

SIXTIETH DAY

Thursday, April 29, 2010

The House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, convened at 10:16 o'clock a.m., with the Speaker presiding.

The invocation was delivered by Representative Robert N. Herkes, after which the Roll was called showing all Members present.

On motion by Representative Evans, seconded by Representative Pine and carried, reading of the Journal was dispensed with and the Journals of the Forty-Third, Forty-Fourth and Forty-Fifth Days were approved.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 650 through 658) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 650, dated April 28, 2010, informing the House that the Senate has on April 7, 2010, agreed to the amendments proposed by the House to the following Senate Bill and that said bill has this day passed Final Reading:

S.B. No. 2544, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING LLC PROJECTS ON THE ISLAND OF OAHU."

Sen. Com. No. 651, dated April 28, 2010, informing the House that the following bills have this day passed Final Reading:

H.B. No. 1015, HD 1, SD 2, CD 1
 H.B. No. 2377, HD 3, SD 1, CD 1
 H.B. No. 2774, HD 2, SD 2, CD 1
 S.B. No. 2124, SD 2, HD 1, CD 1
 S.B. No. 2469, SD 2, HD 2, CD 1
 S.B. No. 2589, SD 2, HD 1, CD 1

Sen. Com. No. 652, transmitting H.C.R. No. 86, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE COUNTY OF KAUAI TO RESTORE PRINCE KUHIO PARK TO ITS FORMER CONFIGURATION," which was adopted by the Senate on April 28, 2010.

Sen. Com. No. 653, transmitting H.C.R. No. 155, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO AUTHORIZE THE JOINT LEGISLATIVE COMMITTEE ON AGING IN PLACE TO CONTINUE TO MEET AND CARRY OUT THE WORK OF THE COMMITTEE," which was adopted by the Senate on April 28, 2010.

Sen. Com. No. 654, transmitting H.C.R. No. 165, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING AN AUDIT OF THE EFFICIENCY AND EFFECTIVENESS OF THE CHILD WELFARE SERVICES PROGRAM IN PROCESSING AND INVESTIGATING COMPLAINTS OF CHILD ABUSE AND NEGLECT AND MISUSE OF CHILD SUPPORT," which was adopted by the Senate on April 28, 2010.

Sen. Com. No. 655, transmitting H.C.R. No. 174, entitled: "HOUSE CONCURRENT RESOLUTION URGING PRESIDENT BARACK OBAMA TO SELECT A LOCATION IN HAWAII AS THE SITE FOR HIS PRESIDENTIAL LIBRARY," which was adopted by the Senate on April 28, 2010.

Sen. Com. No. 656, transmitting H.C.R. No. 237, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ECONOMIC STIMULUS OVERSIGHT COMMISSION TO EXPAND ITS MONITORING OF FEDERAL STIMULUS FUNDS AVAILABLE TO HAWAII," which was adopted by the Senate on April 28, 2010.

Sen. Com. No. 657, transmitting H.C.R. No. 282, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PERMIT CONGRESS AND THE STATES TO REGULATE THE EXPENDITURE OF FUNDS BY CORPORATIONS ENGAGING IN POLITICAL SPEECH," which was adopted by the Senate on April 28, 2010.

Sen. Com. No. 658, transmitting H.C.R. No. 288, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII PROCUREMENT INSTITUTE TO REVIEW THE POLICIES AND REQUIREMENTS IN THE AWARDED OF STATE ENERGY SERVICE CONTRACTS," which was adopted by the Senate on April 28, 2010.

INTRODUCTIONS

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

Representative Thielen introduced her daughter, Ms. Laura Thielen.

Representative Rhoads introduced his staff: office manager, Mr. Sonny Le; interns, Ms. Sarah Teehee and Ms. Heather Bach; and legislative aide Mr. Bert Kobayashi.

Representative Evans requested that the names of all permanent, session and volunteer staff be entered in the Journal.

The following is a list of all permanent, session and volunteer staff for the 2010 Legislative Session:

Representative Aquino: Maureen Andrade, Sherry Ann Bing, Kyle Kawada, Ruffalyne Sunajo, Jon Ortal

Representative Awana: Enoka Lucas, Lahela Aoki, Keonaona Lucas, Colleen Takenouchi, Russel Trachtman, Presley Salas, Fatou Cisse, Elenoa Fuka, Natalie Ilano

Representative Belatti: Lisa Carter, Ernesto Ganaden, Kerianne Pascua

Representative Berg: Jennifer Wilbur, Matthew Prellberg, Andrea Tamaira

Representative Bertram: Haunani Olds, Margaret Logotaeao, Charles St. Sure

Representative Brower: Cynthia Nyross, Traci Toguchi

Representative Cabanilla: Leon Rouse, Patrocinio Bolo, Rosebella Ellazar-Martinez, Philmund Lee, Christina Simms

Representative Carroll: Janice Salcedo, Momilani Awana, Jenny Quezon, Jerald Ulmer Jr., Nancy King

Representative Chang: Sharon Miranda, Barbara Anderson, Francine Kaneshige

Representative Ching: Leanne Cardwell, Elsie Anderson, Colette Devou, Michael Karem, Naomi Kusachi, Anna Wynn, Daphne-Jayne Corrales, Katherine Lau, Zhiheng 'Ivan' Xu, Kara Nelson, Leilani Ng

Representative Chong: Janis Higaki, Lody Aisha Allen, Karlton Tomomitsu, Janine Tully

Representative Choy: Carole Hagihara, Heather Lee, Pamela Seency

Representative Coffman: Cynthia Apana, David Fanelli, Liane Miwa

Representative Evans: Tommie Suganuma, Baron Gushiken, Teriitavae Perez, Rachel Manuel, Marian Stone-Swanson, Nicole Saul

Representative Finnegan: Carrie Kealoha, Secily 'Malia' Gray, Tania Cortez-Camero, Aaron Johanson, Ashley McShane, Richard Lee Fale, Lanson 'Lance' Ho'opai, Jamie Moody

Representative Hanohano: Margaret 'Poni' Daines, Mary Baker, Kaliko Chin, Kristen Daines

Representative Har: Melissa Nilles, Mericia Palma Elmore, John Rankin, Megan Warren, Lori Wingard, Ann-Maile Yamasaki

Representative Herkes: Eloise Kuniyoshi, Rebecca Gardner, Noah Gibson, Davina Lam, Samuel Suen, Brian Yamane, Marlene Texeira

Representative Ito: Melissa Miranda-Johnson, Stephanie Macadangdang, George Okuda, Cori Sutter

Representative Karamatsu: Wayne Yagi, Harrison Kawate, Kenji Kimura, James Miura, Rafael Renteria, Shawn Ripley, Devon Uyehara

Representative Keith-Agaran: Ann Takaki, Amita Aung-Thwin, Brittany Yap

Representative C. Lee: Micah Young, Sara Young, Lina Le, Jolyn Adele Prieto

Representative M. Lee: Ann Thornock, Bree Davis, Ramona Ferreyra, Lloyd Nakahara

Representative Luke: Blayne Higa, Shirley Batad-Labisores, Janice Farrant, Nils Katahara

Representative Magaoay: Lawrence Sagaysay, Judy Fomin, Karess Purcell, Jordan Higa

Representative Manahan: Karen Kawamoto, Maria Fiedes Doctor, Alexandra Marie Jacinto, Irma Pena, Felix Yaranon Jr.

Representative Marumoto: Joan Shinn, Judith Fadrowsky, Spencer Lau Jr., Gaye Miyasaki, Maureen Muraoka, Jane Sinnott

Representative McKelvey: Leticia 'Tish' Acido-Mercado, Allan Garcia, Charles Wood, Christopher Bates, Ivan Kamaoakekai Levy, Alexander Price

Representative Mizuno: Joje May Mizuno, Michael Bouffard, Arianne Cameros, Erwin Gabrillo, Alice Nakama, Maria Sadaya, Allerstorfer, Paula Stockma, Raytan Vares

Representative Morita: Jennifer Lucien, Joshua Frost, Darcey Whitney

Representative Nakashima: Lori Hasegawa, Joy Kobayashi, Van Morita

Representative Nishimoto: Candace Van Buren, Lauren Easley, Nicole Kaaina, Ashley-Nicole Oshiro, Patricia 'Pat' Nishimoto, Jena Tadio

Representative B. Oshiro: Amoreena 'Reena' Rabago, Jacce Mikulanec, Kenneth Best, Melita Lani

Representative M. Oshiro: Tracy Kubota, Tiffany Aoyama, Lisa Asano-Beem, Michael Bomhoff, Nicholas Chong, Susan Fernandez, Michael Fisher, Mark Garedo, Leslie Goo, Kathleen Lee, Megan Muramatsu, Charin Tomomitsu, Ann Yuasa

Representative Pine: John Gollner, Thomas Berg, Maria Carmichael, Mariano Doctolero, Jame Schaedel, Eliza Talbot, Halley Hobson, Richard 'Ricky' Hobson

Representative Rhoads: Diane Dunphy, Sonny Le, Kapuaonalani Aiu-Yasuhara, CJ Burrell, Bertrand Kobayashi, Sara Teehee, Abigail Trenhaile

Representative Sagum: Melanie Kuroiwa-Steiner, Amy Maeda, Joyce Ohta, Florence Wakuya

Representative Saiki: Mallory Fujitani, Nathan Gyotoku, Katie Young, Sara Young

Representative Say: Gail Kakuda, Calvin Azama, Cassandra Song, Brian Takeshita

Representative Shimabukuro: Colleen Teramae, Eugene Gills, Wallace Inglis, Dana Newman, Gerald Kita

Representative Souki: Flo Hamasaki, Peggy Collier, Moses Lum Hoy, Vernon Souki

Representative Takai: RaniaLisa Vargas, Madison Barnett, Desiree Borja, Cheryl Ann Derby, Dawn Egusa

Representative Takumi: Nancy Nishimura, Daniel Kent, Marin Nakasone, Brett Shintani

Representative Thielen: John Foster, Ashley Kaono, Franziska Roessy

Representative Tokioka: Amy Luke, Luke Artiaga, Elijah Davenport, Malia Gibson, Amanda 'Mandie' Pearson

