true that the negative comment was that the drug dealers would continue to contribute to Democrat campaign?"

Representative Bukoski rose to a point of order, stating:

"Point of order, Mr. Speaker. We are not discussing any drug issue."

Speaker Say: "Representative Bukoski, your point is well taken. But in the correspondence ..."

Representative Thielen: "Mr. Speaker, we shouldn't be challenging a farmer who sent in an email. I just felt that it was better not to read that part. It went to every Member in the House. If they want to go back and read those two comments, they can. But I just don't think it's appropriate. If you don't like the message, don't challenge the messenger."

Representative Herkes: "Well, the implication is that it's my district, and that Democrats take money from drug dealers. I don't do that."

Speaker Say: "Your point is well taken."

Representative Fox rose to a point of order, stating:

"Point of order. We had a question. We didn't have a speech."

Speaker Say: "It is not a speech. It was to clarify that Representative Thielen did not state the total message that she got. And the Representative, where the constituent ..."

Representative Bukoski: "Mr. Speaker. I don't know what point to rise on, but I just want to clarify. I think that the speaker from Kailua was just trying to keep her argument germane to what we are discussing here, and that is pertinent to the ag use. It's not pertinent to drugs. So I think she was correct in not reading that portion out."

Speaker Say: "No, no. Representative Bukoski, in the correspondence or email that we all got, on the second page, it did reflect some of the concerns that the Representative that represents this area wanted the Representative from Kailua to explain to this august Body. So Representative Thielen did say what she said, and her point is well taken. And the Representative that represents that particular constituent wanted to clarify the issue that we do not take money, as far as it being from drugs. That's all he was trying to say."

Representative Bukoski: "Mr. Speaker, that's not the issue that we are debating at this point. That's the point I am trying to make."

Representative Saiki rose to a point of order, stating:

"Mr. Speaker, point of order. Is the Representative rising on a point?"

Representative Bukoski: "I'm rising on a point of order, that the speaker from Ka'u, I believe, was out of order, Mr. Speaker."

Speaker Say: "The Chair will rule that the correspondence that you all got in regard to the email, should have been publicly stated for all of you to know that it was both in support of the floor amendment, and also the concern that the Representative felt that he was aggrieved. On the second page, the Representative from Ka'u was aggrieved by the statements made by the ..."

Representative Thielen: "Mr. Speaker, I precisely did read two sections in the email. Number one, first of all, when we do quote from ..."

Representative Saiki: "Mr. Speaker, point of order."

Speaker Say: "Representative Saiki, state your point."

Representative Thielen: "Excuse me. I'm responding to him."

Representative Saiki: "Is the Representative rising on a point?"

Speaker Say: "Yes. She is rising on a point clarifying her position as far as what she has stated for the Journal."

Representative Thielen: "Mr. Speaker, I read the parable from the farmer from Ka'u, not in its entirety. I left out two statements because I thought they were a bit inflammatory. And I thought, why do we do that? That's not really germane to the bill. I left those out. Everyone is free to go back and look at her or his email to see what those statements were, but they weren't relevant to our discussion today about how the actual bill, S.B. 255, can hurt farmers. So no allegation was made against the Representative from Ka'u. Not from me."

Speaker Say: "Not from you, but from the email that we all received."

Representative Thielen: "Well, I mean, that's not public here on the floor. It's not from me. I didn't state it on the floor. So there's no allegation made to him, against him. And whatever he stands up to say, that's his business, but no allegation was made. I would like us to continue discussion on the bill. I know one of my Neighbor Island colleagues has something very important to say on that"

Speaker Say: "Representative Thielen, your point is well taken, at this point. Please. Representative Herkes you have the floor at this point."

Representative Herkes: "No, I think the point was that she was using that email in support of the amendment, and I just think she should have read that ..."

Representative Bukoski rose to a point of order, stating:

"Point of order, Mr. Speaker. Is the current speaker rising in support or against amendment?"

Speaker Say: "Against the amendment. Any further discussion?"

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

"Thank you, Mr. Speaker. I rise in support of the amendment. This was a bill that I had supported as it went through during Session. And since then, other information has

become available. I feel very strongly that this amendment will fix some of the problems that are within this bill.

"I did get a letter, and I think most of the other Members got the same letter. But I'd like to read this letter of some unintended consequences. It's from Chun Kerr Dodd Beaman & Wong.

"We would like to applaud the efforts of the Legislature for its support of the farmers and agricultural in the State, however, we have concerns regarding S.B. 255, relating to agricultural. We believe that is measure, while perhaps motivated by worthy concerns, will raise a host of problems by implications which cannot, we believe, were intended by its drafters.

"As a case in point, we are developing an agricultural subdivision of nearly 200 acres near the town of Kohala on the Big Island. This agricultural subdivision is being developed exclusively for farming with no homes to be built on the property at this time. If this bill is passed, it would preclude the planning, the planned placement of crops, and legitimate agricultural restriction that do not fall within this measure's exceptions. This measure would restrict our ability to design a farming community that implements prudent and best farming practices. I think that sentence says a lot:

"This measure would restrict our ability to design a farming community that implements prudent and best farming practices. For example, we would like to restrict pig farms because that would be negative impact on organic farming and other farm crops. Similarly, it may be desirable to prohibit the cultivation of certain crops for legitimate agricultural reasons, such as avoidance of certain pests, blights or fungi, or to avoid undesirable cross pollination between certain crops. Under this measure such restrictions would not be allowed. Other reasonable restrictions would not be difficult to imagine.

"In short, while we understand the need to protect agricultural land for diversified agricultural, this measure would not help the farmers that would instead create obstacles for them. We would appreciate an opportunity to work with other farming communities and counties and addressing this very important issue. I'd like to close by saying the bill as it is written, the underlying bill as it is written, would be extremely restrictive. Thank you, Mr. Speaker."

Representative Evans rose, stating:

"Thank you, Mr. Speaker. Just a quick clarification. I had the same letter as the Representative from Maui has and I am reading 2000 acres. I am against the amendment. Just for clarification. I have the same letter and I believe the Representative from Maui said "200 acres" and I read it as "2000 acres". Thank you."

The Chair then stated:

"Thank you very much for clarifying that.

"I believe we have had a lot of discussion on the proposed floor amendment, but if anyone else who has not spoken, would like to speak at this point, the Chair would allow you to.

"If not, Madam Clerk, the Chair would like to request a roll call vote on this particular matter. So, all those in favor of the floor amendment ... It's a roll call vote, Representative Fox, on the proposed floor amendment"

Representative Fox rose and stated:

"Mr. Speaker. Thank you, Mr. Speaker for recognizing me. You are going to make it clear that this passes by majority vote?"

Speaker Say: "Yes, 26 votes to pass this floor amendment. Madam Clerk, please call the roll. But before we vote, let me restate the question before all of you. All of those who support the floor amendment will vote aye. Those opposed will vote no."

At this time the Chair called for a roll call vote and by unanimous consent, the roll call was approved.

Roll call having been approved, the motion that Floor Amendment No. 1, Special Session 2003, amending S.B. No. 255, SD 2, HD 1, CD 1, entitled, "A BILL FOR AN ACT RELATING TO AGRICULTURE," be adopted was put to vote by the Chair and failed to carry on the following show of Ayes and Noes:

Ayes, 14: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Noes, 34: Representatives Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai and Waters.

Excused, 3: Representatives Abinsay, Stonebraker and Tamayo.

Main Motion:

The Chair then stated:

"The floor amendment has failed, Members, so we are back to the main motion. Any discussion for those Members who have not spoken on the main motion at this time? The Chair was very accommodating in allowing Members to speak on the earlier motion."

At this time the Chair called for a roll call vote and by unanimous consent, the roll call was approved.

Roll call having been approved, the motion to override the veto of S.B. No. 255, SD 2, HD 1, CD 1, entitled, "A BILL FOR AN ACT RELATING TO AGRICULTURE," as contained in Gov. Msg. No. 470 was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes and Noes:

Ayes, 34: Representatives Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai and Waters.

Noes, 14: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Excused, 3: Representatives Abinsay, Stonebraker and Tamayo.

At 7:47 o'clock p.m., the Chair noted that the motion to override the veto of the S.B. No. 255, SD 2, HD 1, CD 1, as contained in Gov. Msg. No. 470 was carried, and since the override of this bill was approved by two-thirds vote of all the members to which each house is entitled, pursuant to Article III, Section 17 of the Hawaii State Constitution, said measure shall become law.

#### SENATE COMMUNICATION

The following Senate Communication (Sen. Com. No. 833) was announced by the Clerk:

Sen. Com. No. 833, informing the House that the Senate has reconsidered S.B. No. 768, SD 1, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 2, 2003, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Representative Saiki moved to override the veto of S.B. No. 768, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 472, seconded by Representative Lee.

Representative Fox rose to speak in opposition to the motion, stating:

Thank you, Mr. Speaker. In opposition. Mr. Speaker, two years ago this Body approved a bill that would give public employees the right to strike, and it was subject to a great deal of debate. It passed by a vote of 43 to 7. Many of the Members here were present at that time. One of them, the Representative from Wahiawa who at that time was the House Majority Leader. He said that the bill also returns to public employees the right to strike and restores the equilibrium between management and labor that was so recently and obviously lacking. Act 208, Session Laws of Hawaii 1995, provided for binding arbitration for essentially all employees belonging to the Hawaii Government Employees Association. But what sounded good then, ultimately proved to be both unworkable and unbalanced. Unworkable because no Legislature can be constitutionally bound to an agreement between two outside parties without its expressed authorization. And unbalanced because workers give up potent bargaining leverage in exchange for an arbitration process that was anything but binding and final. Therefore, S.B. 1096, restores that balance and leverage to our public employers and employees.

"Mr. Speaker, we convene here today, 52 days after the Council on Revenues has told us that we are badly out of balance in our budget. If you look experience of 'right to strike' and how it operates in the private sector, 'right to strike' is truly inhibited by the financial condition of the employer. And situations where the employer is solvent and flush, unions go in and strike and obtain wage increases based on the ability of the employer to pay. In situations where the employer is in bad shape, on the verge of bankruptcy, a strike in that situation can run the company out of business, and basically cost the workers their job. So the 'right to strike' provides for a real measurement of ability to pay.

"Mr. Speaker, as a supporter of S.B. 1096, two years ago, you are all too aware of how the binding arbitration process gets us away from really measuring settlement based on ability to pay. And that's extremely relevant to the current circumstances where we clearly don't have the ability to pay.

"I will tell you Mr. Speaker, in principle I support binding arbitration. But what we have to do is we have to adjust the way the balance is between the parties in binding arbitration.

Right now it is 'out of whack'. Ability to pay is not really a factor in the wage settlements and the State can be crippled by an arbitrator, forcing a settlement on the State of Hawaii at a time when we don't have the funds. Let's use the period between now and next May to fix an arbitration settlement that is a truly negotiated ability to provide both employer and employee fair treatment under arbitration, and not go back to the previous situation that the former Majority Leader so articulately described on this very floor two years ago. Thank you, Mr. Speaker."

Representative Shimabukuro rose to speak in support of the motion, stating:

"I rise in favor. Mr. Speaker, a public worker strike is disastrous for the poor, the homeless and the indigent. For those receiving State assistance, whether it be unemployment, disability, welfare, or other types of subsidies, it is extremely critical that they receive these assistance on a timely basis. If a public worker strike delays the processing of applications, many who currently live from pay check to paycheck and rely on public assistance to supplement their income, may have to choose between feeding their children or paying the rent. This situation has the potential of increasing our already growing homeless problem and vastly exacerbating suffering and hardship of our most fragile populations. Thank you."

Representative Caldwell rose to speak in support of the motion, stating:

"Mr. Speaker, I rise in support of the override. Mr. Speaker, between 1995 and 2001, there was final and binding arbitration instead of the 'right to strike'. And during that period of time Mr. Speaker, there was one negotiated settlement and two binding arbitration. That wasn't a bad record.

"In 2001, that right to binding arbitration was taken away. Why? I believe, Mr. Speaker, it's because the public employee unions did such a good job in negotiating their position. Arbitration requires each side to be accountable and persuasive before the arbitrators. That's how it works. Each side should enter arbitration prepared, with their attorneys, with their records, with their experts, and with their evidence. Yet in previous arbitrations, arbitrators have cited in their decisions, the employer's failure to support their arguments and position. The employers have to get better in advocating their position and negotiating their side of the contract. That's how it works in the private sector Mr. Speaker, in binding arbitration. And both sides come very prepared.

"The law holds arbitrators accountable for their decisions, and they must weigh each of 10 factors in reaching their decision. Some of these factors, Mr. Speaker include: the interest and welfare of the public; the financial ability of the employer to meet these costs; the present and future general economic condition of the counties and state; and such things as the average consumer prices for goods and services, commonly known as the Consumer Price Index, or the Cost of Living Index. These factors assure the objectivity and neutrality of the arbitrators, Mr. Speaker.

