

FORTY-FIFTH DAY

Thursday, April 8, 2010

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, convened at 12:05 o'clock p.m., with the Speaker presiding.

The invocation was delivered by Reverend Bob Nakata of the Kahalu'u United Methodist Church, after which the Roll was called showing all Members present with the exception of Representatives Aquino, Hanohano, Har, Karamatsu and M. Oshiro, who were excused.

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

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 488 through 496) were received and announced by the Clerk:

Sen. Com. No. 488, transmitting S.C.R. No. 37, SD 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE GOVERNOR TO USE AND CONSIDER GENDER EQUALITY WHEN APPOINTING JUDGES AND JUSTICES TO HAWAII COURTS," which was adopted by the Senate on April 7, 2010.

Sen. Com. No. 489, transmitting S.C.R. No. 75, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING GOVERNOR LINDA LINGLE TO RECOGNIZE LOCAL KOREANS BY ALLOWING A COMMEMORATIVE PLAQUE DESIGNATING THE FORMER SITE OF THE KOREAN NATIONAL ASSOCIATION," which was adopted by the Senate on April 7, 2010.

Sen. Com. No. 490, transmitting S.C.R. No. 124, SD 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO PROVIDE COVERAGE FOR WEIGHT MANAGEMENT AND OBESITY TREATMENT FOR CHILDREN," which was adopted by the Senate on April 7, 2010.

Sen. Com. No. 491, transmitting S.C.R. No. 202, SD 1, entitled: "SENATE CONCURRENT RESOLUTION URGING GOOGLE INC. TO SELECT HAWAII AS A TEST SITE TO CONDUCT THE GOOGLE GIGABIT BROADBAND INITIATIVE," which was adopted by the Senate on April 7, 2010.

Sen. Com. No. 492, transmitting S.C.R. No. 228, SD 1, entitled: "SENATE CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON A LAND EXCHANGE," which was adopted by the Senate on April 7, 2010.

Sen. Com. No. 493, informing the House that the Senate has on April 6, 2010, agreed to the amendments proposed by the House to the following Senate Bills and that said bills have this day passed Final Reading:

S.B. No. 2357, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY."

S.B. No. 2837, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO LICENSING."

S.B. No. 2921, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ESCROW DEPOSITORIES."

Sen. Com. No. 494, dated April 7, 2010, informing the House that the Senate has disagreed to the amendments proposed by the House to the following Senate Bills:

S.B. No. 633, SD 1, HD 2

- S.B. No. 1062, SD 1, HD 1
- S.B. No. 1230, SD 2, HD 1
- S.B. No. 1315, SD 2, HD 2
- S.B. No. 2001, SD 1, HD 1
- S.B. No. 2068, SD 2, HD 1
- S.B. No. 2109, SD 2, HD 1
- S.B. No. 2116, SD 2, HD 2
- S.B. No. 2159, HD 1
- S.B. No. 2165, SD 1, HD 2
- S.B. No. 2169, SD 2, HD 2
- S.B. No. 2173, SD 1, HD 1
- S.B. No. 2220, SD 1, HD 2
- S.B. No. 2231, SD 1, HD 2
- S.B. No. 2256, SD 1, HD 1
- S.B. No. 2257, SD 2, HD 1
- S.B. No. 2378, SD 2, HD 1
- S.B. No. 2385, SD 1, HD 1
- S.B. No. 2386, HD 1
- S.B. No. 2400, SD 1, HD 1
- S.B. No. 2401, SD 1, HD 1
- S.B. No. 2402, SD 1, HD 1
- S.B. No. 2405, SD 2, HD 1
- S.B. No. 2408, SD 2, HD 1
- S.B. No. 2409, HD 3
- S.B. No. 2434, SD 1, HD 1
- S.B. No. 2452, SD 2, HD 2
- S.B. No. 2523, SD 2, HD 2
- S.B. No. 2527, SD 2, HD 2
- S.B. No. 2545, SD 2, HD 2
- S.B. No. 2547, SD 1, HD 1
- S.B. No. 2563, SD 1, HD 2
- S.B. No. 2578, SD 1, HD 1
- S.B. No. 2589, SD 2, HD 1
- S.B. No. 2593, SD 1, HD 2
- S.B. No. 2607, SD 2, HD 1
- S.B. No. 2695, SD 1, HD 1
- S.B. No. 2709, SD 1, HD 3
- S.B. No. 2817, SD 1, HD 1
- S.B. No. 2825, SD 1, HD 1
- S.B. No. 2828, SD 1, HD 3
- S.B. No. 2863, SD 2, HD 2
- S.B. No. 2903, SD 2, HD 1
- S.B. No. 2951, SD 2, HD 2

Sen. Com. No. 495, dated April 7, 2010, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the Senate to the following House Bills:

- H.B. No. 840, SD 1, HD 1, Taniguchi, Chair; Takamine, Slom
- H.B. No. 1019, SD 1, HD 1, Taniguchi, Chair; Takamine, Slom
- H.B. No. 1853, SD 1, Sakamoto, Chair; Galuteria, Kidani
- H.B. No. 1862, SD 1, HD 1, Taniguchi, Chair; Takamine, Slom
- H.B. No. 1863, SD 1, HD 1, Taniguchi, Chair; Takamine, Slom
- H.B. No. 1900, SD 1, Espero, Chair; Bunda, Hemmings
- H.B. No. 1907, SD 1, HD 1, Kim, Chair; Kokubun