Representative Tsuji: Lora Lapenia, Alexander Kuch, Denna Macanas

Representative Wakai: Sharon Grace Sagayadoro, Maribeth Asuncion, Daniel Kalili

Representative Ward: Beth Fukumoto, Ildiko Hrubos, Pamela Kam, Marlo-John Ting, Joshua Cook, Brittany Hill, Richard Smylie

Representative Wooley: Arlina Agbayani, Ian Lind, Daniel Lott, Jacqueline Miyashiro, Flora Obayashi, Kaimana Pine

Representative Yamane: Danielle Bass, Anna Borris, Jamie Cook, Maria Grant

Representative Yamashita: Lois Tambalo, Mark Hashem, Jon Kobayashi, Kristen Oka

Finance Committee: Eric Abe, Perri 'Puna' Chai, Jody 'Joe' Hamasaki, Randy Hiyoto, Nandana Kalupahana, Michael Ng, Stacey Tagala

Majority Research: Linda Oamilda, Doreen Belen, Siobhan Caruso-Tuthill, Georgette Deemer, Thelma Dreyer, Richard Dvonce, Janelle Etelagi, James Funaki, Jamie Go, Susan Iwata, Mary James, Erin Kanehira, Terrence Lee, Steven Lum, Pamela McCreadie, John Moriyama, Roy Nihei, Kendra Oishi, Kiriko Oishi, Carolyn Plett, Carl Silva, Wimmie Wong Liu, Shin Woo Kim, Remar Jonah Moscardon, Ranie Mulligan, William Toyozaki, Jill Tsuchitori, Margaret Yamashita, Clint Uwaine

Minority Research: Boyd Akase, Candace Crouch-Kelsey, James Delavan, Nadine Nishioka, Michelle Van Hessen, Daniel De Gracia II, Roosevelt Freeman, John Gibo, Sharon Gibo, Kelsey Ann Morinaga Wells, Steven Offebaker, Cheryl Tokunaga, Sarah Fukumoto

Chief Clerk's Office: Patricia Mau-Shimizu, CJ Leong, Waynette Araki, Josette Friedl, Royce Fukumoto, Gail Iseri, Adele Ito, Rupert Juarez, Arman 'Kai' Lau, Eric Lee, Denise Liu, Lyle Maesaka, Craig Nakahara, Thai Nguyen, Emma Perry, Neal Shigemura, Roger Tyau, Chris Barangan, Sharrese Castillo, Jansen Correa, Angel Fujihara, Chi-Hwa 'Elvis' Ho, Ryan Kagimoto, Jimmy Lee, Beverly Lum, Ross Miyasato Jr., Tara-Rose Nakamura, Elsielyn Singson, Jill Takamatsu, Alice VanGelder, Scott Yamane, Diane Yukumoto

Printshop: Tammy Tengan, Fritzi Belmore, Carol Cabebe, Karen Ebisuya, Bradley Haida, Roy Higa, Lorrin Kaalekahi Jr., Summer Kaleo, David Kamida, Jean Kinoshita, Elaine Miyamoto, Mitchell Osurman,

Mildred Phillips, Estelita Pumares, Eleanor Riney, Ambronette Rivera, Alice Sato, Linda Shishido, Peggie Spencer, Aileen Tanaka, Mark Villamor, Curtis Yoshida, Wesley Yoshitake

Sergeant-At-Arms: Kevin Kuroda, Lon Paresa, Paulette Abe, Jesse Alvarado, Alex Kagawa, Rowena 'Ronie' Low, Glenn Okamura, Suzanne Apo, Yolanda Bryant, Matthew Daog, Sefo Fiso, Kate Kirayasu, Janelle Murakawa, Kevin Omori, Matthew Sagum, Jon Shitabata, Jacob Silva, Alfonso Singson, Jeffrey Spencer, Richard Tamashiro, Dustin Villanueva, Raymond Yamane

Representative Cabanilla introduced her staff, Mr. Pat Bolo, Ms. Christina Simms and Rose Martinez.

Representative Pine introduced her staff: Ms. Maria Carmichael, Mr. Jame Schaedel, Mr. Tom Berg; interns, Mr. Ricky Hobson and Ms. Haley Hobson; Ms. Eliza Talbot and Mr. John Gollner.

Representative Shimabukuro introduced Makaha surfers, Mr. Buffalo Keaulana, Mr. Bunky Bakutis, Mr. Kimo Leong, Mr. Shannon Bernabe and Mr. Phillip Lesconia.

Representative Mizuno recognized the hardworking employees of the Department of Human Services.

ORDER OF THE DAY

UNFINISHED BUSINESS

At this time, the Chair announced:

"Members, at this time, there are two measures that will be deferred until the end of the calendar of our Supplemental Calendar No. 1. They are SB 2646, SD 1, HD 2, CD 2; and Conference Committee Report No. 52-10 and SB 2405, SD 2, HD 1, CD 1. Those are the two measures that will be moved to the end of the calendar of our Supplemental Calendar No. 1."

S.B. No. 2646, SD 1, HD 2, CD 2:

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

Conf. Com. Rep. No. 52-10 and S.B. No. 2405, SD 2, HD 1, CD 1:

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

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 and Senate Bills for Final Reading by consent calendar.

UNFINISHED BUSINESS

Conf. Com. Rep. No. 139-10 and H.B. No. 1948, HD 1, SD 1, CD 1:

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1948, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative Evans.

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

"Mr. Speaker, I rise with reservations. Mr. Speaker, this is the bill that says we're borrowing money from the State of Hawaii by not giving them their income tax back exactly when they should have. It says we have to give them their income tax refund in 90 days.

"Mr. Speaker, I know some of you have bemoaned the fact that this \$275 million, which this pushes into the next fiscal year, is not on the budget to be repaid. I would remind this Body however, the people of Hawaii are not stupid. They will change their withholding and that money slowly will be repaid back, so I'm not sure of the necessity of this bill even though it's there as a good bumper, but it also gives 90 days from April 20 when taxes are due, which actually puts it right where now the Governor is going to be refunding it. So maybe it's in place for something but again, the people of Hawaii are not stupid. They're going to change it and this thing is going to wither away. Thank you, Mr. Speaker."

Representative M. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in strong support of this measure. Mr. Speaker, for the edification of the Members and the audience, this measure will require the Department of Taxation to provide refunds on a timely basis to taxpayers, within 90 days of the latter of the due date of the tax returns, or the date the tax return is filed. It requires that all general revenues collected from an increase of any general excise or use tax rate to be used first to pay refunds delayed from fiscal year 2009-2010, to fiscal year 2010-2011.

"This is to address the current practice by this Governor to delay the refunds due and owed to the taxpayers, and to clarify that it was never the intention for it to be used as a float in this situation.

"Mr. Speaker, we do understand that this was used to balance the budget and balance the financial plan by delaying to the next fiscal year an amount of about \$275 million. Again, I think the previous speaker needs to be corrected. Under the current law in place, allowing the Governor and the Department of Taxation to delay the refunds, that is the current law. This measure will correct that law to allow for a timely return of our tax payer's refunds. So from this point on, if this measure will pass, there will be a timely return of that amount of money.

"Just a few things to keep in mind since this policy was implemented. Preliminary tax data from the Department of Taxation indicates that through March of 2010, about \$123 million in refunds to families and individuals and businesses are being held back by the Governor. Interesting enough Mr. Speaker, at the same time about \$50 million in corporate refunds have been returned to these corporations.

"Mr. Speaker, a couple of other points. The Council on Revenues has not adjusted its projections, but the \$275 million equates to about 6 percentage points. This could cause significant problems for us next year, after the current Governor has left office.

"And finally Mr. Speaker, I'd like to thank my good friend from Hawaii Kai for the amendment that was proposed in the Conference Committee whereby we limited the affect of this measure to any increase in the general excise tax or use tax in the future. That being that this obligation must be paid first, before any of the increase of the general excise or use tax goes to the general fund. Thank you, Mr. Speaker."

Representative Ward rose to respond, stating:

"Mr. Speaker. A brief rebuttal and thanking him for the compliment, but attaching my name to the GET tax is a little bit farfetched. Having said that, I want to quote the Majority Leader who always reminds us, 'if you read the bill properly,' it says, 'at the time you file your tax returns or upon the date due,' and here's the catch Chair, 'whichever is later,' then and only then do we have to pay it 90 days. Whichever is later, meaning April 20. April 20 plus 90 days is what? July 20, which is exactly when the Governor is doing it. So this bill kind of says, 'Yeah we're making it nice and warm and fuzzy,' but in effect we're just doing what we're already doing. But again I say, the people of Hawaii are not stupid. They're going to take their withholding. They're not going to wait for this bill to do anything, because it doesn't do anything. But it's there and we feel better because of it. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. Just in quick rebuttal. Again, if the Representative from Hawaii Kai would actually read the bill, it also takes out the 45 days allowed to the Comptroller. So now, if you file by March 30, you need to get your refund by the current June 30th of that year. Because that's how we addressed the issue, we took out the Comptroller's 45 day window.

"Also to just clarify what the Chair of Finance said. This is just a way to ensure that if any administration is going to delay the tax refunds to its citizens, it just has to pay interest on it. That's all. It does not prohibit this Governor from doing it. All it says is if we are going to do it, you need to be fair and pay interest. Thank you."

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

"Thank you, Mr. Speaker. I'm in support of this bill Mr. Speaker, but I just had some clarification that I'd like to get. Mr. Speaker, dealing with the budget from year to year, it's a tango. It takes two. It's the Legislature and the Governor, and we try to work together. My question with this particular bill is, if this is moving forward, have we anticipated what that would cost us next year, and did the Majority's six year financial plan, or balanced budget and six year financial plan incur those possibilities of increases through this bill. It won't show up in the Governor's balanced budget or six year financial plan because she doesn't have this bill reflected in it. We don't know that because we don't have a list of what's in the two year balanced budget or the six year financial plan.

"So Mr. Speaker, if we're passing this bill anticipating that increase, and we pay for it within the existing income or revenue projections that we think we're going to get, then that's okay. But being that we don't know that from the Minority's point of view, I think that before we can go and make that statement, that we should have those who claim that this is in the two year balanced budget as well as the six year financial plan to state that now.

