

JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

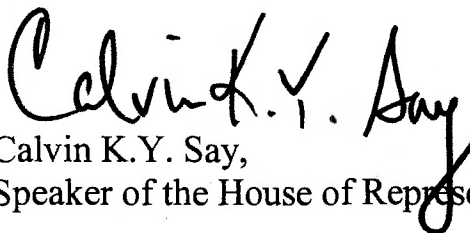
**TWENTY-THIRD LEGISLATURE
STATE OF HAWAII**

SPECIAL SESSION OF 2005

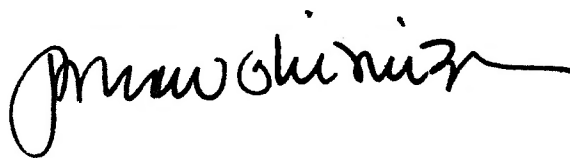
Tuesday, July 12, 2005

CERTIFICATE

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



Calvin K.Y. Say,
Speaker of the House of Representatives



Patricia A. Mau-Shimizu,
Clerk of the House of Representatives

**SPECIAL SESSION OF 2005
TABLE OF CONTENTS**

Tuesday, July 12, 2005 1

Messages and Communications Received After Adjournment:

Governor's Messages and Other Communications 88
Miscellaneous Communications 108

History:

House Bills 109
House Resolutions 120
Senate Bills 121

**THE
TWENTY-THIRD LEGISLATURE
STATE OF HAWAII
SPECIAL SESSION OF 2005
JOURNAL OF THE HOUSE**

Tuesday, July 12, 2005

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-Third Legislature of the State of Hawaii convened in Special Session on Tuesday, July 12, 2005.

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-Third 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 10:11 o'clock a.m., announcing:

"Members, today we gather 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 which allows the Governor to return any bill with her objection. These 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 12th is the 45th day after adjournment sine die of the Regular Session of 2005. At this time, the House will come to order.

"Members before proceeding to the invocation and the order of business, I will ask that you rise for a moment of silence to honor the memory of Sergeant Deyson Cariaga of the Hawaii Army National Guard, a local boy and a graduate of Roosevelt High School who was killed last week Friday while on duty in Iraq. Also, let us honor the memory of the five Pearl Harbor Navy Seals, as well as the six other Navy Seals and eight Army commandos killed in Afghanistan on June 28, and also the victims of the terrorist bombings in London.

"After the moment of silence, I ask that you remain standing for the invocation which will be given by Sergeant Brent Miyagi, a combat medic stationed in Iraq with the Hawaii Army National Guard and a staff member of the House Clerk's Office. Sergeant Miyagi has been in Iraq since February and will return to Baghdad next week to complete his tour of duty. At this time Members, once again please rise for a moment of silence and remain standing for today's invocation."

At this time, the House of Representatives stood for a moment of silence in memory of Sergeant Deyson Cariaga, the five Pearl Harbor Navy Seals, six other Navy Seals, and eight Army commandos killed in Afghanistan, and the victims of the terrorist bombings in London.

The invocation was delivered by Sergeant Brent H. Miyagi, after which the Roll was called showing all members present with the exception of Representatives Arakaki, Berg, Takai and Thielen, who were excused.

INTRODUCTIONS

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

Representative Chong introduced Ms. Kimberly Chang of Kaneohe who has been volunteering in his office.

Representative M. Oshiro introduced Mr. Brickwood Galuteria, Chair of the Democratic Party of Hawaii.

Representative Abinsay introduced former Representative, Mr. Paul Oshiro.

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 232 through 364; 366 through 368; 370 through 415; and 422) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 232, informing the House that on May 6, 2005, the following bill was signed into law:

H.B. No. 683, HD 1, SD 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE ADULT MENTAL HEALTH DIVISION." (ACT 043)

Gov. Msg. No. 233, informing the House that on May 6, 2005, the following bill was signed into law:

S.B. No. 667, SD 2, HD 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR FLOOD LOSSES." (ACT 044)

Gov. Msg. No. 234, letter dated April 21, 2005, informing the House that the decision of the arbitration panel for Bargaining Units 2, 3, 4, 6, 8, and 13, represented by Hawaii Government Employees Association (HGEA) was received on April 15, 2005, and transmitting a proposed conference draft amending H.B. No. 263 in its entirety to fund the settlement.

Gov. Msg. No. 235, letter dated April 21, 2005, informing the House that the decision of the arbitration panel for Bargaining Unit 9, represented by Hawaii Government Employees Association (HGEA) was received on April 15, 2005, and transmitting a proposed conference draft amending H.B. No. 258 in its entirety to fund the settlement. [Note: See H.B. No. 1597, SD 1, CD 1]

Gov. Msg. No. 236, letter dated April 25, 2005, informing the House that the Hawaii State Teachers Association and the employer entered into a tentative agreement concerning Bargaining Unit 5 on April 23, 2005; transmitting summaries of the included and excluded requirements of the settlement for the upcoming fiscal biennium in anticipation of the union ratification to facilitate meeting the legislative timetable; and transmitting a proposed conference draft amending H.B. No. 254 that will become effective July 1, 2005. [Note: See S.B. No. 945, SD 1, HD 1, CD 1; and S.B. No. 1580, SD 1, HD 1, CD 1]

Gov. Msg. No. 237, letter dated April 26, 2005, informing the House that the United Public Workers and the employer entered into a tentative agreement concerning Bargaining Units 1 and 10 on April 23, 2005; transmitting summaries of the included and excluded requirements of the settlement for the upcoming fiscal biennium in anticipation of the union ratification to facilitate meeting the legislative timetable; and transmitting a proposed conference draft amending H.B. No. 250 in its entirety to fund the settlement. [Note: See S.B. No. 944, SD 1, HD 1, CD 1; and S.B. No. 1579, SD 1, HD 1, CD 1]

Gov. Msg. No. 238, letter dated April 26, 2005, informing the House that the decision of the arbitration panel for Bargaining Units 2, 3, 4, 6, 8, 9, and 13, represented by Hawaii Government Employees Association (HGEA) was received on April 15, 2005, and transmitting a proposed conference draft amending H.B. No. 1599 in its entirety to fund HEUHBTf costs.

Gov. Msg. No. 239, informing the House that on May 9, 2005, the following bill was signed into law:

S.B. No. 708, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 846E." (ACT 045)

Gov. Msg. No. 240, informing the House that on May 10, 2005, the following bill was signed into law:

H.B. No. 516, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY HEALTH POWERS." (ACT 046)

Gov. Msg. No. 241, informing the House that on May 10, 2005, the following bill was signed into law:

S.B. No. 698, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CRIMINAL JUSTICE DATA CENTER." (ACT 047)

Gov. Msg. No. 242, informing the House that on May 11, 2005, the following bill was signed into law:

S.B. No. 621, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS." (ACT 048)

Gov. Msg. No. 243, informing the House that on May 11, 2005, the following bill was signed into law:

H.B. No. 685, SD 1, entitled: "A BILL FOR AN ACT RELATING TO WIRELESS ENHANCED 911 SERVICE." (ACT 049)

Gov. Msg. No. 244, informing the House that on May 12, 2005, the following bill was signed into law:

H.B. No. 162, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT." (ACT 050)

Gov. Msg. No. 245, informing the House that on May 12, 2005, the following bill was signed into law:

H.B. No. 1301, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES." (ACT 051)

Gov. Msg. No. 246, informing the House that on May 13, 2005, the following bill was signed into law:

H.B. No. 769, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY." (ACT 052)

Gov. Msg. No. 247, transmitting the Hawaii State Department of Health 2004 Annual Report, Healthy People, Healthy Communities, Healthy Islands.

Gov. Msg. No. 248, transmitting the reporting requirements of Act 41, Section 37.1, SLH 2004, updated as of March 31, 2005.

Gov. Msg. No. 249, informing the House that on May 16, 2005, the following bill was signed into law:

H.B. No. 1413, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED." (ACT 053)

Gov. Msg. No. 250, informing the House that on May 16, 2005, the following bill was signed into law:

S.B. No. 768, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONTESTS INVOLVING NO RULES COMBAT, EXTREME OR ULTIMATE FIGHTING, AND OTHER SIMILAR COMPETITIONS." (ACT 054)

Gov. Msg. No. 251, informing the House that on May 16, 2005, the following bill was signed into law:

S.B. No. 673, SD 2, HD 2, CD 1, entitled: "A BILL [sic] MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES." (ACT 055)

Gov. Msg. No. 252, informing the House that on May 17, 2005, the following bill was signed into law:

H.B. No. 632, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM." (ACT 056)

Gov. Msg. No. 253, informing the House that on May 17, 2005, the following bill was signed into law:

S.B. No. 738, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM." (ACT 057)

Gov. Msg. No. 254, informing the House that on May 17, 2005, the following bill was signed into law:

H.B. No. 631, HD 1, SD 2, CD 1, entitled: "A BILL [sic] RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM." (ACT 058)

Gov. Msg. No. 255, informing the House that on May 18, 2005, the following bill was signed into law:

H.B. No. 164, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNAUTHORIZED MOTION PICTURE RECORDING." (ACT 059)

Gov. Msg. No. 256, informing the House that on May 19, 2005, the following bill was signed into law:

S.B. No. 834, SD 2, HD 1, entitled: "A BILL [sic] RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE." (ACT 060)

Gov. Msg. No. 257, informing the House that on May 19, 2005, the following bill was signed into law:

H.B. No. 1666, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS." (ACT 061)

Gov. Msg. No. 258, informing the House that on May 19, 2005, the following bill was signed into law:

H.B. No. 99, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS." (ACT 062)

Gov. Msg. No. 259, informing the House that on May 19, 2005, the following bill was signed into law:

H.B. No. 1154, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE." (ACT 063)

Gov. Msg. No. 260, informing the House that on May 19, 2005, the following bill was signed into law:

S.B. No. 956, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL INSPECTIONS." (ACT 064)

Gov. Msg. No. 261, informing the House that on May 19, 2005, the following bill was signed into law:

S.B. No. 1170, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC COMMERCE." (ACT 065)

Gov. Msg. No. 262, informing the House that on May 23, 2005, the following bill was signed into law:

S.B. No. 76, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC VIOLATIONS." (ACT 066)

Gov. Msg. No. 263, informing the House that on May 23, 2005, the following bill was signed into law:

H.B. No. 390, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX." (ACT 067)

Gov. Msg. No. 264, informing the House that on May 23, 2005, the following bill was signed into law:

H.B. No. 852, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PERMIT APPROVALS." (ACT 068)

Gov. Msg. No. 265, informing the House that on May 23, 2005, the following bill was signed into law:

H.B. No. 606, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STANDARDS FOR NET METERED RENEWABLE ENERGY SYSTEMS." (ACT 069)

Gov. Msg. No. 266, informing the House that on May 23, 2005, the following bill was signed into law:

S.B. No. 1250, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL SUBSTITUTE TEACHERS." (ACT 070)

Gov. Msg. No. 267, informing the House that on May 23, 2005, the following bill was signed into law:

H.B. No. 843, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL LUNCH." (ACT 071)

Gov. Msg. No. 268, informing the House that on May 25, 2005, the following bill was signed into law:

H.B. No. 150, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING." (ACT 072)

Gov. Msg. No. 269, informing the House that on May 25, 2005, the following bill was signed into law:

H.B. No. 438, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC OFFENSES." (ACT 073)

Gov. Msg. No. 270, informing the House that on May 25, 2005, the following bill was signed into law:

H.B. No. 502, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC OFFENSES REQUIRING IMPOSITION OF INCREASED PENALTIES FOR SUBSEQUENT OFFENSES." (ACT 074)

Gov. Msg. No. 271, informing the House that on May 26, 2005, the following bill was signed into law:

H.B. No. 1555, HD 1, SD 1, CD1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HUALALAI ACADEMY." (ACT 075)

Gov. Msg. No. 272, informing the House that on May 26, 2005, the following bill was signed into law:

S.B. No. 1483, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR WAIMEA COUNTRY SCHOOL." (ACT 076)

Gov. Msg. No. 273, informing the House that on May 26, 2005, the following bill was signed into law:

S.B. No. 459, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS." (ACT 077)

Gov. Msg. No. 274, informing the House that on May 26, 2005, the following bill was signed into law:

S.B. No. 1117, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST UTILITIES SERVING THE GENERAL PUBLIC." (ACT 078)

Gov. Msg. No. 275, informing the House that on May 26, 2005, the following bill was signed into law:

H.B. No. 1238, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SEAWATER AIR CONDITIONING PROJECTS ON THE ISLAND OF OAHU." (ACT 079)

Gov. Msg. No. 276, informing the House that on May 26, 2005, the following bill was signed into law:

H.B. No. 1657, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST HOKU SCIENTIFIC." (ACT 080)

Gov. Msg. No. 277, informing the House that on May 27, 2005, the following bill was signed into law:

H.B. No. 835, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING PLANS." (ACT 081)

Gov. Msg. No. 278, informing the House that on May 27, 2005, the following bill was signed into law:

H.B. No. 785, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES." (ACT 082)

Gov. Msg. No. 279, informing the House that on May 27, 2005, the following bill was signed into law:

H.B. No. 155, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO TIME SHARING." (ACT 083)

Gov. Msg. No. 280, informing the House that on May 31, 2005, the following bill was signed into law:

H.B. No. 551, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC MEETINGS." (ACT 084)

Gov. Msg. No. 281, informing the House that on May 31, 2005, the following bill was signed into law:

H.B. No. 553, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INFORMATION PRACTICES ACT (MODIFIED)." (ACT 085)

Gov. Msg. No. 282, informing the House that on May 31, 2005, the following bill was signed into law:

H.B. No. 384, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ATTORNEY'S FEES FOR COURT APPOINTED COUNSEL." (ACT 086)

Gov. Msg. No. 283, transmitting Housing and Community Development Corporation of Hawaii's Annual Report for fiscal year ending June 30, 2003.

Gov. Msg. No. 284, informing the House that on June 1, 2005, the following bill was signed into law:

S.B. No. 1643, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 087)

Gov. Msg. No. 285, informing the House that on June 2, 2005, the following bill was signed into law:

H.B. No. 161, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO SECURITIES." (ACT 088)

Gov. Msg. No. 286, informing the House that on June 2, 2005, the following bill was signed into law:

S.B. No. 1349, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES." (ACT 089)

Gov. Msg. No. 287, informing the House that on June 2, 2005, the following bill was signed into law:

S.B. No. 1348, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES." (ACT 090)

Gov. Msg. No. 288, informing the House that on June 2, 2005, the following bill was signed into law:

S.B. No. 1336, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS AND COOPERATIVE HOUSING CORPORATIONS." (ACT 091)

Gov. Msg. No. 289, informing the House that on June 2, 2005, the following bill was signed into law:

S.B. No. 1345, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS." (ACT 092)

Gov. Msg. No. 290, informing the House that on June 2, 2005, the following bill was signed into law:

S.B. No. 1132, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS." (ACT 093)

Gov. Msg. No. 291, informing the House that on June 3, 2005, the following bill was signed into law:

S.B. No. 944, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS." (ACT 094)

Gov. Msg. No. 292, informing the House that on June 3, 2005, the following bill was signed into law:

S.B. No. 1579, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS." (ACT 095)

Gov. Msg. No. 293, informing the House that on June 3, 2005, the following bill was signed into law:

H.B. No. 260, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS." (ACT 096)

Gov. Msg. No. 294, informing the House that on June 3, 2005, the following bill was signed into law:

H.B. No. 1597, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS." (ACT 097)

Gov. Msg. No. 295, informing the House that on June 3, 2005, the following bill was signed into law:

H.B. No. 263, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR SALARY INCREASES FOR PUBLIC EMPLOYEES." (ACT 098)

Gov. Msg. No. 296, informing the House that on June 3, 2005, the following bill was signed into law:

H.B. No. 1599, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS." (ACT 099)

Gov. Msg. No. 297, informing the House that on June 6, 2005, the following bill was signed into law:

S.B. No. 945, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS." (ACT 100)

Gov. Msg. No. 298, informing the House that on June 6, 2005, the following bill was signed into law:

S.B. No. 1580, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS." (ACT 101)

Gov. Msg. No. 299, informing the House that on June 6, 2005, the following bill was signed into law:

H.B. No. 497, HD 1, entitled: "A BILL FOR AN ACT RELATING TO UNCOLLECTIBLE ACCOUNTS." (ACT 102)

Gov. Msg. No. 300, informing the House that on June 6, 2005, the following bill was signed into law:

H.B. No. 1668, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS." (ACT 103)

Gov. Msg. No. 301, informing the House that on June 6, 2005, the following bill was signed into law:

S.B. No. 1003, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NET ENERGY METERING." (ACT 104)

Gov. Msg. No. 302, informing the House that on June 7, 2005, the following bill was signed into law:

H.B. No. 1430, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE CONTROL." (ACT 105)

Gov. Msg. No. 303, informing the House that on June 7, 2005, the following bill was signed into law:

H.B. No. 1758, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT BENEFITS." (ACT 106)

Gov. Msg. No. 304, informing the House that on June 7, 2005, the following bill was signed into law:

H.B. No. 447, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS." (ACT 107)

Gov. Msg. No. 305, informing the House that on June 7, 2005, the following bill was signed into law:

S.B. No. 702, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ANTITRUST." (ACT 108)

Gov. Msg. No. 306, informing the House that on June 8, 2005, the following bill was signed into law:

H.B. No. 450, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS." (ACT 109)

Gov. Msg. No. 307, informing the House that on June 8, 2005, the following bill was signed into law:

H.B. No. 500, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY." (ACT 110)

Gov. Msg. No. 308, informing the House that on June 8, 2005, the following bill was signed into law:

S.B. No. 620, SD 1, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS." (ACT 111)

Gov. Msg. No. 309, informing the House that on June 8, 2005, the following bill was signed into law:

H.B. No. 1733, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BIOLOGICAL EVIDENCE." (ACT 112)

Gov. Msg. No. 310, informing the House that on June 8, 2005, the following bill was signed into law:

H.B. No. 1750, SD 2, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COMMUNITY-BASED REINTEGRATION PROGRAMS FOR FEMALE OFFENDERS TRANSITIONING FROM PRISON TO THE COMMUNITY." (ACT 113)

Gov. Msg. No. 311, informing the House that on June 9, 2005, the following bill was signed into law:

S.B. No. 817, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYMENT SECURITY LAW." (ACT 114)

Gov. Msg. No. 312, informing the House that on June 9, 2005, the following bill was signed into law:

S.B. No. 122, SD 1, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PATIENT SAFETY." (ACT 115)

Gov. Msg. No. 313, informing the House that on June 9, 2005, the following bill was signed into law:

S.B. No. 116, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NURSES." (ACT 116)

Gov. Msg. No. 314, informing the House that on June 13, 2005, the following bill was signed into law:

H.B. No. 283, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT ESTABLISHING A COMMISSION TO RECOGNIZE AND HONOR SENATOR HIRAM L. FONG." (ACT 117)

Gov. Msg. No. 315, informing the House that on June 13, 2005, the following bill was signed into law:

S.B. No. 1872, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PALOLO CHINESE HOME AND ITS SUBSIDIARIES[*sic*]." (ACT 118)

Gov. Msg. No. 316, informing the House that on June 13, 2005, the following bill was signed into law:

H.B. No. 1236, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE LEGISLATURE." (ACT 119)

Gov. Msg. No. 317, informing the House that on June 14, 2005, the following bill was signed into law:

S.B. No. 797, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII." (ACT 120)

Gov. Msg. No. 318, transmitting the Natural Energy Laboratory of Hawaii Authority 2004 Annual Report.

Gov. Msg. No. 319, transmitting the Office of Youth Services' Report on youth gangs: Volume I: Gangs in Hawaii: Past and Present Findings and Volume II: Gender, Ethnicity, and Delinquency in Hawaii.

Gov. Msg. No. 320, informing the House that on June 15, 2005, the following bill was signed into law:

S.B. No. 568, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO DENTISTS." (ACT 121)

Gov. Msg. No. 321, informing the House that on June 15, 2005, the following bill was signed into law:

S.B. No. 118, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF DENTAL EXAMINERS EXAMINATIONS." (ACT 122)

Gov. Msg. No. 322, informing the House that on June 15, 2005, the following bill was signed into law:

S.B. No. 700, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NUISANCE ABATEMENT." (ACT 123)

Gov. Msg. No. 323, informing the House that on June 15, 2005, the following bill was signed into law:

H.B. No. 1749, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL OFFENSES." (ACT 124)

Gov. Msg. No. 324, informing the House that on June 15, 2005, the following bill was signed into law:

H.B. No. 1763, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PENAL CODE." (ACT 125)

Gov. Msg. No. 325, informing the House that on June 16, 2005, the following bill was signed into law:

S.B. No. 1891, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BOATING." (ACT 126)

Gov. Msg. No. 326, informing the House that on June 16, 2005, the following bill was signed into law:

S.B. No. 1378, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PEARL HARBOR HISTORIC TRAIL." (ACT 127)

Gov. Msg. No. 327, informing the House that on June 16, 2005, the following bill was signed into law:

H.B. No. 712, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VIOLATIONS OF CHAPTER 6E." (ACT 128)

Gov. Msg. No. 328, informing the House that on June 16, 2005, the following bill was signed into law:

H.B. No. 1659, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NONCOMMERCIAL PIERS." (ACT 129)

Gov. Msg. No. 329, informing the House that on June 16, 2005, the following bill was signed into law:

H.B. No. 408, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT." (ACT 130)

Gov. Msg. No. 330, informing the House that on June 16, 2005, the following bill was signed into law:

S.B. No. 682, SD 2, HD 3, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO." (ACT 131)

Gov. Msg. No. 331, informing the House that on June 17, 2005, the following bill was signed into law:

S.B. No. 754, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE." (ACT 132)

Gov. Msg. No. 332, informing the House that on June 17, 2005, the following bill was signed into law:

H.B. No. 1462, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII." (ACT 133)

Gov. Msg. No. 333, informing the House that on June 17, 2005, the following bill was signed into law:

S.B. No. 77, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY." (ACT 134)

Gov. Msg. No. 334, informing the House that on June 17, 2005, the following bill was signed into law:

H.B. No. 320, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO FINANCIAL DISCLOSURE STATEMENTS." (ACT 135)

Gov. Msg. No. 335, informing the House that on June 17, 2005, the following bill was signed into law:

S.B. No. 693, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CHARITABLE GIFT ANNUITIES." (ACT 136)

Gov. Msg. No. 336, informing the House that on June 20, 2005, the following bill was signed into law:

H.B. No. 20, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII." (ACT 137)

Gov. Msg. No. 337, informing the House that on June 20, 2005, the following bill was signed into law:

H.B. No. 19, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO UNIVERSITY PROJECTS AND AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR HOUSING UNITS." (ACT 138)

Gov. Msg. No. 338, informing the House that on June 21, 2005, the following bill was signed into law:

S.B. No. 791, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO A CONTINUUM OF HEALTH CARE SETTINGS." (ACT 139)

Gov. Msg. No. 339, informing the House that on June 21, 2005, the following bill was signed into law:

S.B. No. 761, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MENTAL HEALTH." (ACT 140)

Gov. Msg. No. 340, informing the House that on June 21, 2005, the following bill was signed into law:

S.B. No. 1394, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 141)

Gov. Msg. No. 341, informing the House that on June 21, 2005, the following bill was signed into law:

S.B. No. 1419, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE." (ACT 142)

Gov. Msg. No. 342, informing the House that on June 21, 2005, the following bill was signed into law:

S.B. No. 27, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE KAPIOLANI CHILD AT-RISK EVALUATION PROGRAM." (ACT 143)

Gov. Msg. No. 343, informing the House that on June 22, 2005, the following bill was signed into law:

H.B. No. 278, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO VICTIM RESTITUTION." (ACT 144)

Gov. Msg. No. 344, informing the House that on June 22, 2005, the following bill was signed into law:

S.B. No. 121, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO BREWPUB LICENSES." (ACT 145)

Gov. Msg. No. 345, informing the House that on June 22, 2005, the following bill was signed into law:

S.B. No. 1453, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SERVICE COMPANY TAX." (ACT 146)

Gov. Msg. No. 346, informing the House that on June 22, 2005, the following bill was signed into law:

H.B. No. 1393, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMMISSION ON THE STATUS OF WOMEN." (ACT 147)

Gov. Msg. No. 347, informing the House that on June 22, 2005, the following bill was signed into law:

S.B. No. 1780, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMMISSION ON FATHERHOOD." (ACT 148)

Gov. Msg. No. 348, informing the House that on June 22, 2005, the following bill was signed into law:

S.B. No. 1699, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CULTURE AND THE ARTS." (ACT 149)

Gov. Msg. No. 349, informing the House that on June 23, 2005, the following bill was signed into law:

S.B. No. 1018, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES." (ACT 150)

Gov. Msg. No. 350, informing the House that on June 23, 2005, the following bill was signed into law:

H.B. No. 1300, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY CHILDHOOD EDUCATION." (ACT 151)

Gov. Msg. No. 351, informing the House that on June 23, 2005, the following bill was signed into law:

H.B. No. 477, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTING ROTH INDIVIDUAL RETIREMENT ACCOUNTS FROM ATTACHMENT OR SEIZURE." (ACT 152)

Gov. Msg. No. 352, informing the House that on June 23, 2005, the following bill was signed into law:

S.B. No. 1285, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TRADITIONAL HAWAIIAN HEALING PRACTICES." (ACT 153)

Gov. Msg. No. 353, informing the House that on June 23, 2005, the following bill was signed into law:

H.B. No. 1745, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO REPORTS TO THE LEGISLATURE." (ACT 154)

Gov. Msg. No. 354, informing the House that on June 23, 2005, the following bill was signed into law:

S.B. No. 1798, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NONPROFIT CORPORATIONS." (ACT 155)

Gov. Msg. No. 355, informing the House that on June 23, 2005, the following bill was signed into law:

H.B. No. 1308, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND CONSERVATION." (ACT 156)

Gov. Msg. No. 356, informing the House that on June 24, 2005, the following bill was signed into law:

H.B. No. 1017, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY." (ACT 157)

Gov. Msg. No. 357, informing the House that on June 24, 2005, the following bill was signed into law:

S.B. No. 1661, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 158)

Gov. Msg. No. 358, informing the House that on June 24, 2005, the following bill was signed into law:

H.B. No. 844, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 159)

Gov. Msg. No. 359, informing the House that on June 24, 2005, the following bill was signed into law:

H.B. No. 1453, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMALS." (ACT 160)

Gov. Msg. No. 360, informing the House that on June 24, 2005, the following bill was signed into law:

S.B. No. 669, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL QUARANTINE FACILITIES." (ACT 161)

Gov. Msg. No. 361, informing the House that on June 27, 2005, the following bill was signed into law:

S.B. No. 1362, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO ABANDONED VEHICLES." (ACT 162)

Gov. Msg. No. 362, informing the House that on June 27, 2005, the following bill was signed into law:

H.B. No. 393, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COUNTIES." (ACT 163)

Gov. Msg. No. 363, informing the House that on June 27, 2005, the following bill was signed into law:

S.B. No. 1903, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SEAWATER AIR CONDITIONING." (ACT 164)

Gov. Msg. No. 364, informing the House that on June 27, 2005, the following bill was signed into law:

H.B. No. 140, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES." (ACT 165)

Gov. Msg. No. 366, informing the House that on June 28, 2005, the following bill was signed into law:

S.B. No. 1038, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PROCUREMENT INSTITUTE." (ACT 166)

Gov. Msg. No. 367, informing the House that on June 28, 2005, the following bill was signed into law:

S.B. No. 460, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX REFUNDS." (ACT 167)

Gov. Msg. No. 368, informing the House that on June 28, 2005, the following bill was signed into law:

S.B. No. 3, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES." (ACT 168)

Gov. Msg. No. 370, informing the House that on June 29, 2005, the following bill was signed into law:

S.B. No. 527, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PURCHASES OF HEALTH AND HUMAN SERVICES." (ACT 169)

Gov. Msg. No. 371, informing the House that on June 29, 2005, the following bill was signed into law:

H.B. No. 295, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING." (ACT 170)

Gov. Msg. No. 372, informing the House that on June 29, 2005, the following bill was signed into law:

H.B. No. 115, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MILITARY AFFAIRS." (ACT 171)

Gov. Msg. No. 373, informing the House that on June 29, 2005, the following bill was signed into law:

H.B. No. 1029, SD 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE DEPARTMENT OF DEFENSE." (ACT 172)

Gov. Msg. No. 374, informing the House that on June 29, 2005, the following bill was signed into law:

S.B. No. 1702, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY." (ACT 173)

Gov. Msg. No. 375, informing the House that on June 30, 2005, the following bill was signed into law:

S.B. No. 1253, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 174)

Gov. Msg. No. 376, informing the House that on June 30, 2005, the following bill was signed into law:

H.B. No. 1276, HD 3, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCESS." (ACT 175)

Gov. Msg. No. 377, informing the House that on June 30, 2005, the following bill was signed into law:

H.B. No. 1318, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES." (ACT 176)

Gov. Msg. No. 378, informing the House that on June 30, 2005, the following bill was signed into law:

H.B. No. 515, SD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT RECORDS." (ACT 177)

Gov. Msg. No. 379, informing the House that on June 30, 2005, the following bill was signed into law:

H.B. No. 100, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET." (ACT 178)

Gov. Msg. No. 380, informing the House that on June 30, 2005, the following bill was signed into law:

H.B. No. 841, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 179)

Gov. Msg. No. 381, informing the House that on July 1, 2005, the following bill was signed into law:

H.B. No. 168, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND DEVELOPMENT." (ACT 180)

Gov. Msg. No. 382, informing the House that on July 1, 2005, the following bill was signed into law:

H.B. No. 1202, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL TRESPASSING." (ACT 181)

Gov. Msg. No. 383, informing the House that on July 1, 2005, the following bill was signed into law:

H.B. No. 1201, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL THEFT." (ACT 182)

Gov. Msg. No. 384, informing the House that on July 1, 2005, the following bill was signed into law:

H.B. No. 1640, HD 3, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS." (ACT 183)

Gov. Msg. No. 385, informing the House that on July 1, 2005, the following bill was signed into law:

S.B. No. 617, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COURT INTERPRETER SERVICES." (ACT 184)

Gov. Msg. No. 386, informing the House that on July 1, 2005, the following bill was signed into law:

S.B. No. 1876, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAYS." (ACT 185)

Gov. Msg. No. 387, informing the House that on July 1, 2005, the following bill was signed into law:

H.B. No. 1295, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOLS." (ACT 186)

Gov. Msg. No. 388, informing the House that on July 5, 2005, the following bill was signed into law:

H.B. No. 1709, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL PROPERTY DAMAGE." (ACT 187)

Gov. Msg. No. 389, informing the House that on July 5, 2005, the following bill was signed into law:

H.B. No. 864, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES." (ACT 188)

Gov. Msg. No. 390, informing the House that on July 5, 2005, the following bill was signed into law:

S.B. No. 1660, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 189)

Gov. Msg. No. 391, informing the House that on July 5, 2005, the following bill was signed into law:

S.B. No. 1478, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE FIRE COUNCIL." (ACT 190)

Gov. Msg. No. 392, informing the House that on July 5, 2005, the following bill was signed into law:

H.B. No. 758, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES." (ACT 191)

Gov. Msg. No. 393, informing the House that on July 5, 2005, the following bill was signed into law:

H.B. No. 1320, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY 911." (ACT 192)

Gov. Msg. No. 394, informing the House that on July 5, 2005, the following bill was signed into law:

S.B. No. 1100, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE." (ACT 193)

Gov. Msg. No. 395, informing the House that on July 5, 2005, the following bill was signed into law:

H.B. No. 919, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO USE OF INTOXICANTS." (ACT 194)

Gov. Msg. No. 396, informing the House that on July 5, 2005, the following bill was signed into law:

H.B. No. 1672, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET." (ACT 195)

Gov. Msg. No. 397, informing the House that on July 6, 2005, the following bill was signed into law:

S.B. No. 179, SD 3, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING." (ACT 196)

Gov. Msg. No. 398, informing the House that on July 6, 2005, the following bill was signed into law:

H.B. No. 931, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING." (ACT 197)

Gov. Msg. No. 399, informing the House that on July 6, 2005, the following bill was signed into law:

S.B. No. 117, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING." (ACT 198)

Gov. Msg. No. 400, informing the House that on July 6, 2005, the following bill was signed into law:

H.B. No. 465, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARDS OF REGISTRATION." (ACT 199)

Gov. Msg. No. 401, informing the House that on July 6, 2005, the following bill was signed into law:

H.B. No. 1740, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC VOTING." (ACT 200)

Gov. Msg. No. 402, informing the House that on July 6, 2005, the following bill was signed into law:

H.B. No. 1712, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS." (ACT 201)

Gov. Msg. No. 403, informing the House that on July 6, 2005, the following bill was signed into law:

H.B. No. 460, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE CIVIL SERVICE." (ACT 202)

Gov. Msg. No. 404, informing the House that on July 6, 2005, the following bill was signed into law:

H.B. No. 1747, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGNS." (ACT 203)

Gov. Msg. No. 405, informing the House that on July 7, 2005, the following bill was signed into law:

S.B. No. 639, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION." (ACT 204)

Gov. Msg. No. 406, informing the House that on July 7, 2005, the following bill was signed into law:

H.B. No. 109, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO LAND USE COMMISSION." (ACT 205)

Gov. Msg. No. 407, informing the House that on July 7, 2005, the following bill was signed into law:

H.B. No. 1015, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM." (ACT 206)

Gov. Msg. No. 408, transmitting the Department of Human Services/Benefit, Employment & Support Services Division's Report to the Legislature as required by Section 42, House Bill 100, H.D. 1, S.D. 1, C.D. 1.

Gov. Msg. No. 409, informing the House that on July 8, 2005, the following bill was signed into law:

H.B. No. 1550, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENTS." (ACT 207)

Gov. Msg. No. 410, informing the House that on July 8, 2005, the following bill was signed into law:

S.B. No. 40, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVER CONSENT." (ACT 208)

Gov. Msg. No. 411, informing the House that on July 8, 2005, the following bill was signed into law:

S.B. No. 802, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO A STATE PHARMACY ASSISTANCE PROGRAM." (ACT 209)

Gov. Msg. No. 412, informing the House that on July 8, 2005, the following bill was signed into law:

S.B. No. 61, SD 1, entitled: "A BILL FOR AN ACT RELATING TO WAGES." (ACT 210)

Gov. Msg. No. 413, informing the House that on July 8, 2005, the following bill was signed into law:

S.B. No. 1127, SD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC PROCUREMENT CODE." (ACT 211)

Gov. Msg. No. 414, informing the House that on July 8, 2005, the following bill was signed into law:

H.B. No. 806, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS." (ACT 212)

Gov. Msg. No. 415, informing the House that on July 8, 2005, the following bill was signed into law:

S.B. No. 1816, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO STUDENT SUBSTANCE ABUSE ASSESSMENT REFERRALS." (ACT 213)

Gov. Msg. No. 422, informing the House that on July 11, 2005, the following bill was signed into law:

H.B. No. 1715, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL RIGHTS." (ACT 214)

The following messages from the Governor (Gov. Msg. Nos. 365, 369, 416 through 421, and 423 through 440) were received and announced by the Clerk.

Gov. Msg. No. 365, transmitting proclamations giving notice to the House of the Governor's plans to return the following House and Senate Bills:

H.B. No. 85, HD 2, SD 2
H.B. No. 160, HD 2, SD 1, CD 1

H.B. No. 180
H.B. No. 332, HD 1, SD 2, CD 1
H.B. No. 1051, HD 2, SD 2, CD 1
H.B. No. 1060, HD 2, SD 2
H.B. No. 1224, SD 1, CD 1
H.B. No. 1317, HD 1, SD 1, CD 1
H.B. No. 1450, HD 2, SD 1
H.B. No. 1554, HD 2, SD 2, CD 1
H.B. No. 1608, HD 1, SD 2, CD 1
S.B. No. 55, SD 1, HD 2, CD 1
S.B. No. 960, HD 1, CD 1
S.B. No. 1194, SD 1, HD 2, CD 1
S.B. No. 1257, SD 2, HD 2, CD 1
S.B. No. 1262, SD 1, HD 2, CD 1
S.B. No. 1352, SD 1, HD 1, CD 1
S.B. No. 1420, SD 2, HD 3, CD 1
S.B. No. 1473, SD 1, HD 1, CD 1
S.B. No. 1554, SD 1, HD 2, CD 1
S.B. No. 1592, SD 1, HD 2, CD 1
S.B. No. 1685, SD 2, HD 1, CD 1
S.B. No. 1772, SD 1, HD 2, CD 1
S.B. No. 1796, SD 1, HD 1, CD 1
S.B. No. 1808, SD 1, HD 1, CD 1
S.B. No. 1843, SD 1, HD 2, CD 1
S.B. No. 1877, HD 1, CD 1
S.B. No. 1889, SD 1, HD 2, CD 1

"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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 85, entitled "A Bill for an Act Relating to Harbors," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 85 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. 85 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 160, entitled "A Bill for an Act Relating to the Compliance Resolution Fund," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 160 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. 160 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 180, 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. 180 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. 180 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 332, entitled "A Bill for an Act Relating to Frozen Food Products," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 332 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. 332 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1051, entitled "A Bill for an Act Relating to Prescription Drugs," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1051 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. 1051 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1060, entitled "A Bill for an Act Relating to Medicaid," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1060 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. 1060 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1224, entitled "A Bill for an Act Relating to Taxation," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1224 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. 1224 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1309, entitled "A Bill for an Act Relating to Taxation," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1309 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. 85[sic] 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1317, entitled "A Bill for an Act Relating to Medicaid," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1317 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. 1317 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1450, entitled "A Bill for an Act Relating to Civil Rights," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1450 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. 1450 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1548, entitled "A Bill for an Act Relating to the Employer-Union Health Benefits Trust Fund," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1548 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. 85[sic] 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1554, entitled "A Bill for an Act Relating to Leasehold Conversion," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1554 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. 1554 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1556, entitled "A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1556 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. 85[sic] 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1608, entitled "A Bill for an Act Relating to Voluntary Employees' Beneficiary Association Trusts," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1608 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. 1608 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1715, entitled "A Bill for an Act Relating to Civil Rights," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1715 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. 85[sic] 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 55, 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, Senate Bill No. 55 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. 55 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 813, entitled "A Bill for an Act Relating to Employment Security," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 813 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. 85[sic] 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 960, entitled "A Bill for an Act Relating to Civil Defense," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 960 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. 960 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 27th day
of June, 2005.

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

"P R O C L A M A T I O N"

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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1194, entitled "A Bill for an Act Relating to the Board of Trustees of the Deferred Compensation Plan," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1194 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. 1194 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 27 day
of June, 2005.

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

"P R O C L A M A T I O N"

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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1257, 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. 1257 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. 1257 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 27th day
of June, 2005.

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

"P R O C L A M A T I O N"

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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1262, entitled "A Bill for an Act Relating to the Waianae Coast," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1262 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. 1262 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 27 day
of June, 2005.

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

"P R O C L A M A T I O N"

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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1352, 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, Senate Bill No. 1352 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. 1352 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 27 day
of June, 2005.

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

"P R O C L A M A T I O N"

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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1420, entitled "A Bill for an Act Relating to Psychotropic Medication," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1420 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. 1420 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1473, entitled "A Bill for an Act Relating to Waimano Ridge," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1473 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. 1473 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1554, entitled "A Bill for an Act Relating to the Environment," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1554 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. 1554 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1592, entitled "A Bill for an Act Relating to State Planning," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1592 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. 1592 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1685, entitled "A Bill for an Act Relating to Tax," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1685 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. 1685 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 27th day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1772, entitled "A Bill for an Act Relating to Employers," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1772 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. 1772 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1796, entitled "A Bill for an Act Relating to the Disposition of Convicted Defendants," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1796 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. 1796 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1808, entitled "A Bill for an Act Relating to Workers' Compensation Law," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1808 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. 1808 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1843, entitled "A Bill for an Act Relating to Procurement," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1843 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. 1843 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

State of Hawaii, this 27th day of June, 2005.

DONE at the State Capitol, Honolulu
State of Hawaii, this 27 day
of June, 2005.

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 369, transmitting her statement of objections to S.B. No. 1808 as follows:

"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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1877, entitled "A Bill for an Act Relating to the Office of Planning," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1877 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. 1877 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 27 day
of June, 2005.

/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 the adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 1889, entitled "A Bill for an Act Relating to Apprenticeships," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 1889 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. 1889 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

"EXECUTIVE CHAMBERS
HONOLULU
June 29, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1808

Honorable Members
Twenty-Third 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. 1808, entitled "A Bill for an Act Relating to Workers' Compensation Law."

The purported purposes of this bill are to codify some of the existing Hawaii administrative rules pertaining to workers' compensation into chapter 386, Hawaii Revised Statutes; to temporarily restrict the Director's rulemaking authority; and to clarify various other provisions relating to workers compensation.

The bill also declares that any rule relating to workers' compensation that is adopted or amended by the Director on or after January 1, 2005, shall not have the force and effect of law, except that the Director will continue to have the authority to update the reimbursement amounts paid to medical providers under the medical fee schedule.

This bill is objectionable because it arbitrarily suspends, from January 1, 2005 until July 1, 2007, the authority of the Director of the Department of Labor and Industrial Relations from implementing rule changes to improve and streamline the administration and implementation of the workers' compensation laws. Suspension of the rulemaking process is a significant challenge to a key governing principle that has evolved through legislative actions and judicial decisions over the past century. Such a suspension would frustrate and prevent the Director from performing the statutory function of facilitating and promoting the efficient execution of the Hawaii Workers' Compensation Law through the adoption and amendment of administrative rules.

In addition, this bill would nullify and invalidate administrative rules recently adopted by the Department of Labor and Industrial Relations relating to the administration and implementation of the workers' compensation laws.

On January 7, 2005, a notice of public hearing on proposed rule changes was published and the draft rules were made available for public review. A public hearing was held on February 7, 2005. Approximately 230 testimonies from the public were received and considered by the Director and the Governor. The final rules were signed into law by the Governor and took effect on May 13, 2005. These rules address factors driving up the cost of workers compensation insurance while ensuring that injured workers receive quality medical care and benefits. This bill would negate the improvements achieved by these rules.

Repeal of these rules and suspension of the Director of Labor and Industrial Relations' authority to improve the implementation of the workers compensation law through the rule-making process would be an abrogation of the public's right to participatory governance.

Further, under this bill, the Director of Labor and Industrial Relations would not be permitted to issue a decision without a hearing. Currently the Director issues decisions without hearings for the sake of the injured worker, such as awards for disfigurement, which are made after a review of the medical records. Prohibiting the waiver of a hearing will serve as a detriment to injured workers and exacerbate the lengthy delays that have earned Hawaii's worker compensation system a failing grade.

For the foregoing reasons, I am returning Senate Bill No. 1808 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 416, transmitting her statement of objections to H.B. No. 160 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 8, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 160

Honorable Members
Twenty-Third 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. 160, entitled " A Bill for an Act Relating to the Compliance Resolution Fund."

The principal purpose of this bill is to amend certain laws governing the funding of insurance regulation. Specifically, the bill revises the laws governing the authority of the Insurance Commissioner ("Commissioner") to assess insurers and the procedures for making those assessments.

This bill is objectionable because the Insurance Division ("Division") receives no general funds and is self-funded as a matter of law. Restricting the Division's funding and prohibiting the Division from maintaining cash reserves would severely limit the Insurance Commissioner's ability to fulfill his mandated duties and would place the public's interest at risk. Although the Legislature has directed that the Division be self-supporting, the bill undercuts that status.

As a self-supporting agency, the Division relies significantly on its annual assessment of the insurance industry to cover the shortfall between other revenues and expenses. The bill's formula for calculating the assessment is flawed because it severely restricts the Division's ability to maintain an end of year cash balance. The bill will significantly and adversely affect the Division's operations, particularly since the bill further requires that assessments not be made until prior year cash balances can be determined and that insurers will have 60 days' notice of any assessment. Since other revenues are spread out throughout the year, the Division would not be able to pay its employees or enter into contracts for at least the first several months of the fiscal year.

In addition, the bill ignores the fundamental fact, reflected in the original decision that the Division should be self-funded, that the Division requires some flexibility in funding in order to protect the public interest. For example, the Commissioner has recently begun an investigation of allegations of an industry-wide conflict of interest and under-reporting of revenues. It is impossible to project how much the investigation will cost. Tying the Commissioner's hands by limiting his access to funds would curtail this critical activity. Under the bill, the Commissioner would not be able to adequately deal with contingencies, such as the industry-wide investigation or insurer rehabilitations and liquidations, much less be in a position to address emergencies such as Hurricane Iniki.

I concur with those who call for more transparency in the calculation of assessments and an explanation of how assessments are spent. The Insurance Division within the Department of Commerce and Consumer Affairs has proposed to provide the industry, in advance of each year, with a simple explanation of how it determines the amount of each year's assessment. Further it has offered an end of the year detailed accounting of the funds entrusted to it. That offer was rejected by industry officials. However, rather than affording increased transparency, this bill makes the process less transparent and less understandable.

It is ironic that this bill was passed only after my Administration has already taken major steps to address the concerns that underlie the bill. Under my leadership, the Division reduced its industry assessments by 60% in the first year and made no assessment at all in the second year. The bill represents a complaint lodged against prior Administrations, but only now does the Legislature see fit to take action. For the purposes of advancing open, transparent government, the bill is the wrong action at the wrong time.

For the foregoing reasons, I am returning House Bill No. 160 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 417, transmitting her statement of objections to H.B. No. 332 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 8, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 332

Honorable Members
Twenty-Third 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. 332, entitled " A Bill for an Act Relating to Frozen Food Products."

The purpose of this bill is to amend section 328-61, Hawaii Revised Statutes, to require those who sell baked goods that were previously frozen and thawed to so inform consumers prior to sale.

This bill is objectionable because it is unnecessary to protect public health and safety. Uncooked food that was previously

frozen and not thawed properly may pose a health risk. However, baked products that are subject to flash freezing and then thawed do not pose a risk of food-borne illness. Bakers who do not flash freeze their products are not prohibited by statute or regulation from advertising this fact.

Enforcing the signage requirements for several thousand different varieties of previously frozen and thawed baked goods would place a significant burden on the Department of Health staff and would divert the department's resources from genuine health and safety matters. The public will be better served if the Department of Health continues to focus on more significant health issues such as the proper handling and storage of raw seafood or the potential adulteration of food products with bacterial or chemical contamination.

For the foregoing reasons, I am returning House Bill No. 332, without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 418, transmitting her statement of objections to H.B. No. 1224 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 8, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1224

Honorable Members
Twenty-Third 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. 1224, entitled "A Bill for an Act Relating to Taxation."

The purpose of House Bill No. 1224 is to require the Department of Taxation ("Department") to recommend legislation in advance of the regular session of 2006 that is intended to bring Hawaii into compliance with the Streamlined Sales and Use Tax Agreement ("SSTP Agreement"), which aims to make the sales and use taxes among complying states more uniform. This bill also adopts provisions to allow an out-of-state seller to register to pay or collect and remit the appropriate sales or use tax by one of three methods described in the bill in accordance with the terms of the SSTP Agreement.

This bill repeals subsections (b) and (c) of section 255D-3, Hawaii Revised Statutes, relating to the Hawaii Simplified Sales and Use Tax Administration Act Advisory Council ("Advisory Council") and the Department of Taxation is directed to work with three designees selected by the President of the Senate and three designees selected by the Speaker of the House of Representatives.

This bill appropriates \$50,000, to be expended by the Legislative Auditor, for technical assistance and briefings. Lastly, the bill authorizes the release of confidential taxpayer return information to private contractors that may be hired by the Legislative Auditor or the Auditor's designees.

This bill is objectionable because it hinders the Executive Branch's responsibility to bring Hawaii in compliance with the SSTP Agreement. On April 29, 2005, the Senate confirmed the

Governor's five nominated members to the Advisory Council. These nominated and Senate-confirmed members of the Advisory Council represent preeminent individuals from the tax practitioner and business communities.

The collective knowledge and wisdom of these confirmed Advisory Council members will be required if Hawaii is to develop tax legislation in compliance with the SSTP Agreement so that its system of taxation is more in conformance with the arrangements in other states. Implementation of the SSTP Agreement in Hawaii will involve complex changes to Hawaii's use and general excise taxes because Hawaii is only one of a few states that have a gross receipts type tax that mirrors and complements its use tax. This use tax is imposed upon goods and services imported from out-of-state sellers to ensure that the same taxes are paid from these transactions as would have been paid in general excise taxes had the goods and services been purchased from Hawaii sellers. In contrast, other states' use taxes mirror their sales taxes to level the taxes paid for in-state and out-of-state goods.

Any proposed changes to Hawaii's use tax to comply with the SSTP Agreement will likely require amendments to the general excise tax because the Constitutions of the United States and Hawaii require that the taxes imposed upon goods and services purchased from out-of-state sellers be no greater than the taxes paid on goods and services purchased in the State. This new legislation would require substantial revisions to Hawaii's use and general excise tax laws so that these laws become more similar to the tax laws of the other states that complying with the SSTP Agreement. As such, development of this proposed legislation to conform with the SSTP Agreement will likely have significant impact upon both Hawaii's business community and tax revenues.

For these reasons, the effective implementation of the SSTP Agreement in Hawaii may only be achieved if the Department and the Advisory Council have the ability to meet and discuss the complex issues of implementation and to seek the input from other member states. Given the complexity of the ongoing efforts to implement the SSTP Agreement, the repeal of the Advisory Council is unwarranted and the deadlines established in the bill for the Department are unrealistic.

Furthermore, the bill allows third parties to access confidential tax return information without any explicit restrictions on re-disclosure to third parties, which undermines the State's strong public policy in state laws that ensure confidentiality of a taxpayer's tax information to promote voluntary and complete disclosure in reporting to taxing authorities. Moreover, federal law generally prohibits the disclosure of federal tax return information, which may be contained in Hawaii state tax returns.

For the foregoing reasons, I am returning House Bill No. 1224 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 419, transmitting her statement of objections to S.B. No. 960 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 8, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 960

Honorable Members
Twenty-Third 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. 960, entitled "A Bill for an Act Relating to Civil Defense."

The purpose of this bill is to appropriate funds for natural disaster preparedness, including tsunami and hurricane preparedness efforts, from the Hurricane Reserve Trust Fund, to retrofit and protect public buildings against hurricanes, develop standards for residential safe rooms, to fund the Loss Mitigation Grant Program, and to improve the Program by encouraging the construction of safe rooms.

While I believe these projects to be worthwhile, the method chosen to fund these projects is not appropriate. The Hurricane Reserve Trust Fund principal should be retained in the fund because these moneys will be needed to pay claims and purchase reinsurance following a hurricane.

Development of a balanced budget that uses general fund moneys for hurricane mitigation projects is not objectionable. The Legislature already requires the annual transfer of interest from the Hurricane Fund to the general fund. This presently amounts to about \$6 million per year and would be more than enough to pay for loss mitigation programs, the hurricane retrofit grant program, and the tsunami and hurricane disaster preparedness efforts addressed by the bill. Taking money from the Hurricane Fund's principal, however, means that the moneys in the Hurricane Fund would be permanently reduced.