H.B. No. 1927, HD 2, SD 1	Baker, Chair; English, Co-Chair; Slom	S.B. No. 2220, SD 1, HD 2	Baker, Chair; Sakamoto, Hemmings
H.B. No. 2077, HD 1, SD 1	Sakamoto, Chair; Kidani, Hemmings	S.B. No. 2231, SD 1, HD 2	Gabbard, Chair; English/Kim, Co-Chairs; Green, Hemmings
H.B. No. 2197, HD 1, SD 1	Gabbard, Chair; Baker, Co-Chair; Hemmings	S.B. No. 2256, SD 1, HD 1	Sakamoto, Chair; Tsutsui, Co-Chair; Galuteria, Kidani, Hemmings
H.B. No. 2289, HD 2, SD 1	Baker, Chair; Espero, Hemmings	S.B. No. 2257, SD 2, HD 1	Sakamoto, Chair; Tokuda/Tsutsui, Co-Chairs; Kidani, Slom
H.B. No. 2351, SD 1	Espero, Chair; English, Co-Chair; Hemmings	S.B. No. 2378, SD 2, HD 1	Hee, Chair; Taniguchi, Co-Chair; Bunda, Takamine, Slom
H.B. No. 2397, HD 1, SD 1	Taniguchi, Chair; Takamine, Nishihara, Slom	S.B. No. 2385, SD 1, HD 1	Tokuda, Chair; Tsutsui, Co-Chair; Slom
H.B. No. 2546, SD 1	Baker, Chair; Ige, Co-Chair; Hemmings	S.B. No. 2386, HD 1	Tokuda, Chair; Tsutsui, Co-Chair; Hemmings
H.B. No. 2784, HD 1, SD 1	Taniguchi, Chair; Nishihara, Slom	S.B. No. 2400, SD 1, HD 1	Kim, Chair; Tsutsui, Galuteria, Hemmings
H.B. No. 2845, HD 1, SD 1	Hee, Chair; Sakamoto, Co-Chair; Bunda, Galuteria, Hemmings	S.B. No. 2408, SD 2, HD 1	Hee, Chair; Sakamoto, Co-Chair; Fukunaga, Hemmings
		S.B. No. 2409, HD 3	Hee, Chair; Bunda, Hemmings
		S.B. No. 2434, SD 1, HD 1	Sakamoto, Chair; Tsutsui, Co-Chair; Kidani
Sen. Com. No. 496, dated April 7, 2010, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the House to the following Senate Bills:		S.B. No. 2441, SD 2, HD 2	Gabbard, Chair; Hee/Taniguchi, Co-Chairs; Hooser, Slom
S.B. No. 466, SD 2, HD 1	Gabbard, Chair; Taniguchi, Co-Chair; Hemmings	S.B. No. 2449, HD 1	English, Chair; Nishihara, Slom
S.B. No. 633, SD 1, HD 2	Hee, Chair; Bunda, Hemmings	S.B. No. 2452, SD 2, HD 2	Sakamoto, Chair; Tsutsui, Co-Chair; Galuteria, Kidani, Hemmings
S.B. No. 898, SD 2, HD 1	Espero, Chair; Taniguchi, Co-Chair; Bunda, Takamine, Hemmings	S.B. No. 2488, SD 2, HD 1	Gabbard, Chair; Baker, Co-Chair; Hemmings
S.B. No. 1059, SD 2, HD 3	Espero, Chair; Taniguchi, Co-Chair; Kidani, Takamine, Slom	S.B. No. 2523, SD 2, HD 2	Hee, Chair; Kim, Co-Chair; Hemmings
S.B. No. 1062, SD 1, HD 1	Baker, Chair; Ige, Hemmings	S.B. No. 2527, SD 2, HD 2	Hee, Chair; Bunda, Hemmings
S.B. No. 1315, SD 2, HD 2	Hee, Chair; Espero/Tsutsui, Co-Chairs; Kokubun, Hemmings	S.B. No. 2545, SD 2, HD 2	English, Chair; Baker, Co-Chair; Hemmings
S.B. No. 2068, SD 2, HD 1	Sakamoto, Chair; Kim, Co-Chair; Chun Oakland, Kidani, Tsutsui	S.B. No. 2547, SD 1, HD 1	Hee, Chair; Bunda, Hemmings
S.B. No. 2109, SD 2, HD 1	Sakamoto, Chair; Tsutsui, Co-Chair; Galuteria, Kidani, Hemmings	S.B. No. 2563, SD 1, HD 2	Gabbard, Chair; Kim, Co-Chair; Hemmings
S.B. No. 2116, SD 2, HD 2	Sakamoto, Chair; English/Taniguchi, Co-Chairs; Kidani, Slom	S.B. No. 2578, SD 1, HD 1	Sakamoto, Chair; Kim, Co-Chair; Galuteria
S.B. No. 2159, HD 1	Taniguchi, Chair; Kim, Co-Chair; Takamine	S.B. No. 2589, SD 2, HD 1	Sakamoto, Chair; Kim, Co-Chair; Chun Oakland, Kidani, Hemmings
S.B. No. 2165, SD 1, HD 2	Baker, Chair; Espero, Hemmings	S.B. No. 2593, SD 1, HD 2	Sakamoto, Chair; Tsutsui, Co-Chair; Chun Oakland, Galuteria, Hemmings
S.B. No. 2169, SD 2, HD 2	Hee, Chair; Taniguchi, Co-Chair; Bunda, Takamine, Slom	S.B. No. 2607, SD 2, HD 1	Nishihara, Chair; Baker, Co-Chair; Galuteria, Tsutsui, Slom
S.B. No. 2173, SD 1, HD 1	Kim, Chair; Tsutsui, Co-Chair; Galuteria, Hemmings		