"I am voting yes because I believe that we need to correct what we need to do. We need to do what we have to do in order to do our best for the State of Hawaii, but I still don't know if this is included in that six year financial plan."

At this time, the Chair stated:

"At this time the Chair will refer this particular clarification or inquiry to the Chair of the Finance Committee or the Whip of the Majority Caucus. Representative Pono Chong would you like to clarify for the Minority Leader."

Representative Chong rose to respond, stating:

"Thank you, Mr. Speaker. Again, in support. This does not affect the financial plan as the Representative from Hawaii Kai had said. This does not change the existing law in the sense of changing the financial plan. It does not put back the \$275 in expenditure. All this does is say, 'If you are going to delay refunds, you just have to pay the people of the State of Hawaii, whose refunds you're going to delay, interest.' And if Members remember from last year, the interest was adjusted to present day interest. Thank you."

Speaker Say: "Representative Finnegan, does that answer your question?"

Representative Finnegan rose to respond, stating:

"Okay Mr. Speaker, it answers the question, sort of. But Mr. Speaker, if I'm not mistaken, didn't the previous speaker just say that this does make changes? And says that if people file before March 31st, there should be some kind of number that will show you who filed before March 31st and like we do with the six year financial plan, anticipate some of these things and include it in the six year financial plan. So Mr. Speaker, I think that... Well, I won't say what I think. Thank you."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise with reservations on H.B. 1948 – Relating to Taxation. I believe that this bill interferes with the budgeting discretion provided by law to ensure a balanced budget. I also hold reservations as this measure interferes with the budgetary discretion provided to the Department of Taxation and other agencies in paying out tax refunds to ensure the general fund is not unnecessarily drained.

"For example, this fiscal year, the Department is utilizing its authority to delay payments to ensure the budget remains balanced. Without the authority for the Department of Taxation to payout refunds within a reasonable time, the budget and the general fund are put at risk if all refunds went out at the same time (i.e., April 20). The current refund payout law is logical and provides important latitude when fiscal times are tough. Thank you."

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

"Thank you, Mr. Speaker. In support. I would just like the words of the speaker from Kaneohe entered in the record as if they were my own. And my only regret is I can't now claim the State of Hawaii as a dependent anymore on my taxes. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1948, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading by a vote of 51 ayes.

At 10:38 o'clock a.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 1948, HD 1, SD 1, CD 1

LATE INTRODUCTIONS

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

Representative Shimabukuro introduced 5th grade students of Leihoku Elementary School. They were accompanied by chaperones, Ms. Brittany Bednaryzk, Mr. Tim Boyer, Ms. Chanele Wong and Ms. Martha Sarmiento.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 160-10 and H.C.R. No. 297, SD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.C.R. No. 297, SD 1, CD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING REPORTS ON THE ECONOMIC VALUE OF EXPANDED WORKFORCE DEVELOPMENT CAPACITY AND STEM INITIATIVES," was Adopted.

FINAL READING

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

H.B. No. 921, HD 1, (SD 2)

H.B. No. 921, HD 1, SD 2:

Representative B. Oshiro moved that H.B. No. 921, HD 1, SD 2, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in support with written comments, and I just want to say a big *mahalo* to you and your staff, as well as the Chair of Water Land, and the Chair of Finance, and the Chair of Hawaiian Affairs. This is a very important bill for my community and I think also very representative of our commitment to helping families in Hawaii, promoting agriculture, and supporting our Hawaiian families in particular. Mahalo."

Representative Wooley's written remarks are as follows:

"The passage of this bill is both symbolic and meaningful for families in Hawai'i who have ties to the land under State leases. This bill was proposed because families in Hau'ula asked for a change in the law and, after I looked into the issues and discussed them with my colleagues, it became clear that a change was long overdue.

"In the future, I anticipate that there will be additional proposed amendments to the law to address some of the challenges for these leases. I hope this bill will set the stage for any such changes that may come – the goal must be to make it easier for families to successfully manage the land where they live and farm.

"The bill, if law, will provide an option for families, primarily Native Hawaiian families, to preserve and cultivate farm land consistent with goals set by leaders in Hawai'i prior to 1900. Similar to the concepts that led to the establishment of these leases in the first place, my hope is that this bill will not only help prevent the commercialization of land and preserve agricultural land, it will also promote family harmony and cooperation and lead to many family and State land-management success stories.

"This bill provides lessees with access to a commonly used legal tool – the option to create a trust to manage a property on behalf of a family. Fee simple land owners have this option. However, unless this bill becomes law, families with 999-year leases with the State will continue to be unable to use this legal tool. And, absent this tool, some of the remaining families may lose their leases.

"The origin of the 999-year leases that are the subject of this bill was the Land Act of 1895. The goal of the leases was to put people on the land, promote family farms – especially for the less affluent, and protect against the loss of land and land speculation. Today, out of approximately 750 leaseholds issued between 1895 and 1921, probably less than 50 of the leaseholds remain. Since 1950, lessees have had the right to purchase the fee simple ownership of their leasehold. Some 65 to 70 families have done so.

"Many of the lessees are Hawaiian, but there has never been a blood quantum requirement associated with the leases. Under the original Act, potential lessees had to be citizens of the Republic of Hawai'i, not own other land, and successfully meet conditions for a period of 6 years including the requirements that a home be built and the land be cultivated.

"Now, after more than 100 years into the almost 1000, less than 50 of these unique leases still exist. Some people have argued this is evidence the leases should end. Some people have argued once the leases end, the State should sell the land. And some have argued that the sooner these lands are developed and commercialized, the better.

"In contrast, I believe we are obligated to give the remaining lessees the tools they need to keep these lands for the benefit of the families that have historical ties to the land and a commitment to manage and cultivate the land in perpetuity.

"A 1994 report entitled "Analysis of the 999 Year Homestead Lease Program: Current Problems and Possible Solutions" which was prepared

for the Seventeenth Legislature of the State of Hawaii by the Office of Hawaiian Affairs, by John H. Bay and Jane van Schaick, found that there are many challenges for these leases and there are a variety of reasons many leaseholds have been lost over the years. Families have struggled to figure out how to make the leases work given modern challenges with property management and lending laws. For example, the leases may not be used as collateral (because they are not owned fee simple) and banks are not willing to provide loans on these types of leases. As a result, it is difficult for the families to move forward with improvements, effectively farm, or make good management decisions.

"Again, the goal of this bill is to make it easier for families to manage these lands by giving the lessees a simple legal tool that fee simple owners currently enjoy – the right to create a trust to manage their property for the benefit of a family. I am very hopeful this bill will become law and will lead to promising and exemplary family land management for these unique leases.

"I would like to once more thank the Speaker, his staff – particularly Calvin Azama, as well as the Chair of Finance, Chair of Water Land and Ocean Resources, and the Chair of Hawaiian Affairs, for their patience and support. Also, mahalo to Ken Takayama and Mr. Funaki for their able legal assistance.

"In addition, I would like to personally say *mahalo nui loa* to Laulani Teale, who worked tirelessly on behalf of Hawaiian families, to move this bill forward."

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

"Thank you, Mr. Speaker. In strong support and I'd like to ask that the words from the Representative from Kahana be entered into the Journal as if they were my own. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 921, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," passed Final Reading by a vote of 51 ayes.

At 10:42 o'clock a.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 921, HD 1, SD 2

SUPPLEMENTAL CALENDAR #1**GOVERNOR'S MESSAGES**

At this time, the Chair announced:

"For the Member's edification, for House Bill 1642, House Draft 1, Senate Draft 2, Conference Draft 1, which was vetoed, will be moved to the end of the calendar. We'll take that up as Gov. Msg. No. 259. That's at the end of the calendar.

"Also, on page 2 of the Supplemental Calendar No. 1, Gov. Msg. No. 197, Senate Bill 1311, Senate Draft 1, House Draft 1, will also be moved to the end of the calendar."

Gov. Msg. No. 259 and H.B. No. 1642, HD 1, SD 2, CD 1:

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

Gov. Msg. No. 197 and S.B. No. 1311, SD 1, HD 1:

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

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 283, informing the House that on April 25, 2010, H.B. No. 2421, HD 2, SD 2, CD 1, was vetoed.

Gov. Msg. No. 283 and H.B. No. 2421, HD 2, SD 2, CD 1:

Representative B. Oshiro moved to override the veto of H.B. No. 2421, HD 2, SD 2, CD 1, as contained in Gov. Msg. No. 283, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I'm rising to speak in support of the veto override and with some reservations and some cautions. Mr. Speaker, this is the so-called 'barrel tax' which increases the tax on each barrel of oil brought into this State by one dollar. Originally all of that increase was going to go to fund Hawaii's renewable energy programs and I firmly supported that because the faster we get off of polluting, high-cost oil, the more jobs we create in our economy, the better our green energy programs will work, and the lower our cost of energy will become with using renewable energy as its base.

"I took a hard look at this because what happens is only 25% goes to green energy. There's a small amount that also goes to the agriculture and food security program. But 60% goes to the general fund. I believe that that must be a temporary allocation until we improve our general fund balance and therefore I can go along with this, temporarily.

"Mr. Speaker, this money, the 25% going to the green energy fund, is the bridge, the game changer that will help us obtain additional federal funding and be able to have money to spend on real programs.

"You know my passion for wave energy programs and I would like to refer the Members to the recent *US News and World Report, The Future of Energy*. They are very positive about wave energy, particularly for coastal states. And we can't get there without having some funding base to be able to begin to move forward.

"The other thing they talk about, and we haven't talked about it much in this Body, is the need to upgrade our power grid. They're talking about the national power grid and they said that ranking the 20th century's greatest technological achievements, at the top was the electrical grid. And they say that, while it was a technical wonder at the time of construction, the nation's power grid has become dangerously antiquated over the past decades and it's not in any way reaching the broadband speed that high tech and the broadband power system is. In fact, they note that the dog food industry spends more on research and development than the electrical sector does. Well our power grid is very antiquated, and the problem is exacerbated by the fact that we are an island state.