"Despite the Governor's assurance in her veto message, a strike by the public employees unions would have a devastating effect on our State at this time, both on its citizens and its employers. The last strike, Mr. Speaker, almost shut down our real estate industry and our lending industry. This is one of the few bright spots in our economy today. In fact, it is the brightest spot. Reinstating final and binding arbitration will ensure that government services continue, Mr. Speaker. This override serves the best interest of our State and I urge our Members, all of us, on both side of the aisle, to support the override. Thank you very much, Mr. Speaker."

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

Thank you, Mr. Speaker. I wish to speak in favor of the override. Mr. Speaker and Members, if you recall, I spoke against the repeal of binding arbitration in 2001. I felt that binding arbitration is the new modern method in negotiations, where you do not put the public at risk, and at the same time you provide for a continuum of services, especially in this State of Hawaii.

"The State of Hawaii, unlike many other states, practically all the other states in the nation, is central in that most of the services that State and the county enjoy are from the State of Hawaii. From the State. It's run from the State. So any strike can be devastating because it will effect every facet of our life, just about. From health, water, sewage, real estate, business, regulations, all of this, all with government employees. Almost every facet of our life. Again it can be devastating.

"But what I enjoy about this even more so, is that the Members of this House, the leadership, you Mr. Speaker, the Chairman of Labor, and the Finance Chair, all had the wisdom and the guts to change what they did after they found out that possibly we erred and we should correct it. And it takes one with guts and substance to admit that. And to come and rectify, I believe, a wrong. And this is to your credit that you've had the ability and the strength to do this. For this, I thank you, Mr. Speaker."

The Chair then recognized Representatives Evans, followed by Representative Moses.

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

The Chair addressed the Members, stating:

"Okay, before we call for the question, I'll allow the Members of the House to insert written comments into the Journal. Representative Evans, would you like to submit written comments into the Journal, because the question has been called by the Minority Leader."

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

Representative Evans' written remarks are as follows:

"I support the override. As a Representative, my job is to represent the people in my district and vote on issues that impact the entire State. I take this responsibility very seriously. It is my job to listen to people, consider different viewpoints, and vote for what is best for the people.

"As you know, I voted no on this measure on Third Reading. My decision was based on my previous education and experiences and the debate on the floor of the House. I am not a member of any of the Committees that heard testimony on the bill. As a union steward in the early 70s, I watched the collective bargaining process, helped to organize the strike vote, and felt it was a good way to get the union's position taken seriously. I was a member of AFL-CIO and worked for MA BELL, or AT&T, before its divestiture in the early 80s. I attended classes and seminars on labor negotiations. At one time I thought I wanted a career in labor relations.

"During the floor debate on May 1, I was surprised at the overwhelming support of the bill by the Majority members and some of the Minority members. I listened to the debate but felt

that right to strike was still a reasonable way to deal with impasse.

"When the Governor vetoed the measure and the discussion of a possible Special Session began, I became aware that this bill was being considered. The bill did get overwhelming support by both houses.

"At this point I decided to reconsider my vote. Committed to thoroughly understanding the issue, I listened to people who called me and sent emails, looked up reports on the internet discussing binding arbitration, read testimony submitted to the Labor Committee, talked to people in my district, and asked a lot of questions. What I concluded is that binding arbitration is considered a modern approach to dealing with impasse. People believe binding arbitration is a reasonable alternative for dispute resolution. Changing the current process of handling an impasse in collective bargaining from right to strike to binding arbitration takes away unfair advantage by political forces, ensures continuation of public services, and acknowledges that the workers and the economy cannot afford a strike.

"We have heard the arguments that binding arbitration will guarantee salary increases, and the financial condition of the state is not a factor in the decision. This is not true. A neutral third party listens to the positions of the parties including financial condition of the state. I quote from Chapter 89-11, Resolution of disputes; grievances; impasses. "In reaching a decision, the arbitration panel shall give weight to the factors listed below and shall include in a written opinion an explanation of how the factors were taken into account in reaching the decision: ..." I will only quote numbers 4 and 5 from a list of ten factors. "(4) The financial ability of the employer to meet these costs. (5) The present and future general economic condition of the counties and the State."

"I reached my decision taking into account:

1. Arbitration panels bring to the negotiations a neutral expertise, which is well suited for determining the concrete, particularized issues which arise during negotiations.
2. Binding arbitration avoids strikes, labor unrest, and disruption of services to the public.
3. Binding arbitration is a modern and reasonable way to settle collective bargaining impasses without public employees going out on strike.

"Finally, part of our job is to amend law as our community changes and the conditions under which we live change. This bill is another example of change."

Representative Moses rose, stating:

"Sorry, Mr. Speaker. Am I not allowed to state my position when I was already trying to rise several times before the call for the question?"

The Chair responded, stating:

"Representative Moses, the question has been called and the Chair has allowed you to submit your written comments for or against the override at this point. I have already made my decision in regards with Representative Evans, so would you follow through as far as stating your position, for or against the override ..."

Representative Moses: "I rise in opposition. I will address my comments in the record. But I have one point of inquiry, Mr. Speaker."

Speaker Say: Representative Moses, I will not allow this inquiry at this point because the question has been called. I'm sorry."

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

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

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

Representative Jernigan's written remarks are as follows:

"The purpose of this bill is to amend section 89-11(d), Hawaii Revised Statutes, to restore binding arbitration as the impasse resolution mechanism in labor contract disputes involving government workers in bargaining units 2, 3, 4, 6, 8, and 13.

"If enacted, this bill would repeal these workers' right to strike, which had been reinstated as the impasse resolution mechanism by Act 90, Session Laws of Hawaii 2001, after six years of experience with binding arbitration.

"Public worker strikes inconvenience the public, and are hard on public workers and their families. Elected officials and labor leaders all have a strong incentive to avoid them. In short, public worker strikes are a no-win proposition.

"Because binding arbitration is one way to avoid even the possibility of a public worker strike, it has some appeal as an impasse resolution mechanism. Experience has demonstrated, however, that binding arbitration does not work as well in practice. We have learned that having binding arbitration to fall back on tends to lessen the incentive public worker union leaders and government employers otherwise have to engage in meaningful negotiation and good faith collective bargaining. One apparent reason is a universal expectation that arbitrators will "split the baby," choosing a number somewhere between the last offers of the two sides. This has had a perverse effect of encouraging both sides to take extreme positions, making negotiated settlements that exception rather than the rule.

"Under the system of binding arbitration, recent negotiations often have been effectively replaced by decisions of third-party arbitrators. This has dramatically reduced accountability of union leaders and public officials.

"Not having the safety net of binding arbitration forces both sides to get serious, stay focused, and negotiate in good faith. It also forces them to be accountable for position taken, and for end results.

"Reasonable settlements seem more likely to result when the alternative is a strike. Public officials must balance the ability to maintain a well-paid workforce against other government priorities and public resources. Unlike outside arbitrators, the Governor and mayors must keep all these interests in mind and then be accountable to the public. With binding arbitration, arbitrators make what amounts to the final call, and they do so with virtually no accountability.

"The Legislature's concern regarding the impact a strike would have on the provision of necessary governmental services is alleviated by the fact that most employees involved in public safety services, (i.e., health care, police protection, firefighting, and corrections) maintain their rights to binding arbitration.

"Binding arbitration as provided for in this bill would not be in the best interest of the State, counties and the public."

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

Representative Ontai's written remarks are as follows:

"Talk about indecisiveness! This important policy stance--whether to allow unions to strike or whether to allow binding arbitration--shows the fickleness of politics. Having come from a union family, this fickleness is silly. I believe the Union's don't know the "catch." The catch is that "binding arbitration" is not really binding, since some, if not most, know that the legislature must approve the money. Avoiding a strike motivates both sides, since a strike means that both sides lose. Binding arbitration, on the other hand, means that one side always wins if it stalls the negotiations."

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

Representative Leong's written remarks are as follows:

"Mr. Speaker, I am opposed to this override. In general, I support the right to strike as a basic right. Because of my background as a former teacher, we were subjected to those in favor of binding arbitration versus the right to strike. My peers and myself were of the opinion that our management and bargaining units were more in tune to the issues at hand, and would be in a better position to negotiate to the benefit of both sides. We felt that an arbitrator acted more as a referee calling the fouls rather than having an in-depth knowledge of the salient points of our concerns.

"I voted in 2001 for the bill reinstating some public employees' right to strike, and I stand by my feelings today. Thank you."

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

Representative Wakai's written remarks are as follows:

"Mr. Speaker, labor negotiations are all about trust ... The opposition to this veto override is all about mistrust.

"Some are questioning the integrity of unions by assuming they would try to bleed the government.

"But look at what happened this year, HGEA, UPW, and HSTA did bargain in good faith.

"They did not demand a raise and agreed not to strike.

"The unions realized there is very little money in the pot and were willing to sacrifice for the good of the state.

"Who benefits? The People.

"The public demands services and we shouldn't allow government to shut down.

"Hawaii's public sector employees deserve a fair wage and this is a fair compromise.

"Thank you, Mr. Speaker."

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

Representative Bukoski's written remarks are as follows:

"I voted in favor of this measure during the Regular Session because from a philosophical standpoint, I support many aspects that may be realized from binding arbitration as opposed to the method of striking to address labor-related concerns and disputes. The community as a whole I believe can benefit from binding arbitration as it would allow for uninterrupted service to the community and well being to the employees. However, some aspects of the bill under consideration offer concern. The idea of binding arbitration arose out of the mistreatment of essential workers, who in the past have had no method of addressing labor concerns and grievances, such as strike. This bill does not include any reference to essential workers as the trigger for such arbitration. Furthermore, I agree with the Governor's veto message that such mandates, although good in its intent, do not offer itself for fair and reasonable negotiations, based not only on the concerns and demands of the bargaining unit, but the State's ability to pay the agreed and arbitrated settlement.

"I support the Governor's efforts to convene a committee to address and offer suggestions and/or amendments to the current guideline and rules of arbitration that would allow for a more even playing field between the State and said bargaining unit. I have requested and have been guaranteed a seat at the table when this said committee convenes and discusses these issues. I will vow to work in the best interest of all parties involved to ensure that a sensible and fair middle ground be found. I am optimistic that with cooperation from all parties, this objective can be realized."

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

Representative Ching's written remarks are as follows:

"Mr. Speaker, I rise today in opposition to Senate Bill 768, Relating to Collective Bargaining. Public worker strikes inconvenience the public, and are hard on public workers and their families. Elected officials like ourselves, and labor leaders all have strong incentives to avoid them. In short, public worker strikes are no-win situations.

"Because binding arbitration is one way to avoid even the possibility of a public worker strike, it has some appeal as an impasse resolution mechanism. Experience has demonstrated, however, that binding arbitration does not work as well in practice. We have learned that having binding arbitration to fall back on tends to lessen the incentive public worker union leaders and government employers otherwise have to engage in meaningful negotiation and good faith collective bargaining. One apparent reason is a universal expectation that arbitrators will "split the baby," choosing a number somewhere between the last offers of the two sides. This has had the perverse effect of encouraging both sides to take extreme positions, making negotiated settlements the exception rather than the rule.

"Under a system of binding arbitration, recent negotiations often have been effectively replaced by decisions of third-party arbitrators. This has dramatically reduced accountability of union leaders and public officials.

"Not having the safety net of binding arbitration forces both sides to get serious, stay focused, and negotiate in good faith. It also forces them to be accountable for positions taken, and for end results.

"Reasonable settlements seem more likely to result when the alternative is a strike. Public officials must balance the ability to maintain a well-paid workforce against other government priorities and public resources. Unlike outside arbitrators, the Governor and mayors must keep all these interests in mind and then be accountable to the public. With binding arbitration, arbitrators make what amounts to the final call, and they do so with virtually no accountability.

"Our Legislature's concern regarding the impact of a strike would have on the provision of necessary governmental services is alleviated by the fact that most employees involved in public safety services (i.e., health care, police protection, firefighting, and corrections) maintain their rights to binding arbitration.

"The Governor is optimistic that should the appropriate modifications and limitations be agreed upon by herself and the four county mayors, binding arbitration perhaps could be extended to other government workers in ways that would provide beneficial to the affected workers, their government employers, and the public. Binding arbitration as provided for in this bill, however, would not be in the best interests of the State, the counties, or the public.

"For these reasons Mr. Speaker, I will be opposing a veto override of Senate Bill 768."

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

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

"Thank you, Mr. Speaker. I'd like the word of the Speaker Emeritus to be entered in the Journal as if they were my own. In addition, by reference, my comments made previously on this bill during the Regular Session. Thank you," and the Chair, "so ordered." (By reference only.)

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

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

"During the debate in overriding Governor Lingle's veto of the mandatory arbitration bill, Minority Leader Fox, loudly proclaimed that in May of 2001, I supported the repeal of mandatory arbitration and reinstating the "right to strike" for Hawaii's public workers. But, while this is true, he cleverly fails to mention the concurrent repeal of the "essential worker" provisions that I also supported. He also fails to mention how the subsequent Terrorist Attacks of September 11, 2001 caused me to reconsider and change my position. These are the facts, plain and simple.