S.B. No. 2695, Kim, Chair; Kidani, Kokubun  
SD 1, HD 1

S.B. No. 2697, Baker, Chair; Espero, Hemmings  
SD 1, HD 1

S.B. No. 2709, Sakamoto, Chair; Gabbard/Tsutsui, Co-Chairs;  
Kidani, Hemmings  
SD 1, HD 3

S.B. No. 2745, Espero, Chair; Taniguchi, Co-Chair; Hemmings  
SD 2, HD 1

S.B. No. 2817, Gabbard, Chair; Baker, Co-Chair; Green  
SD 1, HD 1

S.B. No. 2825, Kim, Chair; Galuteria, Tsutsui, Hemmings  
SD 1, HD 1

S.B. No. 2828, Sakamoto, Chair; Tsutsui, Co-Chair; Galuteria,  
Kidani, Hemmings  
SD 1, HD 3

S.B. No. 2859, English, Chair; Baker, Co-Chair; Slom  
SD 2, HD 1

S.B. No. 2863, English, Chair; Tsutsui, Co-Chair; Slom  
SD 2, HD 2

S.B. No. 2903, Hee, Chair; Tokuda/Sakamoto/Tsutsui, Co-Chairs;  
Slom  
SD 2, HD 1

S.B. No. 2951, Hee, Chair; Kim, Co-Chair; Takamine, Hemmings  
SD 2, HD 2

The following communications from the Senate (Sen. Com. Nos. 497 through 502) were received by the Clerk:

Sen. Com. No. 497, transmitting H.B. No. 2003, HD 3, SD 2, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN FINANCING," which passed Third Reading in the Senate on April 8, 2010.

Sen. Com. No. 498, transmitting H.B. No. 2200, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," which passed Third Reading in the Senate on April 8, 2010.

Sen. Com. No. 499, transmitting H.B. No. 2306, HD 2, SD 3, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," which passed Third Reading in the Senate on April 8, 2010.

Sen. Com. No. 500, transmitting H.B. No. 2450, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," which passed Third Reading in the Senate on April 8, 2010.

Sen. Com. No. 501, transmitting H.B. No. 2542, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS," which passed Third Reading in the Senate on April 8, 2010.

Sen. Com. No. 502, transmitting H.B. No. 2690, SD 2, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," which passed Third Reading in the Senate on April 8, 2010.

Representative B. Oshiro moved to disagree to the amendments proposed by the Senate to the House Bills returned to the House, seconded by Representative Evans and carried: (Representatives Aquino, Hanohano, Har, Karamatsu, M. Oshiro and Rhoads were excused.)

H.B. No. 2003, HD 3, (SD 2)  
H.B. No. 2200, HD 1, (SD 2)  
H.B. No. 2306, HD 2, (SD 3)  
H.B. No. 2450, HD 1, (SD 2)  
H.B. No. 2542, HD 1, (SD 2)

H.B. No. 2690, (SD 2)

## DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 68 through 70) were received by the Clerk and were placed on file:

Dept. Com. No. 68, dated April 6, 2010, from Elisabeth Chun, Executive Director, Good Beginnings Alliance, transmitting the 2009 Good Beginnings Alliance Annual Report to the Regular Session of the 2010 Legislature as required by Act 77: An Act Relating to Early Childhood Education. This will be the final report to the Legislature, as Act 77 will sunset on June 30, 2010.

Dept. Com. No. 69, dated April 5, 2010, from Jeffrey K. Eng, Director, Department of Water Supply, County of Maui, transmitting a letter asking consideration to not suspend the distribution of the transient accommodations tax (TAT) revenues to the counties.

Dept. Com. No. 70, dated April 7, 2010, from Marion M. Higa, State Auditor, transmitting the report, Management Audit of the Aloha Tower Development Corporation.

## INTRODUCTIONS

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

Representative Mizuno introduced 8 year old Master Mitchell Ganeku, who was diagnosed with a rare form of anemia; his parents Mrs. Norma and Mr. Nelson Ganeku; and Mr. Roy Yonashiro of the Hawaii Bone Marrow Donor Registry.

Representative Marumoto, on behalf of Representatives Berg, Nishimoto, Say, Ward and herself, introduced the 6th grade students of Kaimuki Christian School. They were accompanied by their teacher, Mrs. Chau Sachs, and parent chaperone, Mrs. Carolyn Ramesar.