"So we have to begin somewhere. I don't like the idea that the Finance Committee scooped 60% of the money for the general fund. However, I recognize the financial realities and the challenges they met with. I want that to be temporary, Mr. Speaker. I want us to move ahead to be able to bring in the wave energy systems, to be able to be a leader in this technology, and to be able to provide the wave energy test hubs which bring in money to the State, bring in the expertise, and let our local people have good-paying, green jobs.

"The other thing I would like to refer the Members to, and this was given to, I believe, all your offices, this was prepared by the University of Hawaii's Sea Grant College Program. It's called 'Hawaii's Changing Climate' and it's a briefing sheet dated 2010. We have serious problems. And if you take a look at this and go through it, you realize that unless we take some dramatic steps, we're going to be an island underwater. This doesn't help our State. It certainly doesn't help our nation. It doesn't help our world.

"So to the Finance Committee I say: Okay, you got away with 60% this year. Let's look at that next year. Let's see if we can't whittle that down to maybe being 30% and then the year after having 100% of that additional dollar being available for green energy, renewable energy in our State, and

become the true leader providing the jobs and the expertise that we can export to other nations to help them. Thank you."

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

"Thank you very much, Mr. Speaker. In support, however I have serious reservations at this point that I have to express to the Members. My reservations are about the impact that this will have on our consumers, especially those on the Neighbor Islands. I know it's 3 to 5 cents additional per gallon, but when your constituents are paying over \$4 a gallon for gasoline with expectations to reach \$5 a gallon, it's very painful.

"However, as the good Chair of Finance has said, we had to make tough choices this Session. That's why at the end of the day, I do support this. Not for the reasons of the previous speaker. The irony is, it's to the contrary. I support this because of that general fund allocation. And why you may ask, do I support this because of general fund allocation. Because of what it will do.

"The first thing it's going to do is, it prevents a takeaway of the counties' share of the TAT, which our citizens desperately need to continue the services and programs, especially the State partnerships like the nursing program at MCC.

"The second thing that it does is, it funds agricultural inspection positions in Maui County. If we lose those positions Mr. Speaker, our farmers, our small farmers will have no way to get their crops to market and it will be economically devastating.

"The fact is, this is probably the hardest choice I've had to make, but however, given that this is an integral part of the financial plan and given that our counties need this, our farmers need this, I am going to support this. But again, I really, really do this with a heavy heart because of the impact that this could have on the Neighbor Islands vis-à-vis fuel fees this summer."

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

"Thank you, Mr. Speaker. I rise in support of the override. Thank you, very much. Mr. Speaker, in her veto message of April 25 of this year, the Governor stated that this bill, to provide a source of funding, to provide government services, has a purported purpose. I disagree.

"The Governor further argues that this bill is objectionable because it raises taxes on Hawaii residents and businesses at a time when the community cannot afford it. And therefore she says, 'This bill is deceptive.' Mr. Speaker, to the contrary. The purpose is concise. It's forthright. It is to promote energy programs and food security.

"Mr. Speaker, for those who argue that it is deceiving that 60% of the moneys go to the State general funds and clouds the purpose, consider this for awhile. Mr. Speaker, \$9.2 million is earmarked for agriculture. The College of Tropical Agriculture and Human Resources is linked as a recipient of some \$21 million. On the special funds side, they are linked with special funds of some \$3.3 million to fund agricultural security programs to fight invasive species and to promote sustainability of agriculture, both imports and exports alike.

"I posed this question to an invasive species expert: 'What is the negative impact if we have an invasive species attack or outbreak on our food sources that is uncontrollable?' The response: incomprehensibly into the millions of dollars. Think about this, Mr. Speaker.

"Further, responding to the Governor's comment that this bill raises taxes and virtually impacts everything. Without belaboring the issue, let me be forthright with you about recent invasive species developments requiring immediate attention, but still stymied because of our neglect sometimes, of legislative action.

"Let me just go back a bit, and when I say back a bit let's go back into the month of April only. April 2010. April 20, 2010, USDA, United States Department of Agriculture in Hawaii, placed a two-day restriction on

Hawaii shippers whose shipments have been destined to California that have been rejected for inspections. A further two-day delay. Can you imagine what this does to our exports and of our fresh fruit products? Initially the two-day ban would have been in effect for all shipments going to the continental United States, but was only for California. Don't forget, last time I spoke to this Body, Mr. Speaker. I was very concerned about the State of California already placing an embargo on exports from Hawaii to the State of California.

"Going further a couple of days later, April 23, 2010, this year again. An outbreak, an unknown outbreak on ti leaf in Kahului. On ti leaf in Kahului, an invasive species is still unknown and it's been tested for. So what's the economic impact? Cultural impact for hula skirts, for our *laulau*, for our display items. Think about it. This has yet to be identified.

"Now going to April 27. This is only one month in the year of 2010, Mr. Speaker. Well let's go backwards if you will allow me, Mr. Speaker. In the year 2007, this legislative body in a crisis situation allocated about a half million dollars because the varroa mites unbeknownst to us, invaded this Island of Oahu which attacked the queen bee, the honey bee industry, and all those in the pollination industries like macadamia nuts."

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

Representative Tsuji continued, stating:

"Thank you, very much. But now fast forward to April 27, 2010. An outbreak in Pana'e'wa on the Big Island, once again. It's called the small hive beetle. The small hive beetle also attacks the honey bee industry, the queen bee industry. And USDA inspectors, along with our Department of Agriculture inspectors are feverishly working on trying to identify and trying to counter these invasive species. Key personnel are waiting for approval so that they can travel to the Big Island. And you say, why wait for approval? Think how this funding will really help us, Mr. Speaker.

"Although the Legislature, and thanks to you Mr. Speaker, has approved the restoration of 45 positions for plant quarantine and pest inspection control funding, the Governor now has the authority to fill or not to fill the restored positions. The Legislature must override the Governor's veto regarding this barrel tax so the Department can implement and rapidly respond, and put into effect eradication efforts as these new outbreaks are occurring. Until the Governor restores these positions and inspectors so they can once again prevent new outbreaks, I implore upon you Mr. Speaker, please override this veto. Mahalo."

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

"Mr. Speaker, I rise in opposition to the override for the second time, as this bill was introduced last year and vetoed. This time it's a little bit different because it gives 60% of the money to government, it's basically a revenue raising mechanism. As a member of the Finance Committee Mr. Speaker, I did not, as one speaker said, go along with that, even though the Finance Committee did bump it up from the nominal to a very large percentage.

"So Mr. Speaker, what we've got here is basically a bill that sucks \$22 million out of the economy. And invasive species are very, very important. But the people of Hawaii are more important. We have people living on the edge. We've got over 300,000 people who are dependent upon government for their food, shelter, medical benefits. We've got a bad business model for a society when you've got almost one-third of your people who can't make it on their own, Mr. Speaker. That's not good. And the more we suck out of the economy, the harder it's going to be for them to live.

"I know the Chair of Human Services has very pointedly shown how domestic violence is increasing in our State. Mr. Speaker, what's the first thing that people fight over in families? It's money. This \$22 million is going to hit all aspects of their electricity bills, their gasoline bills, everything that we ship, that we truck, every retail good, all the food that we eat.

"I would remind this Body that this is a 2,000% increase, from 5 cents a barrel, to \$1.05. But Mr. Speaker, this is 2010. What do you think this Body is going to do in 2011? Because some people already wanted this to go from 5 cents to \$5. So I would submit that this is kind of a 'time bomb' argument, that next year we'll say, 'It's only 3 cents on the gasoline. It's only 3 cents here, 2 cents there.' But Mr. Speaker, those things add up. The same way when you boil the water, the frog, when you throw it in will jump out. But if you get the frog in there and get him comfortable, you just turn it up slowly, the bugger will die. And that's what we're doing to the people of Hawaii, slowly turning them and turning up the heat on taxes.

"Lastly Mr. Speaker, I want to cite something that was very profoundly said yesterday by the Chair of EEP, the Representative from Kauai. She said that the bill that's going to put photovoltaic and solar on every roof, or that's going to allow that bill that got stuck and became a reso, she said that the passage of this bill will allow that program to proceed and that bill to pass next Session. I want to go on record Mr. Speaker, and just quoting her for saying that, because I felt so strongly yesterday and I feel so strongly today. If you guys override this one, let's make sure that that photovoltaic bill to allow the State to put those energy bonds out on the market so people can have the upfront money, pay it back with their property taxes, and really make us an energy independent state. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. I rise in strong support of this override. The Representative from Hawaii Kai may see \$22 million being sucked out of the hands of Hawaii residents, but in actuality, over \$8 billion per year is being sucked out of this State to pay for imported food and energy costs.

"Mr. Speaker, when the Governor vetoed this bill, she tried to grab headlines by pointing out that this bill will increase the tax on oil 2,000%. Yes, it will increase the tax on oil from 5 cents per barrel, to \$1.05 per barrel and that very well may be 2,000%. However, if you look at the overall impact of the price on various petroleum products, the impact of this tax was anticipated to be 0.9% in 2009, and approximately 0.8% in 2010.

"Let's look at the real cost driver for energy within the past 12 months. As of March 2010, crude oil prices rose from \$48.10, to \$81.29; a 69% increase. The average gasoline price per gallon rose from \$2.43, to \$3.46 per gallon; a 42% increase. And projected forecasts for crude oil in the next year is \$100 per barrel.

"This is the impact that will ripple through the economy. Doing nothing is not an option if we want to recover and shore up our economy. The energy sector is the bedrock of our economy. Stable, predictable energy pricing is a major factor that affects each sector of our economy and offers an opportunity for economic diversity and economic growth.

"While the initial objective of this measure was to accelerate programs to reduce our fuel and food imports, given the economic reality, the tax will be used to help balance the general fund budget. However, important and core energy and agricultural programs are still general funded. While 60% of the tax will go to the general fund, consider this: general funds are to be used for, as our Agricultural Chair pointed out, agricultural inspectors which are critical positions to facilitate the import and export of agricultural products and mitigate invasive species, and pay out the renewable energy income tax credit which is about \$18.5 million from the general fund.