Unless some other fund is established in its place, the Hurricane Reserve Trust Fund will be the sole source of monies to provide hurricane insurance to the market when the private market is unable to do so. Following Hurricane Iniki in 1992, private insurers cut back severely on homeowner's insurance, leaving families without insurance or forcing them to purchase insurance at high rates in the surplus lines market. Because the secondary market in mortgage loans requires hurricane insurance, the Hurricane Reserve Trust Fund will facilitate continued real estate lending and real estate transactions. In addition to helping homeowners, the Hurricane Reserve Trust Fund provides an important support to the overall economy of the State following a hurricane.

Finally, the appropriations in this bill will provide Loss Mitigation grants for a relatively small number of single-family homeowners per year. Even if this bill represents only the beginning of the reserve trust funding of these grants, this bill represents the start of a practice that will likely deplete the Hurricane Reserve Trust Fund over time. The lessons from history and the reality that a hurricane will strike Hawaii in the future requires preservation, not depletion, of the Hurricane Reserve Trust Fund.

For the foregoing reasons, I am returning Senate Bill No. 960 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 420, transmitting her statement of objections to S.B. No. 1685 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 8, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1685

Honorable Members
Twenty-Third 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. 1685, entitled "A Bill for an Act Relating to Tax."

The purpose of this bill is to authorize the disclosure of income and general excise tax returns and tax return information to the counties for purposes of the administration of tax laws and to, in turn, permit the counties to share information relating to the administration of real property taxes with any duly accredited official of the State for tax purposes.

This bill is objectionable because it provides insufficient protection for confidential tax returns and tax information once disclosed to the counties. Although the bill provides that tax returns and return information may be provided to the counties for tax administration purposes only, there is no express prohibition on the counties re-disclosure of this information and there are no penalties, civil or criminal, for unauthorized disclosure.

Statutes that provide for the confidentiality of taxpayer's tax returns and tax information promote a vital governmental interest in ensuring the taxpayers' full and complete reporting of their income to state taxing authorities. Strict confidentiality is accorded to tax return information as quid pro quo for taxpayers' voluntary compliance with tax laws in order to ensure that taxpayers fully and voluntarily report all income and pay all taxes due. Without adequate protections to ensure that state taxpayer data will be used solely for the purposes of the administration of county real property tax laws, taxpayers may be deterred from full and complete reporting and the State may be exposed to a potential liability for breach of its confidentiality responsibilities in regard to this information.

Although this bill contains provisions to permit the counties to share information relating to the administration of real property taxes with any duly accredited officials of the State for tax purposes, that part of the bill is unnecessary. County real property tax records are already open to public inspection under section 92F-12 (a) (5), Hawaii Revised Statutes, and are already available for state tax purposes.

For the foregoing reasons, I am returning Senate Bill No. 1685 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 421, transmitting her statement of objections to S.B. No. 1796 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 8, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO.
1796

Honorable Members
Twenty-Third 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. 1796, entitled "A Bill for an Act Relating to the Disposition of Convicted Defendants."

The purpose of this bill is to allow individuals sentenced for a first-time drug offense prior to July 1, 2002, to apply for re-sentencing, provided that the person is able to demonstrate to the court a satisfactory record of drug treatment and abstinence, and a record free of any criminal conviction from the date of the person's sentencing for the first-time drug offense. The person may also apply for expungement of related arrest and conviction records.

This bill is objectionable, because it will cause unintended results that will undermine the intent and purpose of Act 161, Session Laws of Hawaii 2002. The purpose of Act 161 is to require first-time nonviolent drug possession offenders to be sentenced to undergo and complete drug treatment instead of incarceration.

This bill is broader than and contrary to Act 161, because its eligibility criteria is less restrictive than that of Act 161, now incorporated in section 706-622.5, Hawaii Revised Statutes. This bill would allow a person convicted of a first-time drug offenses involving the distribution and manufacture of drugs, prior to the July 1, 2002, to apply for re-sentencing. However, section 706-622.5, restricts sentencing for first-time drug offenses to those involving possession or use, but not including cases involving the distribution or manufacture of drugs.

It is conceivable, under this bill, that a person convicted, prior to July 1, 2002, for a first-time drug offense of Promoting a Dangerous Drug in the First Degree, which involved distribution or manufacturing of drugs, could apply for re-sentencing if the person demonstrated to the court a satisfactory record of drug treatment and drug abstinence and a record free of any criminal conviction from the date of the person's prior sentencing. Therefore, this bill would permit a person convicted of a class A felony and sentenced to an indeterminate term of imprisonment of twenty years to apply for re-sentencing and request probation. This is absolutely contrary to the intent and purpose of Act 161.

In addition, under section 706-622.5, a person is eligible to be sentenced to probation if the person meets certain criteria, including a determination by the court that the person is nonviolent after reviewing the person's criminal history, the factual circumstances of the offense, and any other relevant information. This bill does not require a person to meet the same criteria of an individual applying for sentencing under section 706-622.5, Hawaii Revised Statutes, and thus may be contrary to existing statutory probation standards.

The vagueness of the bill's language may also cause unintended results and require appeals to the appellate courts. This bill would allow a person convicted for a first-time drug offense to apply for re-sentencing if that person can demonstrate "to the court a satisfactory record of drug treatment and drug abstinence." Due to the vagueness of the language and a lack of objective criteria, different courts may apply different standards in determining whether a person has demonstrated a "satisfactory record of drug treatment and drug abstinence." This provision will add more uncertainty to the law and will promote appeals.

This bill would also authorize the court to expunge the person's related conviction and arrest records if the person could "demonstrate to the court a satisfactory record of drug treatment and drug abstinence, and a record free of any criminal conviction from the date of the person's sentencing for the first time during drug offense to the date of the application for re-sentencing." If the person also had an associated non-drug felony conviction related to the seizure of the drugs that lead to the conviction, that conviction would also be expunged.

Senate Bill No. 1796's provision on expungement goes much further than section 706-622.5, which limits expungement to the record of conviction for that particular offense.

While it appears that the Legislature intended to afford the benefits of Act 161 retroactively to cases prior to July 1, 2002, this bill will have the inappropriate result of permitting individuals who would not have met the eligibility criteria of Act 161 to benefit from it.

For the foregoing reasons, I am returning Senate Bill No. 1796 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 423, transmitting her statement of objections to H.B. No. 85 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 85

Honorable Members
Twenty-Third 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. 85, entitled "A Bill for an Act Relating to Harbors."

The purpose of this bill is to transfer jurisdiction and authority over Honolulu Harbor piers 1 and 2 from the Hawaii Community Development Authority (HCDA) to the Department of Transportation.

This bill is objectionable because, section 3 erroneously excludes from the land under the jurisdiction of HCDA the area east of Forrest Avenue and attempts to transfer title to the Department of Transportation. It appears the bill intended to transfer lands west of Forrest Avenue.

This inaccurate description clouds title to lands under HCDA's jurisdiction. A portion of the area this bill would exclude from HCDA's jurisdiction is presently the subject of a recently issued request for proposal (RFP) for development. This development is ultimately estimated to require an investment of approximately three quarters of a billion dollars. Given the uncertainty of HCDA's jurisdiction over the subject area if this bill became law, potential bidders would be reluctant to take part in the development solicitation & process, given the large up-front investment required for the preparation of responses to the request for proposal.

Furthermore, the area excluded by this bill from HCDA's jurisdiction includes the Kakaako Waterfront Park, the Makai Gateway Parks, the University of Hawaii Medical School complex, and the site of the proposed Cancer Research Center, all of which have been or will be developed by HCDA under its existing statutory authorities. House Bill No. 85 creates doubt to which state entity would be responsible for the maintenance, repair, and coordination of these existing & proposed facilities.

Finally, it should be noted that the use of Forrest Avenue is not an accurate description because Forrest Avenue is an easement within the Forrest Avenue Subdivision and cannot legally serve as a parcel boundary.

For the foregoing reasons, I am returning House Bill No. 85 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 424, transmitting her statement of objections to H.B. No. 180 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 180

Honorable Members
Twenty-Third 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. 180, entitled "A Bill for an Act Relating to Public Employees.

The purpose of this bill is to amend provisions of chapter 89C, Hawaii Revised Statutes, relating to adjustments in compensation and benefits for civil service employees who are excluded from collective bargaining.

This bill is objectionable because it reverses the legislative intent of the Civil Service Modernization Act of 2000, Act 253, SLH 2000, that allows employers the flexibility to grant merit-based compensation to reward notable services for excluded civil service managers in the excluded managerial compensation plan (EMCP). Prior to the passage of Act 253, compensation and benefit adjustments for civil service employees excluded from collective bargaining were statutorily required to be "not less than those provided under collective bargaining." For those excluded civil service employees under the same compensation plan as officers and employees within collective bargaining units, the adjustments were required to be not less than the adjustments for those officers and employees. For the excluded civil service employees in the excluded managerial compensation plan (EMCP), the adjustments were to be not less than adjustments in collective bargaining unit 13. Act 253 deleted the "not less than" requirement for the EMCP employees and instead used the terms "appropriate for what they do and the contribution they make in consideration of the compensation and benefit packages provided under collective bargaining agreements for counterparts and subordinates within the jurisdiction." Act 253 also provided for "variable adjustments based on performance," which is found in section 89C-2(5), Hawaii Revised Statutes. This bill would return the

EMCP adjustments to be "at least equal to" the collective bargaining increases of counterparts and subordinates.

When Act 253 was passed, it was recognized that, in order for pay for performance to work, employees in the EMCP could not receive at least what their subordinates got because, as a practical matter, that floor would become the ceiling, and would preclude paying less to poor performing EMCP employees. Compensation adjustments for excluded civil service managers, who are not subject to collective bargaining coverage, should be commensurate with their performance on the job and not based on their length of service or time in grade. This bill would revert to the prior concept of compensating excluded civil service managers regardless of the quality of work they performed. This bill is fundamentally inconsistent with the Merit Principle and the principles of pay-for-performance and accountability. For these reasons the Executive Branch has consistently opposed this and similar bills for the past five legislative sessions.

For the foregoing reasons, I am returning House Bill No. 180 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 425, transmitting her statement of objections to H.B. No. 1060 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1060

Honorable Members
Twenty-Third 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. 1060, entitled "A Bill for an Act Relating to Medicaid."

The purpose of this bill is to add a new section to chapter 346, Hawaii Revised Statutes, to guarantee a payment methodology to federally qualified health centers and rural health clinics in accordance with the Social Security Act.

This bill is objectionable because the Department of Human Services already pays federally qualified health centers and rural health clinics according to the payment methodology required by section 1902(bb) of the Social Security Act. A State statute imposing this obligation is unnecessary and would result in additional State legal and fiscal obligations.

The language in the bill that purports to make services of federally qualified health centers and rural health clinics "mandatory services" is unnecessary and could result in confusion to providers and beneficiaries. Services of federally qualified health centers and rural health clinics are not included in any of the federal categories of mandatory services, but are included in the federal definition of "medical assistance." Therefore, Medicaid state plan services rendered by federally qualified health centers and rural health clinics to eligible Medicaid recipients are covered in accordance with federal law. Furthermore, stating that these services are "mandatory services" suggests that the bill is giving federally qualified

health centers and rural health clinics greater rights than they currently enjoy.

Should federal law change, this bill could obligate the State to fully fund services rendered by federally qualified health centers and rural health clinics, even if federal matching funds were not available. While I strongly support the continuation and growth of community health centers, the decision to reimburse federally qualified health centers and rural health clinics wholly out of State funds should be left to the Legislature in session at the time the issue arises.

For the foregoing reasons, I am returning House Bill No. 1060 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 426, transmitting her statement of objections to H.B. No. 1317 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1317

Honorable Members
Twenty-Third 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. 1317, entitled "A Bill for an Act Relating to Medicaid."

The purpose of this bill is to prohibit the Department of Human Services from taking action to remove pharmaceutical benefits management from managed care plans that provide health care coverage for Hawaii Medicaid beneficiaries and to require the Department of Human Services to report to the 2006 Legislature on the impact of carving out pharmaceutical benefits management from managed care plans.

This bill is objectionable because it will deny recipients who are enrolled in the Medicaid Fee-for-Service Aged, Blind and Disabled program from access to the same pharmaceutical drugs that they currently have access to, when these recipients move into managed care organizations under the State's planned expansion of its Medicaid QUEST Program. Managed care organizations participating in the Medicaid QUEST Program have fewer "preferred" (unrestricted access) medications in comparison to the Medicaid Fee-for-Service Program.

Further, this bill will prevent the State's Medicaid agency from continuing to receive pharmaceutical rebates through its preferred drug list (PDL) program after the implementation of its new Medicaid QUEST Program.

The State's Medicaid program has recently implemented a Preferred Drug List (PDL) which is used for its fee-for-service population. A PDL is a list of drugs for which the Medicaid agency assures coverage without the need of obtaining its prior authorization. Pharmaceutical companies issue rebates for the placement of their drugs on a PDL. The State has started to receive these rebates from pharmaceutical manufacturers. The substantial income and savings projected by the State as a result

of its PDL program will not be realized if this bill is allowed to become law. Instead, the Medicaid managed care organizations will receive increased income, the amount of which they have not disclosed to the State, through their own programs similar to the State's PDL. There is no reason to allow the diversion of such income from the State.

Further, the Department of Human Services recently began participating in the National Multi-State Purchasing Pool Initiative (NMPI). NMPI is a pool of states that combine their purchasing power on prescription drugs by leveraging millions of clients to negotiate discounted prices, or "supplemental rebates" for prescription drugs. This measure would prevent the Department from participating in the NMPI for its Medicaid recipients in managed care plans. Substantial income and savings projected by the Department will not be realized if HB 1317 HD1, SD1, CD1 becomes law.

Further, this bill will require appropriations of new State funds in order to proceed with expanding the Medicaid QUEST Program, or force the State to delay the implementation of its expansion until other mechanisms of funding become available. Instead, the managed care organizations that provide health care coverage to Hawaii Medicaid beneficiaries will receive increased income through their own pharmaceutical benefits management programs similar to Hawaii's participation in the NMPI, while the State of Hawaii will be denied the opportunity to generate increased income and savings through the NMPI.

For the foregoing reasons, I am returning House Bill No. 1317 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 427, transmitting her statement of objections to H.B. No. 1450 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1450

Honorable Members
Twenty-Third 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. 1450, entitled "A Bill for an Act Relating to Civil Rights."

The purposes of this bill are: (1) to clarify that discrimination based upon "gender identity or expression" is a form of sex discrimination and (2) to prohibit discrimination in employment on the basis of "gender identity or expression." This bill defines "gender identity or expression" in an open-ended manner to include "a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth."

This bill is objectionable because it contains no limiting terms or interpretational guidelines. The words used to define

"gender identity or expression" are broad in scope and the terms "gender-related self-image, gender-related appearance, or gender-related expression" are subject to broad and subjective interpretation. The application of those terms in the employment area will likely result in controversy and unwarranted lawsuits. To avoid such controversy and litigation, the terms should be statutorily defined in a clear, precise, and limited manner with guidelines to assist employers and employees in interpreting and applying the terms in the employment context.

While the primary focus of the legislation is in regard to individuals who may have a gender identity and expression that "is different from that traditionally associated with the person's sex at birth," the broad definition in the bill also appears to cover those who have personal expressions of the gender of their birth that may be inappropriate to business and professional environments. This bill appears to support an individual's "civil right" to express their gender identity in any manner that they wish, thereby calling into question the ability of businesses and related organizations to manage these situations by establishing and enforcing basic conduct standards.

It is unfortunate that efforts were not made to work with members of the employment community to address the practical problems they would face should such a bill become law.

The Civil Rights Commission currently interprets "sex" to cover the potential abuses related to the treatment of individuals who have gender identities or expression different from their sex at birth. The proposed inclusion of the broader definition of "gender identity or expression" in statute opens employment areas to unintended legal claims.

For the foregoing reasons, I am returning House Bill No. 1450 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 428, transmitting her statement of objections to H.B. No. 1554 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1554

Honorable Members
Twenty-Third 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. 1554, entitled "A Bill for an Act Relating to Leasehold Conversion."

The purpose of House Bill No. 1554 is to provide an incentive for fee owners of multi-family or single-family residential leasehold property to sell the fee interest in their real property by allowing an exclusion from their taxable income of fifty percent of the income received from the sale of their leased fee interest, but not to exceed an aggregate cap of \$75,000 for "all taxpayers in the State" in 2006.

Although the provision of an incentive for fee owners to sell the fee interest in their residential real property is an idea that has merit, this bill is objectionable because it provides an inadequate incentive for a reasonable number of owners to sell their leased fee interest.

The aggregate cap frustrates the bill's intended purpose to promote widespread leasehold conversion. The aggregate cap of \$75,000 is so low it will be satisfied with only \$150,000 in total leased fee sales. The cap would easily be exceeded by the sale of just one or two single-family homes, or a few condominium units. This bill contains no criteria or guideline that could be used by the Department of Taxation to determine which of the fee owners would qualify for the exclusion from income of up to \$75,000 "in the aggregate for all taxpayers in the State." Consequently, the Department of Taxation could be faced with tax appeals and litigation regarding this bill that far outweigh its actual benefit. Further, to implement the bill for only one year, the Department of Taxation would be faced with the administrative burdens of establishing guidelines, training personnel, developing and implementing a public information campaign, creating and printing the exemption forms, and reviewing an unknown number of claims.

For the foregoing reasons, I am returning House Bill No. 1554 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 429, transmitting her statement of objections to S.B. No. 55 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 55

Honorable Members
Twenty-Third 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. 55, entitled "A Bill for an Act Relating to Meal Breaks."

The purpose of this bill is to provide employees who work five or more continuous hours at least a thirty consecutive minute rest or meal break where the employer is permitted to select the time of the rest or meal break.

This bill is objectionable because it would only apply to a narrow segment of the business community in Hawaii. Chapter 387, Hawaii Revised Statutes, which this bill would amend, does not cover employers governed by the federal Fair Labor Standards Act. This federal law establishes legal obligations on employers who engage in interstate commerce or have an annual sales volume in excess of \$500,000. As such, this proposed bill would only apply to businesses that do not engage in interstate commerce or whose annual sales volume is \$500,000 or less. Therefore this bill would exclude a significant portion of Hawaii's businesses and a sizable percentage of the workforce.

With the exception of Child Labor Laws, neither Federal nor State labor statutes require meal or other break periods.

Testimony on this bill failed to provide any demonstrable information or firm data regarding the need for the State to regulate meal breaks. An employer and employee should have the flexibility to structure and schedule meal and other breaks in a way that is reasonable under the circumstances to both parties involved, instead of having specific breaks mandated by State law. Additionally, the bill lacks a penalty provision for non-compliance and therefore fails to contain a means of enforcement by the Department of Labor and Industrial Relations or a remedy for an employee who is not provided a rest or meal break.

For the foregoing reasons, I am returning Senate Bill No. 55 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 430, transmitting her statement of objections to S.B. No. 1194 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1194

Honorable Members
Twenty-Third 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. 1194, entitled "A Bill for an Act Relating to the Board of Trustees of the Deferred Compensation Plan."

The purpose of this bill is to require five out of the seven members of the Board of Trustees of the State Deferred Compensation Plan (hereinafter referred to as the "Plan") to be elected by participants of the Plan.

This bill is objectionable because:

(1) This bill imposes a permanent, annual cost to the Plan's participants.

Currently, section 88E-4, Hawaii Revised Statutes, requires the Board to have seven members: the Director of Human Resources Development, who serves as chairperson; the Director of Finance (or the Director's designee), who serves ex officio; and five appointed persons, three of whom shall be public employees and represent employee interests. The Governor currently appoints these five other members, with the advice and consent of the Senate, and interim members to fill vacancies on the Board.

This bill proposes to change the composition of the Board by increasing the number of members who must be public employees from three to five members (while retaining the Director of Human Resources Development and the Director of Finance or designee on the Board), requiring that these five members be elected by Plan participants, and requiring that these five members have staggered terms. Because the current Board members also have staggered terms, at least one Board member's term expires every year. Thus, under this bill, an election will have to be held every year to replace an outgoing Board member.

There are significant costs associated with holding an election. These costs include the costs of printing and advertising a public notice, printing ballots and communications materials (there are currently 28,000 participants in the Plan), purchasing postage and supplies, hiring additional administrative staff, and retaining the services of an independent third party to oversee the counting of the ballots. At a minimum, the Board estimates that these costs could exceed \$130,000 for each election.

Because this bill specifically imposes these costs on the Plan, and participants are responsible for all costs to implement and administer the Plan under section 88E-13, Hawaii Revised Statutes, the Board will have to assess participants the costs of these elections every year. These election costs are in addition to the service fees that are currently being paid by participants, and will come directly out of and ultimately reduce participants' retirement savings in the Plan. Participants could challenge or seek legal relief to address the imposition of these permanent annual costs. Burdening participants with these election costs is not in their best interest.

In addition, issues regarding the allocation of the election costs to participants may arise. For example, if the Board assesses a percentage fee to cover the election costs, those participants with higher account values may end up paying a significantly higher proportion of the election costs. Alternatively, if the Board assesses a flat fee to cover the election costs, those participants with smaller account values may end up paying a disproportionate amount of the election costs. In either case, participants may argue that the election costs are arbitrary or unfair.

(2) This bill precludes access to expertise in the private sector.

This bill requires that Board members be public employees. In the past, some members appointed to the Board have come from the private sector and have brought invaluable expertise in financial and investment matters. These members bring an understanding of the fiduciary role they are obligated to carry out that is distinct & complimentary to the public sector members. Losing the ability to obtain expertise from the private sector could be detrimental to the Plan and its participants.

(3) There is adequate public employee representation on the Board.

Currently, section 88E-4, Hawaii Revised Statutes, requires three members to be public employees who represent employee interests. These three members plus the Directors of Human Resources Development and of Finance bring the number of public employees to five. Because more than a majority of the members are public employees, there currently is ample public employee representation on the Board without imposing any additional costs on participants.

(4) Plan participants are currently able to participate in evaluating the qualifications of the Board members.

All of the five appointed Board members are required to be confirmed by the Senate under section 88E-5, Hawaii Revised Statutes. During the confirmation process, Plan participants may comment on the nominated members and their qualifications to be appointed to the Board and represent participant interests. Thus, Plan participants are able under the existing statute to participate in the evaluation and selection process of the Board members and the process proposed under this bill is unnecessary.

For the foregoing reasons, I am returning Senate Bill No. 1194 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 431, transmitting her statement of objections to S.B. No. 1257 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1257

Honorable Members
Twenty-Third 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. 1257, entitled "A Bill for an Act Relating to the University of Hawaii."

The purported purpose of this bill is to improve the governance of the University of Hawaii. The bill will establish a "candidate advisory council" for the Board of Regents of the University of Hawaii to "assist the governor in selecting members of the board by establishing the criteria for, screening, and recommending qualified candidates for membership on the board." In addition, this bill would increase the number of members of the Board of Regents from twelve to fifteen, effective July 1, 2007, and would amend the members' qualifications.

This bill is objectionable because it is premature. Senate Bill No. 1256, which passed the Legislature during the 2005 session, proposes a constitutional amendment that will require new members of the Board of Regents to be selected "from pools of qualified candidates presented to the governor by the candidate advisory council for the board of regents of the University of Hawaii, as provided by law." If the constitutional amendment proposed in Senate Bill No. 1256 is ratified, the statutory changes described in this bill could be introduced as legislation in the 2007 session and enacted in time to meet the new constitutional requirement.

Signing this bill would make the presumption that the voters will ratify the proposed constitutional amendment in 2006, a position that runs counter to our democratic principal of open and unbiased elections. Further, signing this measure could prejudice the results of the constitutional vote since eligible voters would know that the candidate advisory council had already become law.

For the foregoing reasons, I am returning Senate Bill No. 1257 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 432, transmitting her statement of objections to S.B. No. 1262 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1262

Honorable Members
Twenty-Third 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. 1262, entitled "A Bill for an Act Relating to the Waianae Coast."

I am supportive of establishing an Ocean Recreation Management Area (ORMA) for the Waianae Coast with the pertinent administrative rules to protect resources and regulate permitted commercial activities. However, this bill is objectionable because it would also set a negative precedent by requiring the Department of Land and Natural Resources (DLNR) to prepare a regional baseline environmental study seemingly modeled along the lines of an environmental impact statement (EIS) before an ORMA is established.

Further, while the bill is prescriptive of the content of the baseline study, the legislation fails to provide a mechanism for public input and comment during and at the conclusion of the study. This runs counter to administrative rules procedures, as set forth in Chapter 91 HRS, requiring public hearings preceded by ample public notification such that all interested parties may fully participate in the rulemaking process. Rulemaking under 91 HRS is the preferable approach.

Additionally, this bill could jeopardize important DLNR programs, since the cost of this environmental baseline study is estimated to be between \$250,000 and \$1,000,000, yet the Legislature has not appropriated funds for this undertaking. Diverting staff resources and expertise to perform the baseline study could jeopardize other environmentally sensitive programs. Ironically, this bill would delay the more efficient, transparent, and effective method of creating the Ocean Recreation Management Area through the administrative rulemaking process.

Additionally, it should be pointed out that over the past three years the Department of Land and Natural Resources has met extensively with the interested parties and believes these issues can be resolved in a manner that complies with the federal Marine Mammal Protection Act.

Section 2 of the bill places a moratorium on the number of commercial permits the DLNR can issue at any state small boat harbor facility for vessels engaged in ocean use activities in the area from Kalaheo Point to Kaena Point. Under existing administrative rules, there are no further commercial permits available for boats berthed at the Waianae Small Boat Harbor. Therefore, this provision is unnecessary.

For the foregoing reasons, I am returning Senate Bill No. 1262 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 433, transmitting her statement of objections to S.B. No. 1352 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO.
1352

Honorable Members
Twenty-Third 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. 1352, entitled "A Bill for an Act Relating to Public Employees."

The purpose of Senate Bill No. 1352 is to amend provisions relating to the scope of negotiations in public employment collective bargaining. This bill will amend Section 89-9(d), Hawaii Revised Statutes, by requiring the Public Employer and the unions to negotiate over the impact of transfers, assignments, and layoffs of public employees. This bill could also require the parties to negotiate over the criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, and other disciplinary actions.

This bill is objectionable because it attempts to eliminate management rights currently protected under Section 89-9(d), Hawaii Revised Statutes. Historically, Section 89-9, Hawaii Revised Statutes, has been recognized as the provision covering management's rights and sets into law protections which do not allow management to bargain away the right to direct its workforce and oversee governmental operations. This ensures that Public Employers are able to manage their operations efficiently and effectively to service the public.

The other Public Employer jurisdictions have advised me that this bill would critically impede their ability to manage their workforce and protect the health and safety of the public. The State would also face serious difficulties in carrying out its civil defense, public safety, health, welfare, and other public service functions. This bill would require Public Employers to negotiate with collective bargaining union representatives the impact of transfers, reassignments, and layoffs before these personnel actions could be implemented. Such a requirement would seriously delay the delivery of services to the community at large. For example, the county police and fire departments have commented that Senate Bill No. 1352, if it became law, would seriously jeopardize their ability to provide timely emergency services to the public. This bill could restrict the deployment of lifeguards, emergency medical services personnel, civil defense workers, and similar health and safety staff who are expected to respond to and adjust their work locations and hours as emergencies and unanticipated events may dictate.

On January 28, 2005, the Hawaii Supreme Court issued a decision upholding management rights as set forth in Section 89-9(d), Hawaii Revised Statutes. The case involved idle public refuse workers within the City and County of Honolulu who were being reassigned to a district where they were needed to ensure the trash was picked up and sanitation standards were maintained.

The Hawaii Supreme Court decision in United Public Workers, AFSCME, Local 646, AFL-CIO v. Hanneman, 106 Haw. 359 (2005), does not invalidate negotiated provisions in the collective bargaining agreements. However, this decision preserves the rights of management to reallocate the public workforce as needs and circumstances require. Senate Bill No.

1352 is troubling because it attempts to overturn this fundamental management principal.

Further, this bill presumes that reasonable people, both managers and their staffs, are unable or unwilling to accommodate the needs of the public through mutual agreement and adjustment. This bill evidences a lack of trust and accommodation which can be fostered between management and the rank-and-file when mutual respect develops between employees and their employers. Moreover [sic], this bill fails to recognize that employers regularly consult with the respective exclusive representatives on matters affecting employee relations.

Finally, Senate Bill No. 1352 would also allow the parties to negotiate criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, and other disciplinary actions. There is concurrence among the various public sector jurisdictions that these personnel actions should be determined by the employer as has been the case historically. Moreover, the criterion commonly proposed by the unions for personnel actions (i.e., seniority) is contrary to the Merit Principle, as defined in Section 76-1, Hawaii Revised Statutes.

For the foregoing reasons, I am returning Senate Bill No. 1352 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 434, transmitting her statement of objections to S.B. No. 1473 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO.
1473

Honorable Members
Twenty-Third 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. 1473, entitled "A Bill for an Act Relating to Waimano Ridge."

The purpose of this bill is to require the Department of Health to: (1) give at least ninety days notice to affected neighborhood boards and legislators who represent the district including the state land at Waimano ridge and obtain the approval of the Governor prior to new or expanded uses of the Waimano ridge land as a sex offender treatment facility, drug treatment facility, state laboratory, or other uses; (2) draft an updated master plan for future use of the Waimano ridge lands in consultation with the Department of Land and Natural Resources, residents of Pearl City, the Pearl City Community Association, and Pearl City Neighborhood Board No. 21; (3) conduct at least two public hearings in the Waimano ridge community to receive comments on the draft master plan; (4) incorporate, to the extent practicable, any changes or additions to the draft master plan that are submitted by the Pearl City Community Association or the Pearl City Neighborhood Board No. 21; and (5) submit the updated master plan to the Legislature at the next regular session.

Although the concerns of neighboring residents are significant, this bill is objectionable because it violates Section 5 of Article XI of the State Constitution. Section 5 of Article XI of the State Constitution provides as follows:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

Section 5 of Article XI is clear that the Legislature can administer or dispose of lands owned or controlled by the State only by general law. This understanding of the plain meaning of Section 5 is supported by Section 5's constitutional history. See Stand. Comm. Rep. No. 78, 1 Proceedings of the Constitutional Convention of Hawaii 1950 ("1 Proceedings") at 233 (1960). The only exception to Section 5's requirement that the Legislature administer or dispose of lands owned or controlled by the State by general law is for intergovernmental transfers of land. See 1 Proceedings at 233; 2 Proceedings of the Constitutional Convention of Hawaii 1950 at 631 (1961).

The session law to be enacted by this bill is not a general law that applies to all state lands, but instead is drafted to specifically apply only to the Waimano ridge area by requiring notice to the local neighborhood boards and legislators and approval of the Governor prior to new or expanded uses of the Waimano ridge land as a sex offender treatment facility, drug treatment facility, state laboratory, or any other uses. Nor does this bill transfer the Waimano ridge lands to or for the use of the State or an agency of the State. Accordingly, because provisions of this bill will not be a general law for the management of natural resources, this bill violates Section 5 of Article XI of the State Constitution.

Moreover, under our State's constitutional system of three separate but equal branches of government, the authority to find new or expanded uses or to conduct further development on the Waimano ridge area is an executive branch responsibility. Section 2 of Article XI of the State Constitution expressly requires that the management and disposition of natural resources be vested in "executive" boards or commissions.

For the foregoing reasons, I am returning Senate Bill No. 1473 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 435, transmitting her statement of objections to S.B. No. 1554 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1554

Honorable Members
Twenty-Third 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. 1554, entitled "A Bill for an Act Relating to the Environment."

This bill is objectionable because, while it seeks to permanently establish an environmental workforce attached to the Research Corporation of the University of Hawaii (RCUH) to assist the counties in controlling and eradicating invasive species throughout the State, it fails to provide an appropriation to carry out the work. Without funding, the workforce would require use of other funds of the RCUH or the University of Hawaii, which is objectionable to these organizations since this would adversely affect their mission. Without funding, it is unclear as to how the workforce would function and meet its stated purpose. Further the bill is unclear how the workforce would integrate with existing county invasive species committees and the Hawaii Invasive Species Council.

Second, the bill would require the purported environmental workforce to employ individuals who are not subject to civil service and collective bargaining laws. Section 307-4, Hawaii Revised Statutes exempts the Research Corporation of the University of Hawaii from State personnel statutes. As such, because RCUH has existing authority to hire employees exempt from civil service, the reference to Chapter 76, Hawaii Revised Statutes in this statute is unnecessary. However, there is a fundamental objection to establishing a whole new cadre of state employees outside the scope of civil service procedures. Allowing such exemptions for these types of workforces, without adequate justification or rationale, should be discouraged.

Third, this bill is objectionable because the environmental workforce proposed in this measure is not consistent with RCUH's fundamental mission of supporting research and training programs for the University of Hawaii including advanced research for specific scientific endeavors. At best the workforce in this bill appears to fit under RCUH only during the initial phase of research and testing relating to the control and eradication of invasive species. As such, once this phase is completed, the workforce would no longer be compatible with the purpose of RCUH and would need to be transferred to the proper agency, something which this bill fails to contemplate.

For the foregoing reasons, I am returning Senate Bill No. 1554 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 436, transmitting her statement of objections to S.B. No. 1592 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1592

Honorable Members
Twenty-Third 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. 1592, entitled "A Bill for an Act Relating to State Planning."

The purpose of this bill is to establish a "Hawaii 2050 Task Force" to review the Hawaii State Plan and other fundamental components of community planning, to submit recommendations and information on significant planning matters, and to develop recommendations on creating the "Hawaii 2050 Sustainability Plan" to "ensure its relevance as a guide for the future long-term development of the State." The Legislative Auditor is required to prepare the "Hawaii 2050 Sustainability Plan," which is to define and implement state goals, objective policies, and priorities by incorporating some or all of the recommendations of the Hawaii 2050 Task Force.

This bill is objectionable because it fails to recognize the proper location & logical nexus for development of the Hawaii State Plan.

Assigning the Office of the Auditor with the responsibility for developing the "Hawaii 2050 Sustainability Plan" is not consistent with the Auditor's primary duties and appears to be an inappropriate function of that office. Pursuant to section 23-4, Hawaii Revised Statutes, the Auditor's primary duties are "to conduct postaudits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions" and "examinations to discover evidence of any unauthorized, illegal, irregular, improper, or unsafe handling or expenditure of state funds or improper practice of financial administration." The Office of Planning is responsible for comprehensive, long-range, and strategic planning pursuant to chapter 225M, Hawaii Revised Statutes, and is the more appropriate agency to develop the "Hawaii 2050 Sustainability Plan."

Second, this bill is objectionable because it requires the Department of Business, Economic Development, and Tourism (DBEDT) and other agencies to provide staff assistance to the task force without providing funds for that purpose. This requirement could adversely impact other work being done by DBEDT, such as its work to maintain economic momentum in a way that protects our cultural and natural resources and preserves our quality of life.

This bill would appropriate \$200,000 to the Auditor but provides no monies to the Office of Planning that is responsible for comprehensive long range and strategic planning. It appears this bill is a direct attempt to by-pass that Office and infringe upon the scope and responsibilities of the Executive Branch.

In addition, considering the significance of the subject matters being reviewed for the future welfare of the State, the task force is given relatively very little time to complete its assignment.

For the foregoing reasons, I am returning Senate Bill No. 1592 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 437, transmitting her statement of objections to S.B. No. 1772 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1772

Honorable Members
Twenty-Third 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. 1772, entitled "A Bill for an Act Relating to Employers."

The purpose of this bill is to enable the State to determine which employers are improperly "shifting responsibility for providing health care coverage for their workers to taxpayers" by requiring applicants for medical assistance to identify their employer or the employer of the adult responsible for a proposed beneficiary's support. This bill requires the Department of Human Services (DHS) to annually identify employers who employ twenty-five or more beneficiaries of medical assistance programs administered by the DHS and specifically empowers the Director of Human Services to "make the annual report available to the public through any means the director deems appropriate."

This bill is objectionable because it will not accomplish the goal of identifying improper cost shifting by employers. There is no requirement that employers cover an employee's spouse or dependents and, therefore, tracking the number of dependents on medical assistance will not identify employers who are violating the law. Having employees or dependents on medical assistance is not improper or illegal unless employers are violating the Hawaii Prepaid Health Care Act or applicable minimum wage laws. The bill does not claim, nor do its provisions provide proof, that any of the suspect employers are violating these employment laws.

Further, this bill subjects these employers to having their names publicly identified and disseminated. This action would unfairly stigmatize and cause public ridicule of employers who are actually complying with labor laws.

Moreover, the Department of Human Services currently incorporates policies in its administrative rules to reduce the likelihood of cost shifting by the private sector to the government. These policies include a prohibition on publicly funded health coverage of employees that qualify for their employer-sponsored health coverage.

Additionally, it should be noted that in February 2005 the Department of Labor and Industrial Relations introduced Administrative Initiative 2005-02, The Prepaid Health Care Act Compliance Assistance Program. The program involves investigations into non-compliance with the Prepaid Health Care Act by conducting on-site random visits to employers. This program is a more effective methodology of addressing potential non-compliance than the proposals contained in this bill.

Finally, this bill imposes new reporting burdens on employers, applicants, and current Medicaid beneficiaries, as well as imposes an additional administrative burden on the Department of Human Services, but contains no appropriation to cover that cost.

For the foregoing reasons, I am returning Senate Bill No. 1772 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 438, transmitting her statement of objections to S.B. No. 1843 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1843

Honorable Members
Twenty-Third 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. 1843, entitled "A Bill for an Act Relating to Procurement."

The purpose of Senate Bill No. 1843 is to prohibit the inclusion of certain provisions from public works contracts with consultants who are licensed under chapter 464, Hawaii Revised Statutes. Specifically, this bill prohibits the inclusion of contract provisions that require professional construction design consultants to defend, indemnify, and hold harmless the government from liability arising from the negligence, errors, omissions, recklessness, or intentional misconduct of the government. The bill does allow public works contracts to require the professional construction design consultants to indemnify and hold harmless the government from liability arising from the negligence, errors, and omissions of the design professional.

Section 1 of the bill is objectionable because it states, "it is public policy for a governmental body to defend both parties [governmental body and professional construction design consultant] against any claims, with the extent of liability to be determined after settlement of the claim." This requirement in section 1 requires the governmental body to provide the legal defense for the professional construction design consultant when sued. Under section 1's requirement to defend the consultant, a lawsuit seeking damages from both the State and the consultant would require the Attorney General to retain, at the State's expense, private legal counsel to defend the consultant to avoid a potential conflict of interest between the State and the consultant. Such representation in major liability cases could amount to hundreds of thousands of dollars of public funds.

Even though the principle embodied in section 1 is not affirmatively discussed in the remaining sections of the bill, should the intent as expressed by section 1 be utilized in construing the remainder of the bill, this could lead to results that are clearly not in the best interests of the State of Hawaii.

Moreover, subsection (a) of the new Hawaii Revised Statutes section in section 2 of the bill appears to state the unobjectionable principle that the State cannot require an individual to defend, indemnify, or hold harmless government from negligent acts, errors, omissions, recklessness, or intentional misconduct of the government. However, were this provision to be read in conjunction with section 1 of the bill to provide that there would be no duty to defend, indemnify, or hold harmless the government from any part of any claim for which the government was in any way at fault -- even the portion of the claim for which the construction design professional was at fault -- this type of provision would severely impede the ability of the State to appropriately protect itself.

It is not clear whether or not subsection (b) of the new Hawaii Revised Statutes section in section 2 of the bill is intended to specify the only circumstances under which the government may require a construction design professional to indemnify and hold harmless the government. It is, however, possible that a court could read this section as providing that only the statutory language could be utilized. Were that the case, the language is not broad enough to protect the government. For example, in subsection (a), the language used is "the negligent acts, errors, or omissions, recklessness, or intentional misconduct." Subsection (b) of section 2, however, limits the government's right to be indemnified to "negligent acts, errors, or omissions, or intentional misconduct." It does not specifically include reckless or other wrongful acts. Thus, for this reason alone, this section is deficient.

Moreover, if this section is interpreted in accord with section 1, then the government might not even have the ability to assert an indemnity provision until the primary claim is concluded. This would clearly be contrary to public policy.

The practical concerns of design professionals with regard to obligations to defend the government are real and should be addressed through changes to the standard conditions of contracts and be reflected in conditions and general provisions for particular projects.

For the foregoing reasons, I am returning Senate Bill No. 1843 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 439, transmitting her statement of objections to S.B. No. 1877 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1877

Honorable Members
Twenty-Third 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. 1877, entitled "A Bill for an Act Relating to the Office of Planning."

The purpose of this bill is to require the Office of Planning to report only to the Director of Business, Economic Development, and Tourism and to clarify that the Department of Business, Economic Development, and Tourism has the sole jurisdiction over the Land Use Commission, state planning, and the Hawaii State Planning Act.

This bill is objectionable because it limits my administration's flexibility in executing programs and functions to achieve maximum results. There is a necessary and publicly significant relationship between the Office of Planning within Department of Business, Economic Development and Tourism and the Department of Land and Natural Resources. The Office of Planning's major statutory responsibilities of land use planning, coastal zone management, and geographic information systems are consistent with and complement the

Department of Land and Natural Resources core functions of land management and protection of resources. The relationship between the Office of Planning and the Department of Land and Natural Resources has been carried out with the public's interest as their foremost consideration.

My administrative directive instructing the Office of Planning to consult with and report to the Chairperson of the Board of Land and Natural Resources has resulted in meaningful, productive, and successful undertakings in land use planning issues and has been beneficial to the public discourse on these critical topics, particularly through proceedings of the Land Use Commission. The current working relationship is consistent with the Legislature's call for more prudent, efficient, and effective government operations.

Further, it is objectionable that the legislature has required the Director of the office to be subject to the confirmation process. This position was recently filled. Since its establishment in 1987, the Director of the Office of Planning has been hired through the normal appointment process. Because the scope & duties of this position have not changed, it appears the motivation to subject this position to the confirmation process is suspect.

For the foregoing reasons, I am returning Senate Bill No. 1877 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 440, transmitting her statement of objections to S.B. No. 1889 as follows:

"EXECUTIVE CHAMBERS
HONOLULU
July 11, 2005

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1889

Honorable Members
Twenty-Third 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. 1889, entitled "A Bill for an Act Relating to Apprenticeships."

The purpose of this bill is to amend sections 372-3 and 372-4, Hawaii Revised Statutes, to add two additional standards for apprenticeship agreements and to give authority to the apprenticeship council to promote and approve apprenticeship programs, while deleting its original duty to sit in an advisory capacity to the Director of Labor and Industrial Relations.

This bill is objectionable because one of the standards being added would apply where a sponsor seeks to establish an apprenticeship program in a trade that has a "parallel program." In that situation, there must be an "assurance of compliance with the 'equal to or better than' requirement." Current law does not define "parallel program" or provide for an "equal to or better than" requirement, thus making this new standard vague. More importantly, the United States Department of Labor has advised the State that this provision could cause Hawaii's apprenticeship law to be out of conformity with the Office of Apprenticeship Training, Employer and Labor

Services' (OATELS) standards. It "would constitute grounds for OATELS to withdraw Hawaii's authority, as a recognized State Apprenticeship Council (SAC), to register apprenticeship programs for Federal purposes," because there is no basis in federal law for comparing new parallel programs to an existing program and "would improperly restrict apprenticeship opportunities by favoring incumbents over new entrants."

This bill is also objectionable because it shifts the responsibility to approve apprenticeship programs from the Director of Labor and Industrial Relations to the Apprenticeship Council, a group that has served in an advisory capacity to the Director for many years. There has been no demonstrated need to change the Apprenticeship Council's advisory role. The Apprenticeship Council is composed of individuals familiar with apprenticeable occupations, representing employer and employee organizations. Performance of their duties as members of the Apprenticeship Council that had decision-making authority could result in conflicts of interest. Keeping the Director of Labor and Industrial Relations, who has no vested interest in a given apprenticeship program, in the decision-making role minimizes the potential conflict.

For the foregoing reasons, I am returning Senate Bill No. 1889 without my approval.

Respectfully,

/s/
LINDA LINGLE
Governor of Hawaii"

H.B. No. 160, HD 2, SD 1, CD 1

Representative M. Oshiro moved to override the veto of H.B. No. 160, HD 2, SD 1, CD 1, as contained in Gov. Msg. No. 416, seconded by Representative B. Oshiro.

Representative Moses rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. In opposition. DCCA's Insurance Division is self-sufficient. We've talked about this many times, the Compliance Resolution Fund. The insurance industry, the insurance companies and the producers of insurance pay for the services provided by the Insurance Division through assessments and fees.

"This bill would bring the Insurance Division to a halt at the beginning of each fiscal year. This is because the bill prohibits the Division from maintaining an appreciable end of year cash balance. You're a businessman, Mr. Speaker. You know you can't run with no cash balance at the end of the year, starting from zero each and every January, or fiscal year in this case.

"It further requires that assessments not be made until prior year cash balances can be determined. As a result, the Division would not be able to pay it's employees or enter into contracts for at least the first few months of the fiscal year.

"This bill removes the flexibility needed to adequately deal with unexpected contingencies such as the investigation of allegations of industry-wide conflicts of interest and under-reporting of revenues, or emergencies such as Hurricane Iniki. And we've all talked about, it's not a matter of if – it's a matter of when we'll have another hurricane.

"The ostensible reason for the bill is to increase transparency in the calculation of the assessments, and to provide an explanation of how assessments are expended. The

Administration concurs that the Division proposed to provide the industry with an annual explanation of how it determines the assessments, and a detailed accounting of the funds. However, that offer was rejected by industry officials.

"The bill undermines the ability of the Insurance Division to effectively regulate the insurance industry and protect the consumers.

"The timing of House Bill 160 is very questionable. Recent newspaper stories highlight the investigation of insurance companies by New York Attorney General Eliot Spitzer and other states' Attorneys General and Insurance Commissioners. Attorney General Spitzer alleged that insurance companies were rigging bids and juggling their books.

"A similar probe was launched here by Commission Schmidt just last fall.

"Then this bill was introduced in January, apparently at the request of the industry. If the insurance companies are successful, HB 160 will have a chilling effect on consumer protection. HB 160 is punitive and is an attempt to intimidate the regulator.

"Another stated purpose of the bill is to protect the insurers from unduly large assessment. However, under the present Administration, the Insurance Division has reduced assessment on insurance companies over the last two years. And they reduced the assessments 65% last year, and did not make any assessments this year. That brought the revenues down in line with the expenditures.

"Despite this, the industry persists in its efforts to handcuff the regulator. Notwithstanding the reduction in assessments, and the fiscally responsible manner in which the Insurance Division has been managed, this bill directs the Auditor to audit the Division. Since no irregularities that have been alleged under this Administration, the audit of the Division is simply a means to harass the regulator.

"The ostensible reason to restrict the Insurance Division's assessment authority is for predictability. The insurance companies want to avoid significant increases in assessments that were made under prior Administrations. Mr. Speaker, I'm sure you agree with that, and so do I. However, when those increases occurred under previous Administration, the industry did not initiate legislation to cap assessments. It is curious that under the present Administration, where assessments have been reduced, insurance companies are now pursuing legislation to limit the Insurance Division's assessment authority.

"Mr. Speaker, if there is a concern about what a future Administration might do, the Legislature can take action at that time. The bill is the wrong action at the wrong time. Thank you."

Representative Hiraki rose to speak in support of the override, stating:

"Mr. Speaker, I rise in support of the veto override of H.B. 160, HD 2, SD 1, CD 1, Relating to the Compliance Resolution Fund.

"Mr. Speaker, I want to make this perfectly clear. This is a pro-business measure. It is designed to reduce the unfair governmental regulation that stymies business in Hawaii. The purpose of this measure, Mr. Speaker, is to increase transparency and accountability in State assessments of the insurers by legislatively establishing a formula for the total amount of assessments due from insurers.

"This measure provides that total assessments now have to be calculated based on the Insurance Commissioner's proposed fiscal year budget, instead of whatever the Insurance Commissioner feels on the day he proposes the assessment.

"The formula would work something like this. You have the proposed fiscal budget, less funds leftover in the Insurance Regulation sub-account funds, and less the Commissioner's anticipated revenues.

"Mr. Speaker, since this special fund to regulate insurers is wholly funded by the insurance industry, and ultimately from policyholders, it is important public policy to make sure that these funds are appropriately handled. The bill places an assessment cap to the insurance industry of \$5 million; a figure that Administration itself proposed, if a cap were to be imposed.

"In addition, the insurers also agreed that if there is a need for an increase in the assessments, the insurers would assist the Division in seeking a higher assessment cap. Since the Administration must present its biennial budget to the Legislature, there is ample time to argue their case for expanded funding, if necessary.

"Although the Insurance Division is self-supporting, this should not allow regulators to tax the business community beyond the parameters of the law. A reasonable formula is prudent so that the regulator and the regulated community have a clear understanding of the basis of any assessment.

"The Governor states in her veto message the insurer's 60-day notice for payment of the assessment will significantly and adversely affect the Division's operations. Mr. Speaker, this 60-day notice was already law prior to this bill.

"The Governor concurs with the need for more transparency in the calculation of the assessments and the explanation of how assessments are spent, which we are doing in this bill. The Administration however, disagrees with the Legislature on the method in which to show transparency and accountability. Mr. Speaker, we propose that a one-time audit is necessary, especially in light of the over-assessments in prior years.

"The veto message goes further by saying that it is ironic that this bill was passed only after the Administration has taken major steps to address the concerns that underlie the bill. Mr. Speaker, we do not believe that the Administration's suggested amendments alone were sufficient to mitigate the potential for further abuse of assessments. Although this Administration reduced assessments to the industry, this was done only after complaints by the industry.

"In addition, although a previous speaker said that this bill is to keep the Insurance Division self-sufficient, in fact it's been a 'cash cow'. The Governor transferred \$1.5 million from the Insurance Division assessments of the insurance industry to the general fund already in the first year of her Administration. Therefore, although the Administration reduced assessments, continued over-assessments should not be condoned, no matter the amount.

"Mr. Speaker, this bill is to assure all parties involved in the regulation of insurance in Hawaii – the Administration, the Legislature, and the regulated industry – that costs to the regulated are fair and reasonable, and ultimately that are passed on to consumers, that those fees should be fair and reasonable. Thank you, Mr. Speaker."

Representative Meyer rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I'm rising in opposition to the override. This bill as it's written now, and that the Majority Party wants to override, is an anti-consumer measure. It severely limits the Insurance Division's ability to protect the public. I think that's what they're there for.

"The Chairman of Consumer Protection talked about over-assessments to the industry. This was done under the previous Administration. There was unusually high surplus in that account because of the over-assessments under the previous Administration, and there was some money taken out of there. But right away, the new Director of DCCA reduced the assessments by 65%. And at the present time, the industry is making no assessments at all.

"There is no huge surplus there now, and what the Department Head has tried to educate us in this building about, is the fact that they do need a certain amount of money there at the end of the fiscal year. The way that things are stacking up here, because of reducing the assessment and then eliminating it altogether, there is no surplus there. The Department will be in a horrible position with no money at the end of the fiscal year, and having to let the industry know that they intend to either raise the assessment and give them 60-days notice.

"How would you run a business with no money in your bank account? This is not generally funded. This Department is not generally funded. This is the only money they operate in. Do you expect them, or do we in this Chamber expect them to just give pink slips if they have no money there? We ought to think carefully about what we're doing. We should look out for the interest of consumers. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 160, HD 2, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPLIANCE RESOLUTION FUND," as contained in Gov. Msg. No. 416, 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, 37: Representatives Abinsay, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Hale, Herkes, Hiraki, Ito, Kahikina, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 10: Representatives Ching, Finnegan, Fox, Green, Halford, Marumoto, Meyer, Moses, Pine and Stonebraker.

Excused, 4: Representatives Arakaki, Berg, Takai and Thielen.