Representative Magaoay introduced his constituent, Ms. Tammy Escorzon of Waialua.

At 12:15 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:01 o'clock p.m.

## ORDER OF THE DAY

### COMMITTEE ASSIGNMENTS

The following measures were referred to committee by the Speaker:

<u>S.C.R.</u> <u>Nos.</u>	<u>Referred to:</u>
99	Committee on Energy & Environmental Protection
209, SD1	Committee on Health, then to the Committee on Economic Revitalization, Business, & Military Affairs

## COMMITTEE REASSIGNMENTS

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

**H.B.****No.**      **Re-referred to:**

2984,      Committee on Finance  
HD2,  
SD2

**H.R.****No.**      **Re-referred to:**

233,      Committee on Human Services  
HD1

**H.C.R.****No.**      **Re-referred to:**

318,      Committee on Human Services  
HD1

**S.B.****No.**      **Re-referred to:**

1230,      Committee on Finance  
SD2,  
HD1

## SUSPENSION OF RULES

At this time, the Chair stated:

"Members, please note that SB No. 2346, SD 1, HD 1, has been re-referred solely to the Committees on Education, and Labor & Public Employment, per committee Referral Sheet No. 61. The Committee on Judiciary, Chair Karamatsu, waived its referral to these measures, and therefore it is appropriate for this House to consider action for passage on Third Reading."

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the rules were suspended to reconsider action previously taken on S.B. No. 2346, SD 1, HD 1. (Representatives Aquino, Hanohano, Har and M. Oshiro were excused.)

RECONSIDERATION OF  
ACTION TAKEN

Representative B. Oshiro moved that the House reconsider its action previously taken pursuant to the recommendation contained in Standing Committee Report No. 778-10, recommending referral to the Committee on Judiciary, seconded by Representative Evans and carried. (Representatives Aquino, Hanohano, Har and M. Oshiro were excused.)

## SUSPENSION OF RULES

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the rules were suspended for the purpose of considering a certain Senate Bill for Third Reading by consent calendar. (Representatives Aquino, Hanohano, Har and M. Oshiro were excused.)

## UNFINISHED BUSINESS

**S.B. No. 2346, SD 1, HD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S. B. No. 2346, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," passed Third Reading by a vote of 47 ayes, with Representatives Aquino, Hanohano, Har and M. Oshiro being excused.

At 1:03 o'clock p.m., the Chair noted that the following bill passed Third Reading:

S.B. No. 2346, SD 1, HD 1

## SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering certain House Bills for Final Reading by consent calendar. (Representatives Aquino, Hanohano, Har and M. Oshiro were excused.)

## UNFINISHED BUSINESS

**Conf. Com. Rep. No. 1-10 and H.B. No. 1642, HD 1, SD 2, CD 1:**

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1642, HD 1, SD 2, CD 1, pass Final Reading, seconded by Representative Evans.

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

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

"Thank you, Mr. Speaker. I rise in opposition. Mr. Speaker, this is a carryover from last year. The Conference Committee was the first of the year and I didn't have a full grasp of what was going on.

"One of the reasons why this is not a good bill is that it does an end run around two things. One, the private sector and it puts an uneven playing field on the bidding process. I know it's been sold as something that's transparent, but the way I see it now, if you're a private sector company, you weigh in with all your clothes on and the others weigh in naked. It's not the same amount of emphasis if you will for private sector.

"I know there's a trend in the nation to get more centralized, more government centric, but this thing takes it away to say, 'Well we don't want it in the Department of Human Services.' Anybody can do anything in the private sector, because basically we're going to shut down a company, and we're going to tell others, do not apply. Or do not come forward because we look askance on you.

"Mr. Speaker, you know our reputation as business or place to do business. The cost of doing business, we're second to Tokyo, etc. This will not help us. It will only hurt us and unfortunately this deserves and will likely get a veto. So it's our chance to vote it down now rather than later. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. Just to respond to what was said earlier. I know that that has been a concern. That people feel this bill is basically going to shut out all for-profit insurance companies forever and ever, and that's not true.

"The fact of the matter is, is that this bill is looking at the RFP process. Proposals, unlike bids, can be considered in their entirety. DHS has the right to choose. They don't have to choose the lowest proposal. They can choose what they think is the best proposal.

"So nothing is stopping for-profit companies, who by the way choose to be for-profit companies. Obviously because they looked at both sides and decided that there's an advantage to being a for-profit company. There's nothing stopping them from submitting these proposals, making all the arguments that they have been making against this bill to say that, 'Us being a for-profit, there's various rebates involved. There's various advantages to you as a state.' All we're saying is that you need to be transparent.

"The fact of the matter is, there's a premium tax that has to be paid. Under our procurement laws, you can't skirt around that. You need to be transparent and forthcoming in what exactly the costs are to the taxpayers of this State.

"Another thing I'd like to say is that when we're talking about these proposals, there's no set amount that everyone's required to use in terms of reimbursement rates. A company can choose whatever reimbursement rate they want. It's not to say that if you're a for-profit company, your proposal still might be lower than a non-profit company because you may have decided to use different reimbursement rates. You may have decided to tailor your services in a different way.