"Again, the cost of doing nothing will have a far greater impact and leave Hawaii vulnerable to energy pricing volatility and supply disruptions beyond our control. Rising energy cost is a major factor that increases the cost of living within Hawaii. As an isolated island archipelago, we are vulnerable to fuel and food supply disruptions and global forces beyond our control as I just mentioned.

"A transition to a clean energy economy and a strategy to reduce our fuel and food imports, which is funded through this tax increase, puts Hawaii's destiny more under our control. It will take long-term planning, a smart strategy, public-private partnerships, the infusion of new technology, smart investments, and political will to achieve this strategy.

"I disagree with the Representative from Hawaii Kai. Just because we put a couple of PV panels on our roofs, that isn't going to solve this problem. This is a complex transition that has to happen, and as the Representative from Kailua said, moving from an antiquated system to a modern, robust system that benefits everybody throughout our State, rich, poor, young, old. This is the future for our State.

"So as leaders, as residents, as businesses of the State, we need to make the long term commitment and investment by putting our money where our mouth is, and this is a smart investment. Thank you, Mr. Speaker."

Representative Cabanilla rose to speak in support of the override with reservations, stating:

"In support with reservations, Mr. Speaker. I would just like this Chamber to acknowledge that this tax increase is going to be carried by the constituency that lives in outlying areas. People from Ewa Beach, Ewa and Waipahu bought houses there because that's where you can find affordable housing. But with this increase in tax where they have to fill their tanks more often than those people that live in urban Oahu, that savings in affordable housing is going to now be negated.

"Although my constituents will probably be happy to help out with the budget, I just would like the Chamber to know that those constituencies are giving more on this tax increase than everybody else. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition. We talked about how this bill is going to help so many people in the State of Hawaii. It kind of reminded me of when I went to the Tea Party last year and the sign that I remembered most, it said, 'Note to government: stop helping me, I can't afford it anymore.'

"I talk to my constituents and they hear all of these arguments and they say, 'Rep. Pine, they just don't get it, do they. We can't afford anything else taxed on us. We're barely breaking even.' And as the previous Representative from Ewa stated, this is going to be very damaging to the Ewa Plains because we have some of the farthest commutes. And the one thing my constituents asked me is, the best way that I could help them is to not increase the taxes on things that will affect their daily lives.

"This bill is deceptive, Mr. Speaker. I think it started with fantastic motives. When a version of this was introduced earlier in the previous Session, I voted for it because it was tax neutral on my constituents. It accomplished both goals. Allowing them to continue to make it in the State of Hawaii without having to move to the mainland. It also allowed food, energy and security programs to be funded. But somewhere in the chaos and the madness of what has happened this Session, a great bill has turned into a deceptive one. You can argue every other way that it does benefit the people in some way, but the majority of it doesn't.

"So Mr. Speaker, I just cannot in good conscience vote for anything that will increase the cost of bread, cereal, milk, electricity, and most importantly, gas that is the lifeline to my constituent's jobs and survival."

Representative C. Lee rose to speak in support of the override, stating:

"Thank you, Mr. Speaker. I rise in support. I mean no disrespect to anyone in the Chamber when I say this, but I think I'm the only member of 'Generation Y' here. I see a lot of 'Gen Xers' and members of the 'Greatest Generation.' Many more up in the gallery, a lot of white hair.

"But the truth is the day is going to come when our economy, our State, and our way of life is going to have to be passed on to the next generation. And quite frankly, the prospect, as I see it right now, is very grim because we're an economy built on an unsustainable energy source whose cost is destined only to skyrocket the longer we wait.

"While this bill is a compromise and isn't perfect, it will lay the foundation for the first time, for our transition away from imported oil that I hope in the years to come, will be a distant memory.

"So I ask all of you today, think not of yourselves really, but think of your kids, my generation, my kids, and all of us who will be saddled with hundreds, thousands, tens of thousands, millions of dollars in additional debt collectively, billions of dollars in additional debt, as we will be forced to continue to pay for the higher prices that we can no longer afford. And so this, if it passes, I hope will move us away from that otherwise bleak future. So please consider that, and please think ahead. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. Well actually, I'm a mother, and so as a mother of a child who is six years old, I think it's been clear that the Administration and people here in this Chamber understand that we need, yes we do need, and actually as the former President of Life of the Land back in the 1980s, when it was quite rare and the word, 'green' had not even yet been created, I was a supporter of alternative energy. Back when very few people supported that.

"I think that this Chamber, we all want to understand that we need to get to alternative energy and we want to take care of the next generation. But the question is, how do we get there? That is always it. As we say, the 'devil in the details.'

"I'm also a strong supporter, as this Chamber well knows, my support for ag. I have big support for diversified ag. So the thing that is going through my mind is how do you get to support diversified ag? How do you get to alternative energy?"

"What I don't know that this Chamber really understands or understands my way of thinking of it, is that business, I will say that for the last time on *sine die*, business creates jobs, business creates tax revenue, by its service. So actually when you tax business which is what this barrel tax is going to do. So when you make it harder for the consumer, the reality is, when I think I might go down to that restaurant, I think, 'Oh, gas is expensive. I'm keeping my budget down.' So you know what? I'm not going to go out to Haleiwa next time because it's a little bit too much gas.

"It contracts the economy. And when we contract the economy, people don't want to get out of their houses, do things, and therefore purchase things, etc. that sustain businesses. And that, in the long run, creates the recovery. And that in the long run, creates the tax base that will pay for the agricultural programs. I'm just going to read from here. This is the Governor's objections.

"The purported purpose of Senate Bill 2421 is to provide a source of funding to support government programs."

At this time, the Chair addressed Representative Ching, stating:

"Representative Ching. I believe the Members of this House have read the Governor's veto message. So if you want to incorporate into the Journal you may, but there is no reason for reading it at this point in time."

Representative Ching: "Well, as my own statements."

Speaker Say: "Yes, please proceed with your own statements and your own feelings, as far as being in opposition."

Representative Ching continued, stating:

"My position and argument is this tax, as I said earlier, will virtually tax everything we do or use in Hawaii, including electricity, gasoline, trucking, shipping, retail goods, food and even the propane for our back yard barbeques. It will ripple through the entire economic system, and I too am concerned that this tax increase comes at the worst possible moment when you're actually trying to get the economy back on its feet.

"Let's be honest about it. It's no longer the bill that it once was to say, 'Let's try to get into alternative energy and support clean energy, etc.' And I

think it's been clear that this House and this Administration, it has to be said on *sine die*, that this Administration has been supportive. And yesterday, we debated that PACE program.

"So truly, we have to look at the proper ways to solve the problem and not create 'straw man' arguments that there's a generation that doesn't care, or else I don't think I'd be taking so much time away from my daughter to be here. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. Thank you, Mr. Speaker. What this Session is about, at least from my point of view, especially in balancing the budget, is living within our means. Mr. Speaker, just like every other family, just like my family, and just like businesses, when you look from the outside-in, we're busy running from Committee to Committee, hearing testimony to testimony, coming in early, leaving late.

"We get into the 'weeds,' the 'trees,' Mr. Speaker. We have to step back and look at the forest. So what happens when I look at the forest? I look at the fact that we have a budget and we need to make priorities. If food security and clean energy are priorities, then we fund it in the budget and we make other cuts. That is what the Republicans did in their six-year financial plan.

"Mr. Speaker, you can still do something within our means. But you just have to make these tough decisions to not fund other things. Because in the big picture Mr. Speaker, in the private sector a business doesn't have that choice. People will only come to their store if they can afford it. You can go ahead and raise prices on them, but sooner or later the customers won't come. However, in government we put it in a bill, we pass out the bill and next thing you know because we need gas, we go get gas, we pay for it. There's not much in choices for the people.

"Mr. Speaker, we talk about this \$8 billion price tag of not going to clean energy and I believe that as well. I believe every single person on this Floor is dedicated to a clean energy future. In fact, the Governor talks about how in 2006 she signed groundbreaking legislation known as the Energy for Tomorrow that lays the foundation to wean Hawaii off of imported oil. In 2008 her Administration signed a historic one-of-a-kind agreement with the US Department of Energy intended to decrease energy demand and accelerate the use of renewable energy resources in Hawaii. That was with a Republican President. In 2009, we enacted legislation drafted by members of the Hawaii Clean Energy Initiative that will help Hawaii meet their goal of 70% clean energy by 2030.

"Mr. Speaker, our Governor, in all the times that I've paid attention, she has been the person that could grab the people of Hawaii's attention on clean energy. No matter how hard the Legislature worked the push to have a, I think it was 20 by 2020 was the goal when the Governor first came in, and now it is 70% by 2030. That's the goal. Mr. Speaker, priorities don't do nothing. That's not what we say when we say we're against this bill. Priorities Mr. Speaker. Live within our means. Private business sector. We need to look at what's going on in the forest, Mr. Speaker. Thinking of our kids? Absolutely.

"I did a quick calculation. It's going to be about \$60 per car for my car, and \$60 per car, per year, for my husband's car. That's \$120 per year. It doesn't sound like much but that doesn't include electricity, higher electricity prices that we will pay, or milk prices and all of those other things when we go to the store and we say, 'Oh my goodness. How come it went up?' That will be one of the reasons why. \$120 doesn't seem like much, and I'm not the kind of person that would exaggerate on these kinds of things to make a point. But \$120 was the choice that my son had to make when I helped him bring 25 bags of bottles and cans to go and recycle so he could pay an entry fee to do one of the projects that he wanted to do. And he got \$120 by working and doing that. Because our budget is like most of the people's budgets in Hawaii and it's not one of those things where you can just go and write a check for \$120.

"Mr. Speaker, I realize that this House feels that this is the right way to go. Mr. Speaker, I just think that we can do a better job. Thank you."

Representative Coffman rose, stating:

"Thank you, Mr. Speaker. Just curious, I just heard \$60 a year on this tax from one of the colleagues here. This tax is going to cost 2.4 cents per gallon. If you drive 20,000 miles a year that's \$24. At \$60 a year that's getting close to what, 60,000 miles of driving? I would certainly be driving a very small car if I had that kind of expense.