At 10:35 o'clock a.m., the Chair noted that the motion to override the veto of H.B. No. 160, HD 2, SD 1, CD 1, as contained in Gov. Msg. No. 416, had carried.

H.B. No. 180

Representative M. Oshiro moved to override the veto of H.B. No. 180, as contained in Gov. Msg. No. 424, seconded by Representative B. Oshiro.

Representative Fox rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. We've discussed this issue several times on the Floor of the House and elsewhere. This is a bill that overturns one of the important reforms of the Civil Service

Modernization Act of 2000. A measure that was enacted under the leadership of a Democratic Governor, a Democratic House, and a Democratic Senate. That measure quite properly changed the way we handled excluded employees, so that from then on compensation is appropriate for what they do, and the contribution they make in consideration of the compensation and benefit packages provided under the collective bargaining agreements for counterparts and subordinates within the jurisdiction.

"We allowed the compensation to relate to the performance. And that's what we should do when we're dealing with executives. We're not talking about ordinary civil servants. We're talking about exempt employees who are usually in executive positions or positions where the qualifications are at a high level.

"It is a sad day to stand here in this Chamber, when the Governor has correctly pointed out in her veto message that we're overturning the Civil Service Modernization Act, to have people come back and just do that a few years later, with so many people in the Chamber who were there in 2000, when we enacted this important reform. I'm truly disappointed. We should sustain the Governor's veto and this should not have been on the veto list. Thank you, Mr. Speaker."

Representative Caldwell rose to speak in support of the override, stating:

"Mr. Speaker, brief comments in support of the override. Mr. Speaker, I think in addressing this override, what this Chamber needs to focus on is the impact of what happened recently. We're talking about the long-term civil servants who are at the top of their profession in terms of managing the people underneath them.

"What's happened over the years is that the people underneath them have continued to receive pay increases and better benefits while this excluded group of people have not. And very shortly, the people that they are actually managing will be making more than they will and getting benefits that are better than the benefits that they get.

"And that is a problem, Mr. Speaker, if we're trying to develop a civil service group of people who have invaluable knowledge and experience. That is so important to making sure government runs smoothly. We don't want to see these people retire early. We don't want to see these people leave. And we're trying to address that concern.

"What this bill does is it provides a floor, not a ceiling, a floor to guarantee that they make at least as much as the top people that are managing and their benefit are at least as good as those of the people that they are managing. That's all it does. It does not set a ceiling through the civil service reform. If they want to increase the pay of certain individuals, we can.

"And I'd like to remind this Body Mr. Speaker, that just last Session, we gave an increase to the Executive branch, to the cabinet, that goes out over many years, significant increases in pay. Has nothing to do with merit. We know that certain cabinet members perform outstandingly and others probably not as good as those outstanding ones. They all get the increase. It's pegged over a number of years.

"I believe that is an important thing to do, but in the same way, it's important that we take care of those underneath the cabinet that make sure that government runs smoothly everyday. And this is what this bill is aimed at doing. Thank you very much."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 180, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," as contained in Gov. Msg. No. 424, 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, 42: Representatives Abinsay, Cabanilla, Caldwell Carroll, Chang, Ching, Chong, Evans, Green, Hale, Halford, Herkes, Hiraki, Ito, Kahikina, Kanohe, Karamatsu, Kawakami, Lee, Luke, Magaoay, Marumoto, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Pine, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 5: Representatives Finnegan, Fox, Meyer, Moses and Stonebraker.

Excused, 4: Representatives Arakaki, Berg, Takai and Thielen.

At 10:40 o'clock a.m., the Chair noted that the motion to override the veto of H.B. No. 180, as contained in Gov. Msg. No. 424, had carried.

H.B. No. 1224, SD 1, CD 1

Representative M. Oshiro moved to override the veto of H.B. No. 1224, SD 1, CD 1, as contained in Gov. Msg. No. 418, seconded by Representative B. Oshiro.

Representative Pine rose to speak in opposition to the override, stating:

"In opposition to the override Mr. Speaker. I believe that this is well intended, what we're trying to do today. However, the Governor did raise some concerns that I did not notice earlier in the bill. The concern that I do have right now is that this bill would allow confidential tax information of taxpayers to be given to a private contractor. Now Mr. Speaker, with identity theft being so high in Hawaii ..."

The Chair stated:

"Representative Pine, I believe you're referring to another measure that is before us maybe in some point in time. This is not dealing with the counties, the tax information in reference to counties. This is a streamline process of finding resources."

At 10:41 o'clock a.m., Representative M. Oshiro requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 10:42 o'clock a.m.

The Chair then stated:

"The Chair apologizes to Representative Pine. Please proceed."

Representative Pine continued, stating:

"Thank you, Mr. Speaker. As I was stating earlier, this bill would allow confidential tax information to be shared with a private contractor. Mr. Speaker, we have a very big problem with identity theft here in Hawaii. And I can't think of anything more scary than sharing people's tax information with a private contractor. And this also Mr. Speaker, it breaches the

protections taxpayers receive under the current State and federal statutes. So I wonder if this is constitutional."

Representative Stonebraker rose to speak in opposition to the override, stating:

"Mr. Speaker, I'm opposed to the override. Unlike my colleague, I do not believe that this bill is well intentioned. The intention of this bill is to raise taxes on the Internet. That's the bottom line. Regardless of the fact that confidential taxpayer return information can be given out, that is my tax returns can be given to a private contractor. Regardless of that issue, the real point behind this is to raise taxes on the Internet. I'm opposed to that. This is the step to do it."

Representative Moses rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I'd like the words of the previous speaker entered in the Journal as if my own," and the Chair "so ordered." (By reference only.)

Representative Moses continued, stating:

"And I'd also like to point out that this bill repeals subsection (b) and (c) of section 255.d-3 of the Hawaii Revised Statutes relating to the Hawaii Simplified Sales and Use Tax Administration Act Advisory Council.

"The Department of Taxation is directed to work with three designees selected by the President of the Senate and three designees selected by the Speaker of the House of Representatives. But on the very same day that this measure was passed on April 29, 2005, the Senate confirmed the Governor's five nominated members to the Advisory Council.

"It's kind of ironic that the two bodies did not communicate. These nominated and Senate-confirmed members of the Advisory Council represent preeminent individuals from the tax practitioners in business communities. Thank you, Mr. Speaker."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 1224, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," as contained in Gov. Msg. 418, 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, 38: Representatives Abinsay, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Herkes, Hiraki, Ito, Kahikina, Kanohe, Karamatsu, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 9: Representatives Ching, Finnegan, Fox, Halford, Marumoto, Meyer, Moses, Pine and Stonebraker.

Excused, 4: Representatives Arakaki, Berg, Takai and Thielen.

At 10:46 o'clock a.m., the Chair noted that the motion to override the veto of H.B. No. 1224, SD 1, CD 1, as contained in Gov. Msg. No. 418, had carried.

H.B. No. 1317, HD 1, SD 1, CD 1

Representative M. Oshiro moved to override the veto of H.B. No. 1317, HD 1, SD 1, CD 1, as contained in Gov. Msg. No. 426, seconded by Representative B. Oshiro.

Representative Finnegan rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I rise in opposition to the override. Mr. Speaker, the purpose of this bill is to prohibit the Department of Human Services from taking action to remove pharmaceutical benefits management from managed care plans that provide health care coverage for Hawaii Medicaid beneficiaries, and to require the Department of Human Services to report to the 2006 Legislature on the impact of carving out pharmaceutical benefit management from managed care plans.

"Basically what the Department Director of Human Services wants to do is just find a way to maximize supplemental rebates. And through this, it's managing some of pharmaceutical benefits that our Medicaid recipients obtain.

"I do believe that what this bill does is it does handcuff the Director and the Administration from looking for ways that we can get more money back from the pharmaceutical companies thus making it easier to obtain more benefits for our recipients or maybe even increase coverage for our recipients.

"This multi-state pool that we're not allowing her to increase the membership for, or the pharmaceutical coverage for, is very important for those supplemental rebates. I think we should allow her to explore more on how we can get those rebates up and how we can get those managed programs, pharmaceutical benefits to transfer their purchasing power over to the State. As we were reminded before, this is very similar to what we tried to do in previous actions in trying to get our pools up as quick as we can to get more rebates. Thank you."

Representative Green rose to speak in support of the override, stating:

"Thank you Mr. Speaker, for the opportunity to speak on this bill. I think we must override this bill. I can tell you as a provider, that I get frustrated when I hear words like manage, maximize benefits, work with the pharmaceutical companies, support big business in multi-state pools.

"If I weren't here today Mr. Speaker, I'd be in a free clinic working to make sure that the people in that clinic who are exposed to a lack of good coverage, a lack of comprehensive health plans get their care. I don't dismiss lightly the hard work that the Director is doing. No question about it. We need to really get better care to the people in our State. We have a lot of uninsured. But the bottom line is we've been dealing with words like handcuff bills. A bill like this will handcuff the ability of important groups that are taking care our most needy people to actually manage the medicines that those people need.

"It's already very, very difficult to get the medicines into the people that don't have great coverage. And that's just a lot of us. I've lived a life of trying to take care of people that really have the deck stacked against them to get these medicines. I do respect the balance that we have to adhere to with resource management and so on, but we really can't forget that these are our most needy people who have the greatest difficulty getting their medicines.

"So I really strongly suggest to this Body that we override this veto and we let this become law. I think it will serve the poor people of our State well."

Representative Sonson rose to speak in support of the override, stating:

"Thank you, Mr. Speaker. Standing in support of the override. The Medicaid program that we have in the State as you know Mr. Speaker, is large. If the numbers are to be known, there is almost close to a billion dollars. And of course, it is the Department who is looking at this to see whether or not we need to try to save money in the delivery of pharmacy.

"However, savings in pharmaceuticals is not done by rebates alone. We have contracted pharmacies to these manage care providers for years and they have managed the pharmacy and the delivery of care properly and wisely so that they can deliver the cost of health care to individuals in Medicaid in a way so that we can balance both the cost savings and also the quality of care that's been given.

"Now the State through a new waiver that's been requested is trying to remove the pharmaceutical benefits from the management of these HMOs that we have. There is a fear Mr. Speaker, because if the only reason we're doing this is to save money, we can do it in other ways that may be less disruptive to the care that's been given to the Medicaid patients that we have today.

"As I said Mr. Speaker, there are contracts that we have with these providers that are working well. All of a sudden, there's a great idea that says, "You know we can do a rebate." But the truth be known Mr. Speaker, the rebates are not the only strategy that's been followed to save money in pharmaceuticals. Frankly, these HMOs that we have, Kaiser, HMSA and AlohaCare, they have different strategies. Kaiser uses bulk purchasing power. Their extreme size makes it possible for them to negotiate their own low cost pharmacy so that they're very effective in delivering low cost pharmaceuticals to their patients in care.

"On the other hand, AlohaCare follows a different strategy. They use substitutions of generic drugs. That's something that they follow. That's the policy that they take. And it's working for them. HMSA uses a combination of rebates, etc.

"Now the State is going through this saying that we can save about \$25 million. But Mr. Speaker, we are not in the pharmacy business so to speak. To manage these pharmacies and these large bulk of pharmacies will actually cost us more money and add to administrative costs. So the \$25 million that's dreamed of, that's alleged to be saved from this, could be eaten up by the cost of the administration alone. And this does not guarantee the quality of care and delivery of care to these Medicaid patients.

"And lastly, it's been addressed by a previous speaker that it's very difficult for patients to have access to care. If you're under Medicaid, you go to a doctor's office, the doctor will cringe because they know that the Medicaid reimbursements are low. They rather take care of the other patients who can pay a lot more. With this, let me tell you Mr. Speaker, you're going to have double work for double billing. You're going to have to bill for the healthcare and you're going to bill another area for the pharmacy. If they see this as another impediment, another factor in their delivery of healthcare, a lot of doctors may choose not to provide for Medicaid patients. That's not something that we want Mr. Speaker.

"In an effort to save money, we have to look at all the factors. This removal of pharmacy, I think is a bad idea. So please override this my colleagues. Thank you very much."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I still stand in opposition to the override. I just wanted to make a couple points. One would be, yes, that we do have to maintain this balance. However, some of the comments that were made in regards to the preferred drug list, we're speaking out of two sides of our mouth. In another bill that we have, we are okay with restrictions on PDLs for the managed care but we're not okay with the restrictions that DHS has. DHS actually in that Medicaid program, actually has a lot more flexibility for the doctors that they do in the managed care plans. So I think we're speaking out of two sides of our mouth when we talk about that bill that was passed earlier.

"The other thing is there was comment in regards to pharmaceutical companies. Now we're starting to work with pharmaceutical companies. The bigger the pool, do you think that the pharmaceutical companies like that? They like giving supplemental rebates or more supplemental rebates or higher rebates? No, they don't. So I don't see this as sitting and working with the pharmaceutical companies.

"There is a balance for this. I think it was just distrust of the Director to allow her to find the where the balances were. It's not like you're going to have to build two separate areas for medical coverage, or pharmaceutical coverage. There are solutions to things like that. But what this bill does is says, "No, we are not going to play. We are not going to try and figure out what's fair." We just say, "Director of Health, no deal." Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 1317, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," as contained in Gov. Msg. 426, 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, 38: Representatives Abinsay, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Herkes, Hiraki, Ito, Kahikina, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoy, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 9: Representatives Ching, Finnegan, Fox, Halford, Marumoto, Meyer, Moses, Pine and Stonebraker.

Excused, 4: Representatives Arakaki, Berg, Takai and Thielen.

At 10:58 o'clock a.m., the Chair noted that the motion to override the veto of H.B. No. 1317, HD 1, SD 1, CD 1, as contained in Gov. Msg. No. 426, had carried.

S.B. No. 960, HD 1, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 960, HD 1, CD 1, as contained in Gov. Msg. No. 419, seconded by Representative B. Oshiro.

Representative Ching rose to speak in opposition to the override, stating

"Thank you, Mr. Speaker. I rise in opposition to this override. This measure was very well intended and it has a noble, prudent goal which is making sure that we have appropriate funds for emergency shelters in case of a hurricane. And we know that's an important goal. What I think is flawed about it however is the way it is being funded.

"In light of the new information we have on our revenues, we know that revenues are up. General fund revenues for the month of June in fact totaled \$373.3 million. It represents a 16% increase over the prior fiscal year. Also transient accommodation taxes were up and grew 9.3% with a \$18.4 million for the month. Maintaining the strong upward trend, individual tax collections totaled \$136.5 million in June. This represents an 18.2% increase over the previous fiscal year. And likewise, corporate income tax collections increased by 51.1% for the current fiscal year.

"Right now, we're doing well. Right now, general funds are up. What I object to Mr. Speaker, is that we're funding this important goal. We don't need to raid the Hurricane Fund which provides important coverage and has statutory obligations to pay claims and provide real insurance to our Hawaii residents. I think it's an important fund. I think that it sets a very dangerous precedent when we raid funds. So with that, I'm in opposition to the veto override."

Representative Ito rose to speak in support of the override, stating:

"Mr. Speaker, I rise in strong support. Mr. Speaker, Hawaii, with its vulnerable large coastal areas and isolation in the middle of the Pacific has a long history of dealing with natural disasters. One of the most destructive Pacific-wide tsunamis of the 20th century devastated Hilo on April 1, 1946. On that day, without a tsunami warning system in place, many residents unknowingly made their way to the shoreline as the water receded. The result was 159 deaths statewide, 96 in Hilo alone. In fact during the 20th century, 222 people in Hawaii have been killed by tsunamis, more than by any other type of natural disaster.

"Hurricanes are another natural disaster Hawaii has experience with. Who can forget the devastation that the islands, especially the island of Kauai, felt in 1992 because of Hurricane Iniki. On Kauai alone, 3 people were killed, 98 people were injured, over one-third of the homes were severely damaged or destroyed, and estimates of damage were well over \$500 million dollars.

"And so Mr. Speaker, I think it is safe to say that Hawaii has some experience with natural disasters and their devastating effects.

"Mr. Speaker, SB 960 attempts to prepare the public and protect public safety by using Hawaii Hurricane Reserve Trust Fund to increase natural disaster preparedness. After the devastation of the Indian Ocean tsunami, I, as Chair of the Committee on Public Safety and Military Affairs, along with Representative Jerry Chang, your Chairman of the Committee on Tourism and Culture, met with civil defense officials to determine the State's ability to warn and protect the public in the event of a tsunami.

"What we learned from that meeting, Mr. Speaker, was that:

Maps and Alarm Systems were antiquated and could hamper evacuation efforts;

Designated shelter areas lacked adequate space for up to 175,000 people;

Older designated shelter areas may be less safe than individual homes;

Retrofitting schools and other public buildings to include large storm safe areas would assist in the provision of safe shelter;

Civil Defense lacked funds to provide around-the-clock alert staff; and

Both residents and visitors needed to be educated about natural disasters in Hawaii.

"Mr. Speaker S.B. 960 addresses these very issues. Money appropriated from the HHRTF will be used for:

Updating evacuation maps;

Installing and maintaining alarm siren systems;

Constructing public shelter space;

Retrofitting existing public buildings that serve or could serve as emergency shelter;

Developing statewide residential safe room design standards;

Providing around-the-clock alert staff for the Civil Defense Division of the State Department of Defense; and lastly,

Expanding public education campaigns emphasizing tsunami and hurricane preparedness.

"SB 960 will also assist residents with installing high wind-resistive devices to protect their property against wind hazards through the Loss Mitigation Grant Program. The more residential dwellings that install wind-resistive devices, the lower the costs will be when Hawaii is impacted by another hurricane such as Iniki. Had the homes on Kauai been fitted with these wind-resistive devices, the devastation would not have been as great.

"Mr. Speaker, in the event of a natural disaster, ensuring immediate and timely disaster response, early public warning, quick evacuation response, and quick and efficient access to emergency care and shelter are key to protecting the safety of the public. Early education and attempts to prevent losses by strengthening our buildings will also assist in protecting the well-being of the public. These are the purposes that the Hawaii Hurricane Relief Trust Fund moneys should be used for.

"Mr. Speaker, SB 960 undertakes the tasks that are necessary to protect the public during a natural disaster and we must pass this measure. Thank you."

Representative Fox rose to speak in opposition to the override, stating

"Thank you, Mr. Speaker. First, I'd like to incorporate the words of the Representative of Liliha into the record as if they were my own," and the Chair "so ordered." (By reference only.)

Representative Fox continued, stating:

"Mr. Speaker, I seriously question the wisdom of overriding this veto. I'm sorry I'm not a part of your Caucus and was not able to be in there having the discussion with you on this. But as the Representative of Liliha pointed out, we have plenty of money. That wasn't the situation when this bill was introduced in January. We're still in the old framework that we've been in for years. There's not enough money. We got to raid special funds, all that stuff. It's no longer true.

"The Governor has pointed out that we could use the interest of the Hurricane Relief Fund to do these mitigation measures that we want to do. There is no need to go into the principal. It

is absolutely a mistake to take the principal out of this fund to pay for it. We got plenty of money elsewhere. We don't need to need to touch the principal.

"As the Governor pointed out in her veto message, we have crucial needs for the principal that's in the Hurricane Relief Fund. That's the money that gets us the FEMA support when we have to build up our insurance industry after the next hurricane hits. That's what it's all about. That's why we created that Fund.

"We didn't create this Fund to support private businesses that go around putting clips on houses. Although we could do that out of the interest. We created this Fund to be ready for the next big disaster when it hits. And we need that money for that purpose. This is a really, really irresponsible override. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in strong support. Mr. Speaker, we can argue back and forth all day about the financial impact to the Hurricane Relief Fund, whether it's a good thing or bad thing, whether or not those who paid into the Fund are actually the one's who are going to end up benefiting when or if the Fund gets restarted. Going back to a memo issued by the Hurricane Trust Fund Board that originally stated that should the Fund need to restart, it's only going to require \$100 million in capitalization. We can go back and forth, and both sides are going to have certain points.

"But that's not what this measure is about. It's about lives. Money is important to be sure, but lives are something that cannot be replaced. As we took a look at the disaster in Indonesia, the loss of life I think touched all of us, as well as the recent other events such as the earthquake off the coast of California. We also see what's happening in Florida, and our own vulnerability here. I think that's what this is all about Mr. Speaker. It's about lives. Thank you."

Representative Meyer rose to speak in opposition to the override, stating

"Thank you, Mr. Speaker. I'm rising in strong opposition of this override. This is a raid. Plain and simple, a raid of \$8 million from the Hurricane Reserve Trust Fund and it is coming out of the corpus of the Fund. My colleague from Kailua and Kaneohe, I don't quite understand how he says we can restart the Fund. The Hurricane Reserve Trust Fund is there now. There's a fairly large sum of money in there. That's what many of us have been fighting to make sure that it stays there.

"The Legislature has a long history of digging into special funds whenever they have something they want to fund and it's not appropriate. I want to repeat what my colleague from Waikiki said that we've already changed the law and transferring out the interest from the money in that Fund to the general fund. And this past year, it equals \$6 million which would just about have done all of these things that the advocates for hurricane clips and safe rooms and all these various things that people think are so vital.

"Some of the comments on this floor talking about the devastating tsunami in Indonesia, it reminds me of a real knee-jerk reaction. The building codes in that part of the world are nothing like ours. There was no warning. That harkens back to the comments about the Hilo tsunami where people had no idea what was coming. Things are a lot better today as far as we're giving people word early on. I think I've said on this floor before, I'm probably one of the few people in this Chamber who has lived through two hurricanes, one right in Nawiliwili

Harbor. Had the roof fly off our house in Iwa. Iniki was probably the strongest hurricane that ever hit Hawaii, the speed of the wind was close to 200 miles an hour in places and only one person died.

"This is kind of an overreaction. The advocates for this hurricane clip program have been working diligently for the last four years trying to get the money out of this Fund so that they can carry on with their program.

"This is terribly irresponsible to start taking out of the corpus of the Trust Fund. At this time the Hurricane Reserve Trust Fund is the sole source of money to provide hurricane insurance to the market when the private market is unable to do so. Following Hurricane Iniki in 1992, private insurers cutback severely on homeowners insurance leaving families without insurance or forcing them to purchase insurance at very high rates in the surplus lines market.

"We need this Fund to stay intact. We must take a responsible position here. And by passing this override, you are condoning taking money out of the Trust Fund and there's no reason to believe for the taxpayers, property owners in this State, to believe that we're not going to just continue to deplete the money out of that Fund. Thank you very much."

Representative Souki rose to a point of information, stating:

"Mr. Speaker, point of information. The Representative from Waikiki mentioned he wished that he was in our Caucus. I just want to mention I think the Chairman of the Democratic Party was up there. He could have given him a card anytime to join our Caucus. Thank you very much."

Representative Fox rose to respond, stating:

"Thank you, Mr. Speaker. I proposed at the beginning of the year that we get together on these things. It would have been a great idea to have us all together on this. Thank you."

Representative Moses rose to speak in opposition to the override, stating

"Thank you, Mr. Speaker. In opposition. I'd like the words of the Minority Floor Leader and the first speech from the Representative from Waikiki," and the Chair "so ordered." (By reference only.)

Representative Moses continued, stating:

"Mr. Speaker, first of all, I heard from across the aisle that these hurricane clips are going to help save lives in a tsunami and I'd like to see how that is done. It bewilders me to think that that might happen. But if we do want the hurricane clips, fine, let's fund it, but I think we're reacting to one businessman who probably has a pretty good idea, but still we're funding him. This isn't a tax credit. It's just an outright giving if you will because he's going to benefit. He'd be the only one that benefits.

"But again, I come back to the fact that we got \$4 billion more than we thought we had, 16% more. So are we going to give tax relief to the people? Are we going to give it back to the people some kind of tax relief? Or are we going to take some of that money and put it back in the Hurricane Relief Fund and build it back up to where it should be? Or are we going to give tax credits for these hurricane clips? Or maybe we'll actually fund the things that the Civil Defense Department needs. Maybe we could do that out of the money that we're actually taking in that is honest revenue that the State is earning. Thank you, Mr. Speaker."

Representative Finnegan rose to speak in opposition to the override, stating

"Thank you, Mr. Speaker. Just quickly, in opposition. Let me step back just a little bit and take a look at this from a more broad view I guess and step back in history for me. In my former career, former life, I was a mortgage loan officer. And with that, during the period of time when we were building up this Fund, I would refinance people and help with purchases and I would always see that couple hundred dollars to a thousand dollars on their settlement statement each time for years. Seeing that, and seeing that, and seeing that build up and talking to these people who signed these settlement statements.

"Some refinancing because they had to consolidate credit cards because they would soon start to either go bad on them or for whatever reason, to pay for private education or those kinds of things. I remember those moments because this Fund is being built and I had to explain to them how it all works. How the hurricane reinsurance, building up this fund works for all of us, purchasing homes, owning homes, for our safety.

"When I look at trying to use that for other purposes, to me it's creating a relationship with our constituents that says that don't trust us because what we say we're going to use this money for we may not use that money for. And so I have to go back to that place where I remember those transactions, and I remember people making those kinds of comments. This money is not going back to them in the form that I'm sure that they would want it which is cash. And it's going to use for other purposes. I'm also concerned about further purposes that we may be using this money for."

Representative M. Oshiro rose to speak in support of the override, stating:

"Mr. Speaker, in strong support. Just to remind the Members who may have not been here when the Hurricane Relief Fund was established back in 1993. There is a mandate within Act 179 that requires us to propose and prepare plans for storm preparedness and for mitigation for damages using the Fund money. And just as a point of reference, Mr. Speaker, if we're talking about a corpus of about \$200 million. Well \$2 million is about 1%. I think that's a small percentage to invest in the safety and security of our community knowing that a hurricane is inevitable and the harm and destruction to our community is certain. Thank you, Mr. Speaker."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 960, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE," as contained in Gov. Msg. 419, 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, 38: Representatives Abinsay, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Herkes, Hiraki, Ito, Kahikina, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 9: Representatives Ching, Finnegan, Fox, Halford, Marumoto, Meyer, Moses, Pine and Stonebraker.

Excused, 4: Representatives Arakaki, Berg, Takai and Thielen.

At 11:18 o'clock a.m., the Chair noted that the motion to override the veto of S.B. No. 960, HD 1, CD 1, as contained in Gov. Msg. No. 419, had carried.

S.B. No. 1262, SD 1, HD 2, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 1262, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 432, seconded by Representative B. Oshiro.

Representative Moses rose to speak in opposition to the override, stating

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, I was for this bill up through Third Reading. Actually no, I'm sorry, I was opposed up through Third Reading because I was afraid it would affect the ferry that we were looking at. I was basically told it would not, and I believed everybody I heard from. And maybe it still won't. Also, I found that the Representative and Senator from that area were for it so I considered if they're for it, I should go along. And so on the Final Reading, I did vote in favor. However, now I learned, although it does some good things, like I think the Ocean Recreation Management Area that it forms is good and I think we should do that. But I'm concerned that now we're setting a negative precedents because we're requiring the DLNR, Department of Land and Natural Resources, to prepare this regional baseline environmental study, seemingly modeled along the lines of an EIS, Environmental Impact Statement before an ORMA is established.

"But what concerns me even more than that is it fails to provide the mechanism for public input and comment that is currently provided for under Chapter 91, HRS. So we're going to do all of this and yet we're excluding the public in any formal way from commenting on what we're doing. And I think shutting out the public, especially those that are from that area along the Waianae Coast, we're just shutting them out and saying, "We know best. We in government will do it because we know how to do it. We don't need your comments." And that really bothers me, Mr. Speaker."

Representative Shimabukuro rose to speak in support of the override, stating:

"Mr. Speaker, in support. Mr. Speaker, I would like to share excerpts from a letter written by Waianae Neighborhood Board Chair, Cynthia Rezentes dated July 5, 2005. And I quote:

This bill was originally introduced at the request of the Board to our elected officials in Waianae so that with the gathering pressures of multi-purpose uses along the Waianae Coast, we could: 1) establish a baseline of understanding of our natural resources in our coastal waters and in our State beach park, and 2) lead us into planning for better stewardship of our resources, not only for our residents but also the many guests to the community and coast.

During the course of the Legislative Session, our Legislature determined that the efforts of understanding our natural resources and then applying that information to better management was best done by pursuing the establishment of an Ocean Recreation Management Area (ORMA) after an environmental study was done. It was also recognized, that for this session, no monies could be allocated but the intent is to provide monies in the 2006 Legislative Session for the study to still meet the 2007 report deadline listed within the bill. The bill also places a moratorium on the issuing of any further commercial ocean recreational permits until this study and the public process is concluded to establish an ORMA for the area from Kalaeloa to Kaena Point.

This bill has the full backing of this year's Legislature. It passed every stage of discussion, committee and floor votes including unanimous votes for the Conference Draft. I believe the members of our Legislature recognize the importance of attempting to understand how best to manage our natural resources under the various pressures of non-commercial recreational usage of the area, and commercial (both non-recreational and recreational) usage. All this should be able to be done without allowing any of this usage to affect our future enjoyment and perpetuation of these resources.

"Mr. Speaker, I wish to acknowledge the efforts of the EEP Chair and the many Waianae residents such as harbor master, William Aila, Jr., and long time akule fisherman, Carl Jellings, who worked very hard on this bill. Mahalo."

Representative Morita rose to speak in support of the override, stating:

"Thank you, Mr. Speaker. I rise in support of the override. I just wanted to clarify, there is several misstatements in the Governor's veto message. It alluded that we would be circumventing the Chapter 91 process. I want to read section 4 of the bill.

The final designation of the ocean recreation management area and rules for this area shall be adopted by the department pursuant to Chapter 91, HRS.

"So there's no effort to circumvent Chapter 91 here. In working with this bill, we recognized that the funding was not available during this Session. And we didn't want to displace any priorities of the Department, but we recognized the need to look at these issues in the Waianae Coastline area. And that's why we asked for the moratorium on any more activity until these issues could be resolved. So we wanted to put this issue on the front burner. In keeping it in front of the Legislature and the Administration that it's very important to find the moneys to address these issues.

"Secondly, it was patterned after the EIS process. And we have to remember the EIS process is a disclosure process to bring information out so we can have good rulemaking that's related to the information that is disclosed. In the ORMA process, there's no prescribed method in trying to develop this baseline of information to make good decisions. So I believe the Governor's objections to this bill are unwarranted and I recommend its override."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 1262, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE WAIANAE COAST," as contained in Gov. Msg. 432, 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, 46: Representatives Abinsay, Arakaki, Cabanilla, Caldwell Carroll, Chang, Ching, Chong, Evans, Finnegan, Green, Hale, Halford, Herkes, Hiraki, Ito, Kahikina, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoy, Marumoto, Meyer, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Pine, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Stonebraker, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 2: Representatives Fox and Moses.

Excused, 3: Representatives Berg, Takai and Thielen.

At 11:27 o'clock a.m., the Chair noted that the motion to override the veto of S.B. No. 1262, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 432, had carried.

S.B. No. 1473, SD 1, HD 1, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 1473, SD 1, HD 1, CD 1, as contained in Gov. Msg. No. 434, seconded by Representative B. Oshiro.

Representative Fox rose to speak in opposition to the override, stating:

"Mr. Speaker, we got here a special interest bill. A bill introduced on behalf of a particular section of Oahu. Lo and behold, it turns out that this special interest bill is unconstitutional for that very reason because the constitution addresses the questions of special interest bills. This bill is objectionable and I'm going to read from the veto message on 1473 so if you folks want to follow along, please be my guest.

This bill is objectionable because it violates Section 5 of Article XI of the State Constitution. Section 5 of Article XI of the State Constitution provides as follows:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

Section 5 of Article XI is clear that the Legislature can administer or dispose of lands owned or controlled by the State only by general law. This understanding of the plain meaning of Section 5 is supported by Section 5's constitutional history. See Stand. Comm. Rep. No. 78, 1 Proceedings of the Constitutional Convention of Hawaii 1950 ("1 Proceedings") at 233 (1960). The only exception to Section 5's requirement that the Legislature administer or dispose of lands owned or controlled by the State by general law is for intergovernmental transfers of land. See 1 Proceedings at 233; 2 Proceedings of the Constitutional Convention of Hawaii 1950 at 631 (1961).

The session law to be enacted by this bill is not a general law that applies to all state lands, but instead is drafted to specifically apply only to the Waimano ridge area.

"Mr. Speaker, this is the kind of veto message we received repeatedly under Democratic Governors and without exception, the response of this Body was to recognize that the Attorney General had a point and to set aside. Here today, we're trying to override. I don't understand it. Thank you, Mr. Speaker."

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

"Thank you very much, Mr. Speaker. I stand in support of the override. I'm very puzzled when someone calls it a special interest bill. And frankly, with all due respect to the former Minority Leader, the Governor, and let me just say I'm not a constitutional lawyer and I don't even play one on TV, but my understanding is the only body that can adjudicate the constitutionality of something is the courts. And in this case, I don't think they have come to a decision on this. So the Governor, like the former Minority Leader, they're entitled to their opinion, but they may not be necessarily be right.

"But let me get to the heart of the matter of the so-called special interest. Mr. Speaker, seven years ago when I served as

your Ocean Recreation and Marine Resources Chair, we dealt with this whole issue of the Kaneohe Bay Regional Council which is in statute, a special interest area of the State. The whole question was whether or not this Council had unlawful delegation of authority because whatever recommendation they came up with, should they be automatically considered law. The answer of course to that is no. Just like any of the neighborhood boards that exist on Oahu. They merely play an advisory role to advise policymakers, departments, agencies, and the like as to what the wishes of the community may be.

"This bill is absolutely no different. It merely says that in the case of Waimano Home, first a master plan should be developed. I don't see why anyone would be opposed that. There is no master plan for that area. Secondly, the community should be a part of that process. It does not say that the community does the master plan. It doesn't say that the community has veto power over that master plan. It merely says that the community ought to have a say and give their input through public hearings.

"People have to realize the history of why this has come about. If you were sitting in that Pearl City Neighborhood Board when the Department of Health came in and announced, not proposed, not informed, but announced that a youth sex offender facility was going in. Imagine the surprise of Neighborhood Board members, much less the area legislators who first learned about that. Subsequent to that, we read in the newspaper that the Department of Health lab was thinking about upgrading the category level that it has to enhance its capability to deal with hazardous chemicals. We read about that in the newspaper.

"Again, the community is not saying that they would be able to stop it, but at the very least, for all of you who represent districts, and that includes all of us by the way because we are Representatives, ask yourself if you would like any agency, any department of the State under any Administration to at least inform you as a Representative from that district, and then the community if something is going into that community being proposed by the State. I hope the answer to that is yes. Thank you, Mr. Speaker."

Representative B. Oshiro rose to speak in support of the override, stating:

"Mr. Speaker, in support. Very briefly, I'd just like to address one of the concerns about the constitutionality. I think that is something that is not entirely that clear. When you do look at Article XI, Section 5, it does say yes, generally, you are supposed to only do it through general laws, but it does provide an exception. The exception is very important because if you look at Senate Bill No. 1473, CD 1, on page 4 in the purpose clause of the bill, it does provide some important history. And that history refers to numerous Executive Orders that did transfer the jurisdiction to the Department of Health. So once we have a transfer of State owned land, the exception says that the general rule no long applies. Because there was a transfer at that point, legislation to regulate the use of these lands is appropriate. Thank you very much."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 1473, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WAIMANO RIDGE," as contained in Gov. Msg. 434, 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, 42: Representatives Abinsay, Arakaki, Cabanilla, Caldwell Carroll, Chang, Ching, Chong, Evans, Finnegan,

Green, Hale, Herkes, Hiraki, Ito, Kahikina, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoy, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Pine, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 6: Representatives Fox, Halford, Marumoto, Meyer, Moses and Stonebraker.

Excused, 3: Representatives Berg, Takai and Thielen.

At 11:36 o'clock a.m., the Chair noted that the motion to override the veto of S.B. No. 1473, SD 1, HD 1, CD 1, as contained in Gov. Msg. No. 434, had carried.

S.B. No. 1592, SD 1, HD 2, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 1592, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 436, seconded by Representative B. Oshiro.

At 11:36 o'clock a.m., Representative Moses requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:50 o'clock a.m.

At this time, the Chair stated:

"For the Senators who are here, if you want to stay and watch, you can go up in the gallery. I'm only kidding."

At 11:50 o'clock a.m., Representative M. Oshiro requested a recess, and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:51 o'clock a.m.

Representative Meyer rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I'm rising in opposition to this measure. I find this bill objectionable because it fails to recognize the proper location and logical nexus for development of the Hawaii State Plan. The Legislative Auditor conducts audits of financial transactions, accounts, programs, and reviews the performance of departments to determine the validity of public fund expenditures. This bill instructs the Auditor to prepare the Hawaii 2050 Sustainability Plan, a function outside of the scope of the Auditor's duties.

"Further, this bill would give \$200,000 to the Auditor but provides no money to the Office of Planning that is responsible for the comprehensive long range and strategic planning.

"On just a more general note, I often have questions about these large volumes that come out of these planning efforts. And I don't know who has even looked at the old ones that are up on the shelf. But I definitely feel that this should not be a responsibility of the Legislative Auditor. Thank you."

Representative Morita rose to speak in support of the override, stating:

"Thank you, Mr. Speaker. I rise in support of the override. Just to address the Governor's veto message, I believe the role of the Auditor is quite appropriate because the role of the

Auditor is not just limited to financial transactions. They also help us with policy analysis. Specifically in this case, the role is appropriate especially to align policy with implementation, fiscal impacts, and expenditures in meeting the policy, goals, and objectives of the Hawaii State Planning Act. I want to ask for your indulgence to give this Body a kind of a background on the Hawaii State Planning Act.

"In the late 1960s, Hawaii's future looked extremely bright. However, under the leadership of Governor George Ariyoshi, he sounded a warning. Governor Ariyoshi told the Legislature, that we "must be the masters of our destiny, rather than the victims. There is no reason we must endure what an uncontrolled and unregulated future holds for us. We must shape our own future, not have it thrust upon us by forces over which we have little or no control."

"Soon after, he brought together the best minds of academia, state government and the community. The Future Studies program at the University of Hawaii, initiated by the Hawaii State Legislature, forged the critical links between futurists and decision-makers and decision-makers and Hawaii's citizens. Funded by the Legislature, Hawaii took an impressive step in "Anticipatory Democracy" as communities statewide planned their preferred future for the year 2000.

"Hawaii's Legislators took risks. They thought bold and acted upon it. Guided by Chapter 226, the Hawaii State Planning Act, and its resulting functional plans, and these were not to be plans that just sat on the shelf, the primary purpose of the Administration and Legislature was to better the quality of life for all Hawaii residents and future generations.

"Through this unique partnership progressive legislation flourished – zero population growth, family planning services, the preservation and protection of our natural and cultural resources, universal health care, becoming the first state to ratify the Equal Rights Amendment are just some of the few bold steps of the Legislature.

"Then Hawaii lost its vision and lost its nerve. First the oil shocks of the 1970s. In the 1980s, Hawaii was enticed by Japanese money. This boom period provided everyone with a false sense of security but created a greater divide between the haves and the have-nots. By the mid-1990s, we reluctantly realized that along with boom periods came the bust. And until recently, the Legislature's primary motivation was to just balance the budget.

"The year 2000 has come and gone. The great efforts of Hawaii's citizens in the Hawaii 2000 Project have fallen to the wayside. Instead of living up to the project's slogan, "Somebody better care about tomorrow," unfortunately, many decision-makers are guided by the mantra, "Protect yourself for the next election." The result has been a breakdown in the critical links between futurists, decision-makers and Hawaii's citizens. As Dr. Jim Dator, a futurist at the University of Hawaii states, "... we have seen a dismantling in not only anticipatory democracy but also participatory democracy."

"Once we were known for our innovation and daring as a community. We have stopped dreaming and now we live for the here and now with little regard for future consequences. That is why the override of Senate Bill 1592, A Bill for an Act Relating to State Planning, is very important. I believe this measure is necessary to put the Legislature and Administration back on track to guide and plan the future of our State.

"I cannot say it more clearly than Governor Ariyoshi in what he was trying to achieve:

Prevent urban sprawl;

Preserving and strengthening agriculture;

Avoiding excessive use of resources, particularly water;

Building adequate, reasonably-priced housing.

"And with regard to business, to reduce private-sector uncertainty about government intentions regarding development.

"Governor Ariyoshi said ..."

Representative Luke rose to yield her time, and the Chair "so ordered."

Representative Morita continued, stating:

"Governor Ariyoshi said, "I strived for a much better coordinated state government to efficiently address these goals. A reformed State Land Use Commission, a State Water Commission, the State Plan, and a mosaic of environmental law that has stabilized our precious environment to this day." And then he goes on to say, "Ambiguity crept in when I left office. Doubt set in through the long economic downturn of the 1990s. Now we are adrift. The State Administration is trying to weaken or dismantle the instruments of planning and conservation under the cover of a slogan, "home rule." We lack real informed discussion of what is at stake. I say the future is at stake."

"That is why we must override Senate Bill 1592. I urge my colleagues to read Governor Ariyoshi's article, "The Future is at Stake" in the July 2005 issue of Hawaii Business magazine and I would like to submit a copy for the record," and the Chair "so ordered."

Representative Morita submitted the following article:

"Leadership Lessons

The Future Is at Stake

By George R. Ariyoshi, Governor of Hawaii 1973-1986

If only as an issue of self-interest, it would be reassuring to know that business has become more enlightened over the years, with regard to environmental planning and preservation.

Hawaii has made significant strides, but possibly has taken "two steps forward and one step back." Judging from current issues, we must question the strength of our core convictions and the clarity of our thinking.

We are in the 35th anniversary year of Earth Day. For me, the first Earth Day coincided with then Governor John Burns urging me to run for lieutenant governor, which then led to the governorship. I was challenged to think more clearly on a statewide basis, across our widely varied landscapes and communities.

As a young legislator, I had been particularly concerned with opening up equal opportunities for all. While supporting a growing family on a part-time law practice, I became involved in several small developments. Coming from a family that often had depended on small business, I approached the demands of organized labor with a certain level of caution. I was known as a fiscal conservative.

Possibly some voters projected that I would be wary of the new environmentalism. If anything, the opposite was true. While I did not agree with the various environmental groups on every issue, I experienced a refreshing orientation to my most

central concern, which was meeting our obligations to future generations.

I focused on the idea of stewardship, which naturally and logically inspired thinking about resource management across a broad front of issues. Many people rallied to this effort. There was a widespread feeling that rapid population growth was distorting Hawaii as we had known it. Our population was growing at three times the national average. Beachfront was disappearing. Pollution of streams and bays was an active concern. Agricultural lands were being quickly urbanized. Whole landscapes were being altered drastically before our eyes.

In response, I brought together some of the best minds of academia, state government and the community. From their efforts came a program of balanced growth, or "managed growth," as it was called. The goal of managed growth was not zero growth, but appropriate, incremental growth that nurtured society's definable objectives.

I told the Legislature that we "must be the masters of our destiny, rather than the victims. There is no reason we must endure what an uncontrolled and unregulated future holds for us. We must shape our own future, not have it thrust upon us by forces over which we have little or no control."

Specific recommendations of my task force included:

- o Preventing urban sprawl
- o Preserving and strengthening agriculture
- o Avoiding excessive use of resources, particularly water
- o Building adequate, reasonably-priced housing

With regard to business, one key was: "Reduce private-sector uncertainty about government intentions regarding development." I could paraphrase that by saying, "Create a level playing field. That will be good for business."

I strived for a much better-coordinated state government to efficiently address these goals: A reformed State Land Use Commission, a State Water Commission, the State Plan, and a mosaic of environmental law that has stabilized our precious environment to this day.

Survey research conducted for the State Plan showed that the public supported these concepts and policies by astonishing margins, usually on the order of five to one or 10 to one.

Ambiguity crept in when I left office. Doubt set in through the long economic downturn of the 1990s.

Now we are adrift. The state administration is trying to weaken or dismantle the instruments of planning and conservation under the cover of a slogan, "Home Rule." We lack real informed discussion of what is at stake. I say the future is at stake.

George R. Ariyoshi is the former president of Prince Resorts Hawaii Inc., a subsidiary of Seibu Railway Co. Ltd. An attorney by profession, Ariyoshi served in elective office in Hawaii from 1954 until 1986. A protégé of the late Gov. John A. Burns, Ariyoshi served as governor of Hawaii from 1973 until 1986. He was the first Japanese American to be elected governor in the United States. In the years since he left the state Capitol, Ariyoshi has been active in Hawaii and international business circles, particularly in Asia."

*Hawaii Business
July 2005*

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 1592, SD 1, HD 2, CD

1, entitled: "A BILL FOR AN ACT RELATING TO STATE PLANNING," as contained in Gov. Msg. 436, 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, 42: Representatives Abinsay, Arakaki, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Halford, Herkes, Hiraki, Ito, Kahikina, Kanohe, Karamatsu, Kawakami, Lee, Luke, Magaoay, Marumoto, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Pine, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 6: Representatives Ching, Finnegan, Fox, Meyer, Moses and Stonebraker.

Excused, 3: Representatives Berg, Takai and Thielen.

At 12:01 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 1592, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 436, had carried.

S.B. No. 1685, SD 2, HD 1, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 1685, SD 2, HD 1, CD 1, as contained in Gov. Msg. No. 420, seconded by Representative B. Oshiro.

Representative Moses rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, this is a measure which I have reservations about during the Session and I talked about it several times. I was concerned about there being no prohibition to the counties expending or giving this information, taxpayers' information to others. The thing I thought good about the measure was that the counties would get the information on the taxes paid to the State by taxpayers. By using that, they could possibly gain more revenues or at least increase revenues from the citizens of the State at the county level. But that concern comes back about no prohibition and because of that concern, I believe that there may be many taxpayers who would fail to give all of the information to the State as is required under law. I know that's not the legal thing to do, but they still may do it in which case the counties may end up losing revenue, not enhancing their revenues.

"So I think that there's a good reason why the Governor vetoed this. It would simply be that we add a small paragraph in the measure that would prohibit the counties from giving the information to any third party. That would safeguard the confidentiality that is established in statutes for the individual taxpayers. It should alleviate their fears and I think everybody would be happy about that. Thank you."

Representative Takamine rose to speak in support of the override, stating:

"Mr. Speaker, I rise in support of the motion. Mr. Speaker, Senate Bill 1685 allows the State to share taxpayer information with the counties in order to strengthen fair and equitable taxation. By allowing the counties to find out which taxpayers are filing as residents, counties will be able to ensure that only residents may claim homeowner exemptions for real property tax purposes.

"Additionally Mr. Speaker, by gaining access to TAT filer lists, counties can determine if those claiming owner occupant

status should be reclassified. In Maui for example, the classification tax rates are significantly different. Your Committee on Finance received testimony that there have been numerous complaints from the public about hotel activities in Maui apartments and condominiums.

"As a home rule issue, we need to allow the counties to collect the correct taxes from those obligated to pay. In short, this measure will increase government efficiency and crack down on tax cheaters. Therefore, I urge support for the motion. Thank you, Mr. Speaker."

Representative Moses rose to respond, stating:

"Mr. Speaker, still in opposition. I just want to point out that the measure did place some specific wording that will prohibit the counties from sharing the taxpayer information. On a portion of their taxes, the county real property tax records are already open to the public. So we put in there a prohibition on sharing certain information, which was already covered by law. All we got to do is put in just a short paragraph that would prohibit them from sharing any of the information. We didn't do it, so it just bothers me. There must be some reason why we didn't do that when we did it for other portions of the tax code. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 1685, SD 2, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAX," as contained in Gov. Msg. 420, 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, 41: Representatives Abinsay, Arakaki, Berg, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Halford, Herkes, Hiraki, Ito, Kahikina, Kanohe, Karamatsu, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 8: Representatives Ching, Finnegan, Fox, Marumoto, Meyer, Moses, Pine and Stonebraker.

Excused, 2: Representatives Takai and Thielen.

At 12:07 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 1685, SD 2, HD 1, CD 1, as contained in Gov. Msg. No. 420, had carried.

S.B. No. 1772, SD 1, HD 2, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 1772, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 437, seconded by Representative B. Oshiro.

Representative Fox rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. Mr. Speaker, the bill ostensibly is going after employers who are doing something wrong. The trouble with the bill is that it doesn't directly tie up with what might be wrong. The current law does not require employers to provide health insurance to dependents of its workers. And yet the reporting requirements ask for that information. So you're in a situation where you're gathering information about an employer who is complying with the law because they are providing health insurance to the employee, but this bill is interested in whether you're identifying the dependents of the

employees. So we're going to end up unfairly stigmatizing and causing public ridicule of employers who are actually completely in compliance with the labor law.

"While we were on this wild goose chase to run down who is taking care of dependents and who isn't, the Director of the Department of Labor and Industrial Relations has introduced a compliance assistance program that involves investigations into noncompliance with the Prepaid Health Care Act by conducting on-site random visits to employers. This is a far more effective way to make sure that employers are doing what they're legally required to do.

"So you had a choice of bills to override, I don't think you're doing a very good job at picking the ones that really need to be overridden and this is another one. Thank you, Mr. Speaker."

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

"Mr. Speaker, I stand in support of the override. In reference to the previous speaker, if he would be able to provide us a list of those bills he felt we should override, I'd appreciate that as well. But in any event Mr. Speaker, this measure, really is correct. It's merely to aggregate the data to see which employers out in our community are having dependents on the Medicaid rolls.

"Just let me read you a couple of headlines from across the country. And again, in these states, it's perfectly legal, but let me read you a couple of headlines: Alabama, Wal-Mart No. 1 in Medicaid; Arkansas, Top 9 Employers in State have 9698 Getting Public Aid; Georgia, Wal-Mart Stands Out on Rolls of PeachCare, their health care system; Iowa, Some of the State's Largest Employers have Workers Receiving Medicaid; West Virginia, Wal-Mart Tops State CHIP List, their health plan, and on and on, Mr. Speaker. This bill merely tries to inform the community, inform us as policymakers frankly as to what's out there. At that point, we're going to make a decision what we do about that. We may decide to say, employers have to offer family coverage. We may decide that the Medicaid program needs to be reformed in such a way that it takes the taxpayers off the hook.

"The Human Services Chair in previous speeches on the floor has alluded to the cost of Medicare. In most states, it's the second biggest cost driver for the budget after education. On average, the Medicaid program constitutes about 16% of state's budgets across the country. And rising at 12% per year clip. So what we're facing in this State is not unusual, not unique, and something that all the states are trying to grapple with. This is one measure that tries to at least help in that effort. Thank you, Mr. Speaker."

Representative Moses rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. In opposition. I didn't understand. Was the previous speaker saying it would be better if Wal-Mart did not hire people and left them on the welfare rolls? Or is he suggesting that this Body will write legislation to authorize Wal-Mart to invade the privacy of its employees by demanding that they tell exactly who their dependents are before they are considered for hiring? I thought that that was probably illegal under our State law. You cannot ask those kinds of things.

"I think it is an obvious invasion of privacy to ask somebody what dependents do you have? What medical insurance do they have? Who do they work for? All of those kinds of things. What's your total household income? I don't think an employer is allowed to ask those questions under current State law, Mr. Speaker. Thank you."

Representative Fox rose to respond, stating:

"Thank you, Mr. Speaker. I was intrigued with the Representative of Pearl City's reference to other states. Other states don't have the Prepaid Health Care Act. I'm happy to be a resident of Hawaii. I support the Prepaid Health Care Act. I think that requiring employees who work twenty or more hours have full health coverage is the right way to go. It's really odd in sort of a cookie-cutter fashion to introduce a bill that is properly introduced in Alabama or Arkansas, but seems rather strange in Hawaii where employers are already providing medical coverage for their employees. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 1772, SD 1, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYERS," as contained in Gov. Msg. 437, 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, 40: Representatives Abinsay, Arakaki, Berg, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Herkes, Hiraki, Ito, Kahikina, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 9: Representatives Ching, Finnegan, Fox, Halford, Marumoto, Meyer, Moses, Pine and Stonebraker.