"All we're saying is that we want this process to be fair. Right now the tables are actually turned. The process is actually unfair to the non-profits because there're these hidden rebates and hidden charges to us taxpayers that are not being shown in the RFP. I have additional written comments to submit."

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise in strong support of House Bill 1642. The purpose of this bill is to ensure fair and equitable practices in the procurement bid process as it affects proposals for purchases of health and human services.

"The bill corrects a current DHS procurement practice, whereby for-profit organizations are allowed to submit a "pre-tax" bid that gives them an unfair advantage over non-profits which are not subject to the insurance premium tax mandated by Hawaii law.

"The need for this corrective legislation was clearly demonstrated when, in 2008, two for-profit companies bid for, and were awarded, QUEST Expanded Access Program contracts. As part of the award package, the Department provided rebates on the 4.265 % tax, resulting in a higher award amount than the companies had bid. As noted in the Conference Committee Report, this waiver of taxes by the Executive Branch may be seen as assuming a power that belongs solely to the Legislative Branch of government.

"HB 1642, as amended by your Conference Committee, makes it clear that bid proposals should contain all costs, fees, and any taxes that the party submitting the proposal may be obligated to pay. Furthermore, the bill prohibits any award or contract to include any payment or rebates that were not included in the proposal. The bill does not end existing contracts awarded on a less-than-level playing field, but it does ensure fairness in future bids and awards.

"This bill began its long journey early in the last Session. At every step of the way, it has enjoyed unanimous support in both the House and Senate. I urge my colleagues to continue their support and vote favorably for this bill, and I offer for your consideration the following answers to issues that have been raised in opposition to this bill.

"Issues Raised in Opposition to HB1642 HD1 SD2 CD1

1. The State will lose funding if this bill passes.

Answer: This is not true at all. If the amount of the tax is included in the bid, the State will receive the same amount of federal funding that it receives now. For example, if the \$25 million in taxes is included in the bid proposal, the State will get the same amount of funding that it receives now. And the procurement process would be transparent.

2. People will lose their jobs if this bill passes.

Answer: The current contract does not terminate until June 30, 2011 so no one will lose their jobs. DHS must issue a new RFP and companies are allowed to bid again.

3. DHS and one company who has the contract states that it cannot win the bid if the bill passes.

Answer: This is not true that a profit making company cannot win the bid, and that a not-for-profit will always win the bid. The companies bidding do not submit a proposal based on identical reimbursement rates. There are many variables that go into a bid proposal, especially how much a company will pay physicians and hospitals for their services. A profit-making company may pay less than a not-for-profit company and thereby have a lower bid.

4. This bill could disrupt services to seniors and the disabled.

Answer: This is not true. Nothing in this bill will affect the current contract and services they provide to seniors and the disabled.

5. The lawsuits against DHS were dismissed as meritless.

Answer: This is not true. The federal court dismissed the lawsuit for lack of standing (a legal doctrine where a person suing must show a legally protected interest) and the court never decided the issues regarding the merits of the case."

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

"Thank you, Mr. Speaker. I rise in support with reservations. I appreciate the words of the previous speaker. In fact, I do agree with her. This bill is about transparency, but there's a larger policy issue that we as a Body need to address and that is, are we going to continue charging a premium tax to for-profit insurers?"

"As you know just a few days ago we lost our only for-profit health insurer in the State because, truthfully, health insurance is such a slim margin industry that at 4.2% behind, they just really can't compete. I believe that the larger issue is, we should treat all of them fairly if we want the market place to thrive.

"We should charge a premium tax across the board, or we should eliminate the premium tax across the board. Having said that though, I do agree that this bill attempts to make the process transparent. But in the process of making the process transparent, I do believe that in effect what we're going to do is chase out all the for-profit organizations as they attempt to bid, or put in the request for a proposal for future contracts.

"That is a concern because I think when we narrow the marketplace, we in fact hurt business and hurt government. What I'd like to see is a thriving marketplace and we've just got to level the playing field. Thank you, Mr. Speaker."

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

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

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

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

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

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

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

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

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

"I'm in opposition, with the words the Representative from Aiea as my own. I can't say it any better than he did."

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

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

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

"Thank you, Mr. Speaker. I'm in opposition. When I first took a look at this, it looked like a pretty confusing bill. What was it getting down to and everything. So I went and read the testimony that was submitted to the Conference Committee and I just kind of want to read a little bit of it that was submitted.

"DHS was in opposition to this bill and they say:

"The contracts for the Department's QUEST expanded access program were awarded to two for-profit companies, Evercare and Ohana. Because these two companies are for-profit, they must pay Hawaii premium insurance tax.

From the start of these contracts on February 1st 2009 through June 30th, 2010, the State Treasury received a total of \$21.4 million in federal funds for the premium insurance tax paid by Evercare and Ohana Care, under their QUEST expanded contracts. By the end of the contract period on June 30th, 2014, the cumulative amount of the federal funds that the State Treasury will receive is \$67.8 million.