"I want to address a point here about where this money is going this year and use one example, and let's take this tax. \$2.2 million is going to go towards the Hawaii Natural Energy Institute. This money will draw a 4 to 1 match. A lot of this money is going towards projects to develop the smart grid on Maui. We've got a one megawatt battery going in on the Big Island. These are both projects to help us better utilize the wind farms we have on these islands. We have to get these projects completed so we can prove out the technology and we can get off of fossil fuels.

"Mr. Speaker, this bill is extremely important for this State, for the long-term economic development of our State. Gasoline has gone up over a dollar in the last year. If I owned a business, I don't think the 2.4 cents per gallon of gasoline is going to bother me. What's going to bother me is that it's gone up a dollar in the last year. Oil's forecasted to go up another 20% before the end of this year. This little mini tax is going to get lost in that. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In support. There's been a lot of talk regarding this issue being about food and environment, and while those things are true, this is an issue about the economy. I remember in a town meeting, I would say it was last year or the year before last, where a gentleman stood up, pointed at me and said, 'Oil is \$150 a barrel. What have you guys done to help renewable energy?'

"This is going to be, we've had two times now, that energy has skyrocketed out of the country's control, out of the State's control, by outside forces. One was in the '70s, and the \$150 per barrel was within, I would say the last year and a half. We cannot forget about the \$150 barrel of oil.

"Yes, let's talk about the economy. Does anybody remember what it did to tourism, to the airlines when it was \$150 per barrel? Right now NELHA is taking a look at using algae for biofuels, along with the airlines. The Department of Defense is looking into it, as well as other places.

"Do you remember what happened to construction at \$150 per barrel of oil? Well, what about food? I remember going to the market and seeing a piece of meat, not prime, not any expensive cut, at regular price for \$9.50 a pound. Did we forget about that already? Why is that? Because Hawaii ships in 90% of its food because we don't produce any of it here. So we have to pay for oil costs to ship it here.

"Secondly, ethanol has become a problem for us. In the sense that everything that we eat, and we want to make sure that the Members and the people in the Gallery understand this. Everything we eat is fed, in part, with some sort of feed and by and large most of it is corn. The pork you eat is fed with soy beans and corn feed. The meat you eat is fed by corn. We don't eat grass fed beef in this country. People need to be aware of that. The soda you drink, the products that have any sweetener in them by and large is corn syrup. So what happens when oil is \$150 a barrel and people start wanting to use ethanol to replace oil? Does anybody forget about meat that is \$9 a pound?

"So let's talk about economics because if we don't want to pass this, fine. But when oil hits \$150 barrel again, don't come running to the Legislature and point at us and say, 'You guys didn't do anything. You didn't learn twice.' The tough decision must be made. Wake up.

"Next I would like to go on further about economics, and for those of you who don't know, I think his name is John Rutledge, and he is the president of Rutledge Capital. He invests money in, among other areas, oil. And he was at a conference at NCSL, and by the way for my colleagues on

the other side he was an advisor to Presidents Regan and Bush so he's not a liberal. But what he did say is this. 'When oil companies come to me and they want me to invest hundreds of millions of dollars to either build a pipeline, drilling, or an oil field in a foreign country, the first thing I tell them is, is it secured? And are there US forces on the ground? Because I'm not going to invest hundreds of millions of dollars in a foreign country if I'm not sure if my investment is going to be protected by the US Government.'

"Solar and renewable energy in this bill Mr. Speaker, is not just about the environment. It's not just about the economy, but it's about national security. Because in the end of his speech, he told the audience, and it was a packed crowd. He said, 'For those of you who drive Humvees, based on what I told you, you'd better pick up a gun and be ready to go and enlist in the armed forces because no one is going to invest money in oil unless the US forces are there and it's going to be secure.' So this isn't only about being green. It's about being red, white and blue.

"And lastly, if I may talk about the issue in rebuttal, of living within our means. This is going to be a small take to the general fund. Secondly, right now we currently fund many renewable projects, especially tax credits with the State general fund. So it's not like we're not putting general fund money into renewable energy."

At 11:27 o'clock a.m. Representative Takumi requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:30 o'clock a.m.

At this time, the Chair stated:

"At this time, the Chair would like to recommend to the Members of this House and the audience that we proceed with our proper decorum. There should not be any clapping when speeches are being made either for or against a measure.

"Representative Ward, you cannot stand up you've had your second time on rebuttal. So at this point the Chair will call for the question."

At 11:31 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 11:32 o'clock a.m.

At this time, the Chair stated:

"Representative Ward. Yes, for your second time. I stand corrected. The Chair will allow you to speak for the next three minutes along with other Members of the House who would like to speak on this measure with reservations, or in opposition. That way it is there for the record and the audience will know what your concerns are, for or against the measure. But we've had a lot of debate on this particular measure. I believe the Chair has been very fair with both sides of the Chamber, both the Minority and the Majority. Representative Ward."

Representative Ward rose, stating:

"And Mr. Speaker, you'll allow us to not have to come back tomorrow because we'll finish it all today."

Speaker Say: "I'm not going to make that decision. That's for all of you."

Representative Ward rose to respond, stating:

"Okay, today's the last day. These are my final remarks on this as a rebuttal, Mr. Speaker. And I thank the Majority Whip for reminding us that gas usually just goes up. But what I heard him saying was that it's kind of like 'the barrel tax or bust.' Like this is the only way we can do it. And I go back to yesterday's speech about the State Energy Bonds Mr. Speaker, because the Chair of EEP stated again this time, a couple of PV panels are not going to solve our problems.

"Mr. Speaker, my rebuttal is I think that exactly a couple of PV panels on every house in this State will resolve the problem. Case in point, the Representative from Pearl City."

The Chair addressed Representative Ward, stating:

"Representative Ward, will you address the Speaker."

Representative Ward: "Sorry. The Representative from Pearl City stood up and said 'I have gone photovoltaic and my bill'"

Representative B. Oshiro rose to a point of order, stating:

"Point of order. The current speaker is not talking about the bill. He's talking about other measures. Can he please confine his remarks to the bill that's in front of us."

Representative Ward: "Mr. Speaker, I was just going to finish. Now I want to speak longer."

Speaker Say: "Well you got a minute to go. You had three minutes."

Representative Ward continued, stating:

"One minute to go. My point is it's not barrel tax or bust. It's let's be creative and innovative as the bill was yesterday that turned into a reso that would allow the people of Hawaii to put photovoltaic on their roof so they could, like the gentleman from Pearl City, have an \$8 or \$18 monthly electricity bill. That's how we solve it, with incentives, not just tax, tax, tax. Limit the government. Thank you."

Representative Ching rose to respond, stating:

"Additional written comments please."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to the override, and stand in support of Governor's veto of H.B. 2421, which removes language suspending tax when the balance of Environmental Response Revolving Fund balance hits \$20 million, expands the scope of the Energy Security Special Fund, and increases the Barrel Tax from 5 cents to \$1.05 with certain specified allocations.

"As my record shows, I have always been a stalwart supporter of agricultural and alternative energy initiatives. While I support the establishment of a task force with DBEDT to facilitate the accelerated adoption and completion of renewable-energy projects and programs, I cannot support a barrel tax increase as such a tax will affect businesses, food, and ultimately every aspect of society. This is not the right time to implement taxes that so direly affect our citizens, as many are already suffering from our State's economic crisis. Thank you."

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

"Mr. Speaker, I'm standing in support with reservations. Thank you, Mr. Speaker for your patience, and Members. I did want to explain since I did vote no on this measure as it passed on a previous vote. I want to explain why I have changed my vote from a no, to with reservations.

"Mr. Speaker, the Minority has brought up some valid points regarding the impact of this tax on the people. I feel the people of my district will be impacted by some of these increases. However Mr. Speaker, as I have been enlightened by my colleagues regarding this budget and the impact of this bill on the balanced budget, as well as when I reviewed how this budget affects the people of Hawaii, Mr. Speaker, especially in the area of health and human services. This money that's being diverted to the general fund that has been discussed, which I previously opposed because of that reason. Those moneys that are going to be now used for *kupuna* care, to be used for feeding the elderly, to be used to support our hospitals throughout

the State of Hawaii. Mr. Speaker, I was compelled to change my vote. I just thank you for that time."

Representative Berg rose to speak in support of the override with reservations, stating:

"Thank you, Mr. Speaker. I rise in support with reservations. I request that the words of the Representatives from Hanalei, from Kona, and from Kailua be entered as my own. In addition just a few more comments, Mr. Speaker. I've been always in favor of the content of this particular bill, and my concerns when it crossed over to the Senate and when it crossed back at the end of the Third Reading, was because of the amount that was going to be allotted to the general fund.

"What I've learned about the process of what we've been going through with the budget is that there are tradeoffs and there are balances. And what I also understand and feel reassured by the Finance Chair, is that some of the funding that we wished that would go to programs and services from this particular measure are accounted for in the general fund budget. So with that in mind, I do appreciate the effort of the Finance Committee to enlighten us and have us understand the percentages. And as the Representative from Kailua, I hope that next year when you all are back here again, that you will consider being very deliberate with the will and the intent of the underlying bill. Thank you."

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

"Thank you, Mr. Speaker. In support. My apologies to my suburban colleagues. I do think that the one point that we haven't really talked about much is the slight increase in gas prices this bill will engender. It's actually a positive thing. It will discourage people from driving as much.

"And while it is a burden to those who live a long way out, I think in the long run people moving back into town and not driving so far is a desirable situation from a number of perspectives, not least of which is global warming. Having a single family home in the suburbs and then driving to work a long way is a very energy intensive way to live

"I think you already see the trend to a certain extent when my good friend from Kapolei/Makakilo always says that her district is the fastest growing in the State, and it probably is. But the 28th District is also growing very fast and part of the reason for that is people are tired of paying high gas prices which have nothing to do with the tiny amount we're raising the tax here. This is all before this would go into effect. People are moving back into town and one reason they're moving back into town is because it costs too much to commute. They lose all the money you save by having a cheap house in the suburbs. It is made up for in gas, and of course you have to sit in traffic for an hour each way.