Excused, 2: Representatives Takai and Thielen.

At 12:15 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 1772, SD 1, HD 2, CD 1, as contained in Gov. Msg. No. 437, had carried.

S.B. No. 1808, SD 1, HD 1, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 1808, SD 1, HD 1, CD 1, as contained in Gov. Msg. No. 369, seconded by Representative B. Oshiro.

Representative Fox rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I would like to speak in favor of sustaining the Governor's veto of this measure. We're dealing with the subject of workers' comp here. I believe that most of us if not all of us realized that prominent national organizations have given Hawaii a failing grade for the way it handles the workers' compensation system. The Hawaii Chamber of Commerce, which was dearly beloved yesterday when we were talking about a different subject in a great 'love fest' upstairs, the Hawaii Chamber of Commerce has identified this as its number one issue that it would like to see fixed at the Legislature.

"At the beginning of the Legislature, we had some people who were upset that the Director of Labor and Industrial Relations was going to try to do his best to fix the workers' compensation system through rule changes so they introduced a bill that handcuffed the Director of Labor and Industrial Relations until the strange date of 2011 which happens to be at the end of the second term of the Lingle Administration. So a perfect fit for running through the time that Governor Lingle would be in office. Later out of embarrassment, that date was change first to the end of the first term, oh no, she's not going

to get reelected, and then till July of 2007. So we're pretty clear about what is going on.

"But meanwhile, while we were monkeying with the date which this bill would go into effect, the Director of Labor and Industrial Relations did everything he was supposed to do to implement the rules. He held the public hearings. And the rules are now into effect. To me, it just seems perfectly obvious that what we ought to do at this point is see if the rules have any kind of positive or negative impact. It may have a terrible negative impact but then we'll have the understanding and we can come back next year and fix it. Instead, we're back here now, when the rules are just getting started, when people are just starting to function under the new rules and we're talking about overturning the system before it has chance to see if it can work.

"Now during the course of the hearings, we heard from several individuals who were seriously disadvantaged by the workers' comp system. They are suffering today under the workers' comp system. But what system are they suffering under? They're suffering under the system that the administrative rules are trying to fix up. We're trying to make the system work better for employees. And as the Governor said in her veto message, the Director issues decisions without hearings for the sake of the injured worker such as awards for disfigurement which are made after the review of the medical records. Why have a hearing? You just look at the medical records, you issue the award.

"Prohibiting the waiver of a hearing will serve as a detriment to injured workers and exasperate the lengthy delays that have earned Hawaii's workers' compensation system a degree of failure. The Director is trying a system that moves to quicker resolution of workers' comp claims for the benefit of the employees. They're the ones who benefit from a quick settlement. The employers benefit as well. This is the way to go. Move more swiftly.

"Now I noticed the article that appeared in the paper on Sunday. I assume it was written by the Chair of the Labor Committee, in any case, it was signed by all members of the Labor Committee who have a particular party label. It's true, if I had been asked to sign it as a member of the Labor Committee, I probably would not have signed that article. But nevertheless it was a rather one-sided article.

"What really struck me about the article is it has fourteen paragraphs and thirteen times in that fourteen paragraphs, the word: would, will, might, or may, those words are used. Why? We don't know. Will, we're not sure. Would, might, and may are all conditional. That may be the way it turns out. We don't know. We should give the thing a chance.

"There's one sentence in this article, it really did bother me. It said, "We in Hawaii have differences from the Mainland and if you are a Samoan-Japanese worker with a unique set of injuries, you would be hard pressed to find the science-based medical evidence similar enough to support your case." Yet this article discusses California. California has Japanese. California has Samoan. California is a majority non-white state. I think the introduction of racial arguments in this is upsetting."

Representative Caldwell rose to speak in support of the override, stating:

"Mr. Speaker, some comments in support of the override and rebuttal of what the former Minority Leader had mentioned. Mr. Speaker, there's no one in this Chamber I think that takes lightly codifying the existing worker comp rules, or until recently, the existing comp rules. But the Executive Branch's

actions really give us no other alternative at this point. It's viable. We could maybe pursue a court action but whatever side loses, they're going to appeal and be before the Supreme Court. We'll get an opinion in four to five years. Meantime, there's injury to various stakeholder groups in the worker comp system. So the only choice we really have today Mr. Speaker, is to come back and override this veto which I hope this Body will do.

"Instead of working with the various stakeholder groups, what we've seen through the Executive Branch and the Director of Labor, is an attempt to ramrod new rules down the various stakeholders' throats instead of working through the legislative process, pulling all the stakeholder groups together to try to see if we can't come up with common ground, of which there is common ground, and to resolve this problem together and move us forward. I hope that this Chamber will do that in the coming session. True leadership does require that. You know that Mr. Speaker, as our Speaker. It means working with very diverse groups of people and moving them forward together. It's very difficult. The easier thing is to ramrod, but as a result you end up injuring and hurting certain groups.

"It's interesting Mr. Speaker, that the Governor in her press release which I have here states in the very first paragraph, "The Governor's approval implements the most significant worker compensation reform since 1995." Well if you look at Chapter 91, we gave the Executive Branch the power to implement rules. Before Chapter 91, the Executive Branch could not write rules. And we did that in order to allow the Executive Branch to implement the intent of legislation once it became law.

"What legislation has passed recently that's brought about major changes in worker's comp? There's none. You, Mr. Speaker, and Speaker Emeritus worked very hard in the mid-1990s to implement reform and that did occur and there was significant change and I hope we will be able to do that in the future. There is none. So it begs the question, what reform? How did that come about? What legislation? There is none. What's happened here is you've seen a clear attempt to legislate through rulemaking. I know people disagree, but that is the truth.

"I just want to remind, there's a quote I think that's very ... I like it, I love it in fact, and it's by Justice Van Dyke, our first Jewish Supreme Court Justice. He became a Justice back in 1915. In his dissenting opinion in Myers v. United States in 1926, he stated this, "The doctrine of separation of powers was adopted by the Convention in 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was, not to avoid friction, but, by means of the inevitable friction incident to the distribution of governmental powers among three departments, to save the people from autocracy." And that's what we're witnessing here today, Mr. Speaker.

"More importantly though I think we have to look at the impact. We've heard the former Minority Leader talk about this is designed to help workers. I would tend to disagree. And it's based on the informational briefing that we held in late June. To my knowledge, it's one of the few times that we've actually held an informational briefing in anticipation of potentially overriding a veto based on the information we obtained from that hearing. We had about five hours worth of hearing there Mr. Speaker. And here's just six of the things that we learned that I think this Body needs to consider today.

"The first one is no one is in compliance. No one. Not even the Director of the Department of Human Resources Development is in compliance. She went to a seminar in late June to learn about these rules. And yet they've been in effect now for over two months. And we have our largest employer,

the State government not enforcing these new rules. We asked the medical profession. We asked the insurers. We asked all the stakeholder groups, no one is in compliance. So the Governor rushed through these rules the day after we adjourned and they went into effect ten days later and put everyone out of compliance creating a great deal of uncertainty. As we all know, business hates uncertainty. They like status quo overall. So that's one issue."

Representative Luke rose to yield her time, and the Chair "so ordered."

Representative Caldwell continued, stating:

"Thank you, Mr. Speaker. The second thing that I think was troubling for many of us and we heard it from a couple of physicians is that these new rules, through the treatment guidelines that they imposed, have created, makes physicians in our State second class citizens. You can ask why is that? Well these treatment guidelines in imposing these new rules are determined to be presumptively correct, and the critical word is presumptively, which means that if you're treating under the guideline, the treatment is okay. You're doing it correctly. If you're outside guideline, you're not treating properly and the treatment may not be covered by the insurer.

"Many of the injured workers may not get the treatment and physician may not get paid. It takes away from the physicians in our State their independent judgment based on treating people in our State. And while the former Minority Leader says California is a state where over half of the people there now are non-Caucasian, I think our State is unique in all of the United States and we read it many times, we are the most diverse ethnically in the entire nation. Therefore, these nationally recognized treatment guidelines may not fit our local population, and yet the physicians are required to treat within that. And their judgment comes second after the treatment guidelines and that's disturbing.

"The third point Mr. Speaker, is the ODG or ACOEM guidelines. These are the actual guidelines that these rules impose on all of us. And this is the book. You have to spend \$300 for this book and they have these different treatment programs in here Mr. Speaker based on nationally recognized guidelines scientifically based. I would question whether this book contains the kinds of treatment guidelines for injuries for our ethnic diverse population in our State. And so I beg to differ with the former Minority Leader about the Japanese-Samoan or the Chinese-Samoan or the Haole-Japanese or any of the numbers of others that are probably excluded from this.

"Now Mr. Speaker, the second part is there's a second guideline, ACOEM it's called, that physicians must also look at. It's interesting to note that in a letter written to the Director of Department of Labor by ACOEM, they are totally in disagreement with what the Department of Labor has done. And I just want to quote part of it because I think it states as clearly as anything. "ACOEM does not endorse the workers' compensations reform rules recently issued by the Department of Labor and Industrial Relations. Essentially, the DLIR has overlaid a portion of the scientific-based ACOEM practiced guidelines on top of the commercial-based ODG treatment guidelines to create a confusing amalgam of potentially conflicting guidelines. This is a clear misuse of the ACOEM guidelines. Moreover, by taking the ACOEM guidelines out of context in this way, the DLIR risks producing treatment decisions for workers that are in direct conflict with the principles of occupational medicine."

"So one of the two guidelines was taken without their permission and they believe it conflicts with the ODG guideline to the detriment of injured workers. So again, I disagree with

the former Minority Leader that somehow this benefits injured workers. I think in fact it hurts injured workers.

"The fourth point Mr. Speaker, it does really change the presumption here. The injured worker has the burden of making sure that if their treatment does not fall in one of these guidelines, they'll find an alternative treatment guideline that will treat their injury. A physician would have to find that alternative treatment guideline which would have to be nationally recognized and medically based. And they get no compensation for searching for that alternative treatment guideline meaning that the injured worker, if the physician on their behalf does not find an alternative guideline, then he gets a treatment in these books and nothing more. And at the end of the treatment, they either fall out and they don't go back to work and they become part of the welfare system or QUEST or a third-party insurer, but all of us end up paying for that anyway Mr. Speaker. We as a community pay for it anyway. And that's troubling I think.

"Five, and one more after that, these treatment guidelines have formalized the hearing process. It's made it just like a court proceeding. They've now formalized it. You can do interrogatories. You can do depositions. You have a hearing transcript. You have *de novo* appeal. I thought our goal here was to get the adversarial nature out of the system."

Representative Morita rose to yield her time, and the Chair "so ordered."

Representative Caldwell continued, stating:

"Thank you very much. To get the adversarial nature out of the system and to get the injured worker the treatment they need and back to work. But what we've just done is create full employment for lawyers. There's no way an injured worker can go through this system without a lawyer at this point. And this is great if you're one of those types of lawyers that practice in this area. Troubling.

"Finally, the Governor in her press release talks about a savings of \$98 million based on some California study. Right now Mr. Speaker, for the last year we have statistics which is 2003, there was about \$128 million paid out in medical cost and lost wages for workers' comp. If we're saving rounded up to \$100 million, that leaves \$28 million left in lost wages and for medical treatment. We asked some of the health care providers, can you live on \$28 million? And their answer was, Are you kidding? There's no way.' So I question even though the Executive Branch claims this is going to be a tremendous savings, I don't see where that savings is coming from and I think it's flawed based on some study in California which by the way used ACOEM guidelines, did not use the ODG. So I think that creates problems.

"In the end Mr. Speaker, workers' comp is all about injured workers. It was designed in 1915 to get injured workers treated for their injuries and back to work as the former Minority Leader talked about. And the beauty of the system was there was a presumption that the injured worker was injured where it was work-related injuries, and it got rid of the potential for suing the employer. And it was designed as the first no-fault insurance system to get litigation out of the system and get the worker treated and back to work. We shouldn't forget that.

"It's important that we remember in this override, we're talking about injured workers here. People like you and us who have been injured and all they want to do is get back to work and earn their living to pay to support themselves and their families. I believe because these worker's comp rules were so rushed and implemented very quickly, and there was no cooperation trying to work on legislation with all the

stakeholder groups, we have very little alternative but to override which leads me to my final point, Mr. Speaker.

"There's a beautiful quote from Martin Luther King that goes like this, "There comes a time when one must take a position that is neither safe, nor political, nor popular, but one must take because one's conscience tells one that it is right." And I believe voting on this override is the right thing to do Mr. Speaker. Thank you."

Representative Meyer rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I'm rising in opposition to this bill. The need to reform the workers' comp system is real. As the cost increases faced by Hawaii's businesses are staggering. The spiraling workers' compensation cost is a true business concern that is only getting worse. For businesses, it was the number one concern of theirs and has been for the last few years.

"To vote for this bill, Senate Bill 1808, is to vote for the status quo. The Chairman of Labor did have an informational meeting, probably something we should have done long ago. Although the membership there seemed to be kind of stacked and the business people were left to the very end, and it was a five-hour hearing and many people just simply could not spend that much time waiting to testify. There was very touching testimony from people who have had injuries that have wanted to go back to work, those were their words and somehow they just aren't getting any better. And as I hear these stories, and again, I wanted to question some of those testifiers but because of the length of the hearing, even they couldn't stay for the question and answer period. But the question that kept coming up for me is they're here saying we don't want anything changed but the system that exists today and that was serving them for the last two, three, four years, wasn't working for them. So the question was why are they so adamant about keeping it the way it is when it has not served them well.

"I too read the editorial or opinion piece in this weekend's paper and like my colleague from Waikiki, it just sort of jumped out at me that evident-based medical treatment guidelines somehow would not work for non-white people. I thought what are you saying, we're all made the same way. Our bodies, we have hearts, we have muscles, tendons. We are all built the same. And evidence-based treatment guidelines are color blind. Are we really going to argue that doctors should be treating the back strain of a person of Asian or Pacific Islander decent different from the back strain of person from Europe? It is unfortunate that proponents are perpetuating this fiction and advancing such an insulting argument without any medical basis at all. I mean I just couldn't believe that was there.

"Another point that the Chairman of Labor has brought up here on the floor today and kept hitting on constantly in the informational briefing was the savings that the Department of Labor and the Governor had estimated we could get from the new rule changes. I mean you have to work off of something. And what the Director of the Department of Labor based their savings on were figures from California. But the estimated cost savings are anywhere from 36 to 53%. They stated that Hawaii could realize the same type of cost savings at a midrange figure of 37%. They used the lower end of it.

"And then the \$98 million was not a figure. It's still just an estimate. But that was not a figure just for medical cost. That figure was derived by adding the savings they have in medical cost which was somewhere between \$49 million and \$60 million. And the additional to add up to \$98 was figured on with the new rules, using evidence-based treatment, it would

reduce the amount of time workers remained out of work. So there would be savings and a reduction from temporary total disability. So it wasn't just for medical cost. They're taking \$98 million and subtracting it from the most recent actual cost, the medical of a \$130 million. But that wasn't how it measured up.

"This is a complicated matter but I am frankly surprised that the Majority will fight so hard for a bill that in essence, the only thing it does is restrict the Director of the Department of Labor from promulgating rules. That's essentially all this bill does. That is not going to help one single injured worker. Thank you, Mr. Speaker."

Representative Green rose to speak in support of the override, stating:

"Thank you, Mr. Speaker, for the opportunity to comment on this bill. I think we should override this veto. A couple of very quick points. In respect to my esteemed colleague from Waikiki, I appreciate those comments about will not, may not, and might not. Let me tell you something different. Doctors do not, they do not, take workers' comp anymore. Too many doctors do not take it.

"Want some evidence-based comments? This weekend on Saturday, I had an individual who could not find a doctor for four days after her injury and came to the emergency room where I was working. It was a disaster for the State. The worker missed four days. It was a disaster for the patient. She missed four days of care. And then finally her bill at the emergency room was probably \$700 or \$800 as opposed to \$60 or \$70. So if we're talking about losses, that's where a lot of the losses are. Those are not savings. I don't care whether it's \$98 million or \$98 billion you come up with as a number. Those were absolute losses both in terms of work that we had from our worker, for the business, which was bad for that business, and finally for the system that had a lot of waste.

"I'd also like to make a second comment about evidence-based medical models. Factually, evidence-based medical models do take into account sex, race, age, culture, and socio-economic factors. That's the nature of evidence-based medicine. It's very necessary. And just in a word, if an individual is African-American, certain blood pressure medication might be better for them than for a Caucasian or an Asian American. By the same token, if a person is older, a certain evidence-based model may demonstrate better treatment. So that comment shouldn't be confused. Evidence-based medicine does differ depending on the people.

"I'm just really speaking from that perspective of a health care provider when I say that this system will probably save money in workers' comp because we will never have a bill. No providers will be interested in taking care of a patient who has been injured at work let alone buying those two textbooks, which I'm glad that Representative Caldwell did purchase because I'll need them for the practice, because I can't afford those books if this system does go into place. Thank you, Mr. Speaker."

Representative Halford rose to speak in support of the override, stating:

"Thank you, Mr. Speaker. Mr. Speaker, I'm speaking in support of the override. Mr. Speaker, this override points out hopefully how dysfunctional our workers' comp system has been and is today. While this override has to do with this specific bill, the status of workers' comp is a mess. On the one hand regarding this specific bill, the Administration's rule changes are not a panacea. There's some good points, and

some not good points but they are certainly not the whole solution.

"Unfortunately, this bill does not come up with solutions. It just precludes solutions that just puts the Administration in a position of not being able to advance. I believe that we should have alternatively been more specific with legislative intent so that the rules must conform or that we would be more clear, the legislative intent would be more clear in the law to keep the administrative rules within rein as we as a Body would like to see them. Not necessarily how I myself would like to see them, but idealistically in the balance of government here, I think it's important that rules do comply with legislative intent.

"I would have preferred that this bill move in that direction more rather than just stopping the process to some degree as this does by not allowing the Administration to make rules as is their function as the Executive.

"I'm hopeful that this contest, this veto override will get some attention to workers' comp and will highlight the dysfunction and high cost of workers' comp which has been problematical for Hawaii for a long time. And hopefully Mr. Speaker, we will address an essential question which in my view has been overlooked much too often regarding workers' comp, and that is why so little of the premiums paid into workers' compensation are actually delivered to workers as benefits whether medical benefits or paid compensation. The percentage of benefits that goes into workers' comp premiums that actually go to workers is a very small percent. Since the system is designed to benefit workers, one would hope that the majority of the funds paid in would actually go to benefit workers. Thank you."

Representative Moses rose to speak in opposition of the measure, stating:

"Thank you, Mr. Speaker. In opposition. I'm going to address some of the points from the Labor Chair. One of them I thought first of all had to be brought up is that the number one problem for business that I've heard is workers' comp and the problems related to that. But the Labor Chair talked about they want status quo. They want to know what's going to happen so let's keep things the way they are. At least they know what it is. I'd say, if you're drowning, the status quo is not a good option. You want to change things. You don't always want the status quo just because you know what's happening. So I think we do need to change because the system now isn't working.

"The Labor Chair talked about the legislation that was passed and he addressed you and what has happened in the mid-1990s and nobody did anything. They had the legislation then, they didn't do anything. I just have to say that, no, there has not been any new legislation recently. This Body didn't pass any, they should have. But there has been a new Administration. And with the new Administration comes new eyes and a new philosophy and new and I think better methods of handling old problems. The problem hasn't been something that just popped up its head. It's been there and we haven't done anything about so the Administration has been trying to do something about it with their vested rulemaking authority which is constitutional by the way.

"I believe the full written outline takes the arbitrariness out of the entire system. Everyone benefits from knowing what is going to happen, what is the procedure, and understanding what they need to do all along the way. This goes for the businesses and the workers alike.

"I want to address something that the Representative from Kona said. He talked about how the doctor didn't take, no doctors I guess, would take this patient with a workers' comp

injury. I want to know how this override will change that. How now will we know that doctors will take workers' comp patients just because we overrode this veto. I don't see any changes that this would make. Again we're status quo. So if the doctor wouldn't take the patient over the weekend, why would the doctor take the patient now that we passed this override. Thank you."

Representative Pine rose to speak in opposition to the override, stating:

"In opposition, Mr. Speaker. I actually was going to vote for this today Mr. Speaker, but I would like to thank the speakers from Kona and Kihei for changing my mind. As the previous speaker did state, and the previous speakers did state, that the current workers' compensation system is a disaster. I cannot continue to support a system that is a disaster. I cannot continue to support a system where doctors will not care for patients who are injured. This override only continues to do that. Thank you."

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

"Thank you, Mr. Speaker. In support, but first I declare a conflict. I'm an attorney working in the area of workers' comp," and the Chair ruled "no conflict."

Representative Sonson continued, stating:

"And I'm also in business and I do pay workers' comp premium," and the Chair ruled "no conflict."

Representative Sonson continued in support of the override, stating:

"Mr. Speaker, I'd like to hit two points, this is partly made in response to the speeches made on the other side of the aisle. They say that this is an anti-business somehow, that it is bad for business, but we asked business why they object to workers' comp. It's not that they don't want to provide medical care for their workers. Rather they are saying, why is it that we pay so much for premiums? Why is it that we pay so much in premiums and still as the Representative from Kihei said, so little of these moneys paid in premiums are actually paid out to the workers in benefits. That is so true.

"One of the reasons may be that we have such a system that doesn't quite make sense because they're worried the rates, the premium rates are set. It's well known that premiums are set not based on the amounts of payout benefits to workers whether it be medical care or work loss moneys, but rather on the amount or the value of the labor provided from that business. So they take their labor cost and they usually will take that and actually use that in calculating the premiums. So really, what are we doing when we institute rules such as what's been instituted by the Department? It's actually designed to limit access.

"It is true that it is very difficult now to find a doctor to treat people for workers' comp and I see that. I see that they refuse to do so and if they do so, they don't do such a very good job because the payouts, the money, the reimbursement is so little. So the way that this is set, the rules are set, is that it limits the kinds of treatment, the kinds of providers. The number of times that you can go to physical therapy, for instance, is limited. It is a design based on a medical study compiled by somebody and says this is how it's going to be for everyone. So I think it is not irrelevant to consider the kinds of people that live in Hawaii because it is important in the way we choose the kind of treatments that we want and it's not in the ODG.

"The ODG does not take into consideration our population who prefer alternative forms of treatment. We don't necessarily go for the Western medicine where you cut up people, they go through the surgical means to alleviate a certain work injury. Rather they try to do something that's less invasive. Maybe a little bit *lomi lomi*, a little bit of physical therapy, or a kind of acupuncture that's offered in Hawaii that we prefer. So that's the reason why it's important to consider the kinds of people who live in Hawaii. But again, I've digressed.

"It is important to really understand that the cost of workers' comp is not because the worker is benefited. It is important and as stated by the Representative of Kihai that said workers' comp is for the workers. So that means that the workers should benefit from the legislation for workers' comp. But it's not true. It doesn't make sense that we pay so much in premiums and so little in benefits. And business is crying, "Hey, workers' comp is broken because we're paying so much."

"You know what Mr. Speaker? The truth is those people who benefit from workers' comp clearly are the businesses providing insurance. These are the kinds of interest groups that tell business, "Hey, workers' comp is because the workers stay home because they want to abuse the system. They are getting medical treatment. They are getting unnecessary treatment. The doctors are providing them with medicine that's not necessary and reasonable. They're providing them with care that's not correct. So let's get on the workers. Let's get on the medical providers. Let's get on the ball and tell them to change the law."

"But businesses are not going to get a penny of whatever savings that they're trying to get from squeezing the benefits that are being paid to workers. They are not paying enough benefits already. These rules make it even more worse. It's so bad. It's really making me want to think how can you do this to workers if we really care for them?"

"We have workers giving up their right to sue employers. Employers are now more stable because they know they are not going to get sued if the workers get hurt in the workplace. Such a deal was struck and it's going well except that somebody has to say, somebody has to make profits. Somebody has to make profits and say, "Somebody is doing something wrong and it is the workers." It is not the workers Mr. Speaker. If you look at the numbers that are being paid out to workers, it tells the story. And a story of its own.

"It's important that we override this veto for those reasons. And also the reasons stated by the Chair of Labor and I'd like to adopt his speech into mine," and the Chair "so ordered." (By reference only.)

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

"Thank you very much, Mr. Speaker, for indulging me and allowing me to speak in favor of this. First of all, I want to have the remarks of the Labor Chairman as my own," and the Chair "so ordered." (By reference only.)

"Representative Souki continued, stating:

"I just want to touch on a few items and I know that we're getting quite hungry and we've been here a long time. Back in 1995, as you were Mr. Speaker, I was quite instrumental in developing the workers' comp law that we have right now. And yes, it's not a perfect law and improvements need to be made certainly. One of the problems with the law that partly provided the great savings of over 30% at that time, and I think it led the nation in savings in workers' compensation at that time, was in limiting the medical visits that you could go to a

doctor or a provider, and limiting what the doctor could get in reimbursement. I think that was 110% above poverty. That in effect, in some respect, would ultimately penalize the employee when you retrospectively look back. It's that the medical profession is not getting enough reimbursement to provide the service. The cost of maintaining a medical practice is going up. As the good doctor will tell you, malpractice suits and etc., cost of medicine, cost of prescription is going up, and they are limited only to the reimbursement of approximately 110% of the poverty level. So these are things we need to look at in the future if we're going to improve this medical situation.

"Another thing that has been touched on by both sides is the insurance. I believe that this Body at the next Session could certainly look into possibly having the Legislative Auditor or someone look into the way private insurance companies are doing business. They are retaining huge profits and very few dollars going back to the labor cost. We need to look at the Insurance Commission so that they'll be a little more active in working and resolving issues that are presented to them. We need to look at the Labor Commission, the Board of Labor and the Commission, as to how fast they are expediting this. These are areas that we need to look. Lot of these things can be done internally even without the rules if you have the will to do it, Mr. Speaker.

"You can see what is happening is a very complex situation. It cannot be done in a hasty manner as it was done right now. We need to go back and look at the system again. The system is not that bad. The system is pretty good, where on a national level, our cost is below the national level. If the cost is below the national level, the benefits the employees receive though very small, it means the system is not bad. Employees are not at fault. It is miniscule fraud, practically nonexistent."

Representative Lee rose to yield her time, and the Chair "so ordered."

Representative Souki continued, stating:

"I didn't mean to go this long. I just caught up in all of this here Mr. Speaker. Thank you very much.

"I have a personal case. I just want to say something about this. A member of my family got hurt in Saipan. Of course, he's not covered under the state government laws here. But the insurance company finally said they can get some treatment after about six months. Most of all, the doctors refused to give him treatment in the process because the reimbursement was too low. He suffered cardiac arrest. He had a stroke. He lost half of his lungs. And he's in my house right now going through a gradual rehabilitation.

"Doctors still don't want to serve him for the most part. And when they do, they wait a long time because reimbursement is too low. He's not gotten one cent yet in disability payments from the insurance company. It's been about two years. He got hurt in 2003. So when I look at this, I said, is it the employee's fault? He was executive chef. He was walking into the hotel going to his job, he was walking, he fell down, he injured his back, injured his legs and he did not get one cent compensation till this day.

"So my friends, when you look around for fault, there's fault to be found, but I believe that most of the fault is with the insurance companies rather than with the employees. Thank you very much, Mr. Speaker."

Representative B. Oshiro rose to disclose a potential conflict of interest, stating:

"Mr. Speaker, I'd like to ask for a ruling on a potential conflict. I work for a law firm that does primarily workers' comp insurance defense," and the Chair ruled "no conflict."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 1808, SD 1, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION LAW," as contained in Gov. Msg. 369, 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, 41: Representatives Abinsay, Arakaki, Berg, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Halford, Herkes, Hiraki, Ito, Kahikina, Kanoho, Karamatsu, Kawakami, Lee, Luke, Magaoay, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 8: Representatives Ching, Finnegan, Fox, Marumoto, Meyer, Moses, Pine and Stonebraker.

Excused, 2: Representatives Takai and Thielen.

At 1:03 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 1808, SD 1, HD 1, CD 1, as contained in Gov. Msg. No. 369, had carried.

S.B. No. 1877, HD 1, CD 1

Representative M. Oshiro moved to override the veto of S.B. No. 1877, HD 1, CD 1, as contained in Gov. Msg. No. 439, seconded by Representative B. Oshiro.

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

"Thank you, Mr. Speaker. I rise in opposition to the override of this measure. Mr. Speaker, the purpose of this measure just to refresh everyone's memory is to force the Office of Planning to report solely to the Department of Business, Economic Development, and Tourism rather than allowing this Office of Planning to provide valuable consultation to DLNR, Department of Land and Natural Resources and other State and county agencies. Further for the first time, it requires the Director of this Office to be appointed only with the advice and consent of the Senate. We speak very often and I know just recently on the Floor, we mentioned including stakeholders in our decision making. However, in this case, I believe all the stakeholders involved, Office of Planning, DLNR, all of them involved basically said they did not want to be moved. So I think if we're going to involve stakeholders, we definitely would have taken their view here.

"Secondly, we have had wonderful historical passing of the Legacy Lands Act. And we've had moving, stirring important speeches on the importance of our precious *aina*. We know how important our environment is. In this case, we want to put the Office of Planning and let it report only to business, only to DBEDT. I believe that it's important to keep the Office of Planning reporting also to other agencies especially DLNR. Because there's a necessary and publicly significant relationship between the Office of Planning with DBEDT but also the DLNR. The Office of Planning's major statutory responsibilities of land use planning, coastal zone management and geographic information systems are consistent and complement the DLNR. Their core functions are land management and protection of our precious resources. The relationship between the Office of Planning and the DLNR has

been carried with the public's interest as its foremost consideration.

"The Office of Planning also consults with and reports to the Chairperson of the Board of Land and Natural Resources. And it has therefore resulted in meaningful, productive, and successful undertakings in land use planning issues, and has been beneficial to the public discourse regarding important environmental issues, particularly through proceedings of the Land Use Commission.

"The current working relationship, number three, my third point in why I oppose the veto override is because this current working relationship is consistent with the Legislature's call and our constituents' call for a prudent, more efficient and more effective government operations. However, this bill unfortunately limits the Administration's flexibility in executing programs and functions to maximize results, to achieve maximum results.

"Finally, quite unfortunately, this bill is objectionable because the Legislature has required now for the first time that the Director of this Office be subject to a confirmation process. This has never been the case previously. This position was always as its establishment in 1987, just apply through the normal appointment process. Because of the scope and duties of the position not changing, one starts to question the motivation behind leading to confirm it through the Senate. So for those reasons, Mr. Speaker, I'm in opposition to the override."

Representative Kanoho rose to speak in support of the override, stating:

"Thank you, Mr. Speaker. In support. The purpose of this bill and the motion to override is to preserve and protect the integrity of our Constitution which requires that all departments of the State and all instrumentalities of the State, including permanent boards and commissions, be established by the Legislature through laws. It's a very important point to emphasize. That all departments and instrumentalities of the State including permanent boards and commissions be established by the Legislature through laws, not by Executive Order as has been attempted.

"HRS 205-1 establishes the Land Use Commission which is addressed in this measure. HRS 225 (m) section 1, also establishes the Office of Planning. And specifically in both cases, attached as part of the Department of Business, Economic Development, and Tourism. So this is not under the purview of the Governor or anyone else to make a change in the relationship, a reporting relationship. If anyone says that a change in reporting relationship was necessary, whether it be a member of this Body or a member of the public or the Governor, then a bill should be initiated and the merits of such a change would be subjected to the legislative process.

"If you look at this as a flagrant and complete disregard of the conditions and the mandates of the Constitution and of the statute, it usurps the Legislature's authority and would establish a precedent that we just cannot allow to happen or to live with. And for all these reasons, Mr. Speaker, we must override the veto. Thank you."

Representative Fox rose to speak in opposition to the override, stating:

"Thank you, Mr. Speaker. I'm really pretty astounded by the previous speech. I mean this Office of Planning was located in the Department of Planning and Economic Development. It was pretty much about planning and economic development but that was a long time ago. It's pretty natural that the Office of

Planning deal with the agency that watches over our lands and natural resources, but so should the Land Use Commission be related to DLNR. DLNR is concerned with planning.

"It was a Democratic Governor who decided that the Department of Planning and Economic Development ought to be turned into a business operation and renamed it and reengineered so that it didn't do any planning at all. He took the Planning Office and put it up in his own office. Made it part of the Office of the Governor. Then it was another Democratic Governor who stuck it back in DBEDT but never said they shouldn't talk with DLNR or work with DLNR. So now we got some upset people.

"The Governor by Administrative Order has done what should happen and put the Office of Planning with DLNR and the Legislature can come along and fix the problem by passing a bill that says, "the Office of Planning ought to be in DLNR." But no, no, we're not going to do that. We're not going to do the logical simple thing. We're going to stick it back where it was in 1982 in the office of a department that doesn't exist anymore, the Department of Planning and Economic Development. We have the power of the Legislature to fix this thing. Why on the world are we sitting here, passing a bill that unfixes the problem we could fix? Thank you, Mr. Speaker."

Representative Kanohe rose to respond, stating:

"Thank you, Mr. Speaker. In rebuttal. The merit of where the Office of Planning and the Land Use Commission should be located is not a subject for discussion. The subject of discussion is how it's being done. If the Administration felt that this should be achieved, then the Administration should have initiated a bill. Personally, I disagree strongly that the Land Use Commission and the Office of Planning should be in DLNR because as big as DLNR is, its focus is still limited to government lands, not to private lands as is the jurisdiction of the Land Use Commission. So therefore it is an appropriate thing that we continue with this discussion and the override of the veto. Very appropriate that we do it and necessary. Thank you."

Representative Morita rose to speak in support of the override, stating:

"In support of the override, Mr. Speaker. We have to remember one of the reasons why Office of Planning was moved out of the Governor's Office and back to DBEDT was because an AG's opinion saying that it has to be situated and administered by a permanent department and not the Governor's office.

"I believe the Governor's Statement of Objections is incorrect when it states that the major statutory responsibility of land use, coastal zone management, and geographical information systems are consistent and complement the DLNR. That is not the primary purpose of the Office of State Planning. You can review Chapter 226-53, the Office of Planning's duty which is quite broad and encompasses all agencies of the State.

"The Office of State Planning is supposed to be the neutral arbitrator of all agencies in carrying out the functional plans and the policy objectives and goals of the State in the State Planning Act. We're not seeing that within the Administration. With the Chair of Water, Land, I agree if they want to make this significant change, then they should be changing statute and not doing this by Executive Order because it flies in the face of statute and responsibilities of the Office of State Planning."

Representative Berg rose to speak in support of the override, stating:

"Good afternoon. I rise in support of this override. I would like the words of the previous speaker from Kauai to be entered as my own. And in addition to share a fact that in our efforts to move towards sustainability in Hawaii, I think this is an excellent and most needed opportunity for us to have some definitive direction and some clarity on how we can integrate our economic development and our environmental wellness. Thank you."

Representative Moses rose to speak in opposition to the override, stating:

"Just briefly, Mr. Speaker. In opposition. I've heard on the Floor here today that we shouldn't do the right thing because we can. We should make sure that it's technically done the way this Body wants it to be done, not whether it's right or wrong. I'm sure in the deliberations of this Body when passing this bill, the person who occupies this particular office never came into mind. Even though that person was a thorn in the side of this Legislature the year previous. So I'm sure there's no retaliation. We're only doing it because we have to do it by the book, not because it's right. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 1877, HD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF PLANNING," as contained in Gov. Msg. 439, 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, 41: Representatives Abinsay, Arakaki, Berg, Cabanilla, Caldwell Carroll, Chang, Chong, Evans, Green, Hale, Herkes, Hiraki, Ito, Kahikina, Kanohe, Karamatsu, Kawakami, Lee, Luke, Magaoay, Marumoto, Morita, Nakasone, Nishimoto, B. Oshiro, M. Oshiro, Saiki, Say, Schatz, Shimabukuro, Sonson, Souki, Takamine, Takumi, Tanaka, Tsuji, Wakai, Waters, Yamane and Yamashita.

Noes, 8: Representatives Ching, Finnegan, Fox, Halford, Meyer, Moses, Pine and Stonebraker.

Excused, 2: Representatives Takai and Thielen.

At 1:17 o'clock p.m., the Chair noted that the motion to override the veto of S.B. No. 1877, HD 1, CD 1, as contained in Gov. Msg. No. 439, had carried.

SENATE COMMUNICATIONS

The following Senate Communications (Sen. Com. Nos. 803 through 815) were received and announced by the Clerk:

Sen. Com. No. 803, informing the House that the Senate has reconsidered House Bill 160, HD 2, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 804, informing the House that the Senate has reconsidered House Bill 180, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 805, informing the House that the Senate has reconsidered House Bill 1224, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and

has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 806, informing the House that the Senate has reconsidered House Bill 1317, HD 1, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 807, informing the House that the Senate has reconsidered Senate Bill 960, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 808, informing the House that the Senate has reconsidered Senate Bill 1262, SD 1, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 809, informing the House that the Senate has reconsidered Senate Bill 1473, SD 1, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 810, informing the House that the Senate has reconsidered Senate Bill 1592, SD 1, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 811, informing the House that the Senate has reconsidered Senate Bill 1685, SD 2, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 812, informing the House that the Senate has reconsidered Senate Bill 1772, SD 1, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 813, informing the House that the Senate has reconsidered Senate Bill 1808, SD 1, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated June 28, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 814, informing the House that the Senate has reconsidered Senate Bill 1877, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and has approved said bill by an affirmative vote of two-thirds of all members to which the Senate is entitled.

Sen. Com. No. 815, transmitting S.R. No. 2, entitled: "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE," which was adopted by the Senate on July 12, 2005.

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 37 through 42) were received by the Clerk and were placed on file:

Dept. Com. No. 37, from Department of Health, transmitting the 2004 Annual Report, Healthy People, Healthy Communities, Healthy Islands.

Dept. Com. No. 38, from David Iha, Executive Administrator and Secretary of the Board, Board of Regents, University of Hawaii, acknowledging receipt of House Concurrent Resolution Nos. 166, HD 1 and 213.

Dept. Com. No. 39, from Marion M. Higa, State Auditor, Office of the Auditor, transmitting the Audit of Selected State Agencies' Procurement of Professional Services Contracts.

Dept. Com. No. 40, from David Iha, Executive Administrator and Secretary of the Board, Board of Regents, University of Hawaii, acknowledging receipt of House Concurrent Resolution Nos. 10, HD 1, SD 1; 146, HD 1; 151, HD 1; 270, HD 1; 75, HD 1; 144; and 198, HD 1.

Dept. Com. No. 41, from the Office of Youth Services Hawaii Youth Correctional Facility, transmitting the 2004 Annual Report.

Dept. Com. No. 42, from Marion M. Higa, State Auditor, Office of the Auditor, transmitting the Audit of Wai'alaie Elementary Public Charter School.

MISCELLANEOUS COMMUNICATIONS

The following miscellaneous communications (Misc. Com. Nos. 5 through 7) were received by the Clerk and was placed on file:

Misc. Com. No. 5, from Pat Irons, Manager, Government Relations Response, United States Postal Service, transmitting the response to the May 6 letter to Postmaster General John E. Potter.

Misc. Com. No. 6, from Ruben Barrales, Deputy Assistant to the President and Director of Intergovernmental Affairs, The White House, Washington, transmitting receipt of House Concurrent Resolution Nos. 245, HD 1 and 246, SD 1.

Misc. Com. No. 7, from Ruben Barrales, Deputy Assistant to the President and Director of Intergovernmental Affairs, The White House, Washington, transmitting receipt of House Concurrent Resolution No. 56, SD 1.

ORDER OF THE DAY

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 1 through 3, Special Session, 2005) were announced by the Clerk and the following action taken:

H.R. No. 1, Special Session 2005, entitled: "HOUSE RESOLUTION RELATING TO THE CAUCUS LEADERS AND THE COMMITTEE ASSIGNMENTS OF THE HOUSE OF REPRESENTATIVES OF THE TWENTY-THIRD LEGISLATURE," was jointly offered by Representatives M. Oshiro and Finnegan.

On motion by Representative M. Oshiro, seconded by Representative B. Oshiro and carried, H.R. No. 1, Special Session 2005, was adopted with Representatives Takai and Thielen being excused.

The Chair then stated:

"Congratulations Representative Finnegan in becoming the new Minority Leader."

H.R. No. 2, Special Session 2005, 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 M. Oshiro, seconded by Representative B. Oshiro and carried, H.R. No. 2, Special Session 2005, was adopted with Representatives Takai and Thielen being excused.

H.R. No. 3, Special Session 2005, 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 2005, PURSUANT TO RULE 18 OF THE RULES OF THE HOUSE OF REPRESENTATIVES," was offered by Representative Say.

On motion by Representative M. Oshiro, seconded by Representative B. Oshiro and carried, H.R. No. 3, Special Session 2005, was adopted with Representatives Takai and Thielen being excused.

ADJOURNMENT

Representative M. Oshiro moved that the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session of 2005, adjourn sine die, seconded by Representative B. Oshiro.

The motion was put to vote by the Chair and carried, and at 1:21 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the State of Hawaii, Special Session of 2005, adjourned sine die. (Representatives Takai and Thielen were excused.)

HOUSE COMMUNICATIONS

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered H.B. No. 160, HD 2, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered H.B. No. 180, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered H.B. No. 1224, SD

1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered H.B. No. 1317, HD 1, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 960, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 1262, SD 1, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 1473, SD 1, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 1592, SD 1, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 1685, SD 2, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 1772, SD 1, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an

affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 1808, SD 1, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated June 29, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered S.B. No. 1877, HD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members of which the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Special Session 2005, is entitled.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; the Honorable Lieutenant Governor James Duke Aiona, Jr.; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on July 12, 2005, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, 2005 Special Session, reconsidered House Bill No. 160, HD 2, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of House Bill No. 160, HD 2, SD 1, CD 1, designated as Act 1 of the 2005 Special Session was enclosed.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; the Honorable Lieutenant Governor James Duke Aiona, Jr.; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on July 12, 2005, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, 2005 Special Session, reconsidered House Bill No. 180, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of House Bill No. 180, designated as Act 2 of the 2005 Special Session was enclosed.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; the Honorable Lieutenant Governor James Duke Aiona, Jr.; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on July 12, 2005, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, 2005 Special Session, reconsidered House Bill No. 1224, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of House Bill No. 1224, SD 1, CD 1, designated as Act 3 of the 2005 Special Session was enclosed.

House Communication dated July 12, 2005, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; the Honorable Lieutenant Governor James Duke Aiona, Jr.; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on July 12, 2005, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Hawaii State Senate and the Hawaii State House of Representatives, 2005 Special Session, reconsidered House Bill No. 1317, HD 1, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of House Bill No. 1317, HD 1, SD 1, CD 1, designated as Act 4 of the 2005 Special Session was enclosed.

OTHER COMMUNICATIONS

"HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

July 13, 2005

MEMORANDUM

TO: Speaker Calvin K. Y. Say
FROM: Patricia Mau-Shimizu
House Clerk
RE: Assignment of Special Session Act Numbers

Please be advised that on this date the Senate Clerk and I have assigned the following act numbers to the House and Senate bills previously vetoed and subsequently approved of, on July 12, 2005 by affirmative vote of two-thirds of all members in the House and in the Senate:

Act 1, Special Session of 2005
HB 160 (Relating to the Compliance Resolution Fund)

Act 2, Special Session of 2005
HB 180 (Relating to Public Employees)

Act 3, Special Session of 2005
HB 1224 (Relating to Taxation)

Act 4, Special Session of 2005
HB 1317 (Relating to Medicaid)

Act 5, Special Session of 2005
SB 960 (Relating to Civil Defense)

Act 6, Special Session of 2005
SB 1262 (Relating to the Waianae Coast)

Act 7, Special Session of 2005
SB 1473 (Relating to Waimano Ridge)

Act 8, Special Session of 2005
SB 1592 (Relating to State Planning)

Act 9, Special Session of 2005
SB 1685 (Relating to Tax)

Act 10, Special Session of 2005
SB 1772 (Relating to Employers)

Act 11, Special Session of 2005

SB 1808 (Relating to Workers' Compensation Law)

SB 1685 (Relating to Tax)

Act 12, Special Session of 2005

Act 10, Special Session of 2005

SB 1877 (Relating to the Office of Planning)

SB 1772 (Relating to Employers)

CC: All House Members
 Department of Accounting and General Services
 Department of Agriculture
 Department of the Attorney General
 Department of Budget and Finance
 Department of Business, Economic Development & Tourism
 Department of Commerce and Consumer Affairs
 Department of Defense
 Department of Education
 Department of Hawaiian Home Lands
 Department of Health
 Department of Human Resources Development
 Department of Human Services
 Department of Labor and Industrial Relations
 Department of Land and Natural Resources
 Department of Public Safety
 Department of Taxation
 Department of Transportation
 Mayor, City and County of Honolulu
 Mayor, County of Kauai
 Mayor, County of Maui
 Mayor, County of Hawaii"

Act 11, Special Session of 2005

SB 1808 (Relating to Workers' Compensation Law)

Act 12, Special Session of 2005

SB 1877 (Relating to the Office of Planning)

TRANSMITTED TO THE GOVERNOR

The following House and Senate 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 12, 2005, 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 12, Special Session of 2005 as follows:

Act 1, Special Session of 2005

HB 160 (Relating to the Compliance Resolution Fund)

Act 2, Special Session of 2005

HB 180 (Relating to Public Employees)

Act 3, Special Session of 2005

HB 1224 (Relating to Taxation)

Act 4, Special Session of 2005

HB 1317 (Relating to Medicaid)

Act 5, Special Session of 2005

SB 960 (Relating to Civil Defense)

Act 6, Special Session of 2005

SB 1262 (Relating to the Waianae Coast)

Act 7, Special Session of 2005

SB 1473 (Relating to Waimano Ridge)

Act 8, Special Session of 2005

SB 1592 (Relating to State Planning)

Act 9, Special Session of 2005

H.B. No. 160, HD 2, SD 1, CD 1:

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

VETO
H.B. NO. 160
H.D. 2
S.D. 1
C.D. 1

A BILL FOR AN ACT

VETO OVERRIDE

ACT No. 3

Approved: *[Signature]*

Dated: July 12, 2005

RELATING TO THE COMPLIANCE RESOLUTION FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 431:2-215, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The [commissioner shall determine the] amount or amounts to be assessed [and the time any moneys from assessments see-fee] for each line or type of insurance or entity regulated under title 24 [; provided that-

++ the criteria for making the assessment shall be established by rule; provided further that the commissioner shall have provisional authority to make assessments prior to adoption of the rule but this provisional authority shall not extend beyond two years from June 30, 1999;] shall be determined and assessed as provided below:

(1) The insurers or entities regulated under title 24 shall be provided [reasonable] at least sixty days notice of when their respective assessments are due;

(2) The total amount or amounts to be assessed of insurers or entities regulated under title 24 in all lines or

HB160 CD1 HMS 2005-4063

Page 3

H.B. NO. 160
H.D. 2
S.D. 1
C.D. 1

*431:19-101.8 Captive insurance administrative fund. (e) The commissioner may establish a separate fund designated as the captive insurance administrative fund [to be expended by the commissioner to carry out the commissioner's duties and obligations under article 19 of chapter 431.

(b) All moneys collected pursuant to this article, including premium taxes [collected] from captive insurance companies licensed in this State under this article, all captive insurance company application fees, annual license fees, and examination fees [collected pursuant to this article], shall be credited to the captive insurance administrative fund. [Each fiscal year, the commissioner shall transfer out of the fund and deposit into the compliance resolution fund a total of forty per cent of the total moneys credited to the fund in the prior fiscal year or \$1,500,000, whichever is greater, to pay for the expenditures contemplated by this section. In addition, each fiscal year, the commissioner shall transfer out of the fund and deposit into the compliance resolution fund up]

(c) Up to ten per cent of the total moneys credited to the fund in the prior fiscal year may be used for purposes of promoting Hawaii as a captive insurance domicile. Disbursements for promotional activities from the [compliance resolution] fund

HB160 CD1 HMS 2005-4063

Page 2

H.B. NO. 160
H.D. 2
S.D. 1
C.D. 1

types of insurance shall be calculated based on the commissioner's proposed fiscal year budget, less funds in the insurance regulation sub-account of the compliance resolution fund on June 30 of the fiscal year immediately preceding the fiscal year of the proposed budget and less the commissioner's anticipated revenues;

(3) The assessments by line or type shall bear a reasonable relationship to the costs of regulating the line or type of insurance, including any administrative costs of the division; and

(4) The sum total of all assessments made and collected shall not exceed the special fund ceiling or ceilings related to the fund that are established by the legislature [;] provided that the total assessments for all lines or types of insurance in any one fiscal year shall not exceed \$5,000,000.

[As used in this subsection, "reasonable notice" means a period of at least sixty days.]

SECTION 2. Section 431:19-101.8, Hawaii Revised Statutes, is amended to read as follows:

HB160 CD1 HMS 2005-4063

Page 4

H.B. NO. 160
H.D. 2
S.D. 1
C.D. 1

shall be subject to the approval of the director of commerce and consumer affairs. [Subject to the foregoing expenditure limits, all moneys remaining in the fund shall revert to the general fund.]

(d) Moneys from the fund expended by the commissioner shall be used to defray any administrative costs, including personnel costs, associated with the captive programs of the division, and costs incurred by supporting offices, branches, divisions, and departments. Any law to the contrary notwithstanding, the commissioner may use the moneys in the fund to employ or retain, by contract or otherwise, without regard to chapter 76, hearings officers, attorneys, investigators, accountants, examiners, and other necessary professional, technical, and support personnel to implement and carry out the purposes of article 19 of chapter 431; provided that any position, except any attorney position, that is subject to chapter 76 prior to July 1, 1999, shall remain subject to chapter 76.

(e) Moneys deposited by the commissioner in the fund shall not revert to the general fund."

SECTION 3. The office of the auditor shall conduct a financial and management audit of the insurance regulation sub-account of the compliance resolution fund and shall report its

HB160 CD1 HMS 2005-4063

H.B. No. 180:

Page 5

H.B. NO. 180
H.D. 2
S.D. 1
C.D. 1

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

V E T O
H.B. NO. 180

A BILL FOR AN ACT
VETO OVERRIDE

RELATING TO PUBLIC EMPLOYEES.

ACT No. 2
Approved: *[Signature]*
Dated: July 12, 2005

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 findings to the legislature not less than twenty days prior to
2 the convening of the 2008 regular legislative session. The
3 audit shall examine the two consecutive fiscal years immediately
4 preceding the year in which it is submitted.
5 SECTION 4. There is appropriated out of the captive
6 insurance administrative fund the sum of \$1,500,000 or so much
7 thereof as may be necessary for fiscal year 2005-2006 and the
8 sum of \$1,500,000 or so much thereof as may be necessary for
9 fiscal year 2006-2007 for the operating expenses of the captive
10 insurance branch and for the development of the captive
11 insurance industry in Hawaii.
12 The sum appropriated shall be expended by the department
13 of commerce and consumer affairs for the purposes of this Act.
14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.
16 SECTION 6. This Act shall take effect on July 1, 2005.