The State would not have received these federal funds if the QUEST expanded contracts had been awarded to non-profit or mutual benefit society companies that pay no premium insurance taxes because they're exempt by State law. If not for the premium insurance tax paid by Evercare and Ohana, the State deficit would now be \$34.1 million worse. Equally significant is that Evercare and Ohana currently employ about 260 local full time employees."

"It also goes on to say that, because what this bill said, and the testimony, and some of the things that have been said. It talks about DHS doing things that were illegal or against federal law or federal rules. And it says here, 'in fact the federal government has reviewed the matter in court and concluded that the claims against the State are meritless.'

"As I'm taking a look at this I go, if it is an unfair playing level, and the feds are going to pay for this insurance premium tax through the contract and then therefore we get this additional money from the feds and that actually puts those companies to compare the prices of what a non-profit would bid, and what these for-profit companies would bid, and now it would be on a level playing field.

"If DHS, and you can question this, but if DHS says you're going to get a better product out of it when they're on the same playing field, my natural instinct or thought process would be, a non-profit would be cheaper or have a better product. For-profit, when you just look at the words, for-profit and non-profit. That the non-profit would end up being better or cheaper or both because they're not making any profits.

"So that's one of the things that just really confuses me. Are we then with this bill not allowing for a better product, whether it's not non-profit or for-profit to come forth? I'm not sure.

"Mr. Speaker, I'd like to also refer to the Department of Human Services letter to Neil Abercrombie that was received May 21st, 2008, and also DHS in a response to Senator Colleen Hanabusa back in December 26, 2007. Thank you.

"Again, Mr. Speaker, when we're looking at medical costs, and I think one of the speakers earlier talked about well reimbursement rates and sometimes the reimbursement rates aren't the same across the board. Mr. Speaker, even in the Filipino Community, because I think also has to do with the difference between a case worker and their job, and what a direct caregiver would get in doing their job.

"There's been disagreement within the Department of Human Services, as well as out there in just the general public and the private sector doing case management. There's been disagreement as to how much that service is worth. And what had happened I believe is, I can't remember which one, Ohana Care and Evercare, or one of them or both, was going to cut the reimbursement for case management services. What happened was it ended up being a pretty substantial cut.

"But across the board, when you look and you compare ..."

Representative Pine rose to yield her time, and the Chair "so ordered."

Representative Finnegan continued, stating:

"Thank you, I'm almost done. But regarding this reimbursement, I wanted to make sure that we were doing something fair, the State of Hawaii, DHS was doing something fair, or Evercare or Ohana were doing something fair. So I started calling people in the industry. Caregivers and just asking them, 'What you think about this issue?' There's a huge cut. I think it's from \$500 per patient, down to \$300 or \$250, so it's like half the amount. One of the things that I've learned is that some of these case managers, if they get paid through Medicaid they're getting paid the \$500 before. But if you go in the private sector, they're accepting payments that are around \$250 and \$300 from other than Medicaid patients.

"So Mr. Speaker, what does that say? Does that say that the private industry case workers that accept private-pay clients accept this smaller amount for private-pay, but yet when it comes to Medicaid they're receiving \$500 or whatever the amount is.

"So these things, and it's hard for me to actually talk about this because this industry is a huge industry within the Filipino Community. And within the Filipino Community there's differences. There's disagreement between the caregivers, as well as the case workers or the case managers on these payments. The caregivers feel, and it's been a point of contention, that the caregivers feel that much of what they get paid for, they don't get paid very well by Medicaid to provide services to these clients. And that's 24 hours, 7 days a week all throughout the whole year.

"So when we take a look at this I understand that it threatens our existing system, but let's ask a little bit deeper question on how we can address some of the things that maybe need to be changed. And that's why I'm voting no. Thank you."

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

"Thank you, Mr. Speaker. I told the Minority Leader that I would speak after her. Beauty first that's why. Mr. Speaker, I'm standing up in support. Mr. Speaker, I know there's some discussion and I appreciate my colleagues both with their support and with reservations, but I wanted to make some clarifying points.

"First of all, what this bill does, Mr. Speaker, this bill clarifies and makes certain that the bid for health and human services contracts shall include the total amount that the bidder expects to expend. Mr. Speaker, if you have the bill before you on page 3, all it asks is that no contract proposal shall be accepted, one, if the business is licensed, as well as in section (b) shall include all costs, fees, and taxes, and any awarded contract shall be for the amount of the proposal.

"So Mr. Speaker, I heard the use of the terminology on this Floor, that we want transparency. We want to know. We want to know what's going on both now and for the future. We want to be accountable. Well Mr. Speaker, this bill is the essence of that.

"Mr. Speaker, one of the things that I guess has been alluded to or hinted at is that this is going to negatively impact the current contract. The current contract is in place until June 30, 2011.

"Also Mr. Speaker, as expressed earlier, this is for a request for proposal. Part of the proposal process and DHS's awarding of the process is to look at what are these services that they're going to be given to the QUEST individuals by the requested proposal.

"So Mr. Speaker, when we're talking about efficiency and inefficiency, we're talking about fairness. It's not to say that a non-profit is automatically better than a for-profit. If two companies regarding either profit or for-profit go for a proposal, their whole bid should be looked at equally and fairly. What this process does is, again, makes the process, the proposals, the numbers that are submitted to the Department for their evaluation, full and complete, Mr. Speaker.