"So I do think the good thing about this bill is that it allows us to develop other forms of energy that will also allow people who live in the suburbs to stay there and not pay an arm and a leg like developing electrical vehicles, like building the train. I think this bill is the wave of the future and you do have to finance things to move forward.

"My objection to the idea that we shouldn't raise the tax is that well, there is no free lunch, and businesses know that too. They know there's nothing for free. But 15 or 20 years from now, businesses are going to be grateful that we went in this direction because they will have alternative sources of energy that we wouldn't have but for this bill and other bills like it. Mahalo."

Representative M. Lee rose to speak in support of the override, stating:

"Mr. Speaker, I rise in support and I'd like written comments in the Journal. Could I have the remarks of the other Representative from Mililani with the exception of changing the vote recorded in the Journal as my own. Thank you."

Representative M. Lee's written remarks are as follows:

Mr. Speaker, I rise in support of HB2421, HD2, SD2, CD1, the so-called "Barrel Tax." This is landmark legislation, which will have much

influence on Hawaii's ability to be energy independent and to grow enough food to be sustainable in the future. We spend \$8.6 billion per year for imported food and fuel. The result of this bill in years to come will be to keep more dollars within our State and make our economy stronger.

"The tax is a mere \$1.00 on a barrel of imported oil to fund energy and food security programs, renewable energy tax credits and agricultural inspection. Some monies will go into the general fund to help balance our budget as well. I urge the Members' support."

Representative M. Oshiro rose to speak in support of the override, stating:

"Mr. Speaker, in support. Just a couple of points that have not been made. The \$13 million to the general fund will be for only a temporary period of time to address the current recession and the shortfall in the general fund budget. It is set to be repealed in 2015, Mr. Speaker. So it's just a temporary measure to assist us in balancing our budget and paying for the services that we desire and we all champion when we get back to our communities.

"Second point Mr. Speaker, is for the Department of Ag we spend about \$9.2 million a year. \$9.2 million general funds to the Department of Ag. Just keep that in mind. We also spend about \$23 million Mr. Speaker, a year. \$23 million a year for the Department of Land and Natural Resources to ensure that our environment is protected and secured from all pests, species and waste. Also Mr. Speaker, we spend about \$21 million at the University of Hawaii College of Tropical Agriculture and Human Resources. So a total of about \$50 million Mr. Speaker, goes from the general fund to these three Departments for environmental related programs. Thank you."

Representative Morita rose to respond, stating:

"Thank you, Mr. Speaker. I'm really sorry, but just a brief rebuttal and I'd like to submit additional comments in the Journal. In the Governor's veto message she mentions significant progress being made by this Administration. Significant progress means relying heavily on the Department of Energy Funding and ARRA grants. Those sources of funding will be dramatically reduced in the next 18 months. When the Lingle Administration leaves office, the ARRA moneys allocated for energy and the Petroleum Violation Trust Fund which has supported the Energy Division for several decades will be depleted and sucked dry. In dealing with critical issues like energy and food security, these are long term and complex strategies that cannot be planned or implemented by election cycles, nor by a single person's actions. So it will take decades for this large scale transformation to occur.

"The Governor's Office has been unrealistic about the Hawaii resources that will be needed to commit and engage the US Department of Energy and uphold our side of the HCEI agreement, and that effort will take staffing resources for the Energy Division. Again, we need this money for the Department of Agriculture to make this complex transition for food security, too.

"The other thing I wanted to point out is that this tax increase can be offset by efficiency and conservation. I think it amounts to about \$20 per person per year throughout the State and that can be offset through efficiency measures. Additional comments to the Journal please."

Representative Morita's written remarks are as follows:

"Mr. Speaker, thank you for allowing me to submit a point by point rebuttal to Governor Lingle's veto message and her accompanying press release.

REBUTTAL TO STATEMENT OF OBJECTIONS (VETO MESSAGE) TO HOUSE BILL NO. 2421

"Governor: The purported purpose of Senate Bill No. 2421 is to provide a source of funding to support government programs, personnel, task forces, and grants-in-aid intended to promote energy and food security in the State. The funding will be generated by instituting a \$1.00 increase in

the tax imposed on each barrel or fractional part of a barrel of oil sold by a distributor to any retail dealer or end user in the State. However, over half of the money raised by the tax would not be used for the stated purpose.

"Rebuttal: While the initial objective of this measure was to accelerate programs to reduce our fuel and food imports, given the economic reality, the tax will be used to help balance the general fund budget. However, important and core energy and agriculture programs are still general funded. While 60% of the tax will go to the general fund consider this, general funds are used to:

- Fund Agricultural Inspectors, critical positions to facilitate the import and export of agricultural products and mitigate invasive species; and
- Payout the renewable energy technology income tax credits (\$18.5 million).

"Governor: This bill is objectionable because it raises taxes on Hawaii residents and businesses by an estimated \$22 million per year at a time when the community cannot afford these taxes, and deceptively implies these funds will be used to address the State's dependence on imported fuel and food.

"Rebuttal: In 2008 Hawaii paid \$8.4 billion for its energy costs. This bill should not be viewed as a tax, but a retention fee. A retention fee to reduce the over \$8 billion dollars each year we ship offshore to pay for our imported fuel and food. The cost of doing nothing will have a far greater impact and leave Hawaii vulnerable to energy pricing volatility and supply disruptions beyond our control. Rising energy cost is the major factor that increases the cost of living, the proposed tax increase is fixed and becomes less significant as the cost of crude oil rises.

March 2010 DBEDT Energy Report: 12 month changes

- Crude oil: \$48.10 to \$81.29 – 69% price increase
- Average Gasoline prices: \$2.43 to \$3.46 per gallon – 42% price increase
- Forecast: Crude oil \$100.00 per barrel by year end – 22% price increase

"Governor: This tax will impact virtually everything we do or use in Hawaii including electricity, gasoline, trucking, shipping, retail goods, food, and even the propane for our backyard barbeques. The impacts will ripple through our entire economic system. I am particularly concerned that the tax increase occurs at a precarious moment when the State economy is beginning to stabilize and progress out of the slump created by the global recession.

"Rebuttal: The economic development opportunities are in the energy, agriculture, health and education sectors. However, the energy sector is the bedrock of our economy. Stable, predictable energy pricing is a major factor that affects each sector of our economy and offers an opportunity for economic growth. The energy sector moves hand-in-hand with the information technology and communications as technological integration require software and communications support. It is important to remember:

- As the global economy recovers, the demand for crude oil will increase.
- Increased demand means higher crude oil prices

"Governor: It is worth noting that the Legislature was willing to exempt from this barrel tax aviation fuel used by commercial airlines, thereby shifting the burden of the tax to consumers.

"Rebuttal: The inclusion of aviation fuel was never a valid reason to veto the bill last year since federal law would have pre-empted the State law. It is a non-issue in this measure.

"Governor: It should be recognized that higher energy prices discriminate against poor families more than any other group in our society. Energy costs comprise a higher percentage of family expenses for those at the lower income levels. This taxing policy runs counter to a progressive tax structure.

"Rebuttal: As the cost of fossil fuels rise it will be those who can least afford rising energy costs that will ultimately bear the burden of

maintaining an antiquated electricity and transportation infrastructure. One of the key objectives of the Hawaii Clean Energy Initiative is grounded in social and economic justice; that is we provide for a strategy that moves our entire community forward to secure the benefits of a clean energy economy and food security transformation for each person and business throughout Hawaii. The tax is broad based, a burden shared by all and a tax that can be offset by efficiency and conservation measures. The anticipated impact on the cost for a gallon of gasoline (2.4 cents per gallon) if you drive a vehicle that averages 20 miles per gallon are as follows, however, these additional costs can be offset through efficiency and conservation.

\$0.24 for every 200 miles driven
\$2.40 for every 2000 miles driven
\$24.00 for every 20,000 miles driven

"Governor: As I noted last year when I vetoed this measure's predecessor, energy and food security have been top priorities of my Administration. In 2006, I signed groundbreaking legislation known as Energy for Tomorrow that laid the foundation to wean Hawaii off imported oil. In 2008, my Administration signed a historic, one-of-a-kind agreement with the U.S. Department of Energy intended to decrease energy demand and accelerate the use of renewable energy resources in Hawaii. In 2009, we enacted legislation drafted by members of the Hawaii Clean Energy Initiative that will help Hawaii meet our goal of 70 percent clean energy by 2030. I am proud to share these accomplishments with members of the Legislature, federal officials, and the community who are committed to making Hawaii a cleaner, greener, and more secure place to live. I believe we can continue to make significant progress in this arena without this tax and the bureaucracies it will fund. Further, I am concerned that some of the money in this bill would be used to fund entities that have no direct relationship to the stated purposes of the legislation.

"Rebuttal: "Significant progress" by the Lingle Administration means relying heavily on U.S. Department of Energy funding and ARRA grants, both sources of funding will be dramatically reduced in the next 18 months. When the Lingle Administration leaves office, the ARRA monies allocated for energy and the petroleum violation trust fund, which has supported the Energy Division for several decades, will be depleted and sucked dry. In dealing with critical issues like energy and food security, these are long-term strategies that cannot be planned or implemented by election cycles or by a single person's action for a large scale transformation to occur. The Governor's office has not been realistic about the Hawaii resources that will need to be committed to engage the U.S. Department of Energy in Hawaii's efforts nor the staffing resources for the Energy Division and Department of Agriculture to make this complex transition for fuel and food security.

"Governor: In sum, we must be willing to make tough choices and work together to prioritize the public programs that have the potential to genuinely address the State's dependence on imported oil and imported fuel without burdening our families, our businesses, and our economic recovery.

"Rebuttal: As an isolated archipelago, we are vulnerable to fuel and food supply disruptions and global forces beyond our control. A transition to a clean energy economy and a strategy to reduce both our fuel and food imports, which is funded through this tax increase, puts Hawaii's destiny more under our control. It will take long-term planning, a smart strategy, public-private partnerships, the infusion of new technology, smart investments and political will to achieve this strategy. Hawaii should be the center of research and development, technology validation and integration for a clean energy economy transformation. But we can only be taken seriously and achieve these goals if we, as the leaders, residents and businesses of this State, make the needed long-term commitment and investment by putting our money where our mouth is."