1 SECTION 1. Section 89C-3, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§89C-3 Adjustments for excluded civil service employees.
4 (a) Each jurisdiction shall ~~(determine the)~~ provide adjustments
5 ~~(that are relevant)~~ for its respective excluded civil service
6 employees based on recommendations from its respective personnel
7 director.
8 (b) In formulating recommendations to the appropriate
9 authority, the respective director shall:
10 (1) Establish procedures that allow excluded civil service
11 employees and employee organizations representing them
12 ~~(the opportunity)~~ to provide input on ~~(the kinds of)~~
13 adjustments that are relevant and important to them
14 for the director's ~~(consideration)~~ approval;
15 (2) Ensure that adjustments for excluded civil service
16 employees result in compensation and benefit packages
17 that are ~~(appropriate for what they do and the)~~
18 ~~contribution they make in consideration of)~~ at least

HB180 CD1 HNS 2005-4063

HB LRB 05-0340.doc

HB No. 160, HD2, SD1, CD1

Page 2

H.B. NO. 180

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 12, 2005
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. 160, HD2, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, 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 equal to the compensation and benefit packages
2 provided under collective bargaining agreements for
3 counterparts and subordinates within the employer's
4 jurisdiction; and
5 (3) ~~(Confer with other directors on proposed adjustments~~
6 ~~to ensure)~~ Ensure that proposed adjustments are
7 consistent with chapter 76~~(-)~~ and equivalent or not
8 less than adjustments provided within the employer's
9 jurisdiction."
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 on July 1, 2005.
13

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 160, HD2, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, is entitled.

Robert Bunda
Robert Bunda
President of the Senate
Paul T. Kawaguchi
Paul T. Kawaguchi
Clerk of the Senate

HB LRB 05-0340.doc

JAN 21 2005

HB No. 180

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 12, 2005
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. 180, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, is entitled.

Calvin K. Y. Soy
Calvin K. Y. Soy
Speaker
House of Representatives
Patricia Mau-Shimizu
Patricia Mau-Shimizu
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 180, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, is entitled.

Robert Bunda
Robert Bunda
President of the Senate
Paul T. Kawaguchi
Paul T. Kawaguchi
Clerk of the Senate

Page 2

H.B. NO. 1224
S.D. 1
C.D. 1

1 proposals include tax law simplifications, more efficient
2 administrative procedures, and implementing emerging
3 technologies to substantially reduce the burden of tax
4 collection. The Project's proposals are focused on improving
5 sales and use tax administration systems for both local
6 businesses and remote sellers of all types of commerce. Forty-
7 two states and the District of Columbia are involved in the
8 Project. Nationally, forty-five states and the District of
9 Columbia impose a sales and use tax.
10 The Project was organized in March 2000, and is conducting
11 its work through a steering committee with co-chairs and a
12 number of work groups. Project participants are generally state
13 revenue department administrators, as well as representatives of
14 state legislatures and local governments. Businesses, including
15 national retailers, trade associations, manufacturers, direct
16 marketers, telecommunications companies, leasing companies,
17 technology companies, printers, accounting firms, and others,
18 have actively participated in the Project by offering expertise
19 and input, reviewing proposals, suggesting language, and
20 testifying at public hearings.

HB1224 CD1 HNS 2005-4035

H.B. No. 1224, SD 1, CD 1:

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

VETO
1224
S.D.
C.D.
VETO OVERRIDE

A BILL FOR AN ACT

RELATING TO TAXATION.

ACT No. 3
Approved: July 11, 2005
Dated: July 11, 2005

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the National
2 Conference of State Legislatures estimates that, in 2003, Hawaii
3 lost approximately \$112,000,000 to \$117,000,000 in state and
4 local revenues due to the State's inability to capture tax
5 revenues from electronic commerce transactions. The National
6 Conference of State Legislatures estimates that, by 2008, Hawaii
7 will lose between \$157,000,000 and \$245,500,000 if nothing is
8 done by that time. Hawaii stands to be one of the top ten
9 states in terms of tax revenues lost in electronic commerce
10 transactions.
11 The legislature also finds that, with regard to the loss in
12 revenues due to the State's inability to tax electronic
13 commerce, Hawaii's situation is not unique. Other states are
14 currently dealing with this very same problem. To this end, the
15 Streamlined Sales Tax Project (Project) is an effort created by
16 state governments, with input from local governments and the
17 private sector, to simplify and modernize the collection and
18 administration of the sales and use taxes. The Project's

HB1224 CD1 HNS 2005-4035

Page 3

H.B. NO. 1224
S.D. 1
C.D. 1

1 The goal of the Streamlined Sales Tax Project is to provide
2 the states with a streamlined sales tax system that includes the
3 following key features:
4 (1) Uniform definitions within tax laws. Legislatures
5 still choose what is taxable or exempt in their state.
6 However, participating states will agree to use the
7 common definitions for key items in the tax base and
8 will not deviate from these definitions. As states
9 move from their current definitions to the Project's
10 definitions, a certain amount of impact on state
11 revenue is inevitable. However, it is the intent of
12 the Project to provide states with the ability to
13 closely mirror their existing tax bases through common
14 definitions;
15 (2) Rate simplification. States will be allowed one state
16 rate and a second state rate in limited circumstances
17 (food and drugs). Each local jurisdiction will be
18 allowed one local rate. A state or local government
19 may not choose to tax telecommunications services, for
20 example, at one rate and all other items of tangible
21 personal property or taxable services at another rate.
22 State and local governments will accept responsibility

HB1224 CD1 HNS 2005-4035

1 for notice of rate and boundary changes at restricted
2 times. States will provide an on-line
3 rate/jurisdiction database to simplify rate
4 determinations;

5 (3) State level tax administration of all state and local
6 sales and use taxes. Businesses will no longer file
7 tax returns with each local government within which it
8 conducts business in a state. Each state will provide
9 a central point of administration for all state and
10 local sales and use taxes and the distribution of the
11 local taxes to the local governments. A state and its
12 local governments will use common tax bases;

13 (4) Uniform sourcing rules. States will have uniform and
14 simple rules for how they will source transactions to
15 state and local governments. The uniform rules will
16 be destination/delivery based and uniform for tangible
17 personal property, digital property, and services.
18 Special sourcing rules will be developed for unique
19 industries;

20 (5) Simplified exemption administration for use- and
21 entity-based exemptions. Sellers are relieved of the
22 "good faith" requirements that exist in current law

HB1224 CD1 HMS 2005-4035

1 simplifications as proposed by the Project. Thus, the
2 simplifications would apply to all sellers. Sellers who do not
3 have a physical presence or "nexus" are not required to collect
4 sales and use taxes unless Congress chooses to require
5 collection from all sellers for all types of commerce. Sellers
6 without a physical presence can volunteer to collect under the
7 proposed simplifications. Registration by sellers to
8 voluntarily collect sales and use taxes will not infer that the
9 business must pay business activity taxes, such as the corporate
10 franchise or income tax.

11 The legislature further finds that the Streamlined Sales
12 Tax Project envisions two components to the legislation
13 necessary to accomplish the Project's goals. First, states
14 would adopt enabling legislation referred to as the Uniform
15 Sales and Use Tax Administration Act ("Act"). The Act allows
16 the State to enter into an agreement with one or more states to
17 simplify and modernize sales and use tax administration in order
18 to reduce the burden of tax compliance for all sellers and all
19 types of commerce.

20 According to the Project, states would amend or modify
21 their sales and use tax laws to achieve the simplifications and
22 uniformity required by the participating states working

HB1224 CD1 HMS 2005-4035

1 and will not be liable for uncollected tax.
2 Purchasers will be responsible for paying the tax,
3 interest, and penalties for claiming incorrect
4 exemptions. States will have a uniform exemption
5 certificate in paper and electronic form;

6 (6) Uniform audit procedures. Sellers who participate in
7 one of the certified Streamlined Sales Tax System
8 technology models will either not be audited or will
9 have limited scope audits, depending on the technology
10 model used. The states may conduct joint audits of
11 large multi-state businesses; and

12 (7) State funding of the system. Participating states
13 will apportion costs of a third-party online sales tax
14 collections software system among themselves. It is
15 intended that each state's allocation of costs of the
16 new software system will be paid out of the higher
17 level of tax revenues collected under the Streamlined
18 Sales Tax System Project.

19 The legislature further finds that the states are also
20 participating in a joint business-government study of the costs
21 of collection on sellers. The Project proposes that states
22 change their sales and use tax laws to conform with the

HB1224 CD1 HMS 2005-4035

1 together. The Project refers to this legislation as the
2 Streamlined Sales and Use Tax Agreement ("Agreement"). Some
3 states will require only minor changes to current law to
4 implement the requirements of the Agreement. Other states with
5 more complicated sales tax laws may require significant changes
6 to current law to be in accord with the Agreement.

7 In Hawaii, the legislature finds that few amendments are
8 needed to the State's existing general excise and use tax laws
9 to comply with the requirements of the Agreement and Act. The
10 legislature further finds that, with the amendments contained in
11 this Act, Hawaii will have conformed in most respects to the
12 seven key features described above. The legislature intends
13 that passage of this Act meets the threshold requirements for
14 Hawaii to petition for a certificate of compliance and
15 membership under the Agreement.

16 A certificate of compliance would document each state's
17 compliance with the provisions of the Agreement and cite
18 applicable statutes, rules or regulations, or other authorities
19 supporting such compliance. Public notice and comment will be
20 provided before a state becomes part of the interstate
21 Agreement. A state is in compliance with the Agreement if the
22 effect of the state's laws, rules or regulations, and policies

HB1224 CD1 HMS 2005-4035

1 is substantially compliant with each of the requirements of the
2 Agreement. If a state is found to be out of compliance with the
3 Agreement, it will not be accepted into the interstate Agreement
4 or will be sanctioned or expelled by the other participating
5 states. In a voluntary system, sellers who are voluntarily
6 collecting sales taxes for participating states may decide to no
7 longer collect for the expelled state. Also, that state may not
8 have a vote on changes in the Agreement.

9 Under the Agreement, a governing board will be comprised of
10 representatives of each member state of the Agreement. Each
11 member state is entitled to one vote on the governing board.
12 The governing board is responsible for interpretations of the
13 Agreement, amendments to the Agreement, and issue resolution. A
14 State and Local Government Advisory Council and a Business and
15 Taxpayer Advisory Council from the private sector will advise
16 the governing board.

17 On November 12, 2002, thirty states and the District of
18 Columbia approved the interstate Agreement provisions. As of
19 April 2004, twenty states have moved forward and enacted all or
20 part of the conforming legislation. It is anticipated that
21 states that enacted the conforming legislation and are found to

HB1224 CD1 HNS 2005-4035

1 (b) A certified service provider in model 1 shall be
2 allowed a monetary allowance in accordance with the terms of the
3 contract that the states participating in the streamlined sales
4 and use tax agreement execute with the provider. The director
5 shall prescribe the allowance in accordance with the terms of
6 the contract, which shall be funded entirely from money
7 collected in model 1.

8 A monetary allowance to a certified service provider may be
9 based on one or more of the following incentives:

10 (1) A base rate that applies to taxable transactions
11 processed by the provider; and

12 (2) For a period not to exceed twenty-four months
13 following a voluntary seller's registration through
14 the streamlined sales and use tax agreement's central
15 registration process, a percentage of tax revenue
16 generated for a member state by the voluntary seller
17 for each member state for which the seller does not
18 have a requirement to register to collect the tax.

19 (c) A model 2 seller shall be allowed a monetary allowance
20 that the director shall prescribe in accordance with the terms
21 agreed to by the member states of the streamlined sales and use
22 tax agreement. The member states initially anticipate that they

HB1224 CD1 HNS 2005-4035

1 be in compliance with the Agreement will continue as the
2 governing states of the interstate Agreement of the future.

3 SECTION 2. Chapter 231, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 *231. Streamlined sales and use tax agreement
7 compliance. (a) A seller that registers to pay or collect and
8 remit sales or use tax in accordance with the terms of the
9 streamlined sales and use tax agreement may select one of the
10 following methods of remittance or other method allowed by law
11 to remit the taxes collected, as follows:

12 (1) A model 1 seller, who shall be a seller who selects a
13 certified service provider as an agent to perform all
14 the seller's sales or use tax functions, other than
15 the seller's obligation to remit tax on its own
16 purchases;

17 (2) A model 2 seller, who shall be a seller who selects a
18 certified automated system to use which calculates the
19 amount of tax due on a transaction; or

20 (3) A model 3 seller, who shall be a seller who uses its
21 own proprietary automated sales tax system that has
22 been certified as a certified automated system.

HB1224 CD1 HNS 2005-4035

1 will provide a monetary allowance to sellers under model 2 based
2 on the following:

3 (1) Each seller shall receive a base rate for a period not
4 to exceed twenty-four months following the
5 commencement of participation by the seller; and

6 (2) For a period not to exceed twenty-four months
7 following a voluntary seller's registration through
8 the streamlined sales and use tax agreement's central
9 registration process, a percentage of tax revenue
10 generated for a member state by the voluntary seller
11 for each member state for which the seller does not
12 have a requirement to register to collect the tax.

13 (d) A model 3 seller and all other sellers that are not
14 under model 1 or model 2 shall be allowed a monetary allowance
15 that the director shall prescribe in accordance with the terms
16 agreed to by the member states of the streamlined sales and use
17 tax agreement. The member states initially anticipate that they
18 will provide a monetary allowance to sellers under model 3 and
19 to all other sellers that are not under models 1 or 2 based on
20 the following:

21 (1) For a period not to exceed twenty-four months
22 following a voluntary seller's registration through

HB1224 CD1 HNS 2005-4035

1 the streamlined sales and use tax agreement's central
 2 registration process; and
 3 (2) A percentage of tax revenue generated for a member
 4 state by the voluntary seller for each member state
 5 for which the seller does not have a requirement to
 6 register to collect the tax.
 7 (e) Pursuant to the streamlined sales and use tax
 8 agreement, the director is authorized to accept certified
 9 automated systems and certified service providers to aid in the
 10 administration of the collection of the tax imposed under
 11 chapter 237 and chapter 238.
 12 (f) No person required to collect any tax imposed by
 13 chapter 237 or 238, or any tax authorized to be collected under
 14 the streamlined sales and use tax agreement shall be held liable
 15 for having charged and collected the incorrect amount of sales
 16 or use tax by reason of reliance on erroneous data provided by
 17 the director with respect to tax rates, boundaries, or taxing
 18 jurisdiction assignments.
 19 (g) In connection with a purchaser's request from a seller
 20 of over-collected sales or use taxes, a seller shall be presumed
 21 to have a reasonable business practice, if in the collection of
 22 the sales or use taxes, the seller:

HB1224 CD1 HNS 2005-4035

1 (1) Uses either a provider or a system, including a
 2 proprietary system, that is certified by the State,
 3 and
 4 (2) Has remitted to the State all taxes collected less any
 5 deductions, credits, or collection allowances.
 6 (h) For the purposes of this section, "streamlined sales
 7 and use tax agreement" means the agreement authorized under
 8 chapter 255D."
 9 SECTION 3. Section 255D-3, Hawaii Revised Statutes, is
 10 amended to read as follows:
 11 "[4]§255D-3(3) Authority to participate in multistate
 12 negotiations. (4e) For the purposes of reviewing or amending
 13 the agreement embodying the simplification requirements in
 14 section 255D-6, the State may enter into multistate discussions.
 15 For purposes of these discussions, the State shall be
 16 represented by the department. (The departments shall regularly
 17 consult with an advisory council regarding these discussions.
 18 (b) The department shall regularly consult with the
 19 advisory council and use its best efforts to consult with the
 20 advisory council before any multistate discussions in which it
 21 is anticipated that amendments may be proposed to the agreement
 22 embodying the simplification requirements in section 255D-6.

HB1224 CD1 HNS 2005-4035

1 ~~(e) The advisory council shall consist of not more than~~
 2 ~~five members who shall be appointed by the governor under~~
 3 ~~section 26-34. The members shall serve without compensation but~~
 4 ~~shall be reimbursed for actual expenses, including travel~~
 5 ~~expenses that are necessary for the performance of those~~
 6 ~~duties.)"~~
 7 SECTION 4. Section 255D-4, Hawaii Revised Statutes, is
 8 amended to read as follows:
 9 "§255D-4 Authority to enter agreement. The department
 10 with the concurrence of the legislature may enter into the
 11 streamlined sales and use tax agreement with one or more states
 12 to simplify and modernize sales and use tax administration to
 13 substantially reduce the burden of tax compliance for all
 14 sellers and for all types of commerce. In furtherance of the
 15 agreement, the department may act jointly with other states that
 16 are members of the agreement to establish standards for
 17 certification of a certified service provider and certified
 18 automated system and establish performance standards for
 19 multistate sellers. The department may take other actions
 20 reasonably required to implement this section. Other actions
 21 authorized by this section include but are not limited to the
 22 adoption of rules not subject to chapter 91, with other member

HB1224 CD1 HNS 2005-4035

1 states, of goods and services in furtherance of the cooperative
 2 agreement. The department, or the department's designee, may
 3 represent this State before the other states that are
 4 signatories to the agreement."
 5 SECTION 5. (a) No later than August 1, 2005, the
 6 department of taxation, together with three designees selected
 7 by the president of the senate and three designees selected by
 8 the speaker of the house of representatives shall:
 9 (1) Identify issues that need to be resolved to effectuate
 10 the orderly enactment and operation of a streamlined
 11 sales and use tax that is based on the Streamlined
 12 Sales Tax Project's model Agreement and Act, including
 13 issues of conformance with the State's existing
 14 general excise tax law and other laws as may be
 15 required; and
 16 (2) Conduct informational briefings for the legislature on
 17 the department's efforts to comply with the purposes
 18 of this Act.
 19 (b) No later than twenty days prior to the convening of
 20 the 2006 regular session, the department of taxation shall
 21 submit proposed legislation to the legislature for its enactment
 22 prior to January 1, 2007, that provides for:

HB1224 CD1 HNS 2005-4035

1 (1) Any further amendments requested by the Streamlined
 2 Sales Tax Project to address issues such as sourcing
 3 and rounding and to enhance the operation of a
 4 streamlined sales and use tax in accordance with the
 5 Streamlined Sales Tax Project's model Agreement and
 6 Act; and
 7 (2) Any additional conforming amendments to the State's
 8 existing general excise tax law and other laws as may
 9 be required.

10 SECTION 6. For the purpose of complying with the
 11 requirements to apply for certification under the Streamlined
 12 Sales and Use Tax Agreement, the legislature declares that
 13 chapters 237 and 238, Hawaii Revised Statutes, substantially
 14 comply with the requirements set forth under the Streamlined
 15 Sales and Use Tax Agreement.

16 SECTION 7. There is appropriated out of the general
 17 revenues of the State of Hawaii the sum of \$50,000 or so much
 18 thereof as may be necessary for fiscal year 2005-2006 for
 19 technical assistance and briefings to enable the legislature to
 20 carry out its responsibilities in section 5 of this Act.

21 Technical assistance may include analysis of the fiscal and
 22 legal impacts of proposed conformance with the existing general

HB1224 CD1 HMS 2005-4035

1 or to furnish to the private contractor an abstract of the
 2 return or supply the private contractor with information
 3 concerning any item contained in the return or disclosed by the
 4 report of any investigation of the return or of the subject
 5 matter of the return only for the purposes of conforming the
 6 State's general excise and use taxes to be operative with the
 7 Streamlined Sales Tax Project's model Agreement and Act.

8 SECTION 9. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect upon its approval;
 11 provided that section 7 shall take effect on July 1, 2005.

HB1224 CD1 HMS 2005-4035

1 excise tax law and other laws and any other issues that might
 2 result from the implementation of a streamlined and sales and
 3 use tax. Funds may also be expended for preparation of proposed
 4 legislation above and beyond that which could be undertaken by
 5 state employees due to the specialized nature of this project.
 6 Funds may be further expended in briefings of legislators and
 7 any other parties deemed appropriate by the designees of the
 8 president of the senate and the speaker of the house of
 9 representatives and in any other support activities for this
 10 project.

11 The sum appropriated shall be expended by the office of the
 12 auditor for the purposes of this Act. The office of the
 13 auditor, given the deadline imposed by section 5 of this Act,
 14 shall secure the services necessary to support the project in as
 15 expeditious a manner as possible and without regard to chapter
 16 103D, Hawaii Revised Statutes.

17 SECTION 8. Notwithstanding the provisions of any law
 18 making it unlawful for any person, officer, or employee of the
 19 State to make known information imparted by any tax return or
 20 permit any tax return to be seen or examined by any person, it
 21 shall be lawful to permit a private contractor contracted under
 22 section 7 of this Act to inspect any tax return of any taxpayer.

HB1224 CD1 HMS 2005-4035

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1224, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, 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

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1224, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, is entitled.

Robert Bunda
 Robert Bunda
 President of the Senate

Paul T. Kewaguchi
 Paul T. Kewaguchi
 Clerk of the Senate

H.B. No. 1317, HD 1, SD 1, CD 1:

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

VETO
1317
H.B.
S.D. 1
C.D. 1

A BILL FOR AN ACT
VETO OVERRIDE

RELATING TO MEDICAID.

ACT No. 4
Approved: *Calvin K. Y. Say*
Dated: July 14, 2005

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that managed care plans
2 for medicaid beneficiaries should offer a broad range of
3 coverage, including hospital stays, medical appointments, and
4 prescription drugs. Removing individual benefit components
5 would result in a fragmented health care delivery system that
6 may result in higher costs and reduced quality of care.

7 The purpose of this Act is to:
8 (1) Require the department of human services to submit a
9 report to the legislature on the impact of carving out
10 pharmaceutical benefits management from managed care
11 plans; and
12 (2) Prohibit the department of human services from taking
13 any action to remove pharmaceutical benefits
14 management from managed care plans that provide health
15 care coverage for Hawaii medicaid beneficiaries.

16 SECTION 2. (a) The department of human services shall
17 report to the legislature no later than twenty days prior to the
18 convening of the regular session of 2006 on the impact of

HB1317 CD1 HMS 2005-3990

Page 3

H.B. NO. 1317
H.D. 1
S.D. 1
C.D. 1

1 (c) In developing the report, the department of human
2 services shall conduct community roundtables for purposes of
3 including input, data information, and concerns from all
4 affected stakeholders.

5 SECTION 3. The department of human services shall not take
6 any action to remove pharmaceutical benefits management from
7 managed care plans that provide health care coverage for Hawaii
8 medicaid beneficiaries.

9 SECTION 4. This Act shall take effect upon its approval.

HB1317 CD1 HMS 2005-3990

Page 2

H.B. NO. 1317
H.D. 1
S.D. 1
C.D. 1

HB No. 1317, HD1, SD1, CD1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1317, HD1, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, 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 carving out pharmaceutical benefits management from managed care
2 plans. The report shall include:
3 (1) An analysis of the cost elements of pharmaceutical
4 benefits management by the department of human
5 services versus pharmaceutical benefits management
6 under the QUEST-managed care plans, including generic
7 utilization, and using available rebate information
8 and reasonable estimates to calculate net pharmacy
9 costs and comparative cost savings;
10 (2) A comparison of the quality and efficacy of the
11 different classes of drugs on the department of human
12 services' preferred drug list and those of the QUEST-
13 managed care plans; and
14 (3) Comparisons of the effects on management of care,
15 patient care, including access and quality, and the
16 impact on physicians, pharmacists, and other health
17 care providers.
18 (b) The report shall exclude from its analysis, pharmacy
19 utilization, costs, and rebate information relating to the
20 medicaid population that will receive pharmacy coverage under
21 medicare part D beginning January 1, 2006.

HB1317 CD1 HMS 2005-3990

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1317, HD1, SD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session 2005, is entitled.

Robert Bunda
Robert Bunda
President of the Senate

Paul T. Kawaguchi
Paul T. Kawaguchi
Clerk of the Senate

S.B. No. 960, HD 1, CD 1:

THE SENATE
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

VETO
S.B. NO. 960
H.D. 1
C.D. 1

A BILL FOR AN ACT

VETO OVERRIDE

ACT No. 5

Approved: *[Signature]*

Dated: July 12, 2005

RELATING TO CIVIL DEFENSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART 1
2 SECTION 1. This Act may be cited as the Disaster Emergency
3 Preparedness Act of 2005.
4 SECTION 2. The legislature finds that the State's growing
5 population and a general lack of awareness on the part of the
6 public with respect to natural disaster preparedness, dictates
7 appropriate government action. This Act addresses the need for
8 disaster preparedness by appropriating funds for natural
9 disaster preparedness, including tsunami and hurricane
10 preparedness efforts, appropriating funds from the hurricane
11 reserve trust fund to retrofit and protect public buildings
12 against hurricanes, developing standards for residential safe
13 rooms, and improving the loss mitigation grant program by
14 permitting the construction of safe rooms.
15 The legislature finds that, although the funding for this
16 Act is financed through the principal in the hurricane reserve
17 trust fund, the expended funds will stimulate the economy and
18 replace any "lost" interest income from the fund without
19 SB960 CD1 LRB 05-4034-2.doc

Page 2

S.B. NO. 960
H.D. 1
C.D. 1

1 jeopardizing the State's ability to reissue hurricane insurance,
2 if necessary.
3 The original purpose of establishing the Hawaii hurricane
4 relief fund was to provide a means of financing hurricane
5 insurance coverage for the hurricane after the next one,
6 provided that insurers withdraw from the Hawaii hurricane
7 insurance market. This Act will provide protections against the
8 next natural disaster.
9 PART II
10 SECTION 3. Due to Hawaii's experience with tsunamis and
11 hurricanes, a disaster alert system is in place providing early
12 warning to residents. Even with this comprehensive, state-of-
13 the-art-monitoring system in place, Hawaii's disaster warning
14 efforts have not kept pace. Antiquated siren systems, outdated
15 evacuation maps in telephone books, insufficient shelter space,
16 limited public education projects, and a lack of around-the-
17 clock alert staff mean Hawaii residents may lose critical
18 seconds in evacuation time or, worse, be unable to access
19 emergency care and shelter in the event a disaster strikes.
20 The purpose of this part is to appropriate funds for
21 natural disaster preparedness efforts, including installing and
22 maintaining new siren systems, updating evacuation maps in phone
SB960 CD1 LRB 05-4034-2.doc

Page 3

S.B. NO. 960
H.D. 1
C.D. 1

1 books, constructing additional shelter space and retrofiting
2 existing public buildings that could serve as emergency
3 shelters, developing statewide residential safe room design
4 standards by January 1, 2006, providing around-the-clock alert
5 staff for the civil defense division, and expanding public
6 education campaigns that emphasize the need for natural
7 disaster, including tsunami and hurricane preparedness.
8 SECTION 4. There is appropriated out of the hurricane
9 reserve trust fund the sum of \$2,000,000 or so much thereof as
10 may be necessary for fiscal year 2005-2006, and the sum of
11 \$2,000,000 or so much thereof as may be necessary for fiscal
12 year 2006-2007 for tsunami and hurricane preparedness efforts,
13 including installing and maintaining new siren systems, updating
14 evacuation maps in telephone books, constructing additional
15 shelter space and retrofitting existing public buildings that
16 could serve as emergency shelters, developing statewide
17 residential safe room design standards by January 1, 2006,
18 providing around-the-clock alert staff for the civil defense
19 division of the department of defense, and expanding public
20 education campaigns emphasizing the need for tsunami and
21 hurricane preparedness.
SB960 CD1 LRB 05-4034-2.doc

Page 4

S.B. NO. 960
H.D. 1
C.D. 1

1 The sum appropriated in this part shall be expended by the
2 department of defense for the purposes of this part.
3 SECTION 5. The department of defense shall develop Hawaii
4 public shelter and residential safe room design criteria by
5 January 1, 2006, and shall facilitate impact resistance testing
6 and certification of safe room design; provided that safe room
7 prototype models are developed with public or private sector
8 grants or investments. These criteria shall include Hawaii
9 performance-based standards for enhanced hurricane protection
10 areas and essential government facilities capable of
11 withstanding a five hundred-year hurricane event and providing
12 continuity of government or sheltering operations thereafter.
13 SECTION 6. The department of defense shall coordinate all
14 work performed pursuant to this part with the state or county
15 agencies having responsibility for the repair, maintenance, and
16 upkeep of any public building to be retrofitted.
17 SECTION 7. Any portion of the appropriations may be used
18 for the purpose of matching federal hazard mitigation funds if
19 these funds become available for use in retrofitting public
20 buildings with hurricane protective measures.
21 PART III

SB960 CD1 LRB 05-4034-2.doc

1 SECTION 8. The loss mitigation grant program was
 2 established to assist residents with installing wind resistive
 3 devices to protect their property against hurricanes. The
 4 addition of providing grants for safe rooms will also allow
 5 residents who may not be able to afford reinforcement of their
 6 entire home, protection against natural disasters.

7 SECTION 9. Section 431:22-101, Hawaii Revised Statutes, is
 8 amended by amending the definition of "wind resistive devices"
 9 to read as follows:
 10 "Wind resistive devices" means devices and techniques, as
 11 identified and determined in accordance with section 431:22-
 12 104(b), that increase a building's or structure's resistance to
 13 damage from wind forces. The term shall also include safe rooms
 14 that are defined and built pursuant to design standards of the
 15 department of defense's civil defense division that are adopted
 16 pursuant to chapter 91."

17 SECTION 10. Section 431:22-104, Hawaii Revised Statutes,
 18 is amended by amending subsection (a) to read as follows:
 19 "(a) Subject to the availability of funds and the
 20 standards in this article, grants for wind resistive devices
 21 shall be awarded by the commissioner:

1 431:22-104(b) (1), (2), and (4); provided that this
 2 requirement does not apply to section
 3 431:22-104(b) (3);
 4 (4) Has installed a wind resistive device or devices
 5 including residential safe room designs that meet the
 6 standards established by the state department of
 7 defense and that have been designated and approved by
 8 the commissioner;
 9 (5) Has fully paid, prior to applying for the grant, the
 10 cost of the wind resistive device or devices, as well
 11 as the installation ~~and inspection~~ costs for which
 12 the grant is sought. The grant shall be used to
 13 reimburse only these costs or a portion thereof;
 14 (6) Has hired an inspector, determined by the commissioner
 15 to be qualified in accordance with the requirements of
 16 the commissioner, who has verified in writing that the
 17 installation of the wind resistive device or devices
 18 is complete and is in compliance with the grant
 19 program specifications, guidelines, and requirements,
 20 as determined by the commissioner;
 21 (7) Has installed the wind resistive device or devices
 22 after July 1, 2002;

1 (1) That reimburse ~~thirty-five~~ thirty-five per cent of costs
 2 incurred for the wind resistive devices and their
 3 installation ~~and inspection~~, up to a maximum total
 4 reimbursement of \$2,100 per dwelling;
 5 (2) On a first-come, first-served basis, as determined by
 6 the commissioner; and
 7 (3) For a wind resistive device or devices installed only
 8 in a single or multi-family residential dwelling."

9 SECTION 11. Section 431:22-104, Hawaii Revised Statutes,
 10 is amended by amending subsection (c) to read as follows:
 11 "(c) In addition, a grant may be made to an applicant only
 12 if the applicant:
 13 (1) Has met the descriptions, specifications, guidelines,
 14 and requirements established by the commissioner for
 15 the grant program;
 16 (2) Has filed a completed application form, as determined
 17 solely by the commissioner, together with all
 18 supporting documentation required by the commissioner;
 19 (3) Has, in the case of a building with multiple
 20 dwellings, filed together completed grant applications
 21 for all dwellings in the building~~s~~, for installation
 22 of wind resistive devices indicated in section

1 (8) Has provided any other information deemed necessary by
 2 the commissioner; and
 3 (9) Has met all additional requirements needed to
 4 implement the grant program as determined by the
 5 commissioner."

6 SECTION 12. There is appropriated out of the hurricane
 7 reserve trust fund of the State of Hawaii the sum of \$2,000,000,
 8 or so much thereof as may be necessary for fiscal year 2005-
 9 2006, and the sum of \$2,000,000, or so much thereof as may be
 10 necessary for fiscal year 2006-2007, for the deposit into the
 11 loss mitigation grant fund.

12 SECTION 13. There is appropriated out of the loss
 13 mitigation grant fund of the State of Hawaii the sum of
 14 \$2,000,000, or so much thereof as may be necessary for fiscal
 15 year 2005-2006, and the sum of \$2,000,000, or so much thereof as
 16 may be necessary for fiscal year 2006-2007, for the loss
 17 mitigation grant program established under chapter 431, article
 18 22, Hawaii Revised Statutes.

19 The sum appropriated in this part shall be expended by the
 20 department of commerce and consumer affairs for the purposes of
 21 this part.

S.B. 1262, SD 1, HD 2, CD 1:

Page 9

S.B. NO. 960
H.D. 1
C.D. 1

- 1 SECTION 14. Statutory material to be repealed is bracketed
- 2 and stricken. New statutory material is underscored.
- 3 SECTION 15. This Act shall take effect on July 1, 2005.

THE SENATE
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

VETO
S.B. NO. 1262
H.D. 2
C.D. 1

A BILL FOR AN ACT TO OVERRIDE

RELATING TO THE WAIANAE COAST.

ACT No. 6
Approved: *[Signature]*
Dated: July 12, 2005

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds it a matter of concern
 2 that along the Waianae coast, the growing population of west
 3 Oahu and the visitor industry are affecting the traditional uses
 4 of the area and are having cumulative economic, environmental,
 5 social, and cultural effects on the many communities along this
 6 coastline.

7 The legislature finds that the increased usage of beach
 8 parks and state boating facilities to accommodate commercial
 9 ocean recreation activities between Kalahele and Keena has had a
 10 significant impact on traditional commercial fishing activities,
 11 as well as other non-commercial ocean recreational activities.

12 The legislature finds that the ocean waters in this area
 13 should be designated by the department of land and natural
 14 resources as an ocean recreation management area to reduce user
 15 conflicts, maintain overall public safety, and to regulate
 16 commercial activities by placing limitations on the locations,
 17 times, and types of ocean recreation activities that are
 18 permitted.

2005-3003 SB1262 CD1 SMA.doc

SB No. 960, HD1, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 960, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

[Signature]
President of the Senate
[Signature]
Clerk of the Senate

THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII

Date: July 12, 2005
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. 960, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

[Signature]
Speaker, House of Representatives
[Signature]
Clerk, House of Representatives

Page 2

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

1 The purpose of this Act is to place a moratorium on the
 2 issuance of new commercial vessel permits in state small boat
 3 harbors involving ocean-related activities for ocean waters
 4 between Kalahele point and Keena point until the boundaries of a
 5 Kalahele to Keena ocean recreation management area are
 6 designated and administrative rules on recreational boating
 7 activities and commercial vessel activities are adopted.
 8 However, the completion of a baseline environmental study is a
 9 prerequisite to the establishment of the boundaries of an ocean
 10 recreation management area and the adoption of the ocean
 11 recreation management area rules. The limited resources of the
 12 state prohibit funding for this baseline environmental study at
 13 this time. Accordingly, the legislature intends to seek a
 14 funding source to ensure that this important baseline
 15 environmental study is performed.

16 SECTION 2. The department of land and natural resources
 17 shall not issue any state small boat harbor facility commercial
 18 permits for vessels engaged in ocean use activities in the area
 19 from Kalahele point to Keena point that would exceed the total
 20 number of permits already issued as of the effective date of
 21 this Act, until the boundaries of an ocean recreational
 22 management area for the area from Kalahele point to Keena point

2005-3003 SB1262 CD1 SMA.doc

Page 3

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

1 are determined and ocean recreation management area rules are
2 adopted pursuant to this section and chapter 91, Hawaii Revised
3 Statutes.

4 SECTION 3. The department shall prepare a baseline
5 environmental study as an informational document to be used for
6 the preparation of draft ocean recreation management area rules
7 in accordance with the following procedures. The baseline
8 environmental study shall include:

- 9 (1) A summary sheet with a concise description of the
10 following:
11 (A) Significant beneficial and adverse impacts of
12 ocean use activities in the area from Kalaeloa
13 point to Kaena point (including cumulative
14 impacts and secondary impacts);
15 (B) Proposed mitigation measures;
16 (C) Alternatives considered;
17 (D) Unresolved issues; and
18 (E) Compatibility with land use plans and policies,
19 and listing of permits or approvals;
20 (2) A separate and distinct section that includes a
21 statement of purpose and need for the designation of
22 an ocean recreation management area;

2005-3003 SB1262 CD1 SMA.doc

Page 5

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

- 1 (A) Sub-areas within any proposed ocean recreation
2 management area where certain types of ocean use
3 activities may be restricted or permitted;
4 (B) The number of permits, by permit type and vessel
5 and passenger capacity, that may be issued for
6 different types of ocean use activities;
7 (C) The months, days, and times that certain types of
8 ocean use activities may be curtailed or
9 prohibited; and
10 (D) Any other restrictions or limitations that the
11 department deems appropriate;
12 (5) A procedure for the resolution of user conflicts
13 between commercial ocean use activities and private
14 recreational use of any ocean recreation management
15 area;
16 (6) A rigorous exploration and objective evaluation of the
17 environmental impacts of alternative actions.
18 Particular attention shall be given to alternatives
19 that might enhance environmental quality or avoid,
20 reduce, or minimize some or all of the adverse
21 environmental effects, costs, and risks and

2005-3003 SB1262 CD1 SMA.doc

Page 4

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

- 1 (2) The following information, to the extent necessary for
2 evaluation and review of the cultural, environmental,
3 social, and economic impacts:
4 (A) A detailed map of the area from Kalaeloa point to
5 Kaena point;
6 (B) A statement of objectives;
7 (C) A general description of the area's technical,
8 economic, social, and environmental
9 characteristics;
10 (D) Public funds or lands to be used for the
11 designation;
12 (E) Phasing and timing of the designation;
13 (F) A summary of technical data, diagrams, and other
14 information necessary to permit an evaluation of
15 potential environmental impact by government
16 agencies and the public; and
17 (G) A historic perspective;
18 (4) The following restrictions or limitations on ocean use
19 or private recreational activities, set forth in
20 detail:

2005-3003 SB1262 CD1 SMA.doc

Page 6

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

- 1 recreational and commercial use conflicts. Examples
2 of alternatives include:
3 (A) No action;
4 (B) Requiring actions of a significantly different
5 nature that would provide similar benefits with
6 different environmental effects;
7 (C) Those related to different boundaries or details
8 of the proposed area that present different
9 environmental effects; and
10 (D) Postponing the designation of the area pending
11 further study.
12 In each case, the analysis shall be sufficiently
13 detailed to allow the comparative evaluation of the
14 environmental benefits, costs, and risks of the
15 proposed area designation and each reasonable
16 alternative;
17 (7) A description of setting of any ocean recreation
18 management area, including a description of the
19 environment in the vicinity of the area, as it exists
20 before the designation of the area, from both a local
21 and regional perspective. Special emphasis shall be
22 placed on environmental resources that are rare or

2005-3003 SB1262 CD1 SMA.doc

Page 7

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

1 unique to the region and the area (including natural
2 or human-made resources of historic, archaeological,
3 or aesthetic significance). Specific reference to
4 related land-based projects, public and private,
5 existent or planned in the region shall also be
6 included for purposes of examining the possible
7 overall cumulative effects of the designation of the
8 area. The department shall identify, where
9 appropriate, population and growth characteristics of
10 the affected region and any population and growth
11 assumptions used to justify the action and determine
12 secondary population and growth effects resulting from
13 the proposed designation and its alternatives. In any
14 event, it is essential that the sources of data used
15 to identify, qualify, or evaluate any and all
16 cultural, environmental, societal, and economic
17 consequences be expressly noted;

18 (8) A statement of the relationship of the proposed
19 designation of the area to land use plans, policies,
20 and controls for the affected area. Discussion of how
21 the proposed designation may conform or conflict with
22 objectives and specific terms of approved or proposed

2005-3003 SB1262 CD1 SMA.doc

Page 9

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

1 of the environmentally significant consequences of the
2 proposed action;

3 (10) A discussion of the resolution of conflicts between
4 recreational use of the area by residents of the area
5 and commercial ocean use activities;

6 (11) In a separate and distinct section, a description of
7 all irreversible and irretrievable commitments of
8 resources that would be involved in the proposed
9 designation of the ocean recreation management area
10 should it be implemented. Identification of
11 unavoidable effects and the extent to which the action
12 makes use of non-renewable resources as a result of
13 the designation or irreversibly curtails the range of
14 potential uses of the environment shall also be
15 included. The possibility of environmental accidents
16 resulting from any phase of the designation and
17 maintenance of the ocean recreation management area
18 shall also be considered;

19 (12) All probable adverse environmental effects that cannot
20 be avoided and a statement addressing these problems.
21 Any adverse effects, such as water or air pollution,
22 urban congestion, user conflicts, threats to public

2005-3003 SB1262 CD1 SMA.doc

Page 8

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

1 land use plans, policies, and controls, if any, for
2 the area affected shall be included. Where a conflict
3 or inconsistency exists, the baseline environmental
4 study shall describe the extent to which the
5 department has reconciled its proposed designation
6 with the plan, policy, or control and the reasons why
7 the department has decided to proceed, notwithstanding
8 the absence of full reconciliation;

9 (9) In a separate and distinct section, a description of
10 the relationship between local short-term uses of the
11 marine environment and the maintenance and enhancement
12 of long-term productivity of the marine environment.
13 The extent to which the proposed action involves
14 trade-offs among short-term and long-term gains and
15 losses shall be discussed. The discussion shall
16 include the extent to which the proposed designation
17 forecloses future options, narrows the range of
18 beneficial uses of the environment, or poses long-term
19 risks to health or safety. In this context,
20 short-term and long-term do not necessarily refer to
21 any fixed time periods, but shall be viewed in terms

2005-3003 SB1262 CD1 SMA.doc

Page 10

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

1 health, or other consequences adverse to environmental
2 goals and guidelines established by environmental
3 response laws, coastal zone management laws, pollution
4 control and abatement laws, and environmental policy
5 such as that found in chapters 128D, 205A, 342B, 342C,
6 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P,
7 and 344, Hawaii Revised Statutes, shall be included,
8 including those effects discussed in other actions of
9 this paragraph that are adverse and unavoidable under
10 the proposed designation and rules. Also, the
11 rationale for proceeding with a proposed designation,
12 notwithstanding unavoidable effects, shall be clearly
13 set forth in this section;

14 (13) Other interests and considerations of governmental
15 policies that are thought to offset the adverse
16 effects of the proposed designation. The baseline
17 environmental study shall also indicate the extent to
18 which these stated countervailing benefits could be
19 realized by following reasonable alternatives to the
20 proposed designation that would avoid some or all of
21 the adverse environmental effects;

2005-3003 SB1262 CD1 SMA.doc

1 (14) Mitigation measures proposed to avoid, minimize,
 2 rectify, or reduce impacts and user conflicts,
 3 including provision for compensation for losses of
 4 cultural, community, historical, archaeological, and
 5 fish and wildlife resources, including the acquisition
 6 of land, waters, and interests therein. Description
 7 of any mitigation measures to reduce significant,
 8 unavoidable, or adverse effects to insignificant
 9 levels, and the basis for considering these levels
 10 acceptable shall be included. Where a particular
 11 mitigation measure has been chosen from among several
 12 alternatives, the measures shall be discussed and
 13 reasons given for the choice made. Included, where
 14 possible and appropriate, shall be specific reference
 15 to the timing of each step proposed to be taken in the
 16 mitigation process, what performance bonds, if any,
 17 may be posted, and what other provisions are proposed
 18 to assure that the mitigation measures will, in fact,
 19 be taken;

20 (15) A separate and distinct section that summarizes
 21 unresolved issues and contains either a discussion of
 22 how the issues will be resolved prior to commencement

2005-3003 SB1262 CD1 SMA.doc

1 of the designation or what overriding reasons there
 2 are for proceeding without resolving the problems;

3 (16) A separate and distinct section that contains a list
 4 identifying all governmental agencies, other
 5 organizations, and private individuals consulted in
 6 the preparation of the baseline environmental study
 7 and the identity of the persons, firms, or agency
 8 assisting in the preparation of the baseline
 9 environmental study, by contract or other
 10 authorization, shall be disclosed; and

11 (17) A separate and distinct section that contains
 12 reproductions of all substantive comments and
 13 responses made during the consultation process. A
 14 list of those persons or agencies who were consulted
 15 and had no comment shall be included in the baseline
 16 environmental study.

17 SECTION 4. The final designation of the ocean recreation
 18 management area and rules for this area shall be adopted by the
 19 department pursuant to Chapter 91, Hawaii Revised Statutes, and
 20 this Act and shall include any sub-areas or restricted areas.
 21 The department shall maintain rulemaking files that shall
 22 include but not be limited to the following:

2005-3003 SB1262 CD1 SMA.doc

1 (1) All letters received containing substantive questions,
 2 comments, or recommendations and, as applicable,
 3 summaries of any scoping meetings held;

4 (2) A list of persons, organizations, and public agencies
 5 commenting on the draft rules;

6 (3) The responses of the department to each substantive
 7 question, comment, or recommendation received during
 8 the rules adoption process; and

9 (4) The final rules written in a format that allows the
 10 reader to easily distinguish changes made to the text
 11 of the draft rules.

12 SECTION 5. For the purposes of this Act, "ocean use
 13 activities" means commercial operation of thrill craft,
 14 high-speed boating, para-sailing, water sledding, sailing and
 15 snorkeling tours, glassbottom boat tours, dolphin tours, or any
 16 other similar commercial ocean recreational activity for hire.

17 SECTION 6. The department of land and natural resources
 18 shall submit the baseline environmental study to the legislature
 19 not later than twenty days prior to the convening of the regular
 20 session of 2007.
 21

SB No. 1262, SD1, HD2, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1262, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Ann Berman
President of the Senate
David J. Cooney
Clerk of the Senate

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1262, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Calvin K. Y. See
Speaker, House of Representatives
James H. Hanaka
Clerk, House of Representatives

S.B. No. 1473, SD 1, HD 1, CD 1:

THE SENATE
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

VETO
S.B. NO. 1473
SD 1
HD 1
CD 1

A BILL FOR AN ACT VETO OVERRIDE

ACT No. 7
Approved: *[Signature]*
Dated: July 12, 2005

RELATING TO WAIMANO RIDGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that certain uses of
2 state-owned lands in the Waimano ridge area of Oahu have created
3 unnecessary friction between the state administration and the
4 surrounding community residents. Over the past five years, the
5 state administration has systematically increased the use of
6 state-owned lands in the Waimano ridge area in ways that have
7 disenfranchised the surrounding community residents and placed
8 them in potential harm's way.

9 In 2000, the state administration announced that it would
10 be operating a juvenile sex offender treatment facility at the
11 site of the former Waimano home for the developmentally
12 disabled. The announcement was given without prior notice to
13 the community. In fact, there are reports that the department
14 of health selected the site as early as 1998, without informing
15 the community of its intentions.

16 After consistent public pressure, the state administration
17 consented to holding public hearings in the Waimano ridge
18 community. After receiving overwhelming community opposition to

2005-2829 SB1473 CD1 SNA-3.doc

Page 3

S.B. NO. 1473
S.D. 1
H.D. 1
C.D. 1

1 virus, and bird flu, testing for these potentially fatal
2 diseases have been occurring without the knowledge of area
3 residents. In fact, the Waimano community has not been briefed
4 by the department of health on the safety protocols it is using
5 to safeguard the health and safety of the surrounding community,
6 nor has the department been forthcoming in exactly what it is
7 testing in its laboratory.

8 The legislature also finds that all these potentially
9 dangerous activities are being conducted within a close
10 proximity to public schools. These activities place children at
11 risk, and the legislature believes that the concerns of these
12 students and their parents have gone unheeded by the department
13 of health and the state administration for too long.

14 The legislature further finds that in the early 1990s,
15 there was a collaborative government and community effort to
16 establish a master plan for the Waimano ridge area. This master
17 plan was formulated by the department of health with community
18 input and was designed to create a "totally integrated
19 community" where activities on the state-owned Waimano ridge
20 lands would be community-friendly. Unfortunately, the
21 legislature finds that the department of health and the state
22 administration have strayed from the original intent of the

2005-2829 SB1473 CD1 SNA-3.doc

Page 2

S.B. NO. 1473
S.D. 1
H.D. 1
C.D. 1

1 the project, then-governor Cayetano promised the Waimano ridge
2 community that the siting of the treatment facility would only
3 be temporary.

4 In 2001, in anticipation of Governor Cayetano proceeding
5 with the relocation of the sex offender treatment facility, the
6 legislature appropriated funds to move the treatment facility to
7 another location. However, the move never occurred, leaving
8 area residents to believe that they had been misled.

9 In 2003, rather than follow through with the
10 administration's promise to relocate the facility, the
11 department of health announced that it planned on expanding the
12 facility and its uses to include a drug treatment center. The
13 administration also stated that it would not guarantee that the
14 juvenile sex offender treatment center would ever be relocated.

15 More recently, testing of viruses and other potentially
16 dangerous specimens have occurred at the department of health's
17 laboratory located on state-owned Waimano ridge lands. While
18 the original master plan for the area did envision the
19 laboratory being built there, area residents were led to believe
20 that the laboratory was to be used primarily to test water
21 quality and food samples. Due to the heightened state of
22 terrorism awareness and recent outbreaks of Norovirus, West Nile

2005-2829 SB1473 CD1 SNA-3.doc

Page 4

S.B. NO. 1473
S.D. 1
H.D. 1
C.D. 1

1 master plan and have approved uses of the Waimano ridge lands
2 without the consent of and without regard to the Waimano
3 community. As such, the legislature finds it necessary to
4 arrest the development of the state-owned Waimano ridge lands
5 until such time as the department of health and the area
6 residents can come to an accord on its use.

7 The legislature further finds that the jurisdiction of the
8 department of health over the Waimano ridge area lands was
9 conferred pursuant to Executive Order No. 1020, dated May 10,
10 1943, as amended by Executive Order No. 1319, dated March 30,
11 1949, as amended by Executive Order No. 1334, dated July 14,
12 1949, as amended by Executive Order No. 2273, dated May 2, 1966,
13 as amended by Executive Order No. 2287, dated September 7, 1966.
14 Article XI, section 5 of the state constitution provides that
15 the "legislative power over the lands owned by or under the
16 control of the State and its political subdivisions shall be
17 exercised only by general laws, except in respect to transfers
18 . . . for the use of the State, or a political subdivision, or
19 any department or agency thereof." (emphasis added). Therefore,
20 your Committee further finds that the Waimano ridge lands are
21 subject to legislation to regulate the use of those lands, since

2005-2829 SB1473 CD1 SNA-3.doc

Page 6

S.B. NO. 1473
S.D. 1
H.D. 1
C.D. 1

SB No. 1473, SD1, HD1, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1473, SD1, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Arnie Hironaka
President of the Senate
David J. Campbell
Clerk of the Senate

1 those lands are state-owned and are used by the department of
2 health.

3 The purpose of this Act is to require the department of
4 health to:

5 (1) Give prior notice to the local neighborhood board and
6 the members of the legislature from the affected
7 districts and obtain approval of the governor for any
8 use of state-owned land under its jurisdiction in the
9 Waimano ridge area prior to use of the land as a sex
10 offender treatment facility, drug treatment facility,
11 state laboratory, or any other uses; and

12 (2) Prepare an updated master plan for the Waimano ridge
13 lands.