"First, like most people, the events of September 11, 2001 dramatically affected my view of the importance of our public workers in providing many essential services that heretofore we did not fully appreciate. Suddenly, we saw our Firefighters, Police, and Emergency Medical Technicians as the true heroes they always were. In the anxious days following the terrorist attacks, we began to experience how interconnected we are as a community and how essential public workers are to restoring a sense of calm and insuring normalcy in our everyday lives. The thousands of public workers were the ones to insure our ports, our borders, our water and food supply, and our skies were guarded and protected. I, like many others, did not comprehend the breadth and scope of government services we might individually deem "essential" to our own personal health,

safety, and welfare. Now, it seems inconceivable that anyone would accept the risk that any Lifeguard, 911 Operator, Building Permit Clerk, Police Dispatcher, Agricultural Inspector, Water Purity Monitor, Airport Ramp Operator, Bio-Chemist, Sex Abuse Counselor, Deputy Sheriff, Meat Inspector, Welfare Income Specialist, Microbiologist, UH Records Clerk, Radiological Planner, Bureau of Conveyance Clerk, or HAZMAT Coordinator, may leave their post for a strike picket-line when impasse can be settled without endangering the public or disrupting commerce. Imagine, these 6 Bargaining Units, 2, 3, 4, 6, 8, and 13, numbering about 24,000 workers or nearly 40% of the State's workforce out on strike. Imagine the chaos and endangerment. Mandatory Arbitration protects the public interest, and prevents this threat from ever arising.

Second, three years ago, the Cayetano Administration, the Legislature, the public unions, and the private sector worked together to modernize Hawaii's antiquated civil service and collective bargaining laws and fashion a fair compromise on how government should hire, compensate, and manage their workers. To effectuate such massive change, it was necessary for both labor and management to compromise on how the laws should be revised. An important "trade off" involved mandatory arbitration and "essential worker" provisions, or laws that barred certain employees from striking because their jobs impacted the health, welfare, and safety of the community. To make civil service reform work, the public sector unions agreed to give up mandatory arbitration and in turn, the State and county governments agreed to eliminate the "essential worker" provisions. This *quid pro quo* was praised by many as both rationale and fair. After all, how effective can a strike be when an employer could compel a striking worker back to work by deeming him or her "essential"? How meaningful would this "right to strike" be if only some workers are allowed to strike? In 1994, public workers learned that the "right to strike" was meaningless where an employer could compel nearly one-in-four striking workers back to the job without a new contract. Earlier this year, however, the Governor sought to reinstate the "essential worker" provisions, yet retain the "right to strike" provisions in place. The Governor wanted to have the best of both worlds -- the continued provision of government services during impasse by declaring workers "essential" but without the opportunity for impasse to be settled through mandatory arbitration. This would be blatantly unfair to public workers and upset the balance between employers and employees. If a government service is deemed "essential" doesn't it support the restoration of binding arbitration to avoid any disruption of service?

"Finally, much misinformation has been broadcasted about a so-called, lack of accountability over arbitrators and their awards. Lazy journalism or unrealistic deadlines fail to reveal the truth. The truth is both the Governor and Legislature, in varying degrees, have the responsibility for oversight of any arbitration award and its ultimate funding or rejection. Neither Governor nor Legislature should be a "rubber stamp" and each can review and scrutinize the arbitrator's decision. Woe to any arbitrator or panel that fails to consider the State's fiscal realities, strays from the 10 statutory factors contained in Chapter 89, HRS, or submits a written award without basis in law or fact. Arbitration awards are not sacrosanct and both Legislature and Governor must be kept accountable.

"First, bear in mind that the Governor enters into arbitration only after the Governor and Union have failed to mutually settle the contract and are in impasse. In fact, except for wages, most contract terms and conditions are settled amicable. Second, both the Governor and Union must jointly select a single arbitrator or each can select their own arbitration panel member and another is selected by mutual consent. Third, the Governor remains immersed in the arbitration process through

the State's Chief Negotiator and greatly influences the outcome. Ask anyone involved in the process if the Governor is involved and you will get a resounding "yes, yes, yes". Governor Ariyoshi, who Governor Lingle seems impressed with, actively kept involved in the process and Governor Cayetano shrewdly used his veto power and unilaterally leveraged public union concessions. Finally, it is the Governor who after reviewing the written decision recommends the amount of funding to the Legislature. Since I spoke to this during the May 1, 2003 debate on the same measure, by reference I incorporate the same into these remarks.

"Once in the Legislature's "court", the arbitration award, now an appropriation bill must pass through the public hearing process, Budget and Finance analysis, Attorney General review, and receive House and Senate approval before becoming law. The arbitration award must compete against all other needs, interests, Governor, and Legislative priorities. It faces the same affects of revised economic reports, revenue projections, and emergency requests as any other bill. The "power of the purse" is not turned over to anyone. And, like any funding bill, it faces the Governor's veto should post-session fiscal conditions weigh-in against its funding. In this sense, the Governor, as a party to the arbitration process has "a second bite at the apple". In fact, Senate Bills 1443 and 1444, are proof of the Legislature's over-sight control wherein it passed both Chambers nearly unanimously. It was not a partisan vote as all House Republicans voted for these awards. Likewise, the Governor did not take a "second bite" at the Firefighters or Nurse's arbitrated awards and approved both pay rise bills as Acts 143 and 144.

"Like most people, the events of September 11, 2001 have increased my appreciation for my government and for our public workers. No longer can we take for granted the important services they provide. In fact, any strike by our public employees would immediately impose devastating affects upon the health, safety, and welfare of our people. As such, it is my sincere belief that the benefit to the public of restoring binding arbitration far exceeds the costs and risks of a strike. Furthermore, the "power of the purse" remains with the Legislature and the Governor's role in contract-talks and arbitration proceedings cannot be over-looked nor undervalued. A Governor's veto powers trump any renegade arbitration award. For details, I would consult with former Governor Cayetano.

"Under binding arbitration, the public's fiscal interest along with the health, safety, and welfare of the community are insured and protected. Restoring binding arbitration makes sense to me. I am voting "aye". Thank you, Mr. Speaker."

At this time the Chair called for a roll call vote and by unanimous consent, the roll call was approved.

Roll call having been approved, the motion to override the veto of S.B. No. 768, SD 1, HD 2, CD 1, entitled, "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," as contained in Gov. Msg. No. 472 was put to vote by the Chair and carried, and was approved by the required two-thirds vote of the House pursuant to Section 17 of Article III of the Constitution of the State of Hawaii on the following show of Ayes and Noes:

Ayes, 34: Representatives Arakaki, Caldwell, Chang, Evans, Hale, Hamakawa, Herkes, Hiraki, Ito, Kahikina, Kaho'ohalahala, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Mindo, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takai, Takamine, Takumi, Wakai and Waters.

Noes, 14: Representatives Blundell, Bukoski, Ching, Finnegan, Fox, Halford, Jernigan, Leong, Marumoto, Meyer, Moses, Ontai, Pendleton and Thielen.

Excused, 3: Representatives Abinsay, Stonebraker and Tamayo.

At 8:03 o'clock p.m., the Chair noted that the motion to override the veto of the S.B. No. 768, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 472 was carried, and since the override of this bill was approved by two-thirds vote of all the members to which each house is entitled, pursuant to Article III, Section 17 of the Hawaii State Constitution, said measure shall become law.

The Chair then stated:

"At this time Members, we will have a short recess to greet our Senate counterparts."

At 8:03 o'clock p.m., the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 8:10 o'clock p.m.

#### SENATE COMMUNICATION

At this time, the Chair recognized the Clerk, who announced:

"I am in receipt of Senate Resolution No. 2, personally delivered by the Senate, informing the House and the Governor that the Senate is ready to adjourn sine die. This resolution has been adopted on this date."

#### INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 1 and 2, Special Session, 2003) were announced by the Clerk and the following action taken:

H.R. No. 1, Special Session 2003, entitled: "HOUSE RESOLUTION AUTHORIZING THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPROVE THE JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 1ST LEGISLATIVE DAY," was offered by Representative Say.

On motion by Representative Saiki, seconded by Representative Lee and carried, H.R. No. 1, Special Session 2003 was adopted with Representatives Abinsay, Blundell, Jernigan, Meyer, Pendleton, Ontai, Stonebraker and Tamayo being excused.

H.R. No. 2, Special Session 2003, entitled: "HOUSE RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOUSE OF REPRESENTATIVES, SPECIAL SESSION OF 2003, PURSUANT TO RULE 18 OF THE RULES OF THE HOUSE OF REPRESENTATIVES," was offered by Representative Say.

On motion by Representative Saiki, seconded by Representative Lee and carried, H.R. No. 2, Special Session 2003 was adopted with Representatives Abinsay, Blundell, Jernigan, Meyer, Pendleton, Ontai, Stonebraker and Tamayo being excused.

#### ANNOUNCEMENTS

Representative Marumoto: "I yield to Representative Arakaki."

Representative Arakaki: "Mr. Speaker. *Aloha keia ahiahi kakou.* Mr. Speaker, at an appropriate time, I'd like to request a moment of silence for Linda Kawai'ono Delaney. Not so much because she was my office manager, but more because she was a well-known activist, advocate and scholar in the Hawaiian community."

Representative Marumoto: "I would not like to adjourn without mentioning the passing of Linda Delaney. She was employed here in the Capitol for 25 years. As long as I think, I've been here. She did take a few years off to work for the Office of Hawaiian Affairs.

"Linda was a great writer. And this is kind of dating myself to mention this story, but she used to work in our Caucus room since she worked for the Minority Floor Leader at one time. And my memory of her is writing on a typewriter, this was a very long time ago, with a cigarette dangling out of the corner of her mouth. Things have changed quite a bit since then.

"She was very concerned about humanity and passionate about Hawaiian issues. Her eloquence and quiet presence will be missed. Thank you."

Representative Moses: "Thank you, Mr. Speaker. I also would like to ask for a moment of silence for the passing of Mrs. Bernie Foley, the beloved wife and very caring woman who is the wife of my office manager, Mr. Mike Foley. She was a very sincere, caring individual who we all miss very much. Thank you, Mr. Speaker."

Representative Chang: "Mr. Speaker and Members. One of our former colleagues, John Medeiros, had open heart surgery and he is in the critical care unit at Queen's Medical Center."

At this time, the House of Representatives stood for a moment of silence to observe the passing of Ms. Linda Delaney and Mrs. Bernadette Foley.

#### ADJOURNMENT

Representative Saiki moved that the House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Special Session of 2003, adjourn sine die, seconded by Representative Lee.

The motion was put to vote by the Chair and carried, and at 8:15 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the State of Hawaii, Special Session of 2003, adjourned sine die. (Representatives Abinsay, Blundell, Jernigan, Meyer, Pendleton, Ontai, Stonebraker and Tamayo were excused.)



**HOUSE COMMUNICATION**

House Communication dated July 8, 2003, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Linda Lingle, Governor of the State of Hawaii as follows:

"July 8, 2003

The Honorable Linda Lingle  
Governor, State of Hawaii  
Executive Chambers  
State Capitol, Fifth Floor  
Honolulu, Hawaii 96813

[This portion left intentionally blank.]

RE: Special Session, 2003

Dear Governor Lingle:

Transmitted herewith is a copy of the document certifying that on July 8, 2003, pursuant to Section 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, 2003 Special Session, reconsidered House Bill No. 282, HD2, SD1, CD1, heretofore vetoed as set forth in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled.

In addition, copies of House Bill No. 282, HD2, SD1, CD1, designated as Act 004 of the 2003 Special Session are enclosed.

Sincerely,

/s/ P. Mau Shimizu  
PATRICIA MAU-SHIMIZU  
Chief Clerk  
Hawaii State House

Enclosures"

**SENATE COMMUNICATION**

Sen. Com. No. 834, informing the House that the Senate has reconsidered H.B. No. 282, HD 2, SD 1, CD 1, which had been vetoed in a Governor's Message dated July 2, 2003, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

[This portion left intentionally blank.]