"Another question in the discussions was about if this will preclude all for-profits, and run them out of the State. Mr. Speaker, we've talked on this Floor about the issues of the importance for-profit companies play in both healthcare, as well as in the State. Mr. Speaker, if they are getting a rebate or a federal tax waiver of any type, it should be precluded, and should be open government in which they put that in the bid process. That should be evaluated fairly and openly and transparently, so that those that provide the contract, the procurement officers have a fair and equal opportunity to compare both non-profits and for-profits side by side. Apples comparing apples, Mr. Speaker. And the essence behind this bill was an issue of transparency. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. I just wanted to read what this bill says because I would agree with the proposal that the Health Chair just said. But in this particular bill under proposals and awards, it says, 'proposals submitted under this chapter shall include all costs, fees, and taxes, and any award or contract shall be for the amount of the proposal. No award or contract shall include any other payment, rebate, or direct or indirect consideration that is not included in the proposal, such as the insurance premium or general excise tax rebates to or waivers for the applicant or bidder.'

"Mr. Speaker, I think that can be interpreted that you cannot have this in the bid. So if that is so, then they can't bid with this waiver, or rebate, or whatever that's coming from the federal government that brings in this, however many millions of dollars into our State. Thank you."

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

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1642, HD 1, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE PURCHASES OF HEALTH AND HUMAN SERVICES," passed Final Reading by a vote of 37 ayes to 10 noes, with Representatives Chang, Ching, Finnegan, Karamatsu, Marumoto, Nakashima, Pine, Sagum, Thielen and Ward voting no, and with Representatives Aquino, Hanohano, Har, and M. Oshiro being excused.

At 1:24 o'clock p.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 1642, HD 1, SD 2, CD 1

## STANDING COMMITTEE REPORTS

At this time, the Chair stated:

"Members of the House, if you would turn to the reports of Standing Committees, let's start off with the House Standing Committee Reports Numbers 1246-10 to 1271-10, pages 2 to 7, we would like to defer one legislative day for the Members of the House to review these resolutions."

### Stand. Com. Rep. No. 1246-10 and H.R. No. 226, HD 1:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1247-10 and H.C.R. No. 311, HD 1:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1248-10 and H.C.R. No. 165:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1249-10 and H.C.R. No. 319:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1250-10 and H.C.R. No. 21:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1251-10 and H.C.R. No. 22:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1252-10 and H.C.R. No. 23:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1253-10 and H.C.R. No. 24:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1254-10 and H.C.R. No. 25:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1255-10 and H.C.R. No. 26:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1256-10 and H.C.R. No. 27:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1257-10 and H.C.R. No. 28:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1258-10 and H.C.R. No. 29:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1259-10 and H.C.R. No. 30:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1260-10 and H.C.R. No. 31:

By unanimous consent, action was deferred one legislative day.

### Stand. Com. Rep. No. 1261-10 and H.C.R. No. 32:

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1262-10 and H.C.R. No. 33:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1263-10 and H.C.R. No. 34:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1264-10 and H.C.R. No. 36:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1265-10 and H.C.R. No. 44:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1266-10 and H.C.R. No. 45:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1267-10 and H.C.R. No. 46:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1268-10 and H.C.R. No. 47:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1269-10 and H.C.R. No. 292, HD 1:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1270-10 and H.C.R. No. 316, HD 1:**

By unanimous consent, action was deferred one legislative day.

**Stand. Com. Rep. No. 1271-10 and H.C.R. No. 320:**

By unanimous consent, action was deferred one legislative day.

**FINAL READING**

Representative B. Oshiro moved to agree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans:

H.B. No. 2027, HD 1, (SD 1)  
H.B. No. 2028, (SD 1)  
H.B. No. 2136, (SD 1)

The motion was put to vote by the Chair and carried, and the House agreed to the amendments made by the Senate to the noted House Bills. (Representatives Aquino, Hanohano, Har, M. Oshiro and Thielen were excused.)

**H.B. No. 2027, HD 1, SD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 2027, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DISHONORED CHECKS," passed Final Reading by a vote of 46 ayes, with Representatives Aquino, Hanohano, Har, M. Oshiro and Thielen being excused.

**H.B. No. 2028, SD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 2028, SD 1, entitled: "A BILL FOR AN ACT RELATING TO GROUP LIFE INSURANCE," passed Final Reading by a vote of 46 ayes, with Representatives Aquino, Hanohano, Har, M. Oshiro and Thielen being excused.

**H.B. No. 2136, SD 1:**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 2136, SD 1, entitled: "A BILL FOR AN ACT RELATING TO DISTRIBUTIONS BY NONPROFIT CORPORATIONS," passed Final Reading by a vote of 46 ayes, with Representatives Aquino, Hanohano, Har, M. Oshiro and Thielen being excused.

At 1:26 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 2027, HD 1, SD 1  
H.B. No. 2028, SD 1  
H.B. No. 2136, SD 1

At 1:27 o'clock p.m. Representative Tokioka requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:27 o'clock p.m.