14 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
15 amended by adding a new section to part II to be appropriately
16 designated and to read as follows:

17 "~~171- Nonconventional uses; department of health;~~
18 approval and authorization; Waimano ridge. The department of
19 health shall provide at least ninety days notification to the
20 affected neighborhood boards and legislators that represent the
21 district where Waimano ridge is located, and obtain the approval
22 of the governor prior to new uses or the expanded use of the

2005-2825 SB1473 CD1 SMA-3.doc

THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1473, SD1, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Calvin K. King
Speaker, House of Representatives
Muichiro
Clerk, House of Representatives

S.B. No. 1592, SD 1, HD 2, CD 1:

Page 6

S.B. NO. 1592
S.D. 1
H.D. 2
C.D. 1

V E T O
S.B. NO. 1592
S.D. 1
H.D. 2
C.D. 1

THE SENATE
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

A BILL FOR AN ACT VETO OVERRIDE

ACT No. 8
Approved: *M. King*
Dated: July 12, 2005

RELATING TO STATE PLANNING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 land as a sex offender treatment facility, drug treatment
2 facility, state laboratory, or other uses."

3 SECTION 3. (a) The department of health, in consultation
4 with the department of land and natural resources, residents of
5 Pearl City, the Pearl City Community Association, and Pearl City
6 Neighborhood Board No. 21, shall prepare an updated master plan
7 for the future use of the state-owned Waimano ridge lands.

8 (b) The department of health shall conduct not less than
9 two public hearings, duly noticed at least two weeks in advance,
10 in the Waimano ridge community to obtain public input on
11 formulating the updated master plan. The department of health
12 shall incorporate any recommendations, to the extent
13 practicable, for changes or additions to the master plan as
14 submitted by the Pearl City Community Association or Pearl City
15 Neighborhood Board No. 21. The department of health shall
16 submit an updated master plan to the legislature at the next
17 regular session of the legislature.

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2005.

2005-2825 SB1473 CD1 SMA-3.doc

1 SECTION 1. Hawaii is a unique and beautiful state. For
2 many, it is the ideal place to live and is second to none for
3 providing a preferred quality of life. However, to improve or
4 even maintain the quality of life in this State, the legislature
5 finds that planning the overall theme and goals of the State is
6 important to our future success.
7 The legislature realizes that there are many real, serious,
8 and immediate problems that our State faces on an annual basis.
9 While it is the government's responsibility to resolve those
10 issues, it is also government's responsibility to keep a
11 watchful eye on the future and guide the State in the right
12 direction for succeeding generations.
13 Thus, the legislature believes that the time has come to
14 review the precepts of the Hawaii state plan and other
15 fundamental components of community planning. Specifically,
16 many quality-of-life issues, including water quality, air
17 quality, land use, energy, and ocean resources, are important to

2005-2865 SB1592 CD1 SMA-1.doc

Page 2

S.B. NO. 1992
S.D. 1
H.D. 2
C.D. 1

1 the people of Hawaii and should be the focus for planning
2 Hawaii's future.
3 The purpose of this Act is to:
4 (1) Establish a Hawaii 2050 task force to review the
5 Hawaii state plan and other fundamental components of
6 community planning, and to develop recommendations on
7 creating the Hawaii 2050 sustainability plan; and
8 (2) Require the auditor to prepare the Hawaii 2050
9 sustainability plan to define and implement state
10 goals, objectives, policies, and priority guidelines,
11 incorporating some or all of the recommendations of
12 the Hawaii 2050 task force;
13 to aid in the future long-term development of the State.
14 SECTION 2. Hawaii 2050 task force; establishment;
15 membership; appointment; compensation; duties. (a) There is
16 established a Hawaii 2050 task force to review the Hawaii state
17 plan and other fundamental components of community planning.
18 The task force shall consist of twenty-five members as
19 follows:
20 (1) Four members from the senate appointed by the senate
21 president;

2005-2865 SB1592 CD1 SMA-1.doc

Page 4

S.B. NO. 1992
S.D. 1
H.D. 2
C.D. 1

1 tourism; department of transportation; department of land and
2 natural resources; and other appropriate state and county
3 agencies.
4 (c) The members of the task force shall select the
5 chairperson of the task force and shall be reimbursed for
6 expenses, including travel expenses, necessary for the
7 performance of their duties.
8 (d) The task force shall review, solicit input on, and
9 develop recommendations for the creation of the Hawaii 2050
10 sustainability plan to ensure its relevance as a guide for the
11 future long-term development of the State and report to the
12 legislature and the governor on creating the plan. The task
13 force shall also submit recommendations that include but are not
14 limited to:
15 (1) Whether the goals, objectives, policies, and
16 priorities for the State as envisioned in the Hawaii
17 state plan and the quality growth policy developed
18 pursuant to chapter 223, Hawaii Revised Statutes, are
19 in need of amendment;
20 (2) Whether the existing bases for determining priorities;
21 allocating limited resources, such as public funds,
22 services, human resources, land, energy, water, and

2005-2865 SB1592 CD1 SMA-1.doc

Page 3

S.B. NO. 1992
S.D. 1
H.D. 2
C.D. 1

1 (2) Four members from the house of representatives
2 appointed by the speaker of the house of
3 representatives;
4 (3) A representative of the governor appointed by the
5 governor;
6 (4) The director of the state office of planning or the
7 director's designee;
8 (5) The auditor or the auditor's designee;
9 (6) Two members from the University of Hawaii's school of
10 urban and regional planning to be appointed by the
11 president of the University of Hawaii; and
12 (7) Three members from each county, with at least one
13 member from each county being the departmental
14 director of the appropriate county planning department
15 or agency or the director's designee; provided that
16 the mayor of each county shall appoint the
17 representatives for each respective county.
18 (b) The state office of planning shall assist the task
19 force in performing its duties as required under this Act. In
20 carrying out its duties under this Act, the task force may also
21 request staff assistance from the department of budget and
22 finance; department of business, economic development, and

2005-2865 SB1592 CD1 SMA-1.doc

Page 5

S.B. NO. 1992
S.D. 1
H.D. 2
C.D. 1

1 other resources; and improving coordination of
2 federal, state, and county plans, policies, programs,
3 projects, and regulatory activities are adequate and,
4 if not, a recommendation on how to improve them;
5 (3) A listing of Hawaii's inherent economic assets and how
6 best to use those assets to define Hawaii's role in
7 the global economy;
8 (4) How to forecast vocational needs within the State and
9 direct the education and training of Hawaii's
10 workforce to ensure that Hawaii residents learn
11 marketable skills in secondary school, university, and
12 adult training programs;
13 (5) The development of a framework to ensure that traffic
14 congestion, pollution, and other adverse effects
15 caused by population and economic growth are
16 mitigated;
17 (6) An assessment of the tools needed for the private
18 sector to better compete in the global economy and the
19 means to improve Hawaii's balance of trade by
20 increasing exports and reducing imports, and whether
21 these tools would have any adverse economic or

2005-2865 SB1592 CD1 SMA-1.doc

Page 6

S.B. NO. 1592
S.D. 1
H.D. 2
C.D. 1

1 environmental impact on the State and its residents;
2 and
3 (7) How best to engage the community in a public
4 discussion to achieve a consensus on the State's
5 preferred future, and coordinate the actions needed to
6 sustain a growing and vibrant economy, while
7 maintaining a high quality of life for all residents
8 and visitors.

9 The task force shall develop criteria or benchmarks as
10 necessary to assist in the development of measuring incremental
11 compliance with task force recommendations enacted into law or
12 adopted as policies by governmental agencies and in guiding
13 budgetary priorities.

14 SECTION 3. Report. The task force shall submit a report
15 on its recommendations, including any implementing legislation,
16 to the legislature and to the auditor no later than twenty days
17 before the convening of the regular session of 2006.

18 SECTION 4. Hawaii 2050 sustainability plan. (a) After
19 receipt of the task force's report, the office of the auditor
20 shall prepare the Hawaii 2050 sustainability plan. The plan
21 shall be prepared to define and implement state goals,
22 objectives, policies, and priority guidelines using sections

2005-2865 SB1592 CD1 SMA-1.doc

Page 6

S.B. NO. 1592
S.D. 1
H.D. 2
C.D. 1

1 The sums appropriated shall be expended by the office of
2 the auditor for the purposes of this Act.

3 SECTION 6. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$75,000 or so much
5 thereof as may be necessary for fiscal year 2005-2006 and the
6 same sum or so much thereof as may be necessary for fiscal year
7 2006-2007 for creating the Hawaii 2050 sustainability plan.

8 The sums appropriated shall be expended by the office of
9 the auditor for the purposes of this Act.

10 SECTION 7. The Hawaii 2050 task force shall cease to
11 operate after the adjournment sine die of the 2007 regular
12 session of the legislature.

13 SECTION 8. This Act shall take effect on July 1, 2005.

2005-2865 SB1592 CD1 SMA-1.doc

Page 7

S.B. NO. 1592
S.D. 1
H.D. 2
C.D. 1

1 226-3 to 226-27, Hawaii Revised Statutes, as guiding principles.
2 The auditor shall seek input from all state departments. The
3 auditor shall also solicit public views and concerns in
4 preparation of the plan and shall incorporate all or a portion
5 of the recommendations reported by the Hawaii 2050 task force.

6 The plan shall serve as a guideline for funding and
7 implementation by state and county agencies. The office of
8 planning shall assist the auditor in reviewing the plan.

9 (b) The auditor shall submit the sustainability plan to
10 the legislature no later than twenty days before the convening
11 of the regular session of 2007.

12 (c) The auditor, with the assistance of the office of
13 planning, shall update the plan every ten years and report to
14 the legislature.

15 SECTION 5. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$25,000 or so much
17 thereof as may be necessary for fiscal year 2005-2006 and the
18 same sum or so much thereof as may be necessary for fiscal year
19 2006-2007 for the review and recommendations of the Hawaii state
20 plan and other fundamental components of community planning to
21 be performed by the Hawaii 2050 task force.

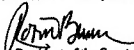
2005-2865 SB1592 CD1 SMA-1.doc

SB No. 1592, SD1, HD2, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
Honolulu, Hawaii 96813

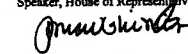
We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Senate of the State of Hawaii, on this date reconsidered Senate Bill No. 1592, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.


President of the Senate


Clerk of the Senate
THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAIIDate: July 12, 2005
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. 1592, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.


Speaker, House of Representatives


Clerk, House of Representatives

S.B. No. 1685, SD 2, HD 1, CD 1:

THE SENATE
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

V E T O
S.B. NO. 1685
S.D. 2
H.D. 1
C.D. 1

A BILL FOR AN ACT VETO OVERRIDE

ACT No. 9
Approved: [Signature]
Dated: July 12, 2005

RELATING TO TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that allowing the counties to obtain state taxpayer information within their jurisdiction is an important resource to strengthen county tax collection efforts. Presently, the counties are unable to audit their own tax exemptions and credits for resident filings within their own counties. With access to state tax information, such as taxpayers filing as residents in a particular county, the counties would be able to follow up on discrepancies with their property tax exemptions and credits.

Counties such as Maui are having difficulty determining whether real property tax filers claiming apartment or condominium classification should be reclassified as a hotel. There have been numerous complaints about hotel activities in apartments and condominiums; however, the county is unable to access the transient accommodations tax information that would provide the necessary and helpful information about tax filers within their county.

2005-2824 SB1685 CD1 SMA-1.doc

Page 3

S.B. NO. 1685
S.D. 2
H.D. 1
C.D. 1

representative thereof an abstract of the return or supply the official, commission, or the authorized representative thereof with information concerning any item contained in the return or disclosed by the report of any investigation of the return or of the subject matter of the return for tax purposes only. The Multistate Tax Commission may make [such] the information available to a duly accredited tax official of the United States [or to a duly accredited tax official of] any state or territory, or the authorized representative thereof, for tax purposes only."

SECTION 4. Section 235-117, Hawaii Revised Statutes, is amended to read as follows:

"§235-117 Reciprocal supplying of tax information. Notwithstanding section 235-116, the department [or the] may permit the Secretary of the Treasury of the United States, the Commissioner of Internal Revenue, the Multistate Tax Commission, or the proper officer of any state or territory imposing an income tax upon incomes of persons taxable under this chapter, or any county of this State, or the authorized representatives thereof to inspect the income tax returns and estimates of any such person for tax purposes only. The department may also furnish to [such] these authorized persons

2005-2824 SB1685 CD1 SMA-1.doc

Page 2

S.B. NO. 1685
S.D. 2
H.D. 1
C.D. 1

The purpose of this Act is to authorize the director of taxation and county tax officials to share taxpayer information.

SECTION 2. Chapter 246A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§246A- Reciprocal supplying of tax information. Notwithstanding any other law to the contrary, a tax official of any county of the State may disclose any records relating to the administration of real property taxes to any duly accredited tax official of the State for tax purposes."

SECTION 3. Section 231-18, Hawaii Revised Statutes, is amended to read as follows:

"§231-18 Federal or other tax officials permitted to inspect returns; reciprocal provisions. Notwithstanding the provisions of any law making it unlawful for any person, officer, or employee of the State to make known information imparted by any tax return or permit any tax return to be seen or examined by any person, it shall be lawful to permit a duly accredited tax official of the United States [or of] any state or territory, any county of this State, or the Multistate Tax Commission to inspect any tax return of any taxpayer, or to furnish to [such] an official, commission, or the authorized

2005-2824 SB1685 CD1 SMA-1.doc

Page 4

S.B. NO. 1685
S.D. 2
H.D. 1
C.D. 1

an abstract of an income tax return or estimate or supply [such] these persons with information concerning any item of income contained in a return or disclosed by the report of an investigation of the income or return of a taxpayer. The Multistate Tax Commission may make [such] the information available to a duly accredited tax official of the United States [or to a duly accredited tax official of] any state or territory, or the authorized representative thereof, for tax purposes only."

SECTION 5. Section 237D-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or officer or employee of the State to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to willfully permit any [such] return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only

2005-2824 SB1685 CD1 SMA-1.doc

Page 5

S.B. NO. 1685
S.D. 2
H.D. 1
C.D. 1

1 the taxpayer, the taxpayer's authorized agent, or persons with a
2 material interest in the return, return information, or report
3 may examine them. Unless otherwise provided by law, persons
4 with a material interest in the return, return information, or
5 report shall include:

6 (1) Trustees;
7 (2) Partners;
8 (3) Persons named in a board resolution or a one per cent
9 shareholder in case of a corporate return;
10 (4) The person authorized to act for a corporation in
11 dissolution;
12 (5) The shareholder of an S corporation;
13 (6) The personal representative, trustee, heir, or
14 beneficiary of an estate or trust in case of the
15 estate's or decedent's return;
16 (7) The committee, trustee, or guardian of any person in
17 paragraphs (1) to (6) who is incompetent;
18 (8) The trustee in bankruptcy or receiver, and the
19 attorney-in-fact of any person in paragraphs (1) to
20 (7);
21 (9) Persons duly authorized by the State in connection
22 with their official duties;

2005-2824 SB1685 CD1 SMA-1.doc

SB No. 1685, SD2, HD1, CD1

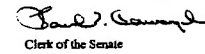
THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1685, SD2, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.



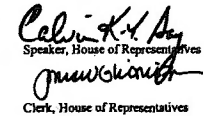
Robert Berman
President of the Senate



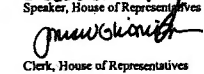
Paul J. Campbell
Clerk of the Senate

THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAIIDate: July 12, 2005
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. 1685, SD2, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 8, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.



Calvin K. Aoy
Speaker, House of Representatives



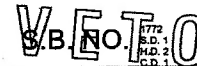
Paul J. Campbell
Clerk, House of Representatives

S.B. No. 1772, SD 1, HD 2, CD 1:

Page 5

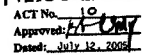
S.B. NO. 1772
S.D. 1
H.D. 2
C.D. 1

1 (10) Any duly accredited tax official of the United States
2 ~~of any state or territory, or of any county~~
3 ~~of this State;~~
4 (11) The Multistate Tax Commission or its authorized
5 representative; and
6 (12) Members of a limited liability company.
7 Any violation of this subsection shall be a misdemeanor.
8 Nothing in this subsection shall prohibit the publication of
9 statistics so classified as to prevent the identification of
10 particular reports or returns and the items of the reports or
11 returns."
12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.
14 SECTION 7. This Act shall take effect upon its approval.

THE SENATE
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII


VETO
S.B. NO. 1772
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT VETO OVERRIDE

ACT No. 10
Approved: 
Dated: July 12, 2005

RELATING TO EMPLOYERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that many employees at
2 large companies are paid low wages and qualify for government
3 programs for the poor and near poor. If large employers do not
4 fully cover the cost of health care coverage for their
5 employees, taxpayers are often forced to pay the cost. The
6 children of these low-paid workers qualify for government
7 benefits under medicaid and the state children's health
8 insurance program because most of these employees are low-wage
9 workers.
10 For example, in Georgia, more than ten thousand children of
11 Wal-Mart employees were enrolled in Georgia's public health
12 insurance program for children, PeachCare, according to a 2002
13 state government study. The number of Wal-Mart employees'
14 children enrolled in the program far exceeded the number of
15 children of any other employer. Wal-Mart's failure to cover
16 these children cost federal and state taxpayers an estimated
17 \$6,600,000. In Washington, Wal-Mart had four hundred

2005-2965 SB1772 CD1 SMA.doc

Page 2

S.B. NO. 1772
S.D. 1
H.D. 2
C.D. 1

1 fifty-three children, the highest in Washington, enrolled in
 2 medicaid in 2002.

3 The purpose of this Act is to enable the State to determine
 4 which employers are shifting the responsibility for providing
 5 health care coverage for their workers to taxpayers.

6 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
 7 amended by adding a new section to be appropriately designated
 8 and to read as follows:

9 "~~§346-~~ Medical assistance application information:
 10 annual report; public disclosure. (a) Each applicant for
 11 medical assistance under any program administered by the
 12 department shall identify the employer of the proposed
 13 beneficiary of medical assistance. If the proposed beneficiary
 14 is unemployed, the applicant for medical assistance shall
 15 identify the employer of any adult who is responsible for
 16 providing all or some of the proposed beneficiary's support.
 17 For the purposes of this section, "proposed beneficiary"
 18 means any person who files an application for health care
 19 benefits or hospital care for the person, or any other
 20 individual on whose behalf an application is filed, including
 21 children or other dependents of the applicant.

2005-2965 SB1772 CD1 SMA.doc

Page 4

S.B. NO. 1772
S.D. 1
H.D. 2
C.D. 1

1 The report shall not include the name of any individual
 2 medical assistance program beneficiary and shall be subject to
 3 applicable privacy standards established under federal Medicaid
 4 regulations and the administrative simplification provisions of
 5 the Health Insurance Portability and Accountability Act of 1996,
 6 P.L. 104-191.

7 (c) The department shall make the annual report available
 8 to the public through any means the director deems appropriate."

9 SECTION 3. New statutory material is underscored.
 10 SECTION 4. This Act shall take effect upon its approval.

2005-2965 SB1772 CD1 SMA.doc

Page 3

S.B. NO. 1772
S.D. 1
H.D. 2
C.D. 1

1 (b) Before October 1 of each year, the department shall
 2 submit to the legislature a written annual report identifying
 3 all employers identified pursuant to subsection (a) who employ
 4 twenty-five or more beneficiaries of medical assistance programs
 5 administered by the department. In determining whether the
 6 twenty-five-employee threshold is met, the department shall
 7 include all beneficiaries employed by the employer and its
 8 subsidiaries at all locations within the state. In the event
 9 the department requires assistance to ascertain information,
 10 such as an employer's subsidiaries or location, the department
 11 shall consult with the department of commerce and consumer
 12 affairs. The report shall include:

13 (1) Each employer's name and names of subsidiaries, if
 14 appropriate, that employ beneficiaries of department
 15 medical assistance programs;

16 (2) The location of the employer;

17 (3) For each department medical assistance program, the
 18 total number of the employer's employees and
 19 dependents who are enrolled in the program; and

20 (4) The total cost to the State per year of providing
 21 medical assistance benefits for the employees and
 22 enrolled dependents of each identified employer.

2005-2965 SB1772 CD1 SMA.doc

SB No. 1772, SD1, HD2, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1772, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Robert J. Gunn
President of the Senate

David L. Campbell
Clerk of the Senate

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1772, SD1, HD2, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Colvin K. Iy
Speaker, House of Representatives

Maukshinta
Clerk, House of Representatives

S.B. No. 1808, SD 1, HD 1, CD 1

THE SENATE
 TWENTY-THIRD LEGISLATURE, 2005
 STATE OF HAWAII

V E T O

NO. 1808
 S.D. 1
 H.D. 1
 C.D. 1

A BILL FOR AN ACT VETO OVERRIDE

ACT No. 11
 Approved: [Signature]
 Dated: July 12, 2005

RELATING TO WORKERS' COMPENSATION LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 386-1, Hawaii Revised Statutes, is
 2 amended by adding eleven new definitions to be appropriately
 3 inserted and to read as follows:

4 "Able to resume work" means an industrially injured
 5 worker's injury has stabilized after a period of recovery and
 6 the worker is capable of performing work in an occupation for
 7 which the worker has received previous training or for which the
 8 worker has demonstrated aptitude.

9 "Attending physician" means a physician who is primarily
 10 responsible for the treatment of a work injury. There shall not
 11 be more than one attending physician. If an injured employee is
 12 treated by more than one physician, the employee shall designate
 13 a physician as the attending physician.

14 "Day" or "days" means working days, unless otherwise
 15 provided.

16 "Disciplinary action" means personnel action by an employer
 17 in the form of punishment against an employee for infraction of

2005-2848 SB1808 CD1 SMA.doc

Page 3

S.B. NO. 1808
S.D. 1
H.D. 1
C.D. 1

1 nearly as possible to that level which the employee was earning
 2 at the time of injury and to return the employee to the active
 3 labor force as quickly as possible in a cost-effective manner,
 4 giving due consideration to the employee's qualifications,
 5 interests, incentives, future earnings capacity, and the present
 6 and future labor market.

7 "Usual and customary employment" means the line or type of
 8 work in the gainful employment market consistent with a
 9 claimant's background, training, and experience.

10 "Vocational rehabilitation plan" means an approved plan
 11 prepared by a certified rehabilitation provider with an employee
 12 that is designed to assist the employee in obtaining and
 13 maintaining suitable gainful employment.

14 "Vocational rehabilitation services" means services
 15 provided in a rehabilitation program to assist an employee in
 16 obtaining and maintaining suitable gainful employment that may
 17 include but shall not be limited to on-the-job training, job
 18 modification, vocational evaluation, adjustment to disability,
 19 counseling, guidance, vocational and personal adjustment,
 20 referrals, transportation, training, supplies, equipment,
 21 appliances, aid, occupational licenses, and other goods and

2005-2848 SB1808 CD1 SMA.doc

Page 2

S.B. NO. 1808
S.D. 1
H.D. 1
C.D. 1

1 employer or contract rules, in the form of a reprimand,
 2 suspension, or discharge.

3 "Emergency medical services" means the delivery of health
 4 care services under emergency conditions occurring as the result
 5 of a patient's condition due to a work injury that manifests
 6 itself by symptoms of sufficient severity, including severe
 7 pain, such that a prudent layperson, who possesses an average
 8 knowledge of health and medicine, could reasonably expect the
 9 absence of immediate medical attention to be life-threatening or
 10 cause serious harm or aggravation of physiological or
 11 psychological sickness, injury, or incapacitation.

12 "Good cause" means a substantial reason amounting in law to
 13 be a legal excuse for failing to perform an act required by law
 14 considered under the circumstances of the individual case.

15 "Guide" or "guidelines" means an indication of a suggested
 16 criteria, course, or means to a particular end, and not an
 17 authoritative or exclusive prescription which limits the
 18 exercise of independent judgment, expertise, or care.

19 "Suitable gainful employment" means employment or
 20 self-employment within the geographical area where the employee
 21 resides, which is reasonably attainable and which offers an
 opportunity to restore the employee's earnings capacity as

2005-2848 SB1808 CD1 SMA.doc

Page 4

S.B. NO. 1808
S.D. 1
H.D. 1
C.D. 1

1 services needed to assist an employee in obtaining and
 2 maintaining suitable gainful employment."

3 SECTION 2. Section 371-7, Hawaii Revised Statutes, is
 4 amended to read as follows:

5 "§371-7 Duties and powers of the department; rules and
 6 [regulations], procedure for varying. In addition to [such] any
 7 other duties and powers as may be conferred upon the department
 8 of labor and industrial relations by law, the department shall:

9 (1) File with the governor a written report or reports at
 10 [such] times, at least once in each year, and in
 11 [such] a form as shall be requested by the governor
 12 covering the condition and activities of the
 13 department;

14 (2) Make, modify, and repeal reasonable rules [and
 15 regulations] of general application for the protection
 16 of life, health, and safety of employees in every
 17 employment or piece of employment; provided that the
 18 rules [and regulations] shall not conflict with any
 19 rules [or regulations] of the department of health
 20 covering the same subject matter; provided further
 21 that rules pertaining to any workers' compensation

2005-2848 SB1808 CD1 SMA.doc

Page 5

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 case arising under chapter 386 shall be adopted or
 2 amended as specified in section 386-72, and
 3 (3) Make, modify, and repeal such other reasonable rules
 4 ~~[end-regulations]~~ of general application as may be
 5 necessary to carry into effect this chapter.
 6 The rules ~~[end-regulations]~~ of the department and any
 7 amendments thereto, when adopted in accordance with chapter 91,
 8 shall have the force and effect of law and shall be enforced in
 9 the same manner as this chapter.
 10 If there are practical difficulties or unnecessary
 11 hardships in carrying out a rule, the director of labor and
 12 industrial relations ~~[may]~~, after public hearing, may make a
 13 variation from ~~[such]~~ the requirement if the spirit of the rule
 14 is observed. Any person affected by the rule, or the person's
 15 agent, may petition for variation, stating the grounds therefor.
 16 The director shall fix a day for a hearing on the petition and
 17 give reasonable notice thereof to the petitioner. A properly
 18 indexed record of all variations made shall be kept in the
 19 office of the department and shall be open to public inspection.
 20 Any interested person may obtain a ruling as to the
 21 validity or applicability of any rule in the manner provided in
 22 chapter 91."

2005-2848 SB1808 CD1 SMA.doc

Page 7

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 authorized agents under this section. The director shall not be
 2 bound by technical rules of evidence in the conduct of ~~[such]~~
 3 these hearings."
 4 SECTION 4. Section 386-25, Hawaii Revised Statutes, is
 5 amended to read as follows:
 6 "§386-25 Vocational rehabilitation. (a) The purposes of
 7 vocational rehabilitation are to restore an injured worker's
 8 ~~[earning]~~ earnings capacity as nearly as possible to that level
 9 ~~[which]~~ that the worker was earning at the time of injury and to
 10 return the injured worker to suitable ~~[work]~~ gainful employment
 11 in the active labor force as quickly as possible in a cost-
 12 effective manner.
 13 (b) The director may refer employees who may have or have
 14 suffered permanent disability as a result of work injuries and
 15 who, in the director's opinion, can be vocationally
 16 rehabilitated to the department of human services or to private
 17 providers of rehabilitation services for vocational
 18 rehabilitation services that are feasible. A referral shall be
 19 made upon recommendation of the rehabilitation unit established
 20 under section 386-71.5 and after the employee has been deemed
 21 physically able to participate in rehabilitation by the
 22 employee's attending physician. The unit shall include

2005-2848 SB1808 CD1 SMA.doc

Page 6

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 SECTION 3. Section 371-8, Hawaii Revised Statutes, is
 2 amended to read as follows:
 3 "§371-8 Duties and powers of director; enforcement of
 4 rules. In addition to ~~[such]~~ any other duties and powers as may
 5 be conferred upon the director by law, the director of labor and
 6 industrial relations shall:
 7 (1) Supervise and direct the operations and functions of
 8 the department of labor and industrial relations;
 9 (2) Cause the enforcement of rules ~~[end-regulations]~~; and
 10 (3) Propose ~~[such]~~ rules ~~[end-regulations]~~ or changes in
 11 rules ~~[end-regulations]~~, as the director deems
 12 advisable for the protection of life, health, and
 13 safety of employees, in every employment or place of
 14 employment~~[-]~~; provided that rules pertaining to
 15 workers' compensation cases arising under chapter 386
 16 shall be adopted or amended as specified in section
 17 386-72. The director may appoint committees composed
 18 of employers, employees, and experts to suggest rules
 19 ~~[end-regulations]~~ or changes therein.
 20 The director may make, amend, and repeal rules necessary
 21 for the internal administration of the department and for the
 22 proper conduct of hearings before the director or the director's

2005-2848 SB1808 CD1 SMA.doc

Page 8

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 appropriate professional staff and shall have the following
 2 duties and responsibilities:
 3 (1) To review and approve rehabilitation plans developed
 4 by certified providers of rehabilitation services,
 5 whether they be private or public;
 6 (2) To adopt rules consistent with this section ~~[which]~~
 7 that shall expedite and facilitate the identification,
 8 notification, and referral of industrially injured
 9 employees to rehabilitation services, and establish
 10 minimum standards for providers providing
 11 rehabilitation services under this section;
 12 (3) To certify private and public providers of
 13 rehabilitation services meeting the minimum standards
 14 established under paragraph (2); and
 15 (4) To enforce the implementation of rehabilitation plans.
 16 (c) Enrollment in a rehabilitation plan or program shall
 17 not be mandatory and the approval of a proposed rehabilitation
 18 plan or program by the injured employee shall be required. The
 19 injured employee may select a certified provider of
 20 rehabilitation services. Both the certified provider and the
 21 injured employee, within a reasonable time after initiating

2005-2848 SB1808 CD1 SMA.doc

1 rehabilitation services, shall give proper notice of selection
 2 to the employer.
 3 (d) A provider shall submit an initial evaluation report
 4 of the employee to the employer and the director within
 5 forty-five days of the date of referral or selection. The
 6 evaluation shall determine whether the employee requires
 7 vocational rehabilitation services to return to suitable gainful
 8 employment, identify the necessary services, and state whether
 9 the provider can provide these services. The initial evaluation
 10 report shall contain:
 11 (1) An assessment of the employee's:
 12 (A) Current medical status;
 13 (B) Primary disability;
 14 (C) Secondary disability;
 15 (D) Disabilities that are not related to the work
 16 injury and
 17 (E) Physical or psychological limitations or both.
 18 If this information is not provided by the treating
 19 physician within a reasonable amount of time,
 20 information from another physician shall be accepted;
 21 (2) A job analysis addressing the demands of the
 22 employee's employment;

1 (5) The enrollment form and the statement of worker's
 2 rights and responsibilities form obtained from the
 3 department.
 4 (e) A provider shall file the employee's plan with the
 5 approval of the employee. Upon receipt of the plan from the
 6 provider, an employee shall have ten days to review and sign the
 7 plan. The plan shall be submitted to the employer and the
 8 employee and be filed with the director within two days from the
 9 date of the employee's signature. A plan shall include a
 10 statement of the feasibility of the vocational goal, using the
 11 process of:
 12 (1) First determining if the employee's usual and
 13 customary employment represents suitable gainful
 14 employment, and, should it not;
 15 (2) Next determining if modified work or other work with a
 16 different employer represents suitable gainful
 17 employment, and, should it not;
 18 (3) Next determining if modified or other employment with
 19 a different employer represents suitable gainful
 20 employment, and finally, should it not;
 21 (4) Then providing training to obtain employment in
 22 another occupational field.

1 (2) A statement from the provider identifying the
 2 employee's vocational handicaps in relation to the
 3 employee's ability to:
 4 (A) Return to usual and customary employment; and
 5 (B) Participate in and benefit from a vocational
 6 rehabilitation program;
 7 (4) A statement from the provider determining the
 8 feasibility of vocational rehabilitation services,
 9 including:
 10 (A) The provider's ability to assist the employee in
 11 the employee's efforts to return to suitable
 12 gainful employment;
 13 (B) An outline of specific vocational rehabilitation
 14 services to be provided, justification for the
 15 necessity of services, and how the effectiveness
 16 of these services is measured; and
 17 (C) How the vocational rehabilitation services
 18 directly relate to the employee obtaining
 19 suitable gainful employment;
 20 and

1 (c) A plan may be approved by the director, provided the
 2 plan includes:
 3 (1) A physician's assessment of the employee's physical
 4 limitations, psychological limitations, and ability to
 5 return to work. If this information is not provided
 6 by the treating physician within a reasonable amount
 7 of time, information from another physician shall be
 8 accepted;
 9 (2) A labor market survey indicating there are reasonable
 10 assurances that the proposed occupation for which the
 11 employee is to be placed or trained is readily
 12 available in the community when placement begins, or
 13 there are assurances of reemployment by the employer;
 14 (3) A job analysis of the proposed occupation, setting
 15 forth its duties, responsibilities, physical demands,
 16 environmental working conditions, specific
 17 qualifications needed for entry-level employment,
 18 reasonable accommodations, expected estimated
 19 earnings, and other relevant information;
 20 (4) The nature and extent of the vocational rehabilitation
 21 services to be provided, including:
 22 (A) Specific services to be provided;

- 1 (B) Justification for the necessity of the services;
- 2 (C) Estimated time frames for delivery of services;
- 3 (D) The manner in which the effectiveness of these
- 4 services is to be measured;
- 5 (E) Criteria for determining successful completion of
- 6 the vocational rehabilitation plan; and
- 7 (F) The employee's responsibilities;
- 8 (5) A report of tests and copies thereof that have been
- 9 administered to the employee, including a statement
- 10 regarding the need for and use of the tests to
- 11 identify a vocational goal;
- 12 (6) If retraining, including on-the-job training, is found
- 13 to be necessary, the estimated cost of retraining, a
- 14 description of specific skills to be learned or
- 15 knowledge acquired with specific time periods and
- 16 clearly defined measurements of success, and the
- 17 nature, amount, and duration of living expenses;
- 18 (7) The total cost of the plan; and
- 19 (8) The employee's approval of the plan.
- 20 (9) The employer shall have ten calendar days from the
- 21 postmark date on which the plan was mailed to submit in writing
- 22 to the director any objections to the plan.

2005-2848 SB1808 CD1 SMA.doc

- 1 employee earns no wages during the period of enrollment. If the
- 2 employee receives wages for work performed under the plan or
- 3 program, the employee shall be entitled to temporary total
- 4 disability compensation in an amount equal to the difference
- 5 between the employee's average weekly wages at the time of
- 6 injury and the wages received under the plan or program, subject
- 7 to the limitations on weekly benefit rates prescribed in section
- 8 386-31(a). The employee shall not be entitled to ~~(week)~~
- 9 temporary total disability compensation for any week during this
- 10 period where the wages equal or exceed the average weekly wages
- 11 at the time of injury.
- 12 ~~(+)~~ (j) The director shall adopt rules for additional
- 13 living expenses necessitated by the rehabilitation program,
- 14 together with all reasonable and necessary vocational training.
- 15 ~~(+)~~ (m) If the rehabilitation unit determines that
- 16 vocational rehabilitation is not possible or feasible, it shall
- 17 certify ~~(week)~~ the determination to the director.
- 18 (n) Except as otherwise provided, determinations of the
- 19 rehabilitation unit shall be final unless a written request for
- 20 reconsideration is filed with the rehabilitation unit within ten
- 21 calendar days of the date of the determination.

2005-2848 SB1808 CD1 SMA.doc

- 1 (h) The director may approve a plan that does not include
- 2 all of the requirements outlined in subsection (f); provided
- 3 that the director finds the plan:
- 4 (1) Is in the best interest of the employee;
- 5 (2) Contains reasonable assurances that the employee will
- 6 be placed in suitable gainful employment; and
- 7 (3) Has been approved by the employee.
- 8 (4) If the plan requires the purchase of any tools,
- 9 supplies, or equipment, the purchase deadline shall be included
- 10 in the plan. Tools, supplies, and equipment shall be considered
- 11 to be the property of the employer until the plan is determined
- 12 by the director to be successfully completed, after which it
- 13 shall become the property of the employee. If the plan requires
- 14 the purchase, etc., the employer shall purchase the items prior
- 15 to the purchase deadline in the plan.
- 16 (i) An employee with an approved plan who is determined as
- 17 able to return to usual and customary employment may choose to
- 18 complete the plan or request a new plan of which the goal may be
- 19 the employee's usual and customary employment.
- 20 ~~(+)~~ (k) An injured employee's enrollment in a
- 21 rehabilitation plan or program shall not affect the employee's
- 22 entitlement to temporary total disability compensation if the

2005-2848 SB1808 CD1 SMA.doc

- 1 The rehabilitation unit shall issue a reconsideration
- 2 determination to affirm, reverse, or modify the determination or
- 3 refer the request for reconsideration for hearing.
- 4 (c) A reconsideration determination shall be final unless
- 5 a written request for hearing is filed within ten calendar days
- 6 from the date of the reconsideration determination. All
- 7 hearings shall be held before a hearing officer designated by
- 8 the director. A written decision shall be issued in the name of
- 9 the director.
- 10 ~~(+)~~ (p) The eligibility of any injured employee to
- 11 receive other benefits under this chapter shall in no way be
- 12 effected by the employee's entrance upon a course of vocational
- 13 rehabilitation as herein provided.
- 14 ~~(+)~~ (q) Vocational rehabilitation services for the
- 15 purpose of developing a vocational rehabilitation plan may be
- 16 approved by the director and the director may periodically
- 17 review progress in each case."
- 18 SECTION 5. Section 386-26, Hawaii Revised Statutes, is
- 19 amended to read as follows:
- 20 "§386-26 Guidelines on frequency of treatment and
- 21 reasonable utilization of health care and services. The
- 22 director shall issue guidelines for the frequency of treatment

2005-2848 SB1808 CD1 SMA.doc

Page 17

S.B. NO. 1908
S.D. 1
H.D. 1
C.D. 1

1 and for reasonable utilization of medical care and services by
2 health care providers that are considered necessary and
3 appropriate under this chapter. The guidelines shall not be
4 considered as an authoritative prescription for health care, nor
5 shall they preclude any health care provider from drawing upon
6 the health care provider's medical judgment and expertise in
7 determining the most appropriate care.

8 The guidelines shall be adopted pursuant to chapter 91 and
9 shall not interfere with the injured employee's rights to
10 exercise free choice of physicians under section 386-21.

11 In addition, the director shall adopt updated medical fee
12 schedules referred to in section 386-21, and where deemed
13 appropriate, shall establish separate fee schedules for services
14 of health care providers as defined in section 386-1 to become
15 effective no later than June 30, 1986, in accordance with
16 chapter 91."

17 SECTION 6. Section 386-31, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Temporary total disability. Where a work injury
20 causes total disability not determined to be permanent in
21 character, the employer, for the duration of the disability, but
22 not including the first three calendar days thereof, shall pay

2005-2848 SB1808 CDI SMA.doc

Page 19

S.B. NO. 1908
S.D. 1
H.D. 1
C.D. 1

1 to resume work. When the employer is of the opinion that
2 temporary total disability benefits should be terminated because
3 the injured employee is able to resume work, the employer shall
4 notify the employee and the director in writing of an intent to
5 terminate [seeh] the benefits at least two weeks prior to the
6 date when the last payment is to be made. The notice shall give
7 the reason for stopping payment and shall inform the employee
8 that the employee may make a written request to the director for
9 a hearing if the employee disagrees with the employer. Upon
10 receipt of the request from the employee, the director shall
11 conduct a hearing as expeditiously as possible and render a
12 prompt decision as specified in section 386-86. If the employee
13 is unable to perform light work, if offered, temporary total
14 disability benefits shall not be discontinued based solely on
15 the inability to perform or continue to perform light work.

16 An employer or insurance carrier who fails to comply with
17 this section shall pay not more than \$2,500 into the special
18 compensation fund upon the order of the director, in addition to
19 other penalties prescribed in section 386-92.

20 (1) ~~[In any case where]~~ If the director determines, based
21 upon a review of medical records and reports and other
22 relevant documentary evidence, that an injured

2005-2848 SB1808 CDI SMA.doc

Page 18

S.B. NO. 1908
S.D. 1
H.D. 1
C.D. 1

1 the injured employee a weekly benefit at the rate of sixty-six
2 and two-thirds per cent of the employee's average weekly wages,
3 subject to the limitations on weekly benefit rates prescribed in
4 subsection (a), or if the employee's average weekly wages are
5 less than the minimum weekly benefit rate prescribed in
6 subsection (a), at the rate of one hundred per cent of the
7 employee's average weekly wages.

8 If an employee is unable to complete a regular daily work
9 shift due to a work injury, the employee shall be deemed totally
10 disabled for work for that day.

11 The employer shall pay temporary total disability benefits
12 promptly as they accrue to the person entitled thereto without
13 waiting for a decision from the director, unless [seeh] this
14 right is controverted by the employer in the employer's initial
15 report of industrial injury. The first payment of benefits
16 shall become due and shall be paid no later than on the tenth
17 day after the employer has been notified of the occurrence of
18 the total disability, and thereafter the benefits due shall be
19 paid weekly except as otherwise authorized pursuant to section
20 386-53.

21 The payment of [seeh] these benefits shall only be
22 terminated upon order of the director or if the employee is able

2005-2848 SB1808 CDI SMA.doc

Page 20

S.B. NO. 1908
S.D. 1
H.D. 1
C.D. 1

1 employee's medical condition may be stabilized and the
2 employee is unable to return to the employee's regular
3 job, the director shall issue a preliminary decision
4 regarding the claimant's entitlement and limitation to
5 benefits and rights under Hawaii's workers'
6 compensation laws. The preliminary decision shall be
7 sent to the affected employee and the employee's
8 designated representative and the employer and the
9 employer's designated representative and shall state
10 that any party disagreeing with the director's
11 preliminary findings of medical stabilization and work
12 limitations may request a hearing within twenty days
13 of the date of the decision. The director shall be
14 available to answer any questions during the
15 twenty-day period from the injured employee and
16 affected employer. If neither party requests a
17 hearing challenging the director's finding the
18 determination shall be deemed accepted and binding
19 upon the parties. In any case where a hearing is held
20 on the preliminary findings, any person aggrieved by
21 the director's decision and order may appeal under
22 section 386-87.

2005-2848 SB1808 CDI SMA.doc

Page 21

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 A preliminary decision of the director shall
2 inform the injured employee and the employer of the
3 following responsibilities, benefits, and limitations
4 on vocational rehabilitation benefits ~~(which)~~ that are
5 designed to facilitate the injured employee's early
6 return to suitable gainful employment:
7 (A) That the injured employee may invoke the
8 employee's rights under section 378-2, 378-32, or
9 386-142, or all of them, in the event of unlawful
10 discrimination or other unlawful employment
11 practice by the employer~~(-)~~and
12 (B) That after termination of temporary total
13 disability benefits, an injured employee who
14 resumes work may be entitled to permanent partial
15 disability benefits, which if awarded, shall be
16 paid regardless of the earnings or employment
17 status of the disabled employee at the time.
18 (2) ~~(In any case in which)~~ If the rehabilitation unit
19 determines that an injured employee is not a feasible
20 candidate for rehabilitation and that the employee is
21 unable to resume the employee's regular job, it shall
22 promptly certify the same to the director. Soon

2005-2848 SB1808 CD1 SMA.doc

Page 23

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 "~~§386-86~~ Proceedings upon claim~~(-)~~; hearings. (a) If a
2 claim for compensation is made, the director shall make such
3 further investigation as deemed necessary and render a decision
4 within sixty days after the conclusion of the hearing awarding
5 or denying compensation, stating the findings of fact and
6 conclusions of law. The director may extend the due date for
7 decisions for good cause provided all parties agree. The
8 decision shall be filed with the record of the proceedings and a
9 copy of the decision shall be sent immediately to each party.
10 (b) The hearing shall be informal and shall afford the
11 parties a full and fair opportunity to present the facts and
12 evidence to be considered. Hearings under this section shall
13 not be subject to chapter 91. No stenographic or tape recording
14 shall be allowed.
15 (c) The order of presentation shall not alter the burden
16 of proof, including the burden of producing evidence and the
17 burden of persuasion. The party or parties who bear these
18 burdens shall be determined by law consistent with the purpose
19 of this section.
20 (d) Should the injured employee or injured employee's
21 representative, or the employer or employer's representative
22 fail to appear at the hearing, the director may issue a decision

2005-2848 SB1808 CD1 SMA.doc

Page 22

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 thereafter, the director shall conduct a hearing to
2 determine whether the injured employee remains
3 temporarily totally disabled, or whether the employee
4 is permanently partially disabled, or permanently
5 totally disabled."

6 SECTION 7. Section 386-72, Hawaii Revised Statutes, is
7 amended to read as follows:
8 "~~§386-72~~ Rulemaking powers. In conformity with and
9 subject to chapter 91, the director of labor and industrial
10 relations shall make rules, not inconsistent with this chapter,
11 which the director deems necessary for or conducive to its
12 proper application and enforcement~~(-)~~ provided that the rules
13 were adopted prior to January 1, 2005. No rules adopted or
14 amended on or after January 1, 2005, pertaining to any workers'
15 compensation standard or procedure arising under this chapter
16 shall have the force and effect of law; provided, however, that
17 annual updates in the medical fee schedules specific to the
18 amount paid to medical providers as provided in section 386-
19 21(c) may be made consistent with this chapter."

20 SECTION 8. Section 386-86, Hawaii Revised Statutes, is
21 amended to read as follows:

2005-2848 SB1808 CD1 SMA.doc

Page 24

S.B. NO. 1808
S.D.1
H.D.1
C.D.1

1 based on the information on file. The decision shall be final
2 unless appealed pursuant to section 386-87. In all other
3 circumstances, a decision shall not be rendered by the director
4 without a hearing, which may not be waived by the parties.
5 (e) For the purpose of obtaining any matter, not
6 privileged, which is relevant to the subject matter involved in
7 the pending action, the director, upon application and for good
8 cause shown, may order the taking of relevant testimony by
9 deposition, upon oral examination, or written interrogatories,
10 or by other means of discovery in the manner and effect
11 prescribed by the Hawaii rules of civil procedure; provided that
12 when the claimant's deposition is taken, the employer shall pay
13 for the cost to the claimant of attending the deposition, any
14 costs associated with having the deposition transcribed and
15 copied, and any and all reasonable attorney's fees and costs
16 incurred by the claimant with respect to the deposition.
17 (f) Subpoenas requiring the attendance of witnesses at a
18 hearing before a hearing officer or for the taking of a
19 deposition or the production of documentary evidence from any
20 place within the State at any designated place of hearing may be
21 issued by the director or a duly authorized representative. The
22 employer shall serve a claimant with a copy of a medical record

2005-2848 SB1808 CD1 SMA.doc

1 subpoena unless the employer has previously obtained the
 2 claimant's authorization to examine the claimant's medical
 3 records. Should the claimant subpoena medical records, the
 4 employer shall be served a copy. The party subpoenaing the
 5 records shall provide these records within fifteen calendar days
 6 of their receipt to the employer, claimant, and the special
 7 compensation fund if a joinder has been filed, or their
 8 representatives. These records shall be submitted by the party
 9 requesting the subpoena to the director within seven calendar
 10 days of the date of the notice of hearing or upon request by the
 11 director. A party who desires to enforce the director's
 12 subpoena shall seek enforcement from a court of competent
 13 jurisdiction."

14 SECTION 9. Section 386-94, Hawaii Revised Statutes, is
 15 amended to read as follows:
 16 "§386-94 Attorneys, physicians, other health care
 17 providers, and other fees. Claims for services shall not be
 18 valid unless approved by the director or, if an appeal is had,
 19 by the appellate board or court deciding the appeal. Any claim
 20 so approved shall be a lien upon the compensation in the manner
 21 and to the extent fixed by the director, the appellate board, or
 22 the court.

2005-2848 SB1808 CD1 SMA.doc

1 to the department and to the employer of the injured
 2 employee in the manner prescribed by the department;
 3 (2) Interim reports to the same parties and in the same
 4 manner as prescribed in paragraph (1) shall be made at
 5 appropriate intervals to verify the claimant's
 6 ~~(continuing treatment, periods of temporary~~
 7 ~~disability, the extent of permanent disability, and~~
 8 ~~other information determined necessary by the~~
 9 ~~director)~~ current diagnosis and prognosis, that the
 10 information as to the nature of the examinations and
 11 treatments performed is complete, including the dates
 12 of those treatments and the results obtained within
 13 the current reporting period, the execution of all
 14 tests performed within the current reporting period
 15 and the results of the tests, whether the injured
 16 employee is improving, worsening, or if "medical
 17 stabilization" has been reached, the dates of
 18 disability, any work restrictions, and the return to
 19 work date. When an injured employee is returned to
 20 full-time, regular, light, part-time, or restricted
 21 work, the attending physician shall submit a report to

2005-2848 SB1808 CD1 SMA.doc

1 In approving fee requests, the director, appeals board, or
 2 court may consider factors such as the attorney's skill and
 3 experience in state workers' compensation matters, the amount of
 4 time and effort required by the complexity of the case, the
 5 novelty and difficulty of issues involved, the amount of fees
 6 awarded in similar cases, benefits obtained for the claimant,
 7 and the hourly rate customarily awarded attorneys possessing
 8 similar skills and experience. In all cases, reasonable
 9 attorney's fees shall be awarded.

10 Any person who receives any fee, other consideration, or
 11 gratuity on account of services so rendered, without approval,
 12 in conformity with the preceding paragraph, shall be fined by
 13 the director not more than \$10,000."

14 SECTION 10. Section 386-96, Hawaii Revised Statutes, is
 15 amended by amending subsection (a) to read as follows:

16 "(a) Any physician, surgeon, or hospital that has given
 17 any treatment or rendered any service to an injured employee
 18 shall make a report of the injury and treatment on forms
 19 prescribed by and to be obtained from the department as follows:
 20 (1) Within seven days after the date of first attendance
 21 or service rendered, an initial report shall be made

2005-2848 SB1808 CD1 SMA.doc

1 the employer within seven calendar days indicating the
 2 date of release to work or medical stabilization; and
 3 (3) A final report to the same parties and in the same
 4 manner as prescribed in paragraph (1) shall be made
 5 within seven days after termination of treatment.
 6 No physician, surgeon, or hospital that has given any treatment
 7 or rendered any service to an injured employee shall be required
 8 to provide any additional reports not otherwise mandated by this
 9 section."

10 SECTION 11. Section 386-98, Hawaii Revised Statutes, is
 11 amended by amending subsection (e) to read as follows:

12 "(e) In lieu of the criminal penalties set forth in
 13 subsection (d), any person who violates subsections (a) and (b)
 14 may be subject to the administrative penalties of restitution of
 15 benefits or payments fraudulently received under this chapter,
 16 whether received from an employer, insurer, or the special
 17 compensation fund, to be made to the source from which the
 18 compensation was received, and one or more of the following:
 19 (1) A fine of not more than \$10,000 for each violation;
 20 (2) Suspension or termination of benefits in whole or in
 21 part;

2005-2848 SB1808 CD1 SMA.doc

Page 29

S.B. NO. 1808
S.D. 1
H.D. 1
C.D. 1

1 (3) Suspension or disqualification from providing medical
2 care or services, vocational rehabilitation services,
3 and all other services rendered for payment under this
4 chapter;
5 (4) Suspension or termination of payments for medical,
6 vocational rehabilitation and all other services
7 rendered under this chapter;
8 (5) Recoupment by the insurer of all payments made for
9 medical care, medical services, vocational
10 rehabilitation services, and all other services
11 rendered for payment under this chapter: ~~and~~ and
12 (6) Reimbursement of attorney's fees and costs of the
13 party or parties defrauded."
14 SECTION 12. Section 386-121, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:
16 "(a) Employers, except the State, any county or political
17 subdivision of the State, or other public entity within the
18 State, shall secure compensation to their employees in one of
19 the following ways:
20 (1) By insuring and keeping insured the payment of
21 compensation with any stock, mutual, reciprocal, or

2005-2848 SB1808 CD1 SMA.doc

Page 31

S.B. NO. 1808
S.D. 1
H.D. 1
C.D. 1

1 current audited annual financial statement, an
2 indemnity agreement approved as to form and content by
3 the director shall be executed by the parent
4 corporation of the subsidiary and submitted with its
5 application;
6 (6) Each self-insurance authorization shall be effective
7 from the date of issuance until June 30 of each
8 calendar year;
9 (7) A notice of intention to cancel self-insurance shall
10 be submitted in writing to the director within at
11 least thirty days prior to the effective date of
12 cancellation;
13 (8) A self-insurance authorization may be revoked by the
14 director for good cause shown upon notification in
15 writing to the self-insurer;
16 ~~(44)~~ (9) By membership in a workers' compensation self-
17 insurance group with a valid certificate of approval
18 under section 386-194; or
19 ~~(45)~~ (10) By membership in a workers' compensation group
20 insured by a captive insurer under chapter 431,
21 article 19.