**TRANSMITTED TO THE GOVERNOR**

The following Senate and House bills from Robert Bunda, President of the Senate and Paul K. Kawaguchi, Clerk of the Senate; and Calvin K.Y. Say, Speaker of the House of Representatives and Patricia Mau-Shimizu, Clerk of the House, were transmitted to the Governor, certifying that pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Senate and the House of Representatives on July 8, 2003, has reconsidered said measures heretofore vetoed, and approved said bills by an affirmative vote of two-thirds of all the members to which each house is entitled. Said bills have been designated as Acts 1 through 6, Special Session of 2003 as follows:

S.B. No. 317, SD2, HD1, CD1 as Act 1, Special Session 2003  
S.B. No. 745, SD2, HD2, CD1 as Act 2, Special Session 2003  
S.B. No. 1305, SD1, HD1, CD1 as Act 3, Special Session 2003  
H.B. No. 282, HD2, SD1, CD1 as Act 4, Special Session 2003  
S.B. No. 255, SD2, HD 1, CD1 as Act 5, Special Session 2003  
S.B. No. 768, SD1, HD2, CD1 as Act 6, Special Session 2003



ACT: **2**  
 Approved: **H 24**  
 THE SENATE  
 TWENTY-SECOND LEGISLATURE, 2003  
 STATE OF HAWAII  
**NET**  
 S.B. NO. 745  
 S.D.2  
 H.D.2  
 C.D.1  
**A BILL FOR AN ACT**

RELATING TO EMERGENCY MEDICAL SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I  
 2 SECTION 1. Section 321-222, Hawaii Revised Statutes, is  
 3 amended by adding a new definition to be appropriately inserted  
 4 and to read as follows:  
 5 "Emergency aeromedical services" means a secondary  
 6 response system that provides immediate critical care and  
 7 transport by rotary-wing aircraft of a patient to a facility  
 8 that provides specialized medical care."  
 9 SECTION 2. Section 321-224, Hawaii Revised Statutes, is  
 10 amended by amending subsection (a) to read as follows:  
 11 "(a) In addition to other functions and duties assigned  
 12 under this part, the department shall:  
 13 (1) Regulate ambulances and ambulance services;  
 14 (2) Establish emergency medical services throughout the  
 15 State, including emergency aeromedical services, which  
 16 shall meet the requirements of this part, subject to  
 17 section 321-228;

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S.B. NO. 745  
 S.D.2  
 H.D.2  
 C.D.1

1 (3) Review and approve the curricula and syllabi of  
 2 training courses offered to emergency medical services  
 3 personnel who provide basic, intermediate, and  
 4 advanced life support, consult and coordinate with the  
 5 University of Hawaii, or any other accredited  
 6 community college, college, or university, or any  
 7 professional organization that provides emergency  
 8 medical services training, regarding the training for  
 9 basic, intermediate, and advanced life support  
 10 personnel, as provided in section 321-229;  
 11 (4) Collect and evaluate data for the continued evaluation  
 12 of the state system, subject to section 321-230;  
 13 (5) Coordinate emergency medical resources and the  
 14 allocation of the state system's services and  
 15 facilities in the event of mass casualties, natural  
 16 disasters, national emergencies, and other  
 17 emergencies, ensuring linkage to local, state, and  
 18 national disaster plans, and participation in  
 19 exercises to test these plans;  
 20 (6) Establish, administer, and maintain a communication  
 21 system for the state system;

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 S.D.2  
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1 (7) Assist each county in the development of a "911"  
 2 emergency telephone system;  
 3 (8) Secure technical assistance and other assistance and  
 4 consultation necessary for the implementation of this  
 5 part, subject to section 321-230;  
 6 (9) Implement public information and education programs to  
 7 inform the public of the state system and its use, and  
 8 disseminate other emergency medical information,  
 9 including appropriate methods of medical self-help and  
 10 first-aid, and the availability of first-aid training  
 11 programs in the State;  
 12 (10) Establish standards and provide training for  
 13 dispatchers in the state system, and maintain a  
 14 program of quality assurance for dispatch equipment  
 15 and operations;  
 16 (11) Establish a program that will enable emergency service  
 17 personnel to provide early defibrillation;  
 18 (12) Establish within the department the emergency medical  
 19 service system for children;  
 20 (13) Consult with the advisory committee on matters  
 21 relating to the implementation of this part; and

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1 (14) Establish and maintain standards for emergency medical  
 2 services course instructor qualifications and  
 3 requirements for emergency medical services training  
 4 facilities."  
 5 SECTION 3. Section 321-228, Hawaii Revised Statutes, is  
 6 amended to read as follows:  
 7 "§321-228 Emergency medical services; counties. eThe  
 8 department [of health] shall determine, in consultation with the  
 9 advisory committee under section 321-225, the levels of  
 10 emergency medical services [which] that shall be implemented in  
 11 each county. The department [of health] may contract to provide  
 12 emergency medical services, including emergency aeromedical  
 13 services, or any necessary component of a county emergency  
 14 services system in conformance with the state system. In the  
 15 event any county shall apply to the department to operate  
 16 emergency medical ambulance services within the respective  
 17 county, the department [of health] may contract with the county  
 18 for the provision of [such] those services. The department  
 19 shall operate emergency medical ambulance services or contract  
 20 with a private agency in those counties which do not apply to it  
 21 under this section. Any county or private agency contracting to  
 22 provide emergency medical ambulance services under this section

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1 shall be required by the department to implement [each] those  
2 services in a manner and at a level consistent with the levels  
3 determined under this section."

4 SECTION 4. Section 321-230, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§321-230 Technical assistance, data collection,  
7 evaluation. (a) The department [of health] may contract for  
8 technical assistance and consultation, including but not limited  
9 to categorization, data collection, and evaluation appropriate  
10 to the needs of the state system. The collection and analysis  
11 of statewide emergency medical services data, including  
12 pediatrics, trauma, cardiac, medical, and behavioral medical  
13 emergencies, (a) shall be for the purpose of improving the  
14 quality of services provided.

15 The department [of health] may implement and maintain a  
16 trauma registry for the collection of information concerning the  
17 treatment of critical trauma patients at state designated trauma  
18 centers, and carry out a system for the management of that  
19 information. The system may provide for the recording of  
20 information concerning treatment received before and after a  
21 trauma patient's admission to a hospital or medical center. All  
22 state designated trauma centers shall submit to the department

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1 of health periodic reports of each patient treated for trauma in  
2 the state system in such manner as the department shall specify.

3 For the purposes of this [section] subsection,  
4 "categorization" means systematic identification of the  
5 readiness and capabilities of hospitals and their staffs to  
6 adequately, expeditiously, and efficiently receive and treat  
7 emergency patients.

8 (b) The department shall establish, administer, and  
9 maintain an aeromedical emergency medical services system  
10 designed to collect and analyze data to measure the efficiency  
11 and effectiveness of each phase of an emergency aeromedical  
12 program.

13 The aeromedical emergency medical services system shall  
14 serve the emergency health needs of the people of the State by  
15 identifying:

- 16 (1) The system's strengths and weaknesses;
- 17 (2) The allocation of resources; and
- 18 (3) The development of rotary-wing emergency aeromedical  
19 services standards;

20 provided that emergency helicopter use, including triage  
21 protocols, shall be based on national aeromedical triage and  
22 transport guidelines established by the Association of Air

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1 Medical Services, the American College of Surgeons and the  
2 National Association of Emergency Medical Service Physicians.  
3 The department, in the implementation of this subsection, shall  
4 plan, coordinate, and provide assistance to all entities and  
5 agencies, public and private, involved in the system.  
6 (c) The department shall use an emergency aeromedical  
7 services quality improvement committee comprised of  
8 representatives of trauma, emergency, and tertiary care  
9 physicians and providers to analyze information collected from  
10 the aeromedical quality improvement performance measures as  
11 established by the American College of Surgeons, and to  
12 recommend system standards and resources to maintain and improve  
13 the Hawaii emergency aeromedical services system."

PART II

15 SECTION 5. The legislature finds that Hawaii, an island  
16 state, is dependent upon the aeromedical transportation of  
17 patients from neighbor island medical facilities who require  
18 specialized care at tertiary hospitals in Honolulu. The rural  
19 nature of neighbor island communities also requires long ground  
20 transport times to medical facilities with the capability to  
21 stabilize and treat critical medical conditions. An emergency  
22 aeromedical system must assure timely transport of seriously ill

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1 and injured persons to definitive medical facilities based on  
2 national aeromedical standards meeting medical necessity  
3 criteria.

4 In particular, Maui county is in need of emergency  
5 aeromedical services provided by a helicopter aeromedical unit  
6 to complement and augment emergency ground ambulance and fixed-  
7 wing transport services. Residents of the islands of Maui,  
8 Molokai, and Lanai are without an adequate emergency aeromedical  
9 system to meet the American College of Surgeons performance  
10 measure of four hours from the time a serious head injury  
11 patient arrives at the initial receiving facility until arrival  
12 at a facility capable of providing appropriate medical care. In  
13 addition, there is not an adequate measure of the delay from the  
14 time of the trauma or serious illness to arrival at a facility  
15 capable of providing appropriate and potentially life-saving  
16 care.

17 The purpose of this part is to establish for the county of  
18 Maui a helicopter critical care emergency aeromedical service  
19 which operates twenty-four hours a day, and is staffed by  
20 medical personnel to provide rapid transport to appropriate  
21 medical care facilities. Establishment of the emergency  
22 helicopter unit is intended to respond to intra-county

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1 emergencies; integrate ground, rotor, and fixed-wing transport  
 2 with the 911 response system; augment aeromedical services that  
 3 fixed-wing transport cannot provide; and enhance critical  
 4 emergency rapid transport options for seriously, critically ill  
 5 patients especially those from remote areas such as Lanai,  
 6 Molokai, and Hana. It is not the intent of this part to  
 7 supplant existing ground or fixed-wing transport, especially for  
 8 routine or non-time sensitive inter-facility transportation.  
 9 The emergency helicopter unit shall utilize triage protocols to  
 10 ensure the medically appropriate dispatch of the unit.  
 11 Helicopter utilization shall be based on national aeromedical  
 12 triage and transport guidelines as established by the  
 13 Association of Air Medical Services, the American College of  
 14 Surgeons, and the National Association of Emergency Medical  
 15 Services Physicians.

16 SECTION 6. There is appropriated out of the general  
 17 revenues of the State of Hawaii the sum of \$611,500, or so much  
 18 thereof as may be necessary for fiscal year 2004-2005, to fund  
 19 the provision of emergency aeromedical helicopter services for  
 20 the county of Maui; provided that no funds shall be made  
 21 available under this part unless the county of Maui provides  
 22 \$611,500 for the purpose for which this sum is appropriated; and

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1 SECTION 9. Statutory material to be repealed is bracketed  
 2 and stricken. New statutory material is underscored.  
 3 SECTION 10. This Act shall take effect upon its approval;  
 4 provided that sections 6 and 7 of this Act shall take effect on  
 5 July 1, 2003.

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1 provided further that emergency aeromedical helicopter services  
 2 shall use triage protocols and be based on national aeromedical,  
 3 triage, and transport guidelines established by the Association  
 4 of Air Medical Services, the American College of Surgeons, and  
 5 the National Association of Emergency Medical Services  
 6 Physicians.

7 In establishing this service, the department of health is  
 8 encouraged to partner with the county of Maui, health care  
 9 providers, and the private sector, to ensure that this necessary  
 10 service is provided in the most cost efficient manner, utilizing  
 11 all available resources.

12 SECTION 7. There is appropriated out of the general  
 13 revenues of the State of Hawaii the sum of \$388,500, or so much  
 14 thereof as may be necessary for fiscal year 2004-2005, to  
 15 integrate additional ground ambulance services with the  
 16 emergency aeromedical helicopter services.

17 SECTION 8. The sums appropriated in section 6 and 7 of  
 18 this Act shall be expended by the department of health through  
 19 its emergency medical service system for the purposes of this  
 20 Act.

PART III

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S.B. No. 1305, SD1, HD1, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii 96813

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State  
 Constitution, the Senate of the State of Hawaii, on this date reconsidered certain line item  
 appropriations in Senate Bill No. 1305, SD1, HD1, CD1, heretofore vetoed as contained in a  
 Governor's Message dated June 26, 2003, and approved said line item appropriations in said bill  
 by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-second  
 Legislature of the State of Hawaii, Special Session of 2003, is entitled.

*Ronald Tom*  
 President of the Senate  
*Paul J. Campbell*  
 Clerk of the Senate

THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii 96813

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State  
 Constitution, the House of Representatives of the State of Hawaii, on this date reconsidered  
 certain line item appropriations in Senate Bill No. 1305, SD1, HD1, CD1, heretofore vetoed as  
 contained in a Governor's Message dated June 26, 2003, and approved said line item  
 appropriations in said bill by an affirmative vote of two-thirds of all members to which the  
 House of Representatives of the Twenty-second Legislature of the State of Hawaii, Special  
 Session of 2003, is entitled.

*Calvin K. K. Aoy*  
 Speaker, House of Representatives  
*Paula M. ...*  
 Clerk, House of Representatives

ACT: 3 ACT215
THE SENATE APPROVED JUL - 8 2003 S.B. NO. 1305
TWENTY-SECOND LEGISLATURE, 2003 JUL - 8 2003 S.D.1
STATE OF HAWAII H.D.1
G.D.1

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S.B. NO. 1305
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G.D.1

A BILL FOR AN ACT

RELATING TO STATE FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I
SECTION 1. The legislature finds that expenditures from the emergency and budget reserve fund established by section 328L-3, Hawaii Revised Statutes, are needed to meet the emergency economic situation currently facing the State. The legislature determines that the moneys are urgently needed to maintain levels of programs that are essential to the public health, safety, and welfare. The legislature further finds that the grants and subsidies under this Act are in the public interest and serve the public health, safety, and welfare.
PART II
SECTION 2. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$90,000, or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Hale Mahaolu for the personal care program for

The sum appropriated shall be expended by the department of human services for the purposes of this Act.
SECTION 5. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$100,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to the Hawaii Youth Services Network for its Transitional Living Program for Unserved Street Youth.
The sum appropriated shall be expended by the department of human services for the purposes of this Act.
SECTION 6. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for substance abuse services for youth and adolescents, including, but not limited to, preventive services, school education programs, counseling, evaluation, treatment, therapy, family services, case management, recovery services, and substance abuse treatment services, and the coordination of such services.