**SUSPENSION OF RULES**

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments made by the Senate to a certain House Bill. (Representatives Aquino, Hanohano, Har, M. Oshiro and Thielen were excused.)

**RECONSIDERATION OF ACTION TAKEN**

Representative B. Oshiro moved that the House reconsider its action previously taken in disagreeing to the amendments made by the Senate, and give notice of intent to agree to such amendments for the following House Bill, seconded by Representative Evans:

H.B. No. 1853, (SD 1)

The motion was put to vote by the Chair and carried, and the House reconsidered its action previously taken in disagreeing to the amendments made by the Senate, and gave notice of intent to agree to such amendments for the noted House Bill. (Representatives Aquino, Hanohano, Har, M. Oshiro and Thielen were excused.)

**ANNOUNCEMENTS**

Representative Berg: "Mr. Speaker, in anticipation of tomorrow's Art Fest, I'd like to invite all of our colleagues to the Rotunda tomorrow morning from 10:00 to about 11:15, where there'll be lot of examples of the role that arts can play, not only in society, but also in raising our spirits. There'll be students dancing and singing and performing and on the Third Floor lanai there'll be a lot of exhibits as well. So I remind our colleagues to visit the Third Floor and the Rotunda. Thank you."

Representative Karamatsu, for the Committee on Judiciary requested a waiver of the 48-hour advanced notice requirement for the purpose of hearing the following measure today, April 8, 2010, at 2:00 p.m. in Conference Room 325, and the Chair "so ordered."

S.B. No. 2121, Relating to Early Learning Council

**ADJOURNMENT**

At 1:30 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Friday, April 9, 2010.



(Representatives Aquino, Hanohano, Har, M. Oshiro and Thielen were excused.)

### HOUSE COMMUNICATIONS

House Communication dated April 8, 2010, 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 disagreed to the amendments made by the Senate to the following House Bills:

H.B. No. 2003, HD 3, SD 2  
 H.B. No. 2200, HD 1, SD 2  
 H.B. No. 2306, HD 2, SD 3  
 H.B. No. 2450, HD 1, SD 2  
 H.B. No. 2542, HD 1, SD 2  
 H.B. No. 2690, SD 2

House Communication dated April 8, 2010, 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 Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the Senate to the following House Bills:

H.B. No. 1907, M. Oshiro, Chr.;  
 HD 1, SD 1 Chong, Choy, M. Lee

H.B. No. 1985, M. Oshiro, Chr.;  
 SD 1 Chong, Choy, M. Lee, Ward

H.B. No. 2421, Morita/Tsuji/M. Oshiro, Co-Chrs.;  
 HD 2, SD 2 Coffman, Wooley, Thielen

H.B. No. 2542, M. Oshiro, Chr.;  
 HD 1, SD 2 Chong, Choy, M. Lee, Ward

H.B. No. 2594, M. Oshiro, Chr.;  
 HD 2, SD 1 Chong, Choy, M. Lee, Ward

H.B. No. 2595, M. Oshiro, Chr.;  
 HD 1, SD 2 Chong, Choy, M. Lee, Finnegan

H.B. No. 2866, M. Oshiro, Chr.;  
 HD 1, SD 1 Chong, Choy, M. Lee

H.B. No. 2962, M. Oshiro, Chr.;  
 HD 1, SD 2 Chong, Choy, M. Lee, Finnegan

H.B. No. 2984, M. Oshiro, Chr.;  
 HD 2, SD 2 Chong, Choy, M. Lee, McKelvey, Ward

House Communication dated April 8, 2010, 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 Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the House to the following Senate Bill:

S.B. No. 2159, Karamatsu/M. Oshiro, Co-Chrs.;  
 HD 1 Ito, Ward

House Communication dated April 8, 2010, 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 Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 1230, M. Oshiro, Chr.;  
 SD 2, HD 1 Chong, Choy, M. Lee, Marumoto

S.B. No. 2001, M. Oshiro, Chr.;  
 SD 1, HD 1 Chong, Choy, M. Lee, Ward

S.B. No. 2401, M. Oshiro, Chr.;  
 SD 1, HD 1 Chong, Choy, M. Lee, Marumoto

S.B. No. 2405, M. Oshiro, Chr.;  
 SD 2, HD 1 Chong, Choy, M. Lee

S.B. No. 2695, M. Oshiro, Chr.;  
 SD 1, HD 1 Chong, Choy, M. Lee, Ward

House Communication dated April 8, 2010, 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 Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the House to the following Senate Bill:

S.B. No. 2650, Mizuno/Yamane/Brower, Co-Chrs.;  
 SD2, HD 2 Ward

House Communication dated April 8, 2010, 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 its action taken in disagreeing to the amendments made by the Senate on March 23, 2010, and gives notice of intent to agree to the following House Bill:

H.B. No. 1853, SD 1

House Communication dated April 8, 2010, 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 following bill has this day passed Final Reading in the House:

H.B. No. 1642, HD 1, SD 2, CD 1

House Communication dated April 8, 2010, 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 this day, agreed to the amendments made by the Senate and passed the following House Bills on Final Reading:

H.B. No. 2027, HD 1, SD 1  
 H.B. No. 2028, SD 1  
 H.B. No. 2136, SD 1