2005-2848 SB1808 CD1 SMA.doc

Page 30

S.B. NO. 1808
S.D. 1
H.D. 1
C.D. 1

1 other insurer authorized to transact the business of
2 workers' compensation insurance in the State;
3 (2) By depositing and maintaining with the state director
4 of finance security satisfactory to the director of
5 labor and industrial relations securing the payment by
6 the employer of compensation according to the terms of
7 this chapter;
8 (3) Upon furnishing satisfactory proof to the director of
9 the employer's solvency and financial ability to pay
10 the compensation and benefits herein provided, no
11 insurance or security shall be required, and the
12 employer shall make payments directly to the
13 employer's employees, as they may become entitled to
14 receive the same under the terms and conditions of
15 this chapter;
16 (4) An employer desiring to maintain security for payments
17 of compensation under this section shall file an
18 application with the director on a form provided for
19 this purpose together with the employer's most current
20 audited annual financial statement;
21 (5) Where an applicant for self-insurance is a subsidiary
22 and the subsidiary cannot submit an independent

2005-2848 SB1808 CD1 SMA.doc

Page 32

S.B. NO. 1808
S.D. 1
H.D. 1
C.D. 1

1 Any person who wilfully misrepresents any fact in order to
2 obtain the benefits of paragraph (3) shall be guilty of a
3 misdemeanor."
4 SECTION 13. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.
6 SECTION 14. This Act shall take effect upon its approval;
7 provided that sections 2, 3, and 7 of this Act shall take effect
8 on January 1, 2005; provided further that section 7 shall be
9 repealed on July 1, 2007, and section 386-72, Hawaii Revised
10 Statutes, shall be reenacted in the form in which it read on
11 December 31, 2004.

2005-2848 SB1808 CD1 SMA.doc

SB No. 1808, SD1, HD1, CD1

Page 2

S.B. NO. 1877
H.D. 1
C.D. 1

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1808, SD1, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated June 28, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Robert J. Gagne
President of the Senate
David J. Campbell
Clerk of the Senate

THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1808, SD1, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated June 28, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.

Calvin K. King
Speaker, House of Representatives
James H. Hanover
Clerk, House of Representatives

1 The legislature finds that the power to direct the office
2 of planning to report to a principal department other than the
3 department of business, economic development, and tourism rests
4 solely with the legislature.

5 The purpose of this Act is to clarify that:
6 (1) The department of business, economic development, and
7 tourism maintains sole jurisdiction over land and
8 state planning functions; and
9 (2) The office of planning shall not report to any other
10 principal executive department other than the
11 department of business, economic development, and
12 tourism.

13 SECTION 2. Section 201-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§201-2 General objective, functions, and duties of
16 department. It shall be the objective of the department of
17 business, economic development, and tourism to make broad policy
18 determinations with respect to economic development in the State
19 and to stimulate through research and demonstration projects
20 those industrial and economic development efforts ~~(which)~~ that
21 offer the most immediate promise of expanding the economy of the
22 State. The department shall endeavor to gain an understanding

2005-2864 SB1877 CD1 SMA-2.doc

S.B. No. 1877, HD 1, CD 1:

Page 3

S.B. NO. 1877
H.D. 1
C.D. 1

THE SENATE
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

V E T O
1877
H.D. 1
C.D. 1

A BILL FOR AN ACT VETO OVERRIDE

ACT No. 12
Approved: *[Signature]*
Date: July 12, 2005

RELATING TO THE OFFICE OF PLANNING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the Hawaii
2 constitution gives the legislature express authority to allocate
3 executive and administrative offices within no more than twenty
4 principal executive departments. The legislature has enacted
5 laws over the years to group executive and administrative
6 offices according to common purposes and related functions.
7 The Hawaii Revised Statutes specifically establishes the
8 office of planning within the department of business, economic
9 development, and tourism and provides that the office of
10 planning shall assist the department of business, economic
11 development, and tourism in maintaining an overall framework to
12 guide the development of the State. Among its other duties, the
13 office of planning prepares the guidelines for the State
14 functional plans and provides recommendations to the governor
15 and state and county agencies on conflicts between the
16 functional plans, the Hawaii State Planning Act, state programs,
17 and county plans.

2005-2864 SB1877 CD1 SMA-2.doc

1 of these functions and activities of other governmental agencies
2 and of private agencies ~~(which)~~ that relate to the field of
3 economic development. It shall, at all times, encourage
4 initiative and creative thinking in harmony with the objectives
5 of the department.

6 ~~The department of business, economic development, and~~
7 ~~tourism shall have sole jurisdiction over the land use~~
8 ~~commission under chapter 205, state planning under chapter 225M,~~
9 ~~and the Hawaii State Planning Act under chapter 226. Due to the~~
10 ~~inherently interdependent functions of development, planning,~~
11 ~~and land use, these functions shall not be transferred by~~
12 ~~executive order, directive, or memorandum, to any other~~
13 ~~department, nor shall these functions be subject to review or~~
14 ~~approval by any other department."~~

15 SECTION 3. Section 225M-2, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) There is established within the department of
18 business, economic development, and tourism an office of
19 planning. The head of the office shall be known as the director
20 of the office of planning. ~~(hereinafter)~~ referred to in this
21 chapter as director. The director shall have: training in the
22 field of urban or regional planning, public administration, or

2005-2864 SB1877 CD1 SMA-2.doc

Page 4

S.B. NO. 1877
H.D. 1
C.D. 1

1 other related fields; experience in programs or services related
 2 to governmental planning; and experience in a supervisory,
 3 consultative, or administrative capacity. The director shall be
 4 nominated by the governor and, by and with the advice and
 5 consent of the senate, appointed by the governor without regard
 6 to chapter 76, and shall be compensated at a salary level set by
 7 the governor. The director shall be included in any benefit
 8 program generally applicable to the officers and employees of
 9 the State. The director shall retain such staff as may be
 10 necessary for the purposes of this chapter, in conformity with
 11 chapter 76. The director shall report to the director of
 12 business, economic development, and tourism and shall not be
 13 required to report directly to any other principal executive
 14 department."

15 SECTION 4. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

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

SB No. 1877, HD1, CD1

THE SENATE OF THE STATE OF HAWAII

Date: July 12, 2005
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. 1877, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.



President of the Senate



Clerk of the Senate

THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAIIDate: July 12, 2005
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. 1877, HD1, CD1, heretofore vetoed as contained in a Governor's Message dated July 11, 2005, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Special Session of 2005, is entitled.



Speaker, House of Representatives



Clerk, House of Representatives

GOVERNOR'S MESSAGES RECEIVED AFTER ADJOURNMENT OF
THE 2005 SPECIAL SESSION SINE DIE

Gov. Msg. No. 441, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 98 HD2 SD1

On July 12, 2005, House Bill No. 98, entitled "Relating to Kahului Harbor" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill prohibits the use of nets to take fish in Kahului Harbor, effective December 31, 2006. Throw nets, opae nets, crab nets, and nehu nets not longer than fifty feet to take fish for family consumption or bait would still be permitted.

The Department of Land and Natural Resources and the Department of Transportation have addressed this issue through administrative rules. In January 2002 the Board of Land and Natural Resources adopted administrative rules to better manage akule net fishing activities. This was followed by the Department of Transportation, which instituted new security measures in Kahului as part of homeland security procedures. These new measures, instituted in June 2004, have eliminated commercial net fishing in the harbor. Thus, for all practical purposes, this bill is unnecessary.

This measure is the result of a conflict between two user groups, which is more appropriately resolved through the administrative rulemaking process. Rulemaking allows public input from all interested parties, affords the greatest number of stakeholders an opportunity for input, and is preferable to outright statutory bans.

Therefore, I allowed House Bill No. 98 HD2 SD1 to become law as Act 218 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 442, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 125 HD2 SD1 CD1

On July 12, 2005, House Bill No. 125, entitled "Relating to Ocean Resources" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill allows canoe clubs with the Hawaiian Canoe Racing Association (HCRA) to keep their canoes on State shoreline areas, provided HCRA indemnifies and holds harmless the State from claims, coordinates the placement of the canoes with the respective State or county, and applies for an annual revocable permit, if one is required.

There is a problem with the use of the term "state shoreline area." Hawaii Revised Statutes defines the term "shoreline" as

"the upper reaches of the wash of the waves...usually evidenced by the edge of vegetation growth or the upper limit of debris left by the wash of the waves." Hawaii case law has used this definition to demarcate the boundaries between public and private land.

The bill's use of the wording "state shoreline areas" adds an ambiguity because areas in which the canoes could be stored would have to be above the wash of the waves in order to prevent them from moving as a result of tidal currents. However, a significant portion of oceanfront property is privately owned and probably was not intended to be included in the phrase "state shoreline area."

It appears the intent of the bill is to allow canoes to be stored on state or county land that is immediately mauka of the shoreline. Unfortunately, the bill did not use a precise enough definition to make this intent clear.

A second problem with the bill is that it refers twice to county agencies in a manner that implies canoes could be located on county land. However, the bill only requires the canoe clubs to indemnify the State.

Therefore, I allowed House Bill No. 125 HD2 SD1 CD1 to become law as Act 220 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 443, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 325 SD2 CD1

On July 12, 2005, House Bill No. 325, entitled "Relating to Employment Practices" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill authorizes employees to use temporary disability insurance benefits in excess of the statutory three week minimum for family leave purposes.

While granting employees the ability to use excess temporary disability insurance leave for family leave purposes is laudable, a concern arises that codifying such use may have unintended consequences. For example, employers who now offer benefits greater than the statutory minimum and who, by this bill, would be mandated to permit employees to use some accrued and available temporary disability insurance leave for family leave purposes, might seek to control costs by resubmitting temporary disability insurance plans that only provide for the statutory minimum, thereby reducing the benefits that are currently afforded to their employees.

Further, this bill amends the exclusions to the definition of sick leave by deleting "any benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974" (ERISA), and clarifying that sick

leave does not include unemployment compensation due to illness.

The exclusion of benefits provided pursuant to an ERISA plan raises concerns about ERISA preemption because ERISA preempts state law that regulates, except in certain specific situations, employee welfare benefit plans, such as sick leave. However, ERISA does not supersede any other law of the United States or rule or regulation issued pursuant to any such federal law.

The federal Family Medical Leave Act of 1993 (FMLA) recognized and encouraged states to adopt state family leave laws that provided greater rights than the FMLA. 29 U.S.C. 2651(b) (2005).

Based upon the interplay between ERISA and the FMLA and a review of recent federal court ERISA opinions, ERISA is a complex area of the law and how a court may actually rule on this issue is not certain. Thus, this bill could open the State to additional legal challenges.

Finally, it should be pointed out because this measure amends HRS 398-1, it only applies to employers with 100 or more employees. It also will not immediately impact unionized employees because their benefits are set in collective bargaining agreements. Finally, it does not apply to State employees because the State is covered under the State's Temporary Disability Benefits Plan.

Therefore, I allowed House Bill No. 325 SD2 CD1 to become law as Act 243, effective July 12, 2005, without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 444, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 422 HD2 SD2 CD1

On July 12, 2005, House Bill No. 422, entitled "Relating to Cruise Ships" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill regulates discharges of sewage, wastewater, and air emissions and the off-loading of solid and hazardous wastes from cruise ships.

The State of Hawaii presently regulates cruise ship discharges through a Memorandum of Understanding (MOU), which is more comprehensive than this legislation, protects a wider area, does not conflict with federal law, and allows for greater flexibility to adjust to changing environmental and industry conditions.

First, the MOU coverage extends 4 nautical miles beyond the 100-fathom (600 foot) ocean depth contour. This bill is limited to regulating discharges only up to 3 statute miles offshore.

Second, the bill sets standards for what is referred to as "blackwater," but federal standards are already in place for this

type of effluent. Thus, it is likely this provision of the bill is pre-empted by federal law.

Third, the bill does not regulate the primary source of water pollution from passenger vessels, which is treated wastewater. The MOU is more comprehensive in its coverage and, thus, it is not clear this bill provides any greater protections for Hawaii's environment than what the MOU and current pollution laws already cover.

Fourth, the bill requires the Department of Health to set fines by rules. However, HRS 342D-30 already establishes penalty provisions for pollution violations.

Finally, this bill places air pollution provisions in a water pollution statutory chapter.

Therefore, I allowed House Bill No. 422 HD2 SD2 CD1 to become law as Act 217 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 445, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 895 HD2 SD2 CD1

On July 12, 2005, House Bill No. 895, entitled "Relating to Coastal Light Pollution" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to protect avian and marine life by prohibiting artificial lights positioned toward or directly illuminating the ocean waters. Safety and security lighting, as well as lighting provided by government agencies, is permitted under specific circumstances.

This bill addresses a number of the vague wording problems raised in my veto of a similar bill last year. Certainly, its intent to protect Hawaii's wildlife is laudable.

The scientific evidence on the adverse impacts of light on birds, marine mammals, and fish is still mixed, but on balance there seems to be evidence that night lighting can confuse migratory birds and sea turtles.

The bill still presents management and enforcement challenges, particularly because it continues to require subjective judgments as to whether specific lighting does or does not conform to the law's illumination standard. Further, this bill will require counties to police lighting in special management areas. And this bill will impinge upon private landowners and their ability to light areas of their property if they reside along a shoreline.

Therefore, I allowed House Bill No. 895 HD2 SD2 CD1 to become law as Act 224 effective July 12, 2005 without my signature.

Sincerely,

/s/

LINDA LINGLE"

/s/

LINDA LINGLE"

Gov. Msg. No. 446, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1051 HD2 SD2 CD1

On July 12, 2005, House Bill No. 1051, entitled "Relating to Prescription Drugs" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to provide that any physician who treats a Medicaid recipient patient suffering from the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), or hepatitis C, or a patient in need of transplant immunosuppressives, may prescribe any medication that is approved by the United States Food and Drug Administration and that is eligible for Omnibus Budget Reconciliation Act (OBRA) rebates, which is necessary to treat the condition, without the requirement of any preauthorization procedure.

The objectives of the bill are laudable. It is vitally important to get the correct medicines to HIV/AIDS, hepatitis, and transplant patients as promptly as possible. However, the bill poses several serious concerns.

First, unrestricted access for Medicaid-eligible patients will have a fiscal impact on the State. Preauthorization lists and formularies are seen as a method to foster the effective and efficient use of pharmaceutical resources. The Department of Human Services estimates this legislation will increase the State's annual drug expenditures and adversely impact other drug-related programs.

While unrestricted access has cost implications, prior authorizations, even when they are carefully and scientifically developed, also pose problems. The ability to get the appropriate drug to the patient on a timely basis in the right amount cannot always be predetermined from a list of medications. The health industry is moving toward quality access to medications which incorporate best practices for prescribing at the national level.

This Administration will continue to work with the health industry to develop quality access standards for both Medicaid-eligible patients and those under managed care programs such as QUEST.

Second, it should be noted that this bill does not address drug access for HIV/AIDS, hepatitis, and transplant patients covered by QUEST, thus creating two differing access arrangements for persons who are eligible for State-sponsored medical plans.

For the reasons set forth above, the bill is less than perfect. Nevertheless, the goal of the bill to ensure that HIV/AIDS, hepatitis, and transplant patients receive appropriate medication is one to which I am committed.

Therefore, I allowed House Bill No. 1051 HD2 SD2 CD1 to become law as Act 241 effective July 12, 2005, without my signature.

Sincerely,

Gov. Msg. No. 447, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1146 HD1 SD2

On July 12, 2005, House Bill No. 1146, entitled "Relating to Civil Service" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill reinstates the social worker classification for all positions that are social worker positions in the State. Those currently employed in a social worker series who do not have a degree in social work will have until July 1, 2010 to obtain such a degree.

This bill is troubling in two respects. First, it will make it difficult to recruit, fill, and retain qualified personnel for social services type positions. These are positions that directly affect the most needy and vulnerable in our society, such as abused children, disabled adults, and mentally handicapped persons. Creating a higher level of difficulty in filling these jobs will hurt the very citizens that social workers are trained to help.

Second, this bill legislatively curtails the ability of the Director of the Department of Human Resources Development to establish, maintain, and adjust the State's personnel classification system. The Director is vested with the responsibility for managing the State's personnel system in a manner that ensures the highest level of talent is hired and retained in positions. The large number of vacancies in the social worker job series is a serious and growing problem. The State must now curtail efforts to fill these critical positions when there has been no clear and convincing evidence that changing the job classification has caused harm.

Therefore, I allowed House Bill No. 1146 HD1 SD2 to become law as Act 238 effective July 12, 2005 without my signature.

Sincerely,

/s/

LINDA LINGLE"

Gov. Msg. No. 448, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1235 HD1 SD1 CD1

On July 12, 2005, House Bill No. 1235, entitled "Relating to Travel Allowances" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill allows the Legislature to increase their travel allowance for in-state and out-of-state travel. The current rate is \$80 per day intrastate and \$130 per day for out-of-state business.

The bill allows the Legislature to set the rate without a specific upper limit. While it is important to ensure legislators are accurately reimbursed for their travel costs, it is also important to curtail government expenses, particularly when the State's taxpayers have been denied tax relief this legislative session.

Further, this bill allows State travel reimbursements to be linked to federal per diem rates, but does so without setting forth a clear and compelling reason and policy rationale for correlating State legislators with federal employees.

Therefore, I allowed House Bill No. 1235 HD1 SD1 CD1 to become law as Act 222 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 449, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1304 HD1 SD2 CD1

On July 12, 2005, House Bill No. 1304, entitled "Relating to Health" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This measure sets up a task force to consider possible legislation addressing the issue of health care for Hawaii's residents. This is an area that has been examined at length by numerous task forces and organizations.

We are concerned that this legislation mandates the use of one particular organization that reflects a point of view on the health insurance issue, but does not necessarily reflect the full spectrum of thinking on this matter.

Further, we are concerned that the Department of Health and the Department of Human Services are not mentioned in the bill or given roles on the task force. In particular, it should be pointed out that the Department of Human Services has over the past year enrolled thousands of eligible children in the State's health care program by making the enrollment process easier.

Additionally, expending another \$200,000 on studies will not necessarily result in any additional residents receiving quality health care coverage.

While we remain concerned about the composition of the task force and the repetitive nature of its work, we remain hopeful that it will generate useful, practical suggestions for the Executive Branch and Legislature to consider next year.

Therefore, I allowed House Bill No. 1304 HD1 SD2 CD1 to become law as Act 223 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 450, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1309 HD2 SD2 CD1

On July 12, 2005, House Bill No. 1309, entitled "Relating to Taxation" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of House Bill No. 1309 is to authorize the counties to establish a surcharge of up to 0.5 percent on the State general excise and use taxes by the adoption of an ordinance no later than December 31, 2005. Under this measure, the funds from the county surcharge must be used:

- (1) By any county with a population greater than 500,000 for operating or capital costs of a locally preferred alternative for a mass transit project and for complying with the Americans With Disabilities Act of 1990 ("ADA"); or
- (2) By any county with a population less than 500,000 for operating or capital costs of public transportation systems, including public roadways, highways, public buses, trains, ferries, pedestrian paths, sidewalks, or bicycle paths, and expenses in complying with the ADA.

This bill currently requires the Department of Taxation, State of Hawaii ("DOTAX") to administer any surcharge taxes that are enacted by the counties. This bill also directs the State Director of the Department of Budget and Finance to retain ten (10) percent of the total surcharge tax revenues that are collected by DOTAX and deposit these revenues into the State's general fund.

The major problem with this bill is that it does not clearly and definitively authorize the counties additional taxing authority to meet public needs. I am pleased that the President of the Senate and the Speaker of the House have pledged to introduce amendments to House Bill No. 1309 in the 2006 session to clarify that a county that enacts a surcharge tax should be empowered and required to administer and collect that tax, utilizing what portions it needs to pay for the administrative costs associated with its collection and disbursement.

The bill as written mandates that the State Department of Taxation administer and collect the counties' enacted surcharge taxes but fails to appropriate the start-up funds for the Department to institute the changes that would be necessary to implement, test, and administer the collection and rebate system. The Department of Taxation testified on more than one occasion before the Legislature on the adverse administrative and fiscal impact this bill would have on its primary duty to administer the State's complex tax structure.

Furthermore, this bill as currently written would require the Department of Taxation to give expedited processing of the county surcharge tax over and above its responsibility to collect and administer State tax revenues. Specifically, the bill would require the county surcharge tax to be processed within ten days when there is no similar time limit for the State's portion of the general excise tax.

In addition, this bill does not address whether the counties would receive a portion of collected penalties or interest or

receive any portion of a tax settlement in which a fraction of the total tax liability is collected. In short, this bill does not consider or put into place practical mechanisms to deal with the very real problems created by the bifurcated tax collection and disbursement system it established. These issues should be corrected when the amendments to establish each county as the collection authority are enacted.

House Bill No. 1309, as passed by the Legislature, also contains a number of technical flaws that should be addressed in the next legislative session.

For example, a loophole exists in this measure in that any written contract signed by June 30, 2006 that does not provide for the passing of the county surcharge tax may not be subject to the 0.5 percent county surcharge tax for an indefinite period of time. Therefore, leases, rental agreements, supply contracts, service contracts, and other such documents that are executed prior to June 30, 2006, and that do not provide for the passing of the county surcharge, may likely not be subject to the 0.5 percent county surcharge tax.

House Bill No. 1309, as drafted, fails to apply the surcharges to the same types of goods and services as the underlying State general excise tax. Specifically, the current State general excise tax is assessed, levied, and collected on "the value of tangible personal property, services, and contracting." House Bill No. 1309 applies the 0.5% surcharge only to the value of "property and services," thereby leaving as ambiguous its applicability to tangible personal property and contracting services.

Finally, this bill places a harsher penalty for failure to pay the 0.5% surcharge than is imposed on those who fail to pay the 4% general excise tax. Specifically, this bill would impose a 10% penalty on the entire amount of the surcharge owed by a taxpayer rather than imposing that penalty on the amount of the underpayment only.

I wish to reaffirm my commitment to the strength and vitality of county government and the ability of county officials to address and solve the issues that face them in the twenty-first century. I have consistently held the position for nearly twenty-five years that government closest to the people is the government that can best meet the needs of its citizens.

Each of the four counties is working on its own plan to deal with transportation issues, especially the ever-increasing traffic that is negatively affecting the quality of life of its residents. Each county has the ability to plan for and take the critical steps necessary to develop preferred local alternatives to address what are widely recognized as serious transportation issues on each island. Developing a sound, comprehensive solution to each island's traffic problems is a multi-year effort that should not be done in haste and can and should proceed with all due deliberation. Further, this work can be carried out at the same time as the Legislature rewrites House Bill No. 1309 to address the flaws identified in this statement of concern.

Since the proposed 0.5% surcharge embodied in this bill does not go into effect until January 1, 2007, there is time for the counties that want to impose such a tax to develop the mechanisms they will need to assess and collect the monies. The State, through my offices, has already pledged to provide maximum support to each county that wants to proceed.

Therefore, I allowed House Bill No. 1309 HD2 SD2 CD1 to become law as Act 247 effective July 12, 2005 without my signature.

Sincerely,

/s/

LINDA LINGLE"

Gov. Msg. No. 451, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1378 HD1 SD2 CD1

On July 12, 2005, House Bill No. 1378, entitled "Relating to the Judiciary" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill establishes that any findings relating to a temporary restraining order (TRO) petition are not binding on a subsequent family court case and requires de novo review in the proceeding of the facts and circumstances that led to issuance of the TRO.

Over the years, the Legislature has expanded the permitted use of TROs to cover both a broader scope of offenses, e.g., physical abuse, property damage, emotional and psychological abuse, as well as a wider range of those eligible to seek TROs, e.g., married couples, family members, household members, and even dating couples. In addition, the time period for which TROs can be in effect has been expanded from an original length of ninety days to one year, and now three years and, in some cases, for the foreseeable future.

Many of the modifications to the TRO law have been necessary and serve to enhance the safety and well-being of our citizens. However, this bill seeks to curtail the impact of temporary restraining orders and protective orders. While there may be occasions where the TRO law is abused by parties in dispute, a concern arises that this bill might be perceived by some as diluting the power of TROs in certain cases and, thus, may have the unintended consequence of causing those who truly require the protections afforded by a TRO to hesitate or neglect to obtain the protection for themselves and others.

Findings related to TROs or protective orders can be very relevant to judges when they are making determinations of child custody and visitation rights. To require judges to set aside the relevance of this information could be detrimental to the child and other involved parties.

Many individuals in court represent themselves (i.e. Pro Se) because they do not have funds to hire a lawyer. It will be hard for them to understand and know what prior proceedings can or cannot be considered by a judge during divorce or child custody proceedings. Already many victims of abuse initiate and then abandon divorce proceedings due to the many complex issues involved in such a situation. This law will only further complicate what may or may not be heard and considered by a judge when divorce, separation, annulment, and child custody matters are being heard.

Therefore, I allowed House Bill No. 1378 HD1 SD2 CD1 to become law as Act 242, effective July 12, 2005, without my signature.

Sincerely,

/s/

LINDA LINGLE"

Gov. Msg. No. 452, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1476 HD1 SD1 CD1

On July 12, 2005, House Bill No. 1476, entitled "Relating to North Kohala" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill directs the Department of Land and Natural Resources to determine whether 162 acres, soon to be purchased by Kamehameha Schools, will adequately fulfill the buffer and public access requirements to protect a cluster of historical sites in North Kohala. Should this acreage not be sufficient, the Department of Land and Natural Resources is directed to renew its efforts to acquire an additional 88 acres.

The Administration recognizes the importance of open space buffers. However, the availability of suitable State lands for an exchange in North Kohala is limited. Previous land exchange efforts have been hampered by the fact that State lands in this region are ceded lands and/or have cultural and natural elements that restrict the desirability and appropriateness of exchanging them with a private landowner.

The responsibility to protect public monuments is in State statute and the Department of Land and Natural Resources has a process of formalizing an arrangement for buffer lands for sites such as Mo'okini Heiau.

Therefore, I allowed House Bill No. 1476 HD1 SD1 CD1 to become law as Act 219 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 453, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1528, H.D.2, S.D.2, C.D.1

On July 12, 2005, House Bill No. 1528, entitled "Relating to Public Employees" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill grants significant pay increases to seven positions in legislative service agencies. Most of these positions have not received a pay adjustment since 1990 and thus an increase is certainly warranted.

However the salary adjustments granted under this bill are disproportionately higher than those granted Executive Branch positions of equal or larger scope. Many of these positions will receive a \$22,000 raise while counterparts in the Executive Branch will receive less than \$2,000, and in some cases will have their pay reduced.

Finally, it is troubling that the Legislative Branch will be setting the salary of the Ethics Commission Executive Director, when this responsibility should be left to the Commissioners to whom he reports.

Therefore, I allowed House Bill No. 1528, H.D.2, S.D.2, C.D.1 to become law as Act 225, effective July 12, 2005, without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 454, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1556 HD1 SD1 CD1

On July 12, 2005, House Bill No. 1556, entitled "Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill authorizes \$25 million in special purpose revenue bonds to PLK Services to plan, design, and construct a coffee and macadamia nut processing plant.

This bill raises questions about the intended public purpose these special purpose revenue bonds will address. Special purpose revenue bonds are supposed to be issued for projects in the public interest and for public health, safety, and the general welfare of the State. Over time, the Hawaii courts have ruled that what constitutes a public purpose is generally a question for the Legislature to decide, and the legislation has taken wide discretion in interpreting "public purpose."

This bill also raises the question regarding the impact this project will have on ongoing private agricultural operations in the Kona area. A number of prominent businesses expressed concern that there is already an excess of processing capacity for both macadamia nuts and coffee beans. They are rightly concerned that another processing plant will encourage wholesale importation of foreign beans and nuts, destroying their marketplace.

Therefore, I allowed House Bill No. 1556 HD1 SD1 CD1 to become law as Act 237 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 455, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1608 HD1 SD2 CD1

On July 12, 2005, House Bill No. 1608, entitled "Relating to Voluntary Employees' Beneficiary Association Trusts" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to allow for the temporary establishment of a voluntary employees' beneficiary association (VEBA) trust. The VEBA trust would provide health benefits for State and county employees of a particular bargaining unit, as well as future retirees of that bargaining unit and existing retirees who wish to participate in the trust. The stated purpose of this VEBA trust pilot program is to allow a thorough analysis and evaluation of the costs and benefits of a VEBA trust compared with the Hawaii employer-union health benefit trust fund (EUTF) to determine what actual cost savings could be realized by the State through VEBA trusts.

I have a number of concerns about this bill. First, I am concerned about the effectiveness of the bill's safeguards against fraud or mismanagement by VEBA trustees. These VEBA trusts will likely not be covered by the federal Employee Retirement Income and [sic] Security Act of 1974 (ERISA), which provides strict standards and enforcement for private employee benefit plans. Although this bill attempts to create similar provisions in State law, there are some critical gaps. Unlike ERISA, the bill does not provide for a single State agency to be responsible for administering and regulating the VEBA trusts, provides no State agency with authority to make rules that may be necessary for such administration and regulation, and provides no funding for such administration and regulation.

Second, although creating what is described as a three-year pilot program, the bill does not provide for any study of the costs and benefits of a VEBA trust compared with the EUTF. No entity is designated to conduct the study. No funds are budgeted for the study.

Third, VEBA trusts could result in increased overall costs, and will certainly result in increased costs for employee groups consisting of older, less healthy members. The EUTF was formed, in part, to: (1) eliminate the negative effect on health benefit plan rates due to adverse selection caused by employee organization sponsored health plans, (2) eliminate the duplication of administrative costs caused by having multiple health plans for State and county employees, and (3) establish one large health plan that would have the leverage to negotiate better rates and benefits with insurance carriers and others offering health benefits plans.

Under the provisions of this bill, the VEBA trusts can increase adverse selection in two ways. Bargaining units that have employees with better than average claims or loss experience can form VEBA trusts and exit the EUTF. This would increase the overall claims and loss experience of the remaining EUTF membership and tend to result in increased rates for those remaining in the EUTF. In addition, the bill provides for the VEBA trusts to cover all future retirees. This will result in the VEBA trusts having younger retirees while the EUTF would be left with older retirees. This would also tend to result in the EUTF having higher rates for retiree plans.

Fourth, the bill does not address certain adverse effects to the EUTF caused by the establishment of VEBA trusts. The EUTF's administrative budget is paid out of the public employers' monthly contributions for each employee's and retiree's health plans. The bill requires such contributions with respect to VEBA trust members to be transferred to the applicable VEBA trust. With respect to the Hawaii State Teachers Association VEBA trust, it is estimated that this will result in a shortfall of over \$500,000 in the EUTF's

administrative budget. No appropriation was made to address this shortfall or any other shortfalls caused by the formation of VEBA trusts by other employee organizations.

Finally, there are questions as to whether membership in a VEBA trust can be mandatory for retirees and whether employee organizations can be empowered to negotiate on behalf of such retirees. There are also certain unresolved legal issues regarding VEBA and EUTF eligibility and public employer contributions. For example, where both spouses are public employees or retirees and only one belongs to a bargaining unit that sponsors a VEBA trust, it is not clear whether both spouses can have separate memberships in the EUTF and VEBA trust, and whether public employer contributions to them can exceed the cost of one EUTF family health plan. Another issue regarding retirees who opt to transfer to a VEBA trust is whether the public employers must pay the VEBA trust the same contribution as it pays the EUTF even if the VEBA trust's retiree health plans cost less than the EUTF's retiree health plans.

Despite these concerns, I allowed the bill to become law without my signature. There are many public employees who feel that the VEBA trust has significant benefits, and who wish to have the VEBA option available to them. Further, because this bill will sunset in three years, there will be an opportunity to assess its results. However, I urge the Legislature to address the concerns I have outlined above during the 2006 session, so as to provide greater protections for employees, a meaningful assessment of the results of this pilot program, and to resolve the other legal concerns about this bill.

Therefore, I allowed House Bill No. 1608 HD1 SD2 CD1 to become law as Act 245 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 456, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1614 HD1 SD2 CD1

On July 12, 2005, House Bill No. 1614, entitled "Relating to Civil Service Personnel" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This measure specifies that civil service personnel within the Department of Education will have the same rights and benefits relating to transfer, reduction-in-force, promotion, and seniority as if they were in the same jurisdiction as the balance of the Executive Branch civil servants.

This bill undermines the spirit of autonomy Act 51, the Reinventing Education Act, was enacted to establish. Wherein Act 51 was designed to make the Department of Education more independent from other executive departments, this bill would tie the Department of Education's civil service system to the Department of Human Resources Development as if they were in the same jurisdiction. This is different from the Judiciary and Hawaii Health Systems Corporation who each maintain their own personnel systems as autonomous government entities.

However, we understand the uncertainty and concern an estimated 6,000 civil servants may have over the Department of Education's ability to effectively manage their personnel matters.

Therefore, I allowed House Bill No. 1614 HD1 SD2 CD1 to become law as Act 221 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 457, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: House Bill No. 1641 HD1 SD2 CD1

On July 12, 2005, House Bill No. 1641, entitled "Relating to Non-Agricultural Park Lands" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill establishes the Non-Agricultural Park Lands Special Fund to pay for the mapping, title searches, transfer, and management of these parcels. Lease rents and fees from the parcels are supposed to be deposited into the fund to cover the costs. However, there will be no monies initially in the fund to start the work and it is estimated it will take upwards of ten years for sufficient funds to accumulate for the fund to be "self-sufficient." According to Section 37-52.3, HRS, special funds must provide an appropriate means of financing for the stated program and must demonstrate the ability to be financially self-sustaining. This fund fails to meet this definition.

Therefore, I allowed House Bill No. 1641 HD1 SD2 CD1 to become law as Act 234 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 458, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 212 S.D.2, H.D.2, C.D.1

On July 12, 2005, Senate Bill No. 212, entitled "Relating to Environment" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The bill authorizes the Department of Health to solicit requests for proposals to improve recycling. This provision is duplicative since this authority already exists in statute. The bill further requires the Department to divert up to \$3 million in beverage container deposits to rebate private companies who purchase reverse vending machines. Efforts to collect these

funds from recyclers who are not in compliance will be difficult at best, and could undermine the integrity of the program. This is especially true since this provision has a sunset date of June 30, 2006 and provides no authority to recover rebate funds if non-compliance occurs after that date.

Finally this bill requires the department to develop and implement a redemption and recycling infrastructure program but provides no guidance on what this "infrastructure" program should look like and what issues it should address.

Therefore, I allowed Senate Bill No. 212, S.D.2, H.D.2, C.D.1 to become law as Act 228 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 459, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 294 SD3 HD1 CD1

On July 12, 2005, Senate Bill No. 294, entitled "Relating to Employment" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill raises the hourly minimum wage to \$6.75 effective January 1, 2006, and to \$7.25 effective January 1, 2007.

A key goal of my Administration has been and continues to be ensuring the recovery, growth, and vitality of Hawaii's economy in order to guarantee our citizens the ability to earn a livable wage. Our minimum wage law is one component in providing a balance between the needs of employees and those who employ them.

I am disappointed, however, that, as enrolled, this bill is void of any relief to the business community at a time when Hawaii's unemployment rate is the lowest in the nation. Hawaii's seasonally adjusted unemployment rate of 2.7 percent in May, the latest figure available, marks the third consecutive month that Hawaii has posted the nation's lowest unemployment rate. The national seasonally adjusted unemployment rate for the same period was 5.1 percent. Since December 2002, Hawaii has experienced a 25.9 percent reduction in the number of those unemployed.

This has led to an ever-increasing amount of money in the State's Unemployment Compensation Fund. Since 2001, when the Fund had an ending balance of \$298.2 million, it has grown by more than \$120.4 million to a current balance of over \$418.6 million. This year, my Administration proposed providing Hawaii's employers with an estimated \$200 million in tax relief in the form of a three-year period in which their contributions to the Unemployment Compensation Fund would be reduced from the nation's highest level (contributions made by employers on an employee's first \$32,300 in wages, an amount which will increase automatically next year) to the federally-mandated minimum of \$7,000 per year. It is regrettable that language to provide this much-needed relief to Hawaii's businesses was deleted from this bill.

In addition, my Administration proposed an increase in Hawaii's "tip wage credit" from the current \$0.25. The national average of this credit is \$3.00. Again, it is disappointing that language increasing the tip credit was struck from this measure.

Therefore, I allowed Senate Bill No. 294 SD3 HD1 CD1 to become law as Act 240, effective July 12, 2005, without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 460, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 556 SD2 HD2 CD1

On July 12, 2005, Senate Bill No. 556, entitled "Relating to Family Court" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill requires parents in a custody dispute to submit either a mutually agreed upon parenting plan or separate individual plans to the Family Court.

If the parties cannot agree on a parenting plan, this bill allows the court to order the involved parties to participate in alternate dispute resolution and/or develop and file a detailed parenting plan on a unilateral basis.

This bill is objectionable because it will be difficult for Pro Se parties (those representing themselves without a lawyer) to understand and fulfill the parenting plan requirements of this bill. Those that do have attorneys will incur additional costs to have their attorney prepare such a plan. Further, it is not clear that such plans will produce any real benefits, particularly when dealing with highly contentious and emotional issues in an adversarial setting.

Because the bill mandates that the court make written findings for every order issued in a disputed custody decision, the Judiciary pointed out that such a requirement would be problematic if applied to pre-decree temporary custody rulings because full evidentiary hearings are not usually held at this point in the proceedings. Furthermore, this provision creates additional expenses to litigants and an additional burden to Pro-Se litigants and unnecessary court delays.

Requiring the parenting plan at the "outset of the action" does not make sense and is not well defined. It is unclear whether this term refers to the time the Complaint for Divorce is filed, the motion to modify custody is filed, or at some other point in the court proceedings.

Finally, it should be pointed out that section 1(d) is unnecessary and duplicative because the courts can already order Alternative Dispute Resolution (ADR) and counseling.

Therefore, I allowed Senate Bill No. 556 SD2 HD2 CD1 to become law as Act 244 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 461, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 680 S.D.1, H.D.1

On July 12, 2005, Senate Bill No. 680, entitled "Relating to Solid Waste Control" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This measure requires the Department of Health to develop procedures for the exchange of universal product codes between beverage manufacturers, distributors, retailers and redemption centers. This data can and should be exchanged freely between private sector participants in the beverage container redemption program. Thus it is both inappropriate and unfortunate that the State is being burdened with this duty. This requirement is indicative of the poor thought given to the original program and the failure to recognize that container recycling would work better if left to the private entities involved.

Further, this bill mandates that the private operators of redemption centers must bill the State no less than twice a month. Some recyclers prefer to bill monthly and will find the new requirements burdensome and another discouragement to participate in the recycling initiative. Again, this provision is an example of the legislative micromanagement that has plagued this program.

Therefore, I allowed Senate Bill No. 680, S.D.1, H.D.1 to become law as Act 227 effective July 12, 2005 without my signature.

Sincerely,
/s/
LINDA LINGLE"

Gov. Msg. No. 462, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 807 S.D.1, H.D.1, C.D.1

On July 12, 2005, Senate Bill No. 807, entitled "Relating to Salaries" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill adjusts the salaries of thirteen positions. Although the personnel in these positions have not enjoyed an increase in their compensation for a number of years, several of the increases are relatively small and do not reflect the level of responsibility for these jobs or the impact inflation has had on their buying power.

Further, this bill decreases the actual take-home pay of two individuals, the Chief Election's Officer, and the Vice Director for Civil Defense.

Finally, this bill fails to provide a salary increase for three positions in the original proposal: the Executive Director of the Housing and Community Development Corporation of Hawaii, the Deputy Director for this Corporation, and the Executive Director of the Office of Community Services. This will make it increasingly difficult to recruit and attract the best qualified candidates for these offices.

Therefore, I allowed Senate Bill No. 807, S.D.1, H.D.1, C.D.1 to become law as Act 226 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 463, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 962 SD2 HD2 CD1

On July 12, 2005, Senate Bill No. 962, entitled "Relating to Prevailing Wages" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill is one of several legislative efforts to restrict the effectiveness of the State's Director of Labor and Industrial Relations. Specially, this measure limits the Director's ability to determine prevailing wages for public works projects by restricting him to using only one methodology.

Because existing labor contracts establish prevailing wages for the vast majority of laborer and mechanics classifications in the State, the practical effect of this bill will be to codify the methodology the Director has been using.

Therefore, I allowed Senate Bill No. 962 SD2 HD2 CD1 to become law as Act 229 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 464, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1267 SD2 HD2 CD1

On July 12, 2005, Senate Bill No. 1267, entitled "Relating to Shark Monitoring" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill appropriates \$25,000 to the Department of Land and Natural Resources to hire a contractor to tag and monitor sharks along the Oahu leeward coast. The money is to be spent in concert with the Hawaii Institute of Marine Biology and is

supposed to cover sharks that roam between Pearl Harbor and Kaena Point.

Tagging only tells us where a shark has been captured and re-captured, but does not tell us the movements of the animal, which tend to be far ranging. Further, tagging will not increase the State's ability to predict shark attacks and might give some a false sense of security.

Further, as marine biologists point out, the presence of sharks is one of the signs of a healthy marine ecosystem. Finally, it should be noted that the \$25,000 is too small an amount to do a satisfactory job. The Department of Land and Natural Resources estimates a minimum of \$125,000 is needed for the equipment and personnel to tag, monitor, collect, and interpret the tagging data.

Therefore, I allowed Senate Bill No. 1267 SD2 HD2 CD1 to become law as Act 233 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 465, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill Number 1420 SD2 HD3 CD1

On July 12, 2005, Senate Bill No. 1420, entitled "Relating to Psychotropic Medication," became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to prohibit the Department of Human Services (DHS) from imposing any restrictions or limitation on the coverage for, or a recipient's access to, psychotropic medication if it is prescribed by a licensed psychiatrist or by a licensed physician in consultation with a psychiatrist duly licensed in the State. The bill also provides that a physician may prescribe psychotropic medication to an individual who is Medicaid-eligible without the requirement of any preauthorization procedure, but only if the recipient is in need of emergency psychiatric or psychological service for a period up to seven days.

The objectives of the bill are laudable. It is vitally important to get the correct medicines to mentally-ill patients as promptly as possible. However, the bill poses several serious concerns.

First, unrestricted access for Medicaid-eligible patients will have a fiscal impact on the State. Preauthorization lists and formularies are seen as a method to foster the effective and efficient use of pharmaceutical resources. The Department of Human Services estimates this legislation could increase the State's annual drug expenditures by \$14 million.

While unrestricted access has cost implications, prior authorizations, even when they are carefully and scientifically developed, also pose problems. The ability to get the appropriate drug to the patient on a timely basis in the right amount cannot always be predetermined from a list of medications. The health industry is moving toward quality

access to medications which incorporate best practices for prescribing at the national level.

This Administration will continue to work with the health industry to develop quality access standards for both Medicaid-eligible patients and those under managed care programs such as QUEST.

It should be noted that this bill does not address the current psychotropic drug access for those patients covered by QUEST, thus creating two differing access arrangements for persons who are eligible for State-sponsored medical plans.

Finally, the language in the bill is vague as to when psychotropic drugs may be prescribed in non-emergency situations. While the first statutory section established by this bill prohibits the DHS from imposing restrictions or limitations on its coverage for, or a recipient's access to, psychotropic medications, the second section exempts physicians from having to follow a preauthorization process, but only for emergency situations. This would seem to infer, but does not expressly state, that a preauthorization process is otherwise appropriate for nonemergency situations.

For the reasons set forth above, the bill is less than perfect. Nevertheless, the goal of the bill to ensure that mental health patients receive appropriate medication is one to which I am deeply committed.

Therefore, I allowed SB1420 SD2 HD3 CD1 to become law as Act 239 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 466, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1427 SD1 HD2 CD1

On July 12, 2005, Senate Bill No. 1427 entitled "Relating to Procurement of High Energy Efficient Vehicles" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill mandates that the procurement policy for all State agencies purchasing or leasing motor vehicle fleets shall be to obtain alternative fuel vehicles, providing that beginning January 1, 2006, all State agencies are directed to procure increasing percentages of alternative fuel vehicles as part of their annual vehicle acquisition plans. The intent of this bill is laudable, however, the bill is problematic for a number of reasons.

The bill defines alternative fuel vehicles as either electric vehicles, fuel cell vehicles, or hybrid vehicles. Electric vehicles are small and not feasible for many State needs. Hybrid vehicles are available on a limited basis in three models. Hydrogen vehicles are currently not available and unlikely to be commercially available for years.

The definition in the bill also contradicts federal requirements covering State fleets, as mandated by the Energy Policy Act of 1992. Under federal law, an alternative fuel

vehicle is defined as any dedicated, flexible-fuel, or dual-fuel vehicle designed to operate on at least one alternative fuel. This definition of alternative fuels includes methanol, denatured ethanol, and other alcohols; mixtures containing 85% or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; non-alcohol fuels derived from biological material; biodiesel; and electricity (generated from solar energy or off-board the vehicle). Because of this difference in definitions, departments with fleets will have to operate under two separate procurement requirements.

Under these differing definitions, there will be no alternative fuel vehicle that can be purchased to meet both State and federal requirements. Hydrogen fuel cell vehicles would be the only type of vehicle that would fall under both requirements. However, these vehicles are not commercially available from major auto manufacturers. The Energy Policy Act requires that 75% of light duty vehicles purchased for fleets be alternative fuel vehicles. The State currently complies with this requirement and may be able to temporarily comply with SB 1427, which mandates another 20% of vehicles purchased must be electric, hydrogen, or hybrid.

However, under this bill, by January 1, 2009 at least 40% of vehicles purchased must meet these State requirements. At this point the State will not be able to meet the requirements of both laws. Violations of the federal law will incur civil and criminal fines upon the State. Either the State definition of alternative fuel vehicle must be amended or the percentage requirements must be amended.

The Legislature also argues that this bill will save the State money. This is not the case. Because the vehicles permitted under this measure are more expensive to both purchase and maintain, a greater cost will be incurred per vehicle purchased. Accordingly, the State will be forced to purchase fewer numbers of vehicles than needed because of the increased costs.

Therefore, I allowed Senate Bill No. 1427 SD1 HD2 CD1 to become law as Act 216, effective July 12, 2005, without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 467, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1451 SD2 HD1 CD1

On July 12, 2005, Senate Bill No. 1451, entitled "Relating to Improving Water Quality" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill appropriates \$250,000 in general funds in FY 2006 to the Center for Conservation Research and Training at the University of Hawaii. The money is to be used to develop a watershed management plan to improve the water quality of Lake Wilson. The bill also indicates the Center is to use the money to build a wetlands design demonstration project and seek federal funds support for this project.

This project is being funded outside of the normal budgetary process. It should be pointed out that the Department of Health has already started work on identifying pollutant sources and is preparing a water pollution total daily maximum load analysis for the upper watershed and lake. Thus, it is premature to begin another study without having pinpointed the pollutant loads and sources that are involved.

While we respect the work done at the University of Hawaii, there is nothing to indicate that the University of Hawaii has the best expertise to conduct this study. The Federal Clean Water Act provides funding to the states for watershed and wetlands projects. Award of Act 319 funds is done through a competitive process that meets federal requirements and encourages the highest levels of expertise available.

Therefore, I allowed Senate Bill No. 1451 SD2 HD1 CD1 to become law as Act 248 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 468, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1620 SD2 HD2 CD1

On July 12, 2005, Senate Bill No. 1620, entitled "Relating to State Funds" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill appropriates a total of \$9 million in FY 2006 and \$208,000 in FY 2007 from the Emergency Budget Reserve Fund, also called the Rainy Day Fund, for twenty-five programs.

While a number of these programs have merit, the source of the proposed funds is inappropriate. The intent and purpose of the Emergency Budget Reserve Fund is to fund true emergencies. Section 328L-3, HRS, established the Rainy Day Fund to provide a temporary supplemental source of funding during times of emergency, economic downturn, or unforeseen reduction in revenues to maintain levels of programs determined essential to the public health, safety, and welfare.

By these criteria, many of the proposed grants in this bill would fail to qualify as temporary, emergency funding for essential services. A significant number of these activities are ongoing in nature or the money is being used to purchase additional services, not maintain essential community needs. The more appropriate means of financing for these continuing programs and services would be the general fund.

Further, appropriations made outside of the State budget result in the misrepresentation of program needs and priorities. The appropriations are generally add-ons from the Legislature, providing additional money for a particular group or organization. Specific appropriations made outside of the budget tend to fragment program needs and undermine the setting of funding priorities.

Off-budget appropriations make it difficult to obtain a full assessment of a program and tend to skew the level of funding

for legislatively favored programs over those that may deliver greater results in a more efficient manner. Finally, a number of the appropriations included in this bill provide additional funds to the same programs and services already included in the Executive biennium budget.

Therefore, I allowed Senate Bill No. 1620 SD2 HD2 CD1 to become law as Act 236 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 469, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1721 SD2 HD2 CD1

On July 12, 2005, Senate Bill No. 1721, entitled "Relating to a State Cultural Public Market" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This measure attempts to circumvent the formal Request for Proposal process by prescribing the elements of a State cultural public market to be placed in the Kakaako Makai area. Fortunately, the bill was amended in conference to make it clear that this legislation will not adversely affect the current Request for Proposal out for bid, issued by the Hawaii Community Development Authority.

Further, this bill has an effective date of October 1, 2005. The Hawaii Community Development Authority has stated that they believe the master developer for the Kakaako Makai parcel will have been selected by this date. They also believe the final plans are likely to incorporate some or all of the elements suggested in this bill.

Therefore, I allowed Senate Bill No. 1721 SD2 HD2 CD1 to become law as Act 231 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 470, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1729 SD2 HD2 CD1

On July 12, 2005, Senate Bill No. 1729, entitled "Relating to Tourism" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill increases the percentage of transient accommodations tax going into the Tourism Special Fund and provides that the first \$1 million shall be used for parks and

trails improvements. While we support more funding to address past years of neglect and underfunding for parks and recreational areas, these monies do not become available until July 1, 2007, two years hence. It is unfortunate the Legislature decided to delay this critical funding at a time when our public recreational areas are experiencing a peak in visitors and higher utilization.

More troubling is the fact that this bill removes transparency and openness in the utilization of public funds by the Hawaii Tourism Authority. In particular, this bill places the Tourism Special Fund and Convention Center Enterprise Fund outside of the State Treasury. The State's Department of Accounting and General Services will no longer have purview over these accounts, even though tens of millions of dollars will be deposited in and spent from them.

Finally, this bill removes the voting power of the Department of Business Economic Development and Tourism representative on the Hawaii Tourism Authority Board. This comes at a time when that person has been internationally recognized for her expertise in the field of tourism and has been a highly effective Cabinet level coordinator for government and private-sector tourism initiatives. This effort to infringe upon the Executive Branch powers is wrong and my Administration will work to get this voting authority restored.