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G.D.1

disabled or chronically ill frail adults and elders residing in Maui county.
The sum appropriated shall be expended by the department of human services for the purposes of this Act.
SECTION 3. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$200,000; or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, to provide treatment services for child victims of intrafamilial sexual abuse, including psychological treatment and case management services for child victims and their families who are not covered under the child protective services system of the department of human services.
The sum appropriated shall be expended by the judiciary via the children's justice center for the purposes of this Act.
SECTION 4. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$250,000; or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for forensic medical examinations of children in foster custody placements.

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The sum appropriated shall be expended by the department of health, alcohol and drug abuse division, for the purposes of this Act.
SECTION 7. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 2003-2004, for the residential alternative community care program.
The sum appropriated shall be expended by the department of human services for the purposes of this Act.
SECTION 8. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 2003-2004, for the chore services program.
The sum appropriated shall be expended by the department of human services for the purposes of this Act.
SECTION 9. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$150,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for the bridge to hope program, including one position for outreach; provided that if federal funds are made available

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1 to fund any portion of bridge to hope Temporary Assistance to  
2 Needy Families program participant costs, then the sum  
3 appropriated by this section shall be reduced by the amount of  
4 federal funds received, and the state funds that were replaced  
5 by federal funds shall lapse to the emergency and budget reserve  
6 fund.

7 The sum appropriated shall be expended by the University of  
8 Hawaii for the purposes of this Act.

9 SECTION 10. There is appropriated out of the emergency and  
10 budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~<sup>\$0</sup>  
11 or so much thereof as may be necessary for fiscal year ~~2003-2004~~<sup>Line item veto override</sup>  
12 2003-2004, as a grant, pursuant to chapter 42F, Hawaii Revised  
13 Statutes, to Volunteer Legal Services Hawaii for its Na Keiki  
14 Law Center project focusing on protecting the legal rights of  
15 children.

16 The sum appropriated shall be expended by the office of  
17 community services, department of labor and industrial relations  
18 for the purposes of this Act.

19 SECTION 11. There is appropriated out of the emergency and  
20 budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~<sup>\$50,000</sup>  
21 or so much thereof as may be necessary for fiscal year ~~2003-2004~~<sup>Line item veto override</sup>  
22 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised

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[Barcode]

1 Statutes, to fund the continuation of the Kaneohe Community  
2 Family Center's core services, particularly for families that  
3 are low income, unemployed, or underemployed and families of  
4 at-risk youths. Core services include information and referral,  
5 support and self-help, parenting education, family  
6 strengthening, job readiness and career development, and  
7 community leadership.

8 The sum appropriated shall be expended by the department of  
9 human services for the purposes of this Act.

10 SECTION 12. There is appropriated out of the emergency and  
11 budget reserve fund of the State of Hawaii the sum of ~~\$200,000~~<sup>\$50,000</sup>  
12 or so much thereof as may be necessary for fiscal year ~~2003-2004~~<sup>Line item veto override</sup>  
13 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised

14 Statutes, to fund the continuation of the Kuhio Park Terrace  
15 Family Center's core services to low income individuals and  
16 families residing in Kuhio Park Terrace and Kuhio Homes. Core  
17 services include:

- 18 (1) Family strengthening activities such as linking
- 19 families to supportive services, offering parenting
- 20 classes and parent/child activities, and providing
- 21 emergency rental assistance;

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[Barcode]

- 1 (2) Education and life skills support, such as computer
- 2 and literacy classes and training of volunteers;
- 3 (3) Pre-employment activities; and
- 4 (4) Community improvement through community celebrations.

5 The sum appropriated shall be expended by the department of  
6 human services for the purposes of this Act.

7 SECTION 13. There is appropriated out of the emergency and  
8 budget reserve fund of the State of Hawaii the sum of ~~\$300,000~~<sup>\$20</sup>  
9 or so much thereof as may be necessary for fiscal year ~~2003-2004~~<sup>Line item veto override</sup>  
10 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
11 Statutes, for the operation of the Waipahu Community Adult Day  
12 Health Center and Youth Day Care Center pilot project.

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

15 SECTION 14. There is appropriated out of the emergency and  
16 budget reserve fund of the State of Hawaii the sum of ~~\$250,000~~<sup>\$0</sup>  
17 or so much thereof as may be necessary for fiscal year ~~2003-2004~~<sup>Line item veto override</sup>  
18 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
19 Statutes, for the Domestic Violence Clearinghouse and Legal  
20 Hotline for Maui program services.

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[Barcode]

1 The sum appropriated shall be expended by the judiciary,  
2 circuit court of the second circuit, for the purposes of this  
3 Act.

4 SECTION 15. There is appropriated out of the emergency and  
5 budget reserve fund of the State of Hawaii the sum of \$421,000  
6 or so much thereof as may be necessary for fiscal year

7 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised  
8 Statutes, to the Blueprint for Change for the delivery of  
9 diversion services and child protective services to target  
10 families, including the establishment of additional sites for  
11 neighborhood places.

12 The sum appropriated shall be expended by the department of  
13 human services for the purposes of this Act.

14 SECTION 16. There is appropriated out of the emergency and  
15 budget reserve fund the sum of \$150,000 or so much thereof as  
16 may be necessary for fiscal year 2003-2004, pursuant to chapter  
17 103F, Hawaii Revised Statutes, for costs related to homeless  
18 assistance.

19 The sum appropriated shall be expended by the housing and  
20 community development corporation of Hawaii for the purposes of  
21 this Act.

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[Barcode]

SECTION 17. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$500,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, for existing Kalihi area youth service centers; provided that moneys not required by existing Kalihi area youth service centers may be used for other youth service centers in the State.

The sum appropriated shall be expended by the office of youth services for the purposes of this Act.

PART III

SECTION 18. There is appropriated out of the emergency and budget reserve fund the sum of \$700,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to Molokai General Hospital.

SECTION 19. There is appropriated out of the emergency and budget reserve fund the sum of \$90,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Molokai General Hospital for Lamalama Ka 'Ili Community Health Services programs and general operating costs.

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St. Francis Medical Center for the operations of the bone marrow registry.

SECTION 24. There is appropriated out of the emergency and budget reserve fund the sum of \$200,000, or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, to enable the department of health to operate a hospital-based poison center twenty-four hours a day.

SECTION 25. There is appropriated out of the emergency and budget reserve fund the sum of \$75,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to the Maui AIDS Foundation for the case management program.

SECTION 26. There is appropriated out of the emergency and budget reserve fund the sum of \$700,000, or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the Hana Community Health Clinic for its operations and care services for uninsured patients.

SECTION 27. There is appropriated out of the emergency and budget reserve fund the sum of \$1,300,000; or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter

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SECTION 20. There is appropriated out of the emergency and budget reserve fund the sum of \$30,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to Kahuku hospital to fund the costs of emergency room operations, inpatient and outpatient care for the underinsured, medical malpractice insurance, and labor.

SECTION 21. There is appropriated out of the emergency and budget reserve fund the sum of \$675,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the Waianae Coast Comprehensive Health and Hospital Board, Inc., to fund its operations and programs.

SECTION 22. There is appropriated out of the emergency and budget reserve fund the sum of \$250,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, for Wahiea General Hospital to provide indigent care services.

SECTION 23. There is appropriated out of the emergency and budget reserve fund the sum of \$50,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, to the

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103F, Hawaii Revised Statutes, to the department of health to provide resources to nonprofit, community-based health-care providers to care for the uninsured. This appropriation shall pay for providing direct care, which includes primary medical, dental, and mental health care, and may pay for the purchase of prescription drugs. The department of health may distribute moneys on a per-visit basis, taking into consideration need on all islands.

SECTION 28. There is appropriated out of the emergency and budget reserve fund the sum of \$100,000; or so much thereof as may be necessary for fiscal year 2003-2004, as a subsidy pursuant to chapter 42F, Hawaii Revised Statutes, for the Kapiolani Medical Center for Women and Children Sex Abuse Treatment Center master contract.

SECTION 29. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes, for the establishment of an adolescent treatment center to treat poly-drug abuse on the island of Hawaii.

SECTION 30. There is appropriated out of the emergency and budget reserve fund of the State of Hawaii the sum of \$100,000

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S.B. NO. 1305  
S.D. 1  
H.D. 1  
C.D. 1

HB No. 282 HD2 SD 1 CD1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the House of Representatives of the State of Hawaii, on this date reconsidered House Bill No. 282, HD2, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Special Session 2003, is entitled.

*Calvin K. Y. Say*  
Calvin K. Y. Say  
Speaker  
House of Representatives  
*Patricia Mau-Shimizu*  
Patricia Mau-Shimizu  
Chief Clerk  
House of Representatives

1 or so much thereof as may be necessary for fiscal year  
2 2003-2004, pursuant to chapter 103F, Hawaii Revised Statutes,  
3 for community anti-drug efforts aimed at preventing crystal  
4 methamphetamine use on the island of Hawaii.  
5 SECTION 31. There is appropriated out of the emergency and  
6 budget reserve fund the sum of ~~9450,000~~ <sup>0</sup> or so much thereof as  
7 may be necessary for fiscal year 2003-2004, pursuant to chapter  
8 103F, Hawaii Revised Statutes, for the department of health to  
9 contract with primary health care centers for comprehensive oral  
10 health services to underserved children.  
11 SECTION 32. The sums appropriated in this part shall be  
12 expended by the department of health for their respective  
13 purposes; provided that the sums appropriated in sections 29 and  
14 30 shall be expended by the county of Hawaii.

PART IV

15 SECTION 33. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$200,000, or so much  
17 thereof as may be necessary for fiscal year 2003-2004, to  
18 develop a plan to implement the Hawaii Rx program to carry out  
19 the purposes of chapter 346, part XIII, Hawaii Revised Statutes.  
20 The sum shall be expended by the department of human  
21 services; provided that the department shall provide a quarterly  
22 progress report on the plan development to the legislature; and  
23 provided further that the department shall provide a progress  
24 report to the legislature no later than twenty days prior to the  
25 convening of the 2004 regular session.  
26 SECTION 34. This Act shall take effect on July 1, 2003.

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S.B. NO. 1305  
S.D. 1  
H.D. 1  
C.D. 1

THE SENATE OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Senate of the State of Hawaii, on this date reconsidered House Bill No. 282, HD2, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-second Legislature of the State of Hawaii, Special Session 2003, is entitled.

*Robert Bunde*  
Robert Bunde  
President of the Senate  
*Paul T. Kawaguchi*  
Paul T. Kawaguchi  
Clerk of the Senate

1 progress report on the plan development to the legislature; and  
2 provided further that the department shall provide a progress  
3 report to the legislature no later than twenty days prior to the  
4 convening of the 2004 regular session.  
5 PART V  
6 SECTION 34. This Act shall take effect on July 1, 2003.

ACT: 4  
Approved: *Calvin K. Y. Say*  
JUL 08 2003  
HOUSE OF REPRESENTATIVES  
TWENTY-SECOND LEGISLATURE, 2003  
STATE OF HAWAII  
V E T O  
H.B. NO. 282  
S.D. 1  
C.D. 1  
A BILL FOR AN ACT

RELATING TO THE AUDITOR.

REITERATED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 23, Hawaii Revised Statutes, is amended  
2 by adding two new sections to be appropriately designated and to  
3 read as follows:  
4 "523- Reimbursement moneys for financial audits. When  
5 any part of the costs of financial audits conducted by or  
6 contracted for by the auditor are reimbursable by moneys  
7 appropriated to or generated by any department, office, or  
8 agency of the State or its political subdivisions, the affected  
9 department, office, or agency of the State or political  
10 subdivision shall transmit those cost reimbursements to the  
11 auditor. Moneys collected pursuant to this section shall be  
12 deposited in the audit revolving fund established by section  
13 23-  
14 523- Audit revolving fund. (a) There is established  
15 the audit revolving fund to be administered by the office of the  
16 auditor, into which shall be deposited:

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H.B. NO. 255  
H.D. 2  
S.D. 1  
C.D. 1

THE SENATE  
TWENTY-SECOND LEGISLATURE 2003  
STATE OF HAWAII

ACT: 5  
JUL 8 2003  
S.B. NO. 255  
H.D. 1  
C.D. 1  
A BILL FOR AN ACT

- 1 (1) Reimbursement moneys received by any department,
- 2 office, or agency of the State and its political
- 3 subdivisions for financial audits;
- 4 (2) Moneys received by the auditor from any department,
- 5 office, or agency of the State and its political
- 6 subdivisions for audit costs payable by special funds,
- 7 revolving funds, capital improvement funds, or trust
- 8 funds;
- 9 (3) Legislative appropriations; and
- 10 (4) All interest and investment earnings credited to the
- 11 assets of the fund.
- 12 (b) Moneys in the audit revolving fund shall be expended
- 13 by the auditor to conduct audits of the State's departments,
- 14 offices, agencies, and political subdivisions, audits of
- 15 special, revolving, capital improvement, or trust funds, and for
- 16 the services of certified public accountants contracted to
- 17 conduct such audits."