Therefore, I allowed Senate Bill No. 1729 SD2 HD2 CD1 to become law as Act 235 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 471, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1732 SD1 HD1 CD1

On July 12, 2005, Senate Bill No. 1732, entitled "Making an Appropriation for a Local Flood Warning System for Lake Wilson" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The bill appropriates \$19,000 in FY 2006 and \$20,000 in FY 2007 in general funds for the purchase and installation of stream gauges to operate a flood-warning system for Lake Wilson.

This bill is unnecessary given the fact that the Legislature approved funds for this project in the 2004 budget. Act 200 appropriated \$75,000 in CIP general obligation bonds and \$75,000 in federal funds for the design and construction of the stream gauges system. On December 22, 2004 I released \$75,000 to the State Civil Defense Agency for the Lake Wilson Flood Warning system. The State Civil Defense Agency is currently executing a cooperative agreement with the U. S. Geological Survey who will be installing the system. The balance of the CIP funds that are not needed will lapse on June 30, 2006.

In future years, the State intends to work with the private owner of Lake Wilson on a cost sharing arrangement for the system's maintenance. It should be pointed out that the State

has not funded the operation or maintenance of other flood warning systems.

Therefore, I allowed Senate Bill No. 1732 SD1 HD1 CD1 to become law as Act 215 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 472, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1778 SD2 HD1 CD1

On July 12, 2005, Senate Bill No. 1778, entitled "Relating to Contractors" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill requires the Department of Commerce and Consumer Affairs to issue a "cease and desist" order to an unlicensed contractor, although the Department already has the ability to issue an order for abatement. This measure fails to provide an exemption for handymen or related workers who perform repairs and light renovation work. Often these handymen assist the elderly, lower-income persons, apartment dwellers, or homeowners. This bill will, in effect, limit consumers' choices and increase the costs of construction.

Additionally, the minimum \$10,000 fine per violation appears to be excessively harsh given that these arrangements are frequently between private sector consenting individuals.

Therefore, I allowed Senate Bill No. 1778 SD2 HD1 CD1 to become law as Act 230 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 473, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1814 SD2 HD2 CD1

On July 12, 2005, Senate Bill No. 1814, entitled "Relating to Impact Fees" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill creates an impact fee working group that will assess the impacts of new housing developments on the Department of Education and examine the current method of imposing and collecting impact fees. The working group will issue a report to the 2006 Legislature.

Impact fees are a method by which State and County departments assess developers a monetary fee, or land

donation, to minimize the effects the development will have on the various public services, such as transportation, roads, public schools, and sewage/water systems. There currently is no statewide process of fairly assessing these fees. Random fees are assessed at both the State and County level, with little predictability or proof that the impact fees are put to use in the community of the development and are actually needed.

While I recognize the importance of this issue and the need to have a consistent, statewide process in place, this bill raises a number of concerns. First, the measure only addresses impact fees imposed by, or collected for, the benefit of the Department of Education. As previously mentioned, there are other State and County functions that are affected by a new development, such as roadways and sanitation systems. This measure only takes into account the effect of a development on the public school system. My Administration supports developing an impact fee assessment process that addresses the full array of potential impacts on public services.

Second, this measure creates a working group that does not allow input and membership from other State or County departments that may be directly affected by the outcomes of the working group, such as the Department of Transportation, the Housing and Community Development Corporation of Hawaii, the Department of Health, the county housing and planning/permitting departments, and the Office of the Governor.

The appropriateness of placing this working group in the Office of the Auditor must also be questioned. My Administration is not aware of any previous experience the Legislative Auditor has in dealing with developer impact fees and fair-share contributions.

Finally, the working group is tasked with reviewing two reports on impact fees and conducting research on the various needs and possible impacts development has on public education. They are also charged with conducting a case study, using Central Oahu, which will include a needs assessment. The minimum criteria for the needs assessment are outlined in the measure. However, there are vital elements missing from this needs assessment evaluation. A needs assessment should provide a clear, rationale *[sic]* nexus between the development and the impact fee assessed; a fair share proportion to be assessed on the developer, not a disproportionate assessment; predictability in the amount of the fee or land requested; a dedication of the funds/land assessed to be used directly in the community where the development is located; and an agreement that if the funds are not used within a reasonable amount of time, the monies should be refunded to the developer. None of these items are included in the needs assessment described in Senate Bill 1814.

I support the exploration of a comprehensive statewide evaluation to examine impact fees in a transparent, fair, and equitable manner. This work will be carried out by my Administration and does not require statutory authority. Regrettably, this bill is not comprehensive enough in either the membership of the working group or the tasks assigned to produce a meaningful product.

Therefore, I allowed Senate Bill No. 1814 SD2 HD2 CD1 to become law as Act 246 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 474, informing the House that on July 12, 2005, pursuant to Section 16 of Article III of the State Constitution, the following bill became law without her signature, stating:

"Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 1883 SD2 HD1 CD1

On July 12, 2005, Senate Bill No. 1883, entitled "Relating to Miloli'i Fisheries Management Area" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill seeks to have the Miloli'i Fisheries Management Area statutorily designated as a community-based subsistence fishing area, bypassing the normal rulemaking process for this type of designation. Further, because Miloli'i is already a fisheries management area, wherein certain fishing activities are regulated, this bill puts into effect two inconsistent sets of requirements over the same geographic area. This could expose the State to potential legal challenges.

Fisheries designations should be established through the proper rule-making process that calls for a justification of the proposed designation and an understanding of how such a designation may interfere with the use of the marine waters for navigation, fishing, and public recreation.

Additionally, this bill fails to provide for a management plan with a description of the specific activities that will be allowed, does not establish a methodology to evaluate the pros and cons of this designation, and fails to provide funding to enforce the designation.

Therefore, I allowed Senate Bill No. 1883 SD2 HD1 CD1 to become law as Act 232 effective July 12, 2005 without my signature.

Sincerely,

/s/
LINDA LINGLE"

Gov. Msg. No. 475, transmitting the Department of Land and Natural Resources' workflow study reviewing all areas of the operation of the Bureau of Conveyances.

OTHER COMMUNICATIONS

The following correspondence relates to the following measures:

H.B. No. 1309, HD 2, SD 2, CD 1;
H.B. No. 1548, HD 1, SD 1, CD 1 (Act 250);
H.B. No. 1556, HD 1, SD 1, CD 1;
H.B. No. 1715, HD 1, SD 1;
S.B. No. 813, SD 2, HD 2, CD 1 (Act 249).



July 1, 2005

MEMORANDUM

TO: Speaker Calvin K.Y. Sey
FROM: Patricia Mau-Shimizu
House Clerk
RE: Governor's Supplemental Proclamations dated June 28, 2005

I am in receipt of five documents, which are entitled "Supplemental Proclamation" and dated June 28, 2005, copies of which are attached for your convenience, which your office accepted and has forwarded to me.

As you know, the forty-fifth day after adjournment sine die for the 2005 regular session as calculated pursuant to the parameters set forth in Article III, Section 16 of the Hawaii State Constitution is July 12th. Therefore a Governor's proclamation, which gives the Legislature ten days' notice that she plans to return a bill with objections on the forty-fifth day, was due on June 27, 2005.

These dates were jointly determined by the House, the Senate and the Governor's Office. (see attached memo to House members dated May 6, 2005).

On June 27, 2005 your office accepted and forwarded to me for record administration, including insertion into the 2005 House Journal, thirty-three proclamations including a gubernatorial cover letter, giving notice of her plan to return the noted bills with objections.

Memorandum to Speaker Calvin K.Y. Sey
July 1, 2005
Page 2

Included in the transmittal of June 27th were:

HB 1309 HD2 SD2 CD1
A Bill for an Act Relating to Taxation

HB 1548 HD1 SD1 CD1
A Bill for an Act Relating to the Employer-Union Health Benefits Trust Fund

HB 1556 HD1 SD1 CD1
A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial enterprises

HB 1715 HD1 SD1
A Bill for an Act Relating to Civil Rights

SB 813 SD2 HD2 CD1
A Bill for an Act Relating to Employment Security

The documents dated June 28, 2005 entitled "Supplemental Proclamation" refer to the five bills listed above. The operative paragraph notes that:

" . . . LINDA LINGLE, Governor of the State of Hawaii, do hereby *issue this supplemental proclamation to amend that proclamation dated June 27, 2005*, issued pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii to give notice of my plan to return . . . with my objections thereon to the Legislature . . ." [emphasis added].

The documents dated June 28, 2005 for HB 1309; HB 1548; HB 1556 and SB 813, which were not accompanied by a gubernatorial cover letter or note of explanation, include the cited language in their operative paragraph.

However the operative paragraph for HB 1715 is different, and reads as follows:

" . . . LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this June 27, 2005, issued pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii to give notice of my plan to return House Bill No. 1715 with my objections thereon to the Legislature . . ."

Since the documents were received by your office on June 28th after the Monday deadline, I write to seek your guidance and advice as to whether I should number and designate as Governor's Messages the documents entitled, "Supplemental

Memorandum to Speaker Calvin K.Y. Sey
July 1, 2005
Page 3

Proclamation", and insert them into the 2005 House Journal along with the Proclamations received on June 27, 2005.

As you know during the course of the daily business of the House, documents from the Executive Chambers received by your office are forwarded to me as the House Clerk for recordation and disposition. However under these circumstance in view of the Constitutional requirements regarding deadlines for the issuance of proclamations and legislative notification of an intent to return a bill with objections, I need your guidance.

I await your direction.

Attachments



May 6, 2005

MEMORANDUM

TO: ALL HOUSE MEMBERS AND STAFF
FROM: PATRICIA MAU-SHIMIZU
HOUSE CLERK
RE: BILL PASSAGE * GOVERNOR'S REVIEW PERIOD

According to Article III, Section 16 of the Hawaii State Constitution:

"The Governor shall have forty-five days, after the adjournment of the Legislature sine die, to consider bills presented to the Governor less than ten days before such adjournment, or presented after adjournment, and any such bill shall become law on the forty-fifth day, unless the Governor by proclamation shall have given ten days' notice to the legislature that the Governor plans to return such bill with the Governor's objections on that day." [emphasis added].

The computation of the forty-five day period excludes Saturdays, Sundays, and holidays. In this instance, three state designated holidays – Memorial Day, Kamehameha Day, and the Fourth of July – fall within the forty-five day period.

The forty-fifth day after Thursday's adjournment sine die (May 5, 2005) is Tuesday, July 12, 2005. The ten day notification is Monday, June 27, 2005.

We have confirmed our computations and dates with the Office of the Governor and the Office of the Senate Clerk.

CC: House Majority Staff Office
House Minority Research Office
House Sergeant-at-Arms Office

S U P P L E M E N T A L P R O C L A M A T I O N

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. 1309, entitled "A Bill for an Act Relating to Taxation," passed by the Legislature, was presented to the Governor within the aforementioned period; and
WHEREAS, House Bill No. 1309 is unacceptable to the Governor of the State of Hawaii and a proclamation dated June 27, 2005, was issued regarding this bill; and
WHEREAS, that proclamation dated June 27, 2005, regarding House Bill No. 1309, contained a typographical error in one of the references to the bill;
NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this supplemental proclamation to amend that proclamation dated June 27, 2005, issued pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii to give notice of my plan to return House Bill No. 1309 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution, to conform all references therein to House Bill No. 1309.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 28th day
of June, 2005.


LINDA LINGLE
Governor of Hawaii

RECEIVED
28 JUN 28 P 4:14
GOVERNOR'S OFFICE

S U P P L E M E N T A L P R O C L A M A T I O N

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. 1556, entitled "A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises," passed by the Legislature, was presented to the Governor within the aforementioned period; and
WHEREAS, House Bill No. 1556 is unacceptable to the Governor of the State of Hawaii and a proclamation dated June 27, 2005, was issued regarding this bill; and
WHEREAS, that proclamation dated June 27, 2005, regarding House Bill No. 1556, contained a typographical error in one of the references to the bill;
NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this supplemental proclamation to amend that proclamation dated June 27, 2005, issued pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii to give notice of my plan to return House Bill No. 1556 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution, to conform all references therein to House Bill No. 1556.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 28th day
of June, 2005.


LINDA LINGLE
Governor of Hawaii

RECEIVED
28 JUN 28 P 4:14
GOVERNOR'S OFFICE

S U P P L E M E N T A L P R O C L A M A T I O N

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. 1548, entitled "A Bill for an Act Relating to the Employer-Union Health Benefits Trust Fund," passed by the Legislature, was presented to the Governor within the aforementioned period; and
WHEREAS, House Bill No. 1548 is unacceptable to the Governor of the State of Hawaii and a proclamation dated June 27, 2005, was issued regarding this bill; and
WHEREAS, that proclamation dated June 27, 2005, regarding House Bill No. 1548, contained a typographical error in one of the references to the bill;
NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this supplemental proclamation to amend that proclamation dated June 27, 2005, issued pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii to give notice of my plan to return House Bill No. 1548 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution, to conform all references therein to House Bill No. 1548.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 28th day
of June, 2005.


LINDA LINGLE
Governor of Hawaii

RECEIVED
28 JUN 28 P 4:14
GOVERNOR'S OFFICE

S U P P L E M E N T A L P R O C L A M A T I O N

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. 1715, entitled "A Bill for an Act Relating to Civil Rights," passed by the Legislature, was presented to the Governor within the aforementioned period; and
WHEREAS, House Bill No. 1715 is unacceptable to the Governor of the State of Hawaii and a proclamation dated June 27, 2005, was issued regarding this bill; and
WHEREAS, that proclamation dated June 27, 2005, regarding House Bill No. 1715, contained a typographical error in one of the references to the bill;
NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this June 27, 2005, issued pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii to give notice of my plan to return House Bill No. 1715 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution, to conform all references therein to House Bill No. 1715.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 28th day
of June, 2005.


LINDA LINGLE
Governor of Hawaii

RECEIVED
28 JUN 28 P 4:14
GOVERNOR'S OFFICE

**2005 HOUSE JOURNAL - SPECIAL SESSION
GOVERNOR'S MESSAGES AND OTHER COMMUNICATIONS**

SUPPLEMENTAL 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. 813, entitled "A Bill for an Act Relating to Employment Security," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 813 is unacceptable to the Governor of the State of Hawaii and a proclamation dated June 27, 2005 was issued regarding this bill; and

WHEREAS, that proclamation dated June 27, 2005, regarding Senate Bill No. 813, contained a typographical error in one of the references to the bill;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this supplemental proclamation to amend that proclamation dated June 27, 2005, issued pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii to give notice of my plan to return Senate Bill No. 813 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution, to conform all references therein to Senate Bill No. 813.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 28th day
of June, 2005.


LINDA LINGLE
Governor of Hawaii

RECEIVED
JUN 28 P 4 14
GOVERNOR'S OFFICE



HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

July 8, 2005

MEMORANDUM

TO: Speaker Calvin K.Y. Say
FROM: Patricia Mau-Shimizu
House Clerk
RE: Governor's Statement of Objections for Senate Bill No. 813
[A Bill for an Act Relating to Employment Security]

I am in receipt of a Statement of Objections for Senate Bill No. 813, which was delivered to your office on this date, and forwarded to me.

You will recall by memo dated July 1, 2005 I had indicated that there was an irregularity in five of the Governor's Proclamations received on June 27, 2005. Specifically, irregularities were identified in Proclamations submitted for HB No. 1309 [Mass transit]; HB No. 1548 [EUTF Board membership]; HB No. 1556 [Industrial enterprise SPRB]; HB No. 1715 [Civil rights]; and SB No. 813 [Employment security]. In addition, I noted that your office subsequently forwarded to me five documents dated June 28, 2005 entitled, "Supplemental Proclamation", which referred to the same five measures.

You responded that my inquiries concerning the irregularities in these documents were forwarded to the House attorneys for their analysis and review.

Late this afternoon, your office forwarded to me a Statement of Objections dated July 8, 2005 from the Executive Chambers for SB No. 813.

Since the notification and statement of objection requirements are set forth in the Hawaii State Constitution, the irregularities surrounding the five bills are of great concern to me. I believe that the post-adjournment documents with regard to these five measures issued by the Executive have placed a significant "legal cloud" on these bills, which I cannot unilaterally ignore or summarily dismiss on my own.

I need your guidance. I await your direction.

CC: President Robert Burns
Mr. Paul T. Kawaguchi

CALVIN K.Y. SAY
SPEAKER

HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813



July 1, 2005

TO: Patricia Mau-Shimizu
House Chief Clerk
FROM: Calvin K. Y. Say, Speaker
SUBJECT: Governor's "Supplemental Proclamation" dated June 28, 2005

This responds to your July 1, 2005, memorandum requesting guidance and advice on the appropriateness of numbering and designating as Governor's Messages the five documents each entitled, "Supplemental Proclamation," and all dated June 28, 2005.

I have asked the House Chief Attorney to review the issues posed in your memorandum, especially since concerns over compliance with Constitutional requirements are raised.

I appreciate your bringing these concerns to my attention.

c: House Chief Attorney

CALVIN K.Y. SAY
SPEAKER

HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

July 8, 2005

RECEIVED

2005 JUL -8 P 5 34

CHIEF CLERK'S OFFICE
HOUSE OF
REPRESENTATIVES

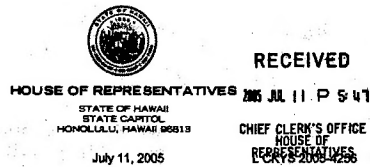
TO: Patricia Mau-Shimizu
House Chief Clerk
FROM: Calvin K. Y. Say, Speaker
SUBJECT: Governor's Statement of Objection for Senate Bill No. 813

This responds to your July 8, 2005, memorandum requesting guidance on the appropriate disposition of the Statement of Objections for Senate Bill No. 813.

I previously requested the House Chief Attorney to review concerns related to the Governor's previous submittal of documents referencing Senate Bill No. 813. Consequently, by copy of this memorandum, I am requesting the House Chief Attorney to concomitantly review the concerns raised in this memorandum.

Thank you for bringing your concerns to my attention.

c: House Chief Attorney
Senate President
Georgette Deemer



MEMORANDUM:

TO: PATRICIA MAU-SHIMIZU
HOUSE CLERK

FROM: SPEAKER CALVIN K.Y. SAY *CKY*

RE: ACTION TO BE TAKEN ON HOUSE BILL NOS. 1309, 1548, 1556, 1715,
and 813

This memo responds to your July 1 and July 8, 2005, memoranda regarding the Governor's supplemental proclamations relating to:

- H.B. No. 1309, "Relating to Taxation;"
- H.B. No. 1548, "Relating to the Employer-Union Health Benefits Trust Fund;"
- H.B. No. 1556, "Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises;"
- H.B. No. 1715, "Relating to Civil Rights;" and
- S.B. No. 813, "Relating to Employment Security."

The Chief Attorney for the House has advised that we consider the supplemental proclamations void.

The Hawaii Supreme Court held in *Hanabusa v. Lingo*, 105 Haw. 28, 93 P.3d 870 (2004) that notice by proclamation of the Governor's intention to veto "...must be given no less than ten days before a particular date, excluding weekends and holidays." With regard to these five bills, the operative date is July 12, 2005, and the supplemental proclamations were given nine days before that date.

Memorandum to House Clerk Patricia Mau-Shimizu
July 11, 2005
Page 2

The only rational basis for issuing these supplemental proclamations would be to correct a defective proclamation. By issuing the supplemental proclamations, the Governor clearly acknowledged that the original, defective proclamations did not fulfill the constitutional notice requirement. As is clear from the *Hanabusa* opinion, constitutional deadlines must be strictly met. One day late is not sufficient to meet the mandatory notice requirement.

It would set a very poor precedent if the Legislature were to attempt a fact-finding process to determine whether the defective proclamations contained inadvertent clerical mistakes, and, if so, whether this would rescue the proclamations from their constitutional infirmity. This course of action could inject further delay and uncertainty into the legislative process, encourage abuse by the Executive of its role in enacting legislation, and infringe on the role our state courts play in interpreting the State Constitution.

Therefore, please assign act numbers accordingly to House Bill Nos. 1309, 1548, 1556, 1715, and Senate Bill No. 813, if these bills are returned by the Governor. This will give the parties affected the opportunity to contest the issue in court, where the only definitive answer to these questions may be found.

MEMORANDUM

TO: The Honorable Calvin K.Y. Say
Speaker, Hawaii State House

The Honorable Robert Bunda
President, Hawaii State Senate

FROM: Patricia Mau-Shimizu *maushimizu*
House Clerk

Paul T. Kawoguchi *Paul T. Kawoguchi*
Senate Clerk

RE: Assignment of Act Numbers for HB 1548 and SB 813

Please be advised that SB 813 SD2, HD2, CD1 (Relating to Employment Security) and HB 1548 HD1, SD1, CD1 (Relating to the Employee-Union Health Benefits Trust Fund) were returned to the Legislature on July 8, 2005 and July 11, 2005 respectively.

Pursuant to communications dated July 11, 2005 to us respectively directing us to assign act numbers to these bills, the following assignments have been made on this date:

SB 813 (Relating to Employment Security)
Act 249 of 2005

HB 1548 (Relating to the Employee-Union Health Benefits Trust Fund)
Act 250 of 2005

CC: Members of the House
Members of the Senate

July 13, 2005
Page 2

Office of the Governor
Office of the Lieutenant Governor
Office of the Mayor, City & County of Honolulu
Office of the Mayor, County of Hawaii
Office of the Mayor, County of Maui
Office of the Mayor, County of Kauai
Revisor of Statutes
Attorney General
Director, Department of Accounting and General Services
Director, Department of Budget and Finance
Director, Department of Labor and Industrial Relations
Hawaii Employer-Union Health Benefits and Trust Fund

"HAWAII STATE LEGISLATURE
STATE CAPITOL
HONOLULU, HAWAII 96813

July 13, 2005

MEMORANDUM

TO: The Honorable Calvin K.Y. Say
Speaker, Hawaii State House

The Honorable Robert Bunda
President, Hawaii State Senate

FROM: Patricia Mau-Shimizu
House Clerk

Paul T. Kawaguchi
Senate Clerk

RE: Assignment of Act Numbers for HB 1548 and SB 813

Please be advised that SB 813 SD 2, HD 2, CD 1 (Relating to Employment Security) and HB 1548 HD 1, SD 1, CD1 (Relating to the Employee-Union Health Benefits Trust Fund) were returned to the Legislature on July 8, 2005 and July 11, 2005 respectively.

Pursuant to communications dated July 11, 2005 to us respectively directing us to assign act numbers to these bills, the following assignments have been made on this date:

SB 813 (Relating to Employment Security)
Act 249 of 2005

HB 1548 (Relating to the Employee-Union [sic] Health Benefits Trust Fund)
Act 250 of 2005

CC: Members of the House
Members of the Senate
Office of the Governor
Office of the Lieutenant Governor
Office of the Mayor, City & County of Honolulu
Office of the Mayor, County of Hawaii
Office of the Mayor, County of Maui
Office of the Mayor, County of Kauai
Revisor of Statutes
Attorney General
Director, Department of Accounting and General Services
Director, Department of Budget and Finance
Director, Department of Labor and Industrial Relations
Hawaii Employer-Union Health Benefits and Trust Fund"

GOVERNOR'S MESSAGES

Gov. Msg. No. 476, transmitting the report on deployed positions required by Section 164 of Act 178, SLH 2005, the General Appropriations Act.

Gov. Msg. No. 477, transmitting the Department of Human Services' Report as required by Act 178, Part III, Section 43.

Gov. Msg. No. 478, transmitting the Department of Defense's [sic] Annual Report for fiscal year ending June 30, 2004.

Gov. Msg. No. 479, transmitting the Compact of Free Association Grant Plan for the funding period of October 1, 2004 to September 30, 2005.

Gov. Msg. No. 480, transmitting the Department of Hawaiian Home Lands Report to the Legislature on Section 37.1 in Accordance with the Provision of Act 41, Relating to the State Budget, of the Twenty-Second Legislature of the State of Hawaii, 2004.

"HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

July 15, 2005

The Honorable Calvin K.Y. Say
Hawaii State House of Representatives
State Capitol, Room 431
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Speaker Say:

It is with great regret that I must offer my resignation as the Representative of District 28 in the Hawaii State House of Representatives, effective September 1, 2005.

Although I am reluctant to conclude a career that has proved to be immensely fulfilling, I have been offered and have accepted a position with Hawaiian Telcom as Director, of Governmental Affairs. This was a difficult decision, one that involved a great deal of consideration. However, I am confident that my new role will afford me new challenges, and am hopeful it will prove to be as satisfying and enjoyable as my career in the Legislature.

Please be assured that I will do all I can to assist in the smooth transfer of my responsibilities before leaving.

As both a State Representative and the Speaker of the House you have demonstrated extraordinary leadership and an unmatched commitment and dedication to the people of Hawaii, and it has been my privilege and honor to serve in the Legislature with you these past 19 years. The House has flourished under your direction, and I sincerely hope that you will continue to guide the House and our State with your experience and knowledge, while remaining a shining example of integrity and fairness.

Thank you for your support, your guidance, and your friendship.

Yours truly,

/s/
Kenneth T. Hiraki
Representative, 28th District

Cc: Russell Suzuki, Office of the Attorney General
Bob Awana, Office of the Governor
Clerk/Accounting"

GOVERNOR'S MESSAGE

Gov. Msg. No. 481, transmitting the following:

"EXECUTIVE CHAMBERS
HONOLULU

September 16, 2005

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

Dear Speaker Say:

In accordance with the provisions of Title II, Chapter 17, Section 4 of the Hawaii Revised Statutes, it is my honor to appoint Beverly Wolff Harbin to fill the vacancy for the unexpired term created by the resignation of Kenneth T. Hiraki as the member from the Twenty-eighth District, House of Representatives, Twenty-Third Legislature, State of Hawaii.

Sincerely,

/s/ Linda Lingle
LINDA LINGLE"

OTHER COMMUNICATION

"HOUSE OF REPRESENTATIVES
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

September 19, 2005

The Honorable Calvin K.Y. Say
Speaker, Hawaii State House
State Capitol, Room 431
Honolulu, Hawaii 96813

RE: Appointment of Beverly Wolff Harbin
28th District, Hawaii State House

Mr. Speaker:

I am pleased to inform you that BEVERLY WOLFF HARBIN, the Governor's appointee to the 28th District of the State House of Representatives to fill the vacancy created by the resignation of KENNETH T. HIRAKI, has submitted to this Honorable Body an affidavit covering her qualifications which conform to the eligibility requirements of Article III, Section 6, of the Hawaii State Constitution to serve as a member of this Honorable Body.

Further, Chief Justice Ronald T.Y. Moon administered the oath of office pursuant to constitutional mandate to Ms. Harbin on this date.

Sincerely,

/s/ Patricia Mau-Shimizu
Patricia Mau-Shimizu
Hawaii House Clerk"

OTHER COMMUNICATION

"Affidavit of Beverly Wolff Harbin

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

BEVERLY WOLFF HARBIN, being first duly sworn upon oath, deposes and says:

- 1. That she has been a resident of the State of Hawaii for not less than three years.
- 2. That she has attained the age of majority.
- 3. That she is a qualified voter of the 28th District of the Hawaii State House of Representatives to which she has been appointed by the Governor of the State of Hawaii effective September 16, 2005.

Further affiant sayeth naught.

/s/ Beverly Wolff Harbin
Beverly Wolff Harbin

Subscribed and sworn to before me this 19th day of September, 2005.

/s/ Patricia Mau-Shimizu
Patricia Mau-Shimizu
Notary Public, State of Hawaii
First Judicial Circuit
Commission expires: 12-16-05
Commission number: 93-728

MISCELLANEOUS COMMUNICATIONS

Misc. Com. No. 8, from Syed Danial, Datuk Pengelola Bijaya Diraja (Comptroller of the Royal Household), Istana Negara, transmitting His Majesty the Yang di-Pertuan Agong (Paramount Ruler) of Malaysia conveyance of grateful thanks for the message of condolence and sympathy passed through House Resolution #13 on the tsunami tragedy that struck Malaysia, among other countries, on 26th day of December, 2004.

Misc. Com. No. 9, from Patricia Kuffler, Public Affairs Officer, United States Mission to the United Nations, on behalf of Ambassador Patterson, acknowledging receipt of House Concurrent Resolution No. 151, HD 1.

Misc. Com. No. 10, from Ruben Barrales, Deputy Assistant to the President and Director of Intergovernmental Affairs, the White House, on behalf of the President, acknowledging receipt of House Concurrent Resolution No. 208, HD 1.

Misc. Com. No. 11, from Ruben Barrales, Deputy Assistant to the President and Director of Intergovernmental Affairs, the White House, on behalf of the President, acknowledging receipt of House Resolution No. 141, HD 1.

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.	Vote
H.B. No. 19 RELATING TO UNIVERSITY PROJECTS AND AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR HOUSING UNITS.								6		Act 138	
H.B. No. 20 RELATING TO THE UNIVERSITY OF HAWAII.								6		Act 137	
H.B. No. 85 RELATING TO HARBORS.								10			10 22
H.B. No. 98 RELATING TO KAHULUI HARBOR.								88		Act 218	
H.B. No. 99 RELATING TO BUSINESS.								3		Act 062	
H.B. No. 100 RELATING TO THE STATE BUDGET.								8 10		Act 178	
H.B. No. 109 RELATING TO LAND USE COMMISSION.								9		Act 205	
H.B. No. 115 RELATING TO MILITARY AFFAIRS.								8		Act 171	
H.B. No. 125 RELATING TO OCEAN RESOURCES.								88		Act 220	
H.B. No. 140 RELATING TO HUMAN SERVICES.								8		Act 165	
H.B. No. 150 RELATING TO DRIVER LICENSING.								3		Act 072	
H.B. No. 155 RELATING TO TIME SHARING.								4		Act 083	

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.	Voted
H.B. No. 160 RELATING TO THE COMPLIANCE RESOLUTION FUND.					52			10 11	32 54 55 56 57	Act 001 Special Session	10 11 19
H.B. No. 161 RELATING TO SECURITIES.								4		Act 088	
H.B. No. 162 RELATING TO PROCUREMENT.								2		Act 050	
H.B. No. 164 RELATING TO UNAUTHORIZED MOTION PICTURE RECORDING.								2		Act 059	
H.B. No. 168 MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND DEVELOPMENT.								8		Act 180	
H.B. No. 180 RELATING TO PUBLIC EMPLOYEES.					52			10 11	34 54 55 56 58	Act 002 Special Session	10 11 23
H.B. No. 250 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								2			
H.B. No. 254 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								2			
H.B. No. 258 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								1			
H.B. No. 260 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								4		Act 096	

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.	Vetted
H.B. No. 263 MAKING APPROPRIATIONS FOR SALARY INCREASES FOR PUBLIC EMPLOYEES.								1 4		Act 098	
H.B. No. 278 RELATING TO VICTIM RESTITUTION.								7		Act 144	
H.B. No. 283 ESTABLISHING A COMMISSION TO RECOGNIZE AND HONOR SENATOR HIRAM L. FONG.								5		Act 117	
H.B. No. 295 RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING.								8		Act 170	
H.B. No. 320 RELATING TO FINANCIAL DISCLOSURE STATEMENTS.								6		Act 135	
H.B. No. 325 RELATING TO EMPLOYMENT PRACTICES.								88		Act 243	
H.B. No. 332 RELATING TO FROZEN FOOD PRODUCTS.								10 11			10 11 19
H.B. No. 384 RELATING TO ATTORNEYS' FEES FOR COURT APPOINTED COUNSEL.								4		Act 086	
H.B. No. 390 RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX.								3		Act 067	
H.B. No. 393 RELATING TO THE COUNTIES.								8		Act 163	
H.B. No. 408 RELATING TO THE ENVIRONMENT.								6		Act 130	
H.B. No. 422 RELATING TO CRUISE SHIPS.								89		Act 217	

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. 438 OFFENSES. RELATING TO TRAFFIC								3		Act 073	
H.B. No. 447 HAWAIIAN AFFAIRS. RELATING TO THE OFFICE OF								5		Act 107	
H.B. No. 450 OF THE OFFICE OF HAWAIIAN AFFAIRS. RELATING TO THE BUDGET								5		Act 109	
H.B. No. 460 SERVICE. RELATING TO THE CIVIL								9		Act 202	
H.B. No. 465 OF REGISTRATION. RELATING TO THE BOARDS								9		Act 199	
H.B. No. 477 FROM ATTACHMENT OR SEIZURE. RELATING TO EXEMPTING ROTH INDIVIDUAL RETIREMENT ACCOUNTS								7		Act 152	
H.B. No. 497 UNCOLLECTIBLE ACCOUNTS. RELATING TO								5		Act 102	
H.B. No. 500 JUDICIARY. RELATING TO THE								5		Act 110	
H.B. No. 502 INCREASED PENALTIES FOR SUBSEQUENT OFFENSES REQUIRING IMPOSITION OF TRAFFIC OFFENSES								3		Act 074	
H.B. No. 515 RECORDS. RELATING TO GOVERNMENT								8		Act 177	
H.B. No. 516 HEALTH POWERS. RELATING TO EMERGENCY								2		Act 046	

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.	Vetted
H.B. No. 551 RELATING TO PUBLIC MEETINGS.								4		Act 084	
H.B. No. 553 RELATING TO THE UNIFORM INFORMATION PRACTICES ACT (MODIFIED).								4		Act 085	
H.B. No. 606 RELATING TO STANDARDS FOR NET METERED RENEWABLE ENERGY SYSTEMS.								3		Act 069	
H.B. No. 631 RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.								2		Act 058	
H.B. No. 632 RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.								2		Act 056	
H.B. No. 683 MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE ADULT MENTAL HEALTH DIVISION.								1		Act 043	
H.B. No. 685 RELATING TO WIRELESS ENHANCED 911 SERVICE.								2		Act 049	
H.B. No. 712 RELATING TO VIOLATIONS OF CHAPTER 6E.								6		Act 128	
H.B. No. 758 RELATING TO EMPLOYMENT PRACTICES.								9		Act 191	
H.B. No. 769 RELATING TO UNCLAIMED PROPERTY.								2		Act 052	
H.B. No. 785 RELATING TO MORTGAGE FORECLOSURES.								4		Act 082	

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.	Vetoes
H.B. No. 806 TRESPASS.								10		Act 212	
H.B. No. 835 RELATING TO TIME SHARING PLANS.								4		Act 081	
H.B. No. 841 RELATING TO EDUCATION.								8		Act 179	
H.B. No. 843 RELATING TO SCHOOL LUNCH.								3		Act 071	
H.B. No. 844 RELATING TO EDUCATION.								7		Act 159	
H.B. No. 852 RELATING TO PERMIT APPROVALS.								3		Act 068	
H.B. No. 864 RELATING TO COUNTIES.								9		Act 188	
H.B. No. 895 RELATING TO COASTAL LIGHT POLLUTION.								89		Act 224	
H.B. No. 919 RELATING TO USE OF INTOXICANTS.								9		Act 194	
H.B. No. 931 RELATING TO AFFORDABLE HOUSING.								9		Act 197	
H.B. No. 1015 RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM.								10		Act 206	
H.B. No. 1017 RELATING TO SOLAR ENERGY.								7		Act 157	
H.B. No. 1029 MAKING AN APPROPRIATION FOR THE DEPARTMENT OF DEFENSE.								8		Act 172	

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.	Voted
H.B. No. 1051 RELATING TO PRESCRIPTION DRUGS.								10 11 90		Act 241	10 11
H.B. No. 1060 RELATING TO MEDICAID.								10 11			10 11 23
H.B. No. 1146 RELATING TO CIVIL SERVICE.								90		Act 238	
H.B. No. 1154 RELATING TO AGRICULTURE.								3		Act 063	
H.B. No. 1201 RELATING TO AGRICULTURAL THEFT.								8		Act 182	
H.B. No. 1202 RELATING TO AGRICULTURAL TRESPASSING.								8		Act 181	
H.B. No. 1224 RELATING TO TAXATION.											
H.B. No. 1235 RELATING TO TRAVEL ALLOWANCES.									52		
H.B. No. 1236 RELATING TO THE LEGISLATURE.											
H.B. No. 1238 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SEAWATER AIR CONDITIONING PROJECTS ON THE ISLAND OF OAHU.											
								10 12	35 54 55 56 59	Act 003 Special Session	10 12 20
								90		Act 222	
								5		Act 119	
								3		Act 079	

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.	Vetoes
H.B. No. 1276 RELATING TO PUBLIC ACCESS.								8		Act 175	
H.B. No. 1295 RELATING TO SCHOOLS.								9		Act 186	
H.B. No. 1300 RELATING TO EARLY CHILDHOOD EDUCATION.								7		Act 151	
H.B. No. 1301 RELATING TO INVASIVE SPECIES.								2		Act 051	
H.B. No. 1304 RELATING TO HEALTH.								91		Act 223	
H.B. No. 1308 RELATING TO LAND CONSERVATION.								7		Act 156	
H.B. No. 1309 RELATING TO TAXATION.								12 91	102	Act 247	12
H.B. No. 1317 RELATING TO MEDICAID.					53			10 12	35 54 55 56 64	Act 004 Special Session	10 12 24
H.B. No. 1318 RELATING TO PUBLIC EMPLOYEES.								8		Act 176	
H.B. No. 1320 RELATING TO EMERGENCY 911.								9		Act 192	
H.B. No. 1378 RELATING TO THE JUDICIARY.								92		Act 242	
H.B. No. 1393 RELATING TO THE COMMISSION ON THE STATUS OF WOMEN.								7		Act 147	

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.	Vetted
H.B. No. 1413 RELATING TO HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.								2		Act 053	
H.B. No. 1430 RELATING TO SOLID WASTE CONTROL.								5		Act 105	
H.B. No. 1450 RELATING TO CIVIL RIGHTS.								10 12			10 12 24
H.B. No. 1453 RELATING TO ANIMALS.								7		Act 160	
H.B. No. 1462 RELATING TO THE STATE OF HAWAII.								6		Act 133	
H.B. No. 1476 RELATING TO NORTH KOHALA.								93		Act 219	
H.B. No. 1528 RELATING TO PUBLIC EMPLOYEES.								93		Act 225	
H.B. No. 1548 RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.								13	102 106	Act 250	13
H.B. No. 1550 RELATING TO STUDENTS.								10		Act 207	
H.B. No. 1554 RELATING TO LEASEHOLD CONVERSION.								10 13			10 13 25
H.B. No. 1555 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HUALALAI ACADEMY.								3		Act 075	

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.	Vetoes
H.B. No. 1556 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES.								13 93	102	Act 237	13
H.B. No. 1597 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								1 4		Act 097	
H.B. No. 1599 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								2 4		Act 099	
H.B. No. 1608 RELATING TO VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION TRUSTS.								10 13 93		Act 245	10 13
H.B. No. 1614 RELATING TO CIVIL SERVICE PERSONNEL.								94		Act 221	
H.B. No. 1640 RELATING TO IMPORTANT AGRICULTURAL LANDS.								8		Act 183	
H.B. No. 1641 RELATING TO NON-AGRICULTURAL PARK LANDS.								95		Act 234	
H.B. No. 1657 RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST HOKU SCIENTIFIC.								3		Act 080	
H.B. No. 1659 RELATING TO NONCOMMERCIAL PIERS.								6		Act 129	
H.B. No. 1666 RELATING TO STATE FUNDS.								3		Act 061	
H.B. No. 1668 RELATING TO STATE BONDS.								5		Act 103	
H.B. No. 1672 RELATING TO THE BUDGET.								9		Act 195	

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.	Voted
H.B. No. 1709 RELATING TO CRIMINAL PROPERTY DAMAGE.								9		Act 187	
H.B. No. 1712 RELATING TO ELECTIONS.								9		Act 201	
H.B. No. 1715 RELATING TO CIVIL RIGHTS.								10 14	102	Act 214	14
H.B. No. 1733 RELATING TO BIOLOGICAL EVIDENCE.								5		Act 112	
H.B. No. 1740 RELATING TO ELECTRONIC VOTING.								9		Act 200	
H.B. No. 1745 RELATING TO REPORTS TO THE LEGISLATURE.								7		Act 154	
H.B. No. 1747 RELATING TO CAMPAIGNS.								9		Act 203	
H.B. No. 1749 RELATING TO CRIMINAL OFFENSES.								6		Act 124	
H.B. No. 1750 MAKING AN APPROPRIATION FOR COMMUNITY-BASED REINTEGRATION PROGRAMS FOR FEMALE OFFENDERS TRANSITIONING FROM PRISON TO THE COMMUNITY.								5		Act 113	
H.B. No. 1758 RELATING TO UNEMPLOYMENT BENEFITS.								5		Act 106	
H.B. No. 1763 RELATING TO THE PENAL CODE.								6		Act 125	

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
H.R. No. 1 RELATING TO THE CAUCUS LEADERS AND THE COMMITTEE ASSIGNMENTS OF THE HOUSE OF REPRESENTATIVES OF THE TWENTY-THIRD LEGISLATURE.	53			53
H.R. No. 2 AUTHORIZING THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO APPROVE THE JOURNAL OF THIS HOUSE OF ANY LEGISLATIVE DAY BEING COMPILED AS OF THE 1 ST LEGISLATIVE DAY.	54			54
H.R. No. 3 AUTHORIZING AND DIRECTING THE COMMITTEE ON THE JOURNAL TO COMPILE AND PRINT THE JOURNAL OF THE HOUSE OF REPRESENTATIVES, SPECIAL SESSION OF 2005, PURSUANT TO RULE 18 OF THE RULES OF THE HOUSE OF REPRESENTATIVES.	54			54

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 HUMAN SERVICES.								8		Act 168	
S.B. No. 27 MAKING AN APPROPRIATION FOR THE KAPOLANI CHILD AT-RISK EVALUATION PROGRAM.								7		Act 143	
S.B. No. 40 RELATING TO CAREGIVER CONSENT.								10		Act 208	
S.B. No. 55 RELATING TO MEAL BREAKS.								10 14			10 14 25
S.B. No. 61 RELATING TO WAGES.								10		Act 210	
S.B. No. 76 RELATING TO TRAFFIC VIOLATIONS.								3		Act 066	
S.B. No. 77 RELATING TO HIGHWAY SAFETY.								6		Act 134	
S.B. No. 116 RELATING TO NURSES.								5		Act 116	
S.B. No. 117 RELATING TO HOUSING.								9		Act 198	
S.B. No. 118 RELATING TO THE BOARD OF DENTAL EXAMINERS EXAMINATIONS.								6		Act 122	
S.B. No. 121 RELATING TO BREWPUB LICENSES.								7		Act 145	
S.B. No. 122 RELATING TO PATIENT SAFETY.								5		Act 115	

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. 669 RELATING TO ANIMAL QUARANTINE FACILITIES.								7		Act 161	
S.B. No. 673 MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.								2		Act 055	
S.B. No. 680 RELATING TO SOLID WASTE CONTROL.								96		Act 227	
S.B. No. 682 RELATING TO TOBACCO.								6		Act 131	
S.B. No. 693 RELATING TO CHARITABLE GIFT ANNUITIES.								6		Act 136	
S.B. No. 698 RELATING TO THE HAWAII CRIMINAL JUSTICE DATA CENTER.								2		Act 047	
S.B. No. 700 RELATING TO NUISANCE ABATEMENT.								6		Act 123	
S.B. No. 702 RELATING TO ANTITRUST.								5		Act 108	
S.B. No. 708 RELATING TO CHAPTER 846E.								2		Act 045	
S.B. No. 738 RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.								2		Act 057	
S.B. No. 754 RELATING TO INSURANCE.								6		Act 132	
S.B. No. 761 RELATING TO MENTAL HEALTH.								6		Act 140	

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. 768 RELATING TO CONTESTS INVOLVING NO RULES COMBAT, EXTREME OR ULTIMATE FIGHTING, AND OTHER SIMILAR COMPETITIONS.								2		Act 054	
S.B. No. 791 RELATING TO A CONTINUUM OF HEALTH CARE SETTINGS.								6		Act 139	
S.B. No. 797 RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII.								5		Act 120	
S.B. No. 802 RELATING TO A STATE PHARMACY ASSISTANCE PROGRAM.								10		Act 209	
S.B. No. 807 RELATING TO SALARIES.								96		Act 226	
S.B. No. 813 RELATING TO EMPLOYMENT SECURITY.								14	102 106	Act 249	14
S.B. No. 817 RELATING TO THE EMPLOYMENT SECURITY LAW.								5		Act 114	
S.B. No. 834 RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE.								2		Act 060	
S.B. No. 944 MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS.								2 4		Act 094	
S.B. No. 945 MAKING AN APPROPRIATION FOR COLLECTIVE BARGAINING COST ITEMS.								2 4		Act 100	
S.B. No. 956 RELATING TO AGRICULTURAL INSPECTIONS.								3		Act 064	

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.	Voted
S.B. No. 960 DEFENSE. RELATING TO CIVIL					53			10 14	37 54 55 56 65	Act 005 Special Session	10 14 20
S.B. No. 962 WAGES. RELATING TO PREVAILING								97		Act 229	
S.B. No. 1003 METERING. RELATING TO NET ENERGY								5		Act 104	
S.B. No. 1018 SERVICES. RELATING TO HUMAN								7		Act 150	
S.B. No. 1038 PROCUREMENT INSTITUTE. RELATING TO THE HAWAII								8		Act 166	
S.B. No. 1100 PSEUDOEPHEDRINE. RELATING TO								9		Act 193	
S.B. No. 1117 PUBLIC. RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST UTILITIES SERVING THE GENERAL								3		Act 078	
S.B. No. 1127 PROCUREMENT CODE. RELATING TO THE PUBLIC								10		Act 211	
S.B. No. 1132 CONDOMINIUMS. RELATING TO								4		Act 093	
S.B. No. 1170 COMMERCE. RELATING TO ELECTRONIC								3		Act 065	

NUMBER AND TITLE	Received Refined	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Voted
S.B. No. 1194 RELATING TO THE BOARD OF TRUSTEES OF THE DEFERRED COMPENSATION PLAN.								10 15			10 15 26
S.B. No. 1250 RELATING TO PUBLIC SCHOOL SUBSTITUTE TEACHERS.								3		Act 070	
S.B. No. 1253 RELATING TO EDUCATION.								8		Act 174	
S.B. No. 1257 RELATING TO THE UNIVERSITY OF HAWAII.								10 15			10 15 27
S.B. No. 1262 RELATING TO THE WAIANAE COAST.					53			10 15	40 54 55 56 67	Act 006 Special Session	10 15 27
S.B. No. 1267 RELATING TO SHARK MONITORING.								97		Act 233	
S.B. No. 1285 RELATING TO TRADITIONAL HAWAIIAN HEALING PRACTICES.								7		Act 153	
S.B. No. 1336 RELATING TO CONDOMINIUMS AND COOPERATIVE HOUSING CORPORATIONS.								4		Act 091	
S.B. No. 1345 RELATING TO CONDOMINIUMS.								4		Act 092	
S.B. No. 1348 RELATING TO CONDOMINIUM PROPERTY REGIMES.								4		Act 090	

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.	Vetoes
S.B. No. 1349 RELATING TO CONDOMINIUM PROPERTY REGIMES.								4		Act 089	
S.B. No. 1352 RELATING TO PUBLIC EMPLOYEES.								10 15			10 15 27
S.B. No. 1362 RELATING TO ABANDONED VEHICLES.								8		Act 162	
S.B. No. 1378 RELATING TO THE PEARL HARBOR HISTORIC TRAIL.								6		Act 127	
S.B. No. 1394 RELATING TO EDUCATION.								7		Act 141	
S.B. No. 1419 RELATING TO DOMESTIC VIOLENCE.								7		Act 142	
S.B. No. 1420 RELATING TO PSYCHOTROPIC MEDICATION.								10 16 97		Act 239	10 16
S.B. No. 1427 RELATING TO PROCUREMENT OF HIGH ENERGY EFFICIENT VEHICLES.								98		Act 216	
S.B. No. 1451 RELATING TO IMPROVING WATER QUALITY.								98		Act 248	
S.B. No. 1453 RELATING TO PUBLIC SERVICE COMPANY TAX.								7		Act 146	
S.B. No. 1473 RELATING TO WAIMANO RIDGE.					53			10 16	41 54 55 56 71	Act 007 Special Session	10 16 28

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.	Veloced
S.B. No. 1478 RELATING TO THE STATE FIRE COUNCIL.								9		Act 190	
S.B. No. 1483 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR WAIMEA COUNTRY SCHOOL.								3		Act 076	
S.B. No. 1554 RELATING TO THE ENVIRONMENT.								10 16			10 16 29
S.B. No. 1579 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								2 4		Act 095	
S.B. No. 1580 MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS.								2 5		Act 101	
S.B. No. 1592 RELATING TO STATE PLANNING.					53			10 16	42 54 55 56 72	Act 008 Special Session	10 16 29
S.B. No. 1620 RELATING TO STATE FUNDS.								99		Act 236	
S.B. No. 1643 RELATING TO EDUCATION.								4		Act 087	
S.B. No. 1660 RELATING TO EDUCATION.								9		Act 189	
S.B. No. 1661 RELATING TO EDUCATION.								7		Act 158	
S.B. No. 1685 RELATING TO TAX.					53			10 16	44 54 55 56 75	Act 009 Special Session	10 16 21

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. 1699 RELATING TO CULTURE AND THE ARTS.								7		Act 149	
S.B. No. 1702 RELATING TO HIGH TECHNOLOGY.								8		Act 173	
S.B. No. 1721 RELATING TO A STATE CULTURAL PUBLIC MARKET.								99		Act 231	
S.B. No. 1729 RELATING TO TOURISM.								99		Act 235	
S.B. No. 1732 MAKING AN APPROPRIATION FOR A LOCAL FLOOD WARNING SYSTEM FOR LAKE WILSON.								100		Act 215	
S.B. No. 1772 RELATING TO EMPLOYERS.					53			10 17	44 54 55 56 76	Act 010 Special Session	10 17 30
S.B. No. 1778 RELATING TO CONTRACTORS.								100		Act 230	
S.B. No. 1780 RELATING TO THE COMMISSION ON FATHERHOOD.								7		Act 148	
S.B. No. 1796 RELATING TO THE DISPOSITION OF CONVICTED DEFENDANTS.								10 17			10 17 21
S.B. No. 1798 RELATING TO NONPROFIT CORPORATIONS.								7		Act 155	

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.	Vetoes
S.B. No. 1808 RELATING TO WORKERS' COMPENSATION LAW.					53			10 17	45 55 56 78	Act 011 Special Session	10 17 18
S.B. No. 1814 RELATING TO IMPACT FEES.								100		Act 246	
S.B. No. 1816 RELATING TO STUDENT SUBSTANCE ABUSE ASSESSMENT REFERRALS.								10		Act 213	
S.B. No. 1843 RELATING TO PROCUREMENT.								10 17			10 17 31
S.B. No. 1872 RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST PALOLO CHINESE HOME AND ITS SUBSIDIARIES.								5		Act 118	
S.B. No. 1876 RELATING TO HIGHWAYS.								9		Act 185	
S.B. No. 1877 RELATING TO THE OFFICE OF PLANNING.					53			10 18	51 55 56 86	Act 012 Special Session	10 18 31
S.B. No. 1883 RELATING TO MILOLI'FI FISHERIES MANAGEMENT AREA.								101		Act 232	
S.B. No. 1889 RELATING TO APPRENTICESHIPS.								10 18			10 18 32
S.B. No. 1891 RELATING TO BOATING.								6		Act 126	

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.	Vetted
S.B. No. 1903 RELATING TO THE SEA WATER AIR CONDITIONING.								8		Act 164	