18 SECTION 2. New statutory material is underscored.  
19 SECTION 3. This Act shall take effect on July 1, 2003.

HR252 CD1 HMS 2003-5851

S.B. No. 255, SD2, HD1, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii 96813

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Senate of the State of Hawaii, on this date reconsidered Senate Bill No. 255, SD2, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-second Legislature of the State of Hawaii, Special Session of 2003, is entitled.

*Ronald Brown*  
President of the Senate  
*David P. Campbell*  
Clerk of the Senate

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii 96813

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the House of Representatives of the State of Hawaii, on this date reconsidered Senate Bill No. 255, SD2, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Special Session of 2003, is entitled.

*Celestine K. Ay*  
Speaker, House of Representatives  
*James H. Hanaka*  
Clerk, House of Representatives

RELATING TO AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Article XI, section 3, of the Hawaii State  
2 Constitution, mandates the State to "conserve and protect  
3 agricultural lands, promote diversified agriculture, increase  
4 agricultural self-sufficiency and assure the availability of  
5 agriculturally suitable lands." The constitution also mandates  
6 the legislature to provide standards and criteria to accomplish  
7 these objectives.

8 The State, recognizing the critical importance of  
9 agricultural lands, has established the agricultural district as  
10 one of the four major land classifications in which all lands in  
11 Hawaii must be placed. Section 205-2, Hawaii Revised Statutes,  
12 sets forth the allowable activities in an agricultural district  
13 including "the cultivation of crops, orchards, forage, and  
14 forestry".

15 However, classification and protection of agricultural  
16 lands has been subverted and undermined by the development of  
17 "gentleman farming estates", whereby the primary purpose of  
18 activity upon these lands is not agricultural, but luxury

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S.B. NO. 255  
S.D. 2  
H.D. 1  
C.D. 1

1 residential. Moreover, these developments place restrictive  
2 covenants, including imposing height restriction on growing  
3 crops in agricultural subdivisions and other private agreements  
4 that restrict or even prohibit bona fide agricultural activities  
5 on agricultural lands. Such practices and covenants are  
6 repugnant to public policy as enunciated by Article XI, section  
7 3, of the State Constitution.

8 Section 1-5, Hawaii Revised Statutes, grants individuals  
9 the ability to contract away any of their legal rights so long  
10 as the renouncement does not affect others' rights and "is not  
11 contrary to the public good." The legislature finds that  
12 restrictive covenants against agriculture uses are contrary to  
13 the public good because the intent of the State Constitution,  
14 and the intent of land use laws, as shown below by their

15 history, demonstrate that these covenants dismantle the  
16 protections and conservation that are embodied in Hawaii's laws.  
17 In 1961, the State of Hawaii was revolutionary in its  
18 approach to planning and growth when it passed the Land Use Law,  
19 chapter 205, Hawaii Revised Statutes. In passing the Land Use  
20 Law, the senate noted in Senate Standing Committee Report  
21 No. 580, on Senate Bill 937:

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S.B. NO. 255  
S.D.2  
H.D.1  
C.D.1

1 The purpose of this bill is to preserve  
2 and protect land best suited for  
3 cultivation, forestry and other agricultural  
4 purposes and to facilitate sound and  
5 economical urban development in order to  
6 promote the economy and general welfare of  
7 the state, and to insure the efficient  
8 expenditure of public funds . . . .

\*\*\*

10 The state's highly productive  
11 agricultural lands are jeopardized by normal  
12 economic laws which encourage land owners to  
13 place their own particular pieces of land to  
14 the most profitable current use for which  
15 they can find a market. Long term  
16 agricultural leases are expiring annually.  
17 Because of the pressure for urbanization the  
18 land owners are reluctant to continue long  
19 term renewals of such leases, and the lessee  
20 is therefor discouraged to develop the land  
21 to its maximum agricultural production. If  
22 exclusive agricultural zones are not

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S.B. NO. 255  
S.D.2  
H.D.1  
C.D.1

1 In 1976, the legislature noted, in Senate Standing  
2 Committee Report No. 662-76, on House Bill 3262-76, that the  
3 requirements of the Land Use Law had been skirted, and as such,  
4 it amended the Land Use Law to clarify that urban type  
5 residential subdivisions are not authorized on agricultural  
6 land.

7 The purpose of the agricultural district  
8 classification is to control the uses of the  
9 land for agricultural purposes. This  
10 purpose is being frustrated by the  
11 development of urban type residential  
12 communities in the guise of agricultural  
13 subdivisions. To discourage abuse of this  
14 purpose, the bill, as amended, more clearly  
15 defines the uses permitted within the  
16 agricultural district. Except for such uses  
17 permitted under special use permits in  
18 Section 205-6, and for nonconforming uses  
19 permitted in section 205-8, uses not  
20 permitted shall be prohibited.

21 Most revealing as to the efforts to curb against  
22 development upon agricultural lands is the procedural history

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S.B. NO. 255  
S.D.2  
H.D.1  
C.D.1

1 established to preserve and protect prime  
2 agricultural land from infringement by non-  
3 agricultural [sic] uses, the possibility of  
4 land speculation through inflated or  
5 artificial land prices may jeopardize the  
6 existence of major agricultural companies or  
7 activities. The most effective protection  
8 for prime agricultural lands, preservation  
9 of open space and direction for urban  
10 growth, is through state zoning.

11 Also important to note is that chapter 205, Hawaii Revised  
12 Statutes, was specifically enacted in an effort to manage growth  
13 on islands of limited resources. Act 187, Session Laws of  
14 Hawaii 1961, reads:

15 Scattered subdivisions with expensive, yet  
16 reduced, public services; the shifting of  
17 prime agricultural lands into nonrevenue  
18 [sic] producing residential uses when other  
19 lands are available that could serve  
20 adequately the urban needs; . . . these are  
21 evidences of the need for public concern and  
22 action.

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S.B. NO. 255  
S.D.2  
H.D.1  
C.D.1

1 for the enactment of Article XI, section 3, of the State  
2 Constitution. Fearing that urbanization and abuses would weaken  
3 the protections meant to be provided to agricultural lands, the  
4 committee deleted language referring to farm and home ownership,  
5 and instead focused on the need to protect and promote  
6 agricultural lands.

7 The State Constitutional Convention of 1978 noted in its  
8 proceedings:

9 Your Committee deleted the provision in  
10 Section 5 of Article I dealing with the use  
11 of public lands for farm and home ownership.  
12 It was generally understood, based on a  
13 letter opinion by the attorney general, that  
14 the phrase "farm and home ownership" meant  
15 both farm or home ownership. The  
16 inconsistency of this interpretation, with a  
17 renewed emphasis on preserving valuable and  
18 important agricultural lands, and the  
19 recommendation of the chairman of the board  
20 of agriculture convinced your Committee to  
21 delete the provision on farm and home  
22 ownership.

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1 In response to increasing concerns  
 2 regarding the future of agriculture in the  
 3 State, your Committee has amended Section 5  
 4 of Article X, entitled "Farm and Home  
 5 Ownership," by revising it to "Agricultural  
 6 Lands" and by amending it to provide policy  
 7 direction to the State. Moreover, the  
 8 section has been amended to safeguard  
 9 existing agricultural lands designated by  
 10 the state Department of Agriculture as  
 11 "prime," "unique" or "other important" and  
 12 classified as agricultural by the state Land  
 13 Use Commission. Thus the reclassification  
 14 of these lands will now require, in addition  
 15 to approval by the state Land Use Commission  
 16 or other body assigned this function, the  
 17 approval of the legislature by two thirds of  
 18 each house.  
 19 Your Committee provided further  
 20 protection for important agricultural lands  
 21 by requiring that the lands be protected and  
 22 maintained for bona fide or good faith

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1 ~~as agricultural shall not be restricted by any private agreement~~  
 2 ~~contained in any deed, lease, agreement of sale, or other~~  
 3 ~~conveyance of land recorded in the bureau of conveyances after~~  
 4 ~~the effective date of this section, that subject such~~  
 5 ~~agricultural lands to any servitude, including but not limited~~  
 6 ~~to covenants, easements, or equitable and reciprocal negative~~  
 7 ~~servitudes. Any such private restriction limiting or~~  
 8 ~~prohibiting agricultural use or activity shall be voidable~~  
 9 ~~subject to special restrictions enacted by the county ordinance~~  
 10 ~~pursuant to section 46-4, except that restrictions taken to~~  
 11 ~~protect environmental or cultural resources shall not be void or~~  
 12 ~~voidable."~~  
 13 SECTION 3. New statutory material is underscored.  
 14 SECTION 4. This Act shall not be applied so as to impair  
 15 any contract existing as of the effective date of this Act in a  
 16 manner violative of either the Hawaii Constitution or Article I,  
 17 section 10, of the United States Constitution.  
 18 SECTION 5. This Act shall take effect upon its approval.

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1 agricultural use and that only support  
 2 facilities necessary for agricultural use of  
 3 such lands be permitted.  
 4 While Article XII, section 3, of the Hawaii State  
 5 Constitution was adopted in 1978, and at that time the concern  
 6 was over the large prime agricultural parcels of the sugar and  
 7 pineapple industries, since that time, the focus of concern has  
 8 shifted, for we have seen subdivisions and gentleman farmer  
 9 estates, with golf courses, orchards, and gated communities  
 10 proliferate upon agricultural lands. Thus, whereas previously  
 11 the concern was over the promotion of the agricultural industry  
 12 through its lands, we currently are dealing with a planning  
 13 issue of urban-like uses occupying agricultural lands. It is  
 14 for these reasons that the legislature finds that the courts of  
 15 this State should not be availed upon to enforce these private  
 16 agreements that contravene public policy.  
 17 SECTION 2. Chapter 205, Hawaii Revised Statutes, is  
 18 amended by adding a new section to be appropriately designated  
 19 and to read as follows:  
 20 "205- Private restrictions on agricultural uses and  
 21 activities; not allowed. Agricultural uses and activities as  
 22 defined in sections 205-2(d) and 205-4.5(a) on lands classified

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THE SENATE OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii 96813

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Senate of the State of Hawaii, on this date reconsidered Senate Bill No. 768, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-second Legislature of the State of Hawaii, Special Session of 2003, is entitled.

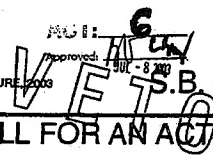
*President of the Senate*  
President of the Senate  
*Clerk of the Senate*  
Clerk of the Senate

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 8, 2003  
Honolulu, Hawaii 96813

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the House of Representatives of the State of Hawaii, on this date reconsidered Senate Bill No. 768, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 2, 2003, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Special Session of 2003, is entitled.

*Speaker, House of Representatives*  
Speaker, House of Representatives  
*Clerk, House of Representatives*  
Clerk, House of Representatives


  
 HUI: 6  
 Approved: 7/10/03 - 8 AM  
 THE SENATE  
 TWENTY-SECOND LEGISLATURE, 2003  
 STATE OF HAWAII  
 S.B. NO. 788  
 S.D. 1  
 H.D. 2  
 C.D. 1  
**A BILL FOR AN ACT**

RELATING TO COLLECTIVE BARGAINING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

(d) If an impasse exists between a public employer and the exclusive bargaining representative of bargaining unit (1), nonsupervisory employees in blue collar positions; ~~bargaining unit (2); supervisory employees in blue collar positions; bargaining unit (3); nonsupervisory employees in white collar positions; bargaining unit (4); supervisory employees in white collar positions;~~ bargaining unit (5), teachers and other personnel of the department of education; ~~bargaining unit (6); educational officers and other personnel of the department of education under the same salary schedule;~~ or bargaining unit (7), faculty of the University of Hawaii and the community college system; ~~bargaining unit (8); personnel of the University of Hawaii and the community college system, other than faculty; or bargaining unit (9); professional and scientific employees;~~ the board shall assist in the resolution of the impasse as follows:

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(1) Voluntary mediation. During the first twenty days of the date of impasse, either party may request the board to assist in a voluntary resolution of the impasse by appointing a mediator or mediators, representative of the public from a list of qualified persons maintained by the board;

(2) Mediation. If the impasse continues more than twenty days, the board shall appoint a mediator or mediators representative of the public from a list of qualified persons maintained by the board, to assist the parties in a voluntary resolution of the impasse. The board may compel the parties to attend mediation, reasonable in time and frequency, until the fiftieth day of impasse. Thereafter, mediation shall be elective with the parties, subject to the approval of the board;

(3) Report of the board. The board shall promptly report to the appropriate legislative body or bodies the following circumstances as each occurs:

(A) The date of a tentative agreement and whether the terms thereof are confidential between the parties;

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(B) The ratification or failure or ratification of a tentative agreement;

(C) The signing of a tentative agreement;

(D) The terms of a tentative agreement; or

(E) On or about the fiftieth day of impasse, the failure of mediation.

The parties shall provide the board with the requisite information; and

(4) After the fiftieth day of impasse, the parties may resort to such other remedies that are not prohibited by any agreement pending between them, other provisions of this chapter, or any other law.

(e) If an impasse exists between a public employer and the exclusive representative of bargaining unit (2), supervisory employees in blue collar positions; bargaining unit (3), nonsupervisory employees in white collar positions; bargaining unit (4), supervisory employees in white collar positions; bargaining unit (6), educational officers and other personnel of the department of education under the same salary schedule; bargaining unit (8), personnel of the University of Hawaii and the community college system, other than faculty; bargaining unit (9), registered professional nurses; bargaining unit (10),

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institutional, health, and correctional workers; bargaining unit (11), firefighters; ~~(or) bargaining unit (12), police officers;~~ or bargaining unit (13), professional and scientific employees, the board shall assist in the resolution of the impasse as follows:

(1) Mediation. During the first twenty days after the date of impasse, the board shall immediately appoint a mediator, representative of the public from a list of qualified persons maintained by the board, to assist the parties in a voluntary resolution of the impasse.

(2) Arbitration. If the impasse continues twenty days after the date of impasse, the board shall immediately notify the employer and the exclusive representative that the impasse shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

(A) Arbitration panel. Two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The neutral third member of the arbitration panel, who shall chair the

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1 arbitration panel, shall be selected by mutual  
2 agreement of the parties. In the event that the  
3 parties fail to select the neutral third member  
4 of the arbitration panel within thirty days from  
5 the date of impasse, the board shall request the  
6 American Arbitration Association, or its  
7 successor in function, to furnish a list of five  
8 qualified arbitrators from which the neutral  
9 arbitrator shall be selected. Within five days  
10 after receipt of such list, the parties shall  
11 alternately strike names from the list until a  
12 single name is left, who shall be immediately  
13 appointed by the board as the neutral arbitrator  
14 and chairperson of the arbitration panel.

15 (B) Final positions. Upon the selection and  
16 appointment of the arbitration panel, each party  
17 shall submit to the panel, in writing, with copy  
18 to the other party, a final position which shall  
19 include all provisions in any existing collective  
20 bargaining agreement not being modified, all  
21 provisions already agreed to in negotiations, and

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1 parties. The parties shall review the  
2 preliminary draft for completeness, technical  
3 correctness, and clarity and may mutually submit  
4 to the panel any desired changes or adjustments  
5 that shall be incorporated in the final draft of  
6 its decision. Within fifteen days after the  
7 transmittal of the preliminary draft, a majority  
8 of the arbitration panel shall issue the  
9 arbitration decision.

10 SECTION 2. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.

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1 all further provisions which each party is  
2 proposing for inclusion in the final agreement.

3 (C) Arbitration hearing. Within one hundred twenty  
4 days of its appointment, the arbitration panel  
5 shall commence a hearing at which time the  
6 parties may submit either in writing or through  
7 oral testimony, all information or data  
8 supporting their respective final positions. The  
9 arbitrator, or the chairperson of the arbitration  
10 panel together with the other two members, are  
11 encouraged to assist the parties in a voluntary  
12 resolution of the impasse through mediation, to  
13 the extent practicable throughout the entire  
14 arbitration period until the date the panel is  
15 required to issue its arbitration decision.

16 (D) Arbitration decision. Within thirty days after  
17 the conclusion of the hearing, a majority of the  
18 arbitration panel shall reach a decision pursuant  
19 to subsection (f) on all provisions that each  
20 party proposed in its respective final position  
21 for inclusion in the final agreement and transmit  
22 a preliminary draft of its decision to the

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**GOVERNOR'S MESSAGES RECEIVED AFTER THE ADJOURNMENT  
OF THE 2003 SPECIAL SESSION SINE DIE**

Gov. Msg. No. 474, informing the House that on July 8, 2003, the following bill was signed into law:

H.B. 595, HD 1, SD 1, CD 1 A BILL FOR AN ACT RELATING TO CHECK CASHING. (ACT 222)

Gov. Msg. No. 475, transmitting a report, Requesting Detailed Quarterly Reports on Projected and Actual Expenditures from the Behavioral Health Administration – For the Quarter Ending March 31, 2003.

Gov. Msg. No. 476, transmitting a report, Requesting Monthly Notification of Expenditures from the Director of Health Relative to the Felix Consent Decree Made to the United States Ninth District Court, the Felix Special Monitor, the Felix Monitoring Project, or Any Another (sic) Agent of the United States Judiciary – For the Month of April 2003.

Gov. Msg. No. 477, transmitting a report, Requesting Monthly Notification of Expenditures from the Director of Health Relative to the Felix Consent Decree Made to the United States Ninth District Court, the Felix Special Monitor, the Felix Monitoring Project, or Any Another (sic) Agent of the United States Judiciary – For the Month of May 2003.

Gov. Msg. No. 478, transmitting a report, Requesting a Report on Mental Health Services from the Child and Adolescent Mental Health Division – For the Quarter Ending June 2003.

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 10 UTILITIES.								8		Act 147	
H.B. No. 29								11 86			86
H.B. No. 32								21 86			86
H.B. No. 75 CONDOMINIUMS.								7		Act 131	
H.B. No. 78 AND COMMUNITY CORPORATION OF HAWAII.								1		Act 36	
H.B. No. 123 OF PHARMACY.								55		Act 201	
H.B. No. 127 ASSISTANCE.								5		Act 105	
H.B. No. 130 RETIREMENT SYSTEMS.								10		Act 182	
H.B. No. 133 PROTECTION.								14 86			87
H.B. No. 135 INTERNATIONAL ORGANIZATIONS.								8		Act 149	
H.B. No. 139 VEHICLE RENTAL INDUSTRY.								9		Act 155	
H.B. No. 192 LANDS.								3		Act 73	
H.B. No. 200 BUDGET.								55		Act 200	



NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 281 RELATING TO STATE EDUCATIONAL FACILITIES REPAIR AND MAINTENANCE.								10		Act 188	
H.B. No. 282 RELATING TO THE AUDITOR.					158			35 86	109 158	Act 4 Special Session	87
H.B. No. 285 RELATING TO ADMINISTRATIVE PROCEDURE.								14 86			88
H.B. No. 287 RELATING TO PUBLIC EMPLOYEES.								8		Act 150	
H.B. No. 289 RELATING TO EDUCATION.								21 86			88
H.B. No. 290 RELATING TO UNEMPLOYMENT.								11 86			89
H.B. No. 293 RELATING TO THE FARMERS' MARKET.								11 89			89
H.B. No. 297 RELATING TO DRUGS.								3		Act 63	
H.B. No. 298 RELATING TO CORRECTIONAL FACILITIES.								32 89			90
H.B. No. 317 RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.								5		Act 119	
H.B. No. 320 RELATING TO RISK MANAGEMENT.								10		Act 186	
H.B. No. 324 RELATING TO DRIVER LICENSING.								8		Act 145	
H.B. No. 373 RELATING TO POLITICAL SPEECH.								11		Act 194	

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 377 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 157	
H.B. No. 378 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 158	
H.B. No. 379 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 159	
H.B. No. 380 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 160	
H.B. No. 381 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 161	
H.B. No. 382 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 162	
H.B. No. 383 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 163	
H.B. No. 384 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES.								9		Act 164	
H.B. No. 389 RELATING TO FAMILY LEAVE.								2		Act 44	
H.B. No. 401 RELATING TO ELECTIONS.								5		Act 117	

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 422								55		Act 198	
H.B. No 426								14 89			90
H.B. No. 475								4		Act 94	
H.B. No. 485								9		Act 166	
H.B. No. 488								9		Act 167	
H.B. No. 507								55		Act 199	
H.B. No. 512								55		Act 204	
H.B. No. 531								32 89			90
H.B. No. 548								4		Act 88	
H.B. No. 562								2		Act 62	
H.B. No. 564								3		Act 70	
H.B. No. 595								69 172		Act 222	
H.B. No. 638								11		Act 193	
H.B. No. 640								11 89			91

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 645 RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR ASSISTING NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES TO THE GENERAL PUBLIC.								10		Act 176	
H.B. No. 651 RELATING TO INFORMED CONSENT.								5		Act 114	
H.B. No. 662 RELATING TO THE HAWAII SPORTS HALL OF FAME.								4		Act 102	
H.B. No. 730 RELATING TO OCCUPATIONAL THERAPISTS.								4		Act 97	
H.B. No. 731 RELATING TO WORKERS' COMPENSATION.								9		Act 171	
H.B. No. 736 RELATING TO PROFESSIONAL AND VOCATIONAL LICENSES.								7		Act 133	
H.B. No. 754 RELATING TO ELECTIONS BY MAIL.								1		Act 37	
H.B. No. 772 RELATING TO BONDS.								1		Act 38	
H.B. No. 773 RELATING TO BONDS.								1		Act 39	
H.B. No. 807 RELATING TO CHAPTER 291E.								3		Act 71	
H.B. No. 808 RELATING TO THE JUDICIARY.								5		Act 120	
H.B. No. 857 RELATING TO CORRECTIONAL FACILITIES.								69		Act 221	
H.B. No. 914 RELATING TO ADULT RESIDENTIAL CARE HOMES.								55		Act 202	
H.B. No. 939 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HOALA SCHOOL.								9		Act 168	

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 968 RELATING TO UNEMPLOYMENT BENEFITS.								14 89			91
H.B. No. 980 RELATING TO CIVIL SETTLEMENTS.								8		Act 146	
H.B. No. 993 RELATING TO RECONSTRUCTED VEHICLES.								35 89			92
H.B. No. 1003 RELATING TO CRIME VICTIM COMPENSATION.								14 92			92
H.B. No. 1010 RELATING TO USE OF INTOXICANTS.								3		Act 72	
H.B. No. 1013 RELATING TO EXAMINATIONS FOR THE DETERMINATION OF PERMANENT IMPAIRMENT.								11 92			93
H.B. No. 1076 RELATING TO APPELLATE JURISDICTION.								4		Act 89	
H.B. No. 1111 MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.								2		Act 58	
H.B. No. 1116 RELATING TO COURTS.								3		Act 65	
H.B. No. 1152 RELATING TO STATE FUNDS.								10		Act 178	
H.B. No. 1154 RELATING TO UNCLAIMED PROPERTY.								5		Act 115	
H.B. No. 1155 RELATING TO UNCLAIMED PROPERTY.								3		Act 74	
H.B. No. 1157 RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.								5		Act 121	
H.B. No. 1160 RELATING TO THE EXAMINATION FOR LICENSURE AS A CERTIFIED PUBLIC ACCOUNTANT.								6		Act 129	

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 1161 RELATING TO PSYCHOLOGIST LICENSING REQUIREMENTS.								3		Act 79	
H.B. No. 1163 RELATING TO DENTAL INSURANCE.								6		Act 128	
H.B. No. 1164 RELATING TO INSURANCE.								55		Act 212	
H.B. No. 1165 RELATING TO BUSINESS REGISTRATION.								5		Act 124	
H.B. No. 1175 RELATING TO THE DEPARTMENT OF EDUCATION.								10		Act 187	
H.B. No. 1198 RELATING TO CHILD LABOR.								2		Act 61	
H.B. No. 1212 RELATING TO LAND EXCHANGES.								3		Act 75	
H.B. No. 1214 RELATING TO PUBLIC LAND LIABILITY.								3		Act 82	
H.B. No. 1217 RELATING TO CONTROLLED SUBSTANCES.								8		Act 151	
H.B. No. 1230 RELATING TO TRANSPORTATION.								27 55 69		Act 213	81
H.B. No. 1255 MAKING AN APPROPRIATION FOR THE OFFICE OF ELECTIONS.								11		Act 195	
H.B. No. 1285 RELATING TO HISTORIC SITES.								5		Act 104	
H.B. No. 1300 RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS.								10		Act 183	
H.B. No. 1303 RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.								8		Act 152	
H.B. No. 1328 RELATING TO THE CONSUMER ADVOCATE.								7		Act 132	

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 1361 RELATING TO THE MEDICAID PRESCRIPTION DRUG EXPANSION PROGRAM.								10		Act 191	
H.B. No. 1362 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR ST. PATRICK SCHOOL.								9		Act 169	
H.B. No. 1400 RELATING TO HOTEL CONSTRUCTION AND REMODELING TAX CREDIT.								24 92			93
H.B. No. 1456 RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM.								15 92			93
H.B. No. 1465 RELATING TO INTOXICATING LIQUOR.								8		Act 153	
H.B. No. 1509 RELATING TO HISTORIC PRESERVATION.								2		Act 59	
H.B. No. 1564 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR CHAMINADE UNIVERSITY.								9		Act 170	
H.B. No. 1579 RELATING TO THE ECONOMIC DIVERSIFICATION AUTHORITY.								15 92			94
H.B. No. 1594 RELATING TO NONPROFIT CORPORATIONS.								3		Act 81	
H.B. No. 1607 RELATING TO AUTHORIZED EMERGENCY VEHICLES.								5		Act 112	
H.B. No. 1613 RELATING TO NORTH KOHALA.								35 92			95
H.B. No. 1652 MAKING AN APPROPRIATION TO THE MEDICAID PRESCRIPTION DRUG REBATE SPECIAL FUND.								15 92			95

NUMBER AND TITLE	Offered Referred	Report of Committee	Adoption
H.R. No. 1            AUTHORIZING THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPROVE THE JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 1ST LEGISLATIVE DAY.	157		157
H.R. No. 2            AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOUSE OF REPRESENTATIVES, SPECIAL SESSION OF 2003, PURSUANT TO RULE 18 OF THE RULES OF THE HOUSE OF REPRESENTATIVES.	157		157



NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 3 RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR NORTH HAWAII COMMUNITY HOSPITAL, INC.								10		Act 175	
S.B. No. 38 RELATING TO THE HAWAII TOURISM AUTHORITY.								35 96			96
S.B. No. 41 RELATING TO PUBLIC CONTRACTS.								50 96			96
S.B. No. 42 RELATING TO WATERCRAFT.								2		Act 54	
S.B. No. 44 RELATING TO TRANSPORTATION.								6 96			6 97
S.B. No. 58 RELATING TO SCHOOL REPAIR AND MAINTENANCE.								27 59 69		Act 214	69
S.B. No. 69 RELATING TO THE TEACHER EDUCATION COORDINATING COMMITTEE.								3		Act 78	
S.B. No. 78 RELATING TO ELDER ABUSE.								55		Act 196	
S.B. No. 88 RELATING TO MOTOR VEHICLES OWNED BY MILITARY PERSONNEL.								2		Act 45	
S.B. No. 205 RELATING TO EMPLOYMENT.								5		Act 108	
S.B. No. 209 RELATING TO PUBLIC EMPLOYMENT.								45 96			98
S.B. No. 254 RELATING TO AGRICULTURE.								69		Act 218	
S.B. No. 255 RELATING TO AGRICULTURE.					147			50 96	147 158	Act 5 Special Session	98
S.B. No. 295 RELATING TO MOTOR VEHICLE TOWING.								4		Act 84	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 317 MAKING AN APPROPRIATION FOR THE FIFTIETH ANNIVERSARY COMMEMORATION OF THE KOREAN WAR COMMISSION.					125			15 96	125 158	Act 1 Special Session	98
S.B. No. 319 RELATING TO COUNTIES.								45 96			99
S.B. No. 337 RELATING TO THE MANAGEMENT OF SCHOOL FACILITIES.								10		Act 189	
S.B. No. 345 RELATING TO MOTOR VEHICLES.								3		Act 67	
S.B. No. 363 RELATING TO EXPERIMENTAL MODERNIZATION PROJECTS FOR COUNTY BOARDS OF WATER SUPPLY.								1		Act 40	
S.B. No. 373 RELATING TO CONDOMINIUM PROPERTY REGIMES.								2		Act 53	
S.B. No. 377 RELATING TO TAXATION.								4		Act 100	
S.B. No. 394 RELATING TO CONDOMINIUM PROPERTY REGIMES.								3		Act 80	
S.B. No. 402 RELATING TO MEDICAL EDUCATION.								10		Act 181	
S.B. No. 464 RELATING TO IMPLEMENTATION OF A FIXED RAIL TRANSIT SYSTEM.								32 99			100
S.B. No. 474 RELATING TO THE AUDITOR.								32 99			100
S.B. No. 528 RELATING TO THE TRANSFER OF COUNTY LANDS AND IMPROVEMENTS.								8		Act 154	
S.B. No. 534 RELATING TO AGRICULTURE.								45 99			100

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 538 RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION.								2		Act 47	
S.B. No. 540 MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND DEVELOPMENT.								45 99			101
S.B. No. 552 RELATING TO LANDOWNERS' LIABILITY.								4		Act 86	
S.B. No. 574 RELATING TO CAPTIVE INSURANCE.								55		Act 205	
S.B. No. 576 RELATING TO THE UNIVERSITY OF HAWAII.								45 99			101
S.B. No. 582 RELATING TO STATE BONDS.								5		Act 116	
S.B. No. 585 RELATING TO STATE FUNDS.								2		Act 57	
S.B. No. 614 RELATING TO HEALTH INSURANCE.								6		Act 125	
S.B. No. 617 RELATING TO CRIMINAL OFFENSES.								10		Act 190	
S.B. No. 637 RELATING TO MISSING CHILDREN.								10		Act 192	
S.B. No. 658 RELATING TO EMERGENCY CONTRACEPTIVES FOR SEX ASSAULT SURVIVORS IN EMERGENCY ROOMS.								45 100			102
S.B. No. 665 RELATING TO PREPAID HEALTH CARE PLAN.								55		Act 206	
S.B. No. 687 RELATING TO LEAVES OF ABSENCE.								5		Act 109	
S.B. No. 740 RELATING TO HEALTH.								50 103			103

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 745 RELATING TO EMERGENCY MEDICAL SERVICES.					135			45 103	135 158	Act 2 Special Session	103
S.B. No. 748 RELATING TO NURSING EDUCATION.								24 103			104
S.B. No. 768 RELATING TO COLLECTIVE BARGAINING.					152			24 103	152 158	Act 6 Special Session	104
S.B. No. 773 RELATING TO UNEMPLOYMENT INSURANCE.								69		Act 219	
S.B. No. 789 RELATING TO PUBLIC EMPLOYEE HEALTH BENEFITS.								5		Act 111	
S.B. No. 830 RELATING TO CRIMINAL HISTORY RECORD CHECKS.								4		Act 95	
S.B. No. 837 RELATING TO WORKFORCE DEVELOPMENT.								8		Act 148	
S.B. No. 855 RELATING TO ENERGY.								55		Act 207	
S.B. No. 931 RELATING TO HAWAII VICTIMS LEAVE ACT.								2		Act 60	
S.B. No. 933 RELATING TO STALKING.								3		Act 68	
S.B. No. 946 RELATING TO CAREGIVER CONSENT.								4		Act 99	
S.B. No. 975 RELATING TO GOVERNMENT.								8		Act 144	
S.B. No. 1034 RELATING TO AGRICULTURAL LANDS.								4		Act 90	
S.B. No. 1040 RELATING TO TRANSIENT ACCOMMODATIONS TAX.								5		Act 113	
S.B. No. 1050 RELATING TO VETERANS RIGHTS AND BENEFITS.								4		Act 101	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1051 RELATING TO PERSONAL TRANSPORTATION.								10		Act 180	
S.B. No. 1058 RELATING TO CAPTIVE INSURANCE.								55		Act 208	
S.B. No. 1068 RELATING TO HEALTH CARE FACILITIES.								9		Act 165	
S.B. No. 1075 RELATING TO CONTESTED CASES.								3		Act 76	
S.B. No. 1077 RELATING TO CONTINUING EDUCATION FOR INSURANCE LICENSEES.								2		Act 55	
S.B. No. 1088 RELATING TO LONG-TERM CARE.								50 103			105
S.B. No. 1107 RELATING TO CHAPTER 711, HAWAII REVISED STATUTES.								2		Act 48	
S.B. No. 1134 RELATING TO COURT COSTS.								69		Act 216	
S.B. No. 1135 RELATING TO COURT FEES.								50 103			105
S.B. No. 1139 RELATING TO FAMILY COURT.								1		Act 41	
S.B. No. 1154 RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.								1		Act 42	
S.B. No. 1156 RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.								69		Act 217	
S.B. No. 1163 RELATING TO EMERGENCY MEDICAL SERVICES.								5		Act 106	
S.B. No. 1200 RELATING TO CAPTIVE INSURANCE.								55		Act 209	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1201 RELATING TO MOTOR VEHICLE FRANCHISES.								6		Act 126	
S.B. No. 1234 RELATING TO ALCOHOLIC BEVERAGES.								3		Act 69	
S.B. No. 1237 RELATING TO EDUCATION.								21 106			106
S.B. No. 1241 RELATING TO CANCER EXAMINATIONS.								5		Act 107	
S.B. No. 1255 RELATING TO AGRICULTURAL INSPECTIONS.								2		Act 49	
S.B. No. 1258 RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION.								4		Act 91	
S.B. No. 1261 RELATING TO PROCUREMENT CARD PAYMENTS.								2		Act 51	
S.B. No. 1262 RELATING TO PROCUREMENT.								2		Act 52	
S.B. No. 1267 RELATING TO TOBACCO.								3		Act 77	
S.B. No. 1274 RELATING TO MANSLAUGHTER.								3		Act 64	
S.B. No. 1275 RELATING TO ASSAULT AGAINST LAW ENFORCEMENT OFFICERS.								3		Act 66	
S.B. No. 1279 RELATING TO TOBACCO.								10		Act 177	
S.B. No. 1281 RELATING TO THE HIGH TECHNOLOGY DEVELOPMENT CORPORATION.								4		Act 93	
S.B. No. 1286 RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII.								4		Act 92	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1305					143			38 64 69	143 158	Act 215 Act 3 Special Session	75
S.B. No. 1306								2		Act 50	
S.B. No. 1309								5		Act 118	
S.B. No. 1311								10		Act 179	
S.B. No. 1312								7		Act 134	
S.B. No. 1319								55		Act 210	
S.B. No. 1321								55		Act 197	
S.B. No. 1324								55		Act 211	
S.B. No. 1326								69		Act 220	
S.B. No. 1332								5		Act 122	
S.B. No. 1333								5		Act 123	
S.B. No. 1334								5		Act 110	
S.B. No. 1352								4		Act 98	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1361 RELATING TO PRESCRIPTION DRUGS.								2		Act 56	
S.B. No. 1373 RELATING TO STAFFING FOR FEDERALLY FUNDED PROGRAMS.								4		Act 103	
S.B. No. 1393 RELATING TO THE EXECUTIVE DEPARTMENTS OF STATE GOVERNMENT.								3		Act 83	
S.B. No. 1394 RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE.								9		Act 172	
S.B. No. 1395 RELATING TO THE AMENDMENT OR REPEAL OF OBSOLETE TAX LAWS.								8		Act 135	
S.B. No. 1397 RELATING TO SIMPLIFIED TAX ADMINISTRATION.								10		Act 173	
S.B. No. 1400 RELATING TO TAX ADMINISTRATION.								8		Act 136	
S.B. No. 1403 RELATING TO DEPARTMENT OF TRANSPORTATION'S MARITIME-RELATED USES.								6		Act 127	
S.B. No. 1405 RELATING TO COMMERCIAL DRIVER LICENSING.								2		Act 46	
S.B. No. 1410 RELATING TO CLAIMS AGAINST THE UNIVERSITY OF HAWAII AND PROVIDING APPROPRIATIONS THEREFOR.								6		Act 130	
S.B. No. 1413 RELATING TO KIKALAKEOKEA.								1		Act 43	
S.B. No. 1423 RELATING TO A COMMISSION ON FATHERHOOD.								9		Act 156	
S.B. No. 1438 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								8		Act 137	



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S.B. No. 1439 MAKING APPROPRIATIONS FOR SALARY INCREASES FOR PUBLIC EMPLOYEES.								8		Act 138	
S.B. No. 1440 RELATING TO COLLECTIVE BARGAINING COST ITEMS.								8		Act 139	
S.B. No. 1441 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								8		Act 140	
S.B. No. 1442 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								8		Act 141	
S.B. No. 1443 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								8		Act 142	
S.B. No. 1444 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								8		Act 143	
S.B. No. 1446 RELATING TO TECHNOLOGY.								10		Act 174	
S.B. No. 1460 RELATING TO CONTRACTS ENTERED INTO BY THE HAWAII TOURISM AUTHORITY.								35 106			107
S.B. No. 1462 RELATING TO THE HAWAII TOURISM AUTHORITY.								50 106			107
S.B. No. 1492 RELATING TO ASSISTED LIVING FACILITIES.								10		Act 185	
S.B. No. 1496 RELATING TO AGRICULTURE.								4		Act 96	
S.B. No. 1505 RELATING TO INVASIVE SPECIES.								4		Act 85	
S.B. No. 1594 RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.								10		Act 184	
S.B. No. 1630 RELATING TO NONPROFIT CORPORATIONS.								4		Act 87	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1647 RELATING TO SERVICES FOR INDIVIDUALS WHO ARE BLIND OR VISUALLY IMPAIRED.								24 106			108
S.B. No. 1661 RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII.								24 106			108
S.B. No. 1700 RELATING TO CHARTER SCHOOLS.								55		Act 203	