REBUTTAL TO GOVERNOR LINGLE'S PRESS RELEASE REGARDING HOUSE BILL 2421 VETO

"Governor: Governor Linda Lingle today vetoed a bill that would cost Hawai'i residents and businesses \$22 million in new taxes every year on petroleum sold in the State.

"Rebuttal: In 2008, Hawaii paid \$8.4 billion for its energy costs.

"Governor: The bill, HB 2421, HD2, SD2, CD1, would impose a \$1.00 increase in the tax on each barrel of oil sold in the State.

"Rebuttal: This bill should not be viewed as a tax, but a retention fee. A retention fee to reduce the over \$8 billion each year we ship offshore to pay for our imported fuel and food.

"Governor: The bill deceptively purports to use funds generated from the tax increase to promote energy and food security in the State, but in reality, over half of the money raised by the tax would be diverted for general government operations rather than reducing our dependence on imported oil and food.

"Rebuttal: While the initial objective of this measure was to accelerate programs to reduce our fuel and food imports, given the economic reality, the tax will be used to help balance the general fund budget. However, important and core energy and agriculture programs are still general funded. While 60% of the tax will go to the general fund consider this, general funds are used to:

- Fund Agricultural Inspectors, critical positions to facilitate the import and export of agricultural products and mitigate invasive species; and
- Payout the renewable energy technology income tax credits (\$18.5 million).

"Governor: The tax increase would raise the cost of living and increase the cost of doing business in the State by making virtually everything more expensive, including electricity, gasoline, trucking, shipping, retail goods, food, public and school buses, and even the propane for backyard barbecues.

"Rebuttal: The cost of doing nothing will have a far greater impact and leave Hawaii vulnerable to energy pricing volatility and supply disruptions beyond our control. Rising energy cost is the major factor that increases the cost of living, the proposed tax increase is fixed and becomes less significant as the cost of crude oil rises.

March 2010 DBEDT Energy Report; 12 month changes

- Crude oil: \$48.10 to \$81.29 – 69% price increase
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- Forecast: Crude oil \$100.00 per barrel by year end – 22% price increase

"Governor: "The impacts will ripple through our entire economy," Governor Lingle said in a message to legislators detailing the reasons she vetoed the bill. "I am particularly concerned that the tax increase occurs at a precarious moment when the State economy is beginning to stabilize and progress out of the slump created by the global recession."

"Rebuttal: The economic development opportunities are in the energy, agriculture, health and education sectors. However, the energy sector is the bedrock of our economy. Stable, predictable energy pricing is a major factor that affects each sector of our economy and offers an opportunity for economic growth. The energy sector moves hand-in-hand with the information technology and communications as technological integration require software and communications support. It is important to remember:

- As the global economy recovers, the demand for crude oil will increase.
- Increased demand means higher crude oil prices

"Governor: The Governor is particularly concerned that poor families throughout the State would be hurt the most by the higher energy prices that would result from this tax increase since energy costs account for a higher percentage of the expenses for those at lower income levels.

"Rebuttal: As the cost of fossil fuels rise, it will be those who can least afford rising energy costs that will ultimately bear the burden of maintaining an antiquated electricity and transportation infrastructure. One of the key objectives of the Hawaii Clean Energy Initiative is grounded in

social and economic justice; that is we provide for a strategy that moves our entire community forward to secure the benefits of a clean energy economy and food security transformation for each person and business throughout Hawaii. The tax is broad based, a burden shared by all and a tax that can be offset by efficiency and conservation measures.

"Governor: In addition, there would a disproportionate impact on gasoline expenses for Neighbor Island residents, as well as those on O'ahu's leeward coast, the 'Ewa and Kapolei areas, the North Shore and rural windward communities because they must commute over greater distances.

"Rebuttal: The anticipated impact on the cost for a gallon of gasoline (2.4 cents per gallon) if you drive a vehicle that averages 20 miles per gallon are as follows, however, these additional costs can be offset through efficiency and conservation.

\$0.24 for every 200 miles driven
 \$2.40 for every 2000 miles driven
 \$24.00 for every 20,000 miles driven

"Governor: While one of the stated intents of the bill is to "establish a clean energy initiative to manage the State's transition to a clean energy economy," Governor Lingle noted that her Administration, in collaboration with the Legislature, federal government and community partners, has already made significant progress in this arena without the need for a regressive tax increase that would negatively impact every Hawai'i resident and business and jeopardize our economic recovery.

"Rebuttal: "Significant progress" under the Lingle Administration means relying heavily on U.S. Department of Energy funding and ARRA grants, both sources of funding will be dramatically reduced in the next 18 months. When the Lingle Administration leaves office, the ARRA monies allocated for energy and the petroleum violation trust fund, which has supported the Energy Division for several decades, will be depleted and sucked dried. In dealing with critical issues like energy and food security, these are long-term strategies that cannot be planned or implemented by election cycles or by a single person's action for a large scale transformation to occur. The Governor's office has not been realistic about the Hawaii resources that will need to be committed to engage the U.S. Department of Energy in Hawaii's efforts nor the staffing resources for the Energy Division and Department of Agriculture to make this complex transition for fuel and food security.

"Governor: The Governor vetoed a similar measure last year. One of her main concerns in that bill was the impact the barrel tax hike would have on aviation fuel for commercial airlines. Under this current bill, legislators were sympathetic to the plight of the airlines that are reeling due to the downturn in tourism and exempted aviation fuel from the barrel tax increase.

"Rebuttal: The inclusion of aviation fuel was never a valid reason to veto the bill last year since federal law would have pre-empted the State law. It is a non-issue in this measure.

"Governor: However, the entire \$22 million annual tax burden would now shift to every other business in the State and ultimately all Hawai'i consumers who are struggling to cope with today's economic challenges.

"Rebuttal: You can spin this as a \$22 million annual tax burden, or talk about it as a \$22 million retention fee to reduce the over \$8 billion we ship offshore each year to pay for our imported fuel and food needs. The \$22 million retention fee provides for economic opportunities, economic diversification and job creation, a reinvestment in Hawaii's future. Business as usual is not a sustainable option. As an isolated archipelago, we are vulnerable to fuel and food supply disruptions and global forces beyond our control. A transition to a clean energy economy and a strategy to reduce both our fuel and food imports, which is funded through this tax increase, puts Hawaii's destiny more under our control. It will take long-term planning, a smart strategy, public-private partnerships, the infusion of new technology, smart investments and political will to achieve this strategy. Hawaii should be the center of research and development, technology validation and integration for a clean energy economy

transformation. But we can only be taken seriously and achieve these goals if we, as the leaders, residents and businesses of this State, make the needed long-term commitment and investment by putting our money where our mouth is."

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

"Yes, Mr. Speaker, strong support. And I wish to call for the question."

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

The Chair then stated:

"Thank you. The question has been called and the Chair agrees with that."

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

"Thank you, in support. Also I would like to take the comments of the Chairman of the EEP Committee, as well as the Chairman of the Finance Committee as if they were my own. And just mention one quick thing, Mr. Speaker. Thank you.

"This is a very tough issue. I realize that, I think we all realize that. But I do want to commend and congratulate both the Chairman and the Vice Chairman of the Energy and Environmental Protection Committee for doing such a great job moving this through. We spend \$9 billion each year, we as the State of Hawaii. \$9 billion gets sucked away from our economy because we pay for this oil. If there's any state in the union, we should be doing this because we are an island state. Thank you, Mr. Speaker."

Representative Pine rose and stated:

"Are we doing written comments and then talking?"

Speaker Say: "No. Would you like to submit your written comments in opposition on your second time of rebuttal? The Chair will allow you."

Representative Pine: "Yes."

Representative Pine's written remarks are as follows:

"Mr. Speaker, I rise in opposition to override the Governor's veto of House Bill 2421, Relating to Government. This bill will modify the environmental response tax (i.e. the "barrel tax") into the environmental response, energy, and food security tax. This bill raises the "barrel tax" from 5 cents to \$1.05. Out of this \$1.05 tax, only 45 cents will be applied to the positive initiatives proposed in this bill. The balance of 60 cents goes directly into the general fund.

"Mr. Speaker, this bill is a tax increase on the consumer under the guise of helping the environment. The proponents of the bill want people to know that this bill will help the environment, but fail to mention that most of the money will go into the general fund. There are other methods of generating revenue for the general fund, and this is not the most economically feasible one.

"Everyone who drives a motor vehicle will be affected by this tax increase. The hardest hit will be those (like my constituents) who live in rural areas, and have to commute to work on a daily basis. Their fuel costs will add up over time while they continue to find ways to pay for basic items like food, water, and electricity.

"For these reasons, I oppose overriding the Governor's veto of House Bill 2421."

Representative Finnegan rose to respond, stating:

"Mr. Speaker, just a short comment please. Thank you, Mr. Speaker. Really quick. When it comes to taxes Mr. Speaker, it's arguable that we work six months out of the year, six out of twelve months paying taxes. So when we look at this and other people say, and I'm talking about all taxes.

Taxes that are embedded in food. Taxes that are embedded in services. Taxes that are embedded in everything. So when you take a look at this and you say, 'It was just a tiny, itty bitty tax,' Mr. Speaker. I disagree with that."

Representative Pine rose to respond, stating:

"Sorry. I misunderstood you. I thought we couldn't talk. I just want to say a couple of sentences. We talked about how this money was going to be going to *kupuna* care and all these wonderful social services. I just want to remind the Members that just yesterday we raided the rainy day fund to fund all these services. So saying that this tax is for those services is very misleading Mr. Speaker."

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

Representative M. Oshiro's written remarks are as follows:

"I rise in support of the override of the Governor's veto of House Bill 2421, Conference Draft 1.

"Mr. Speaker, the barrel tax is a minimum cost increase that will provide a long-term benefit.

"The Governor argues that this tax policy runs counter to a progressive tax structure because it will shift the tax burden unfairly to consumers and poor families more than any other group in our society. I would like to ask the Governor who she thinks should pay for the inevitable climate changes and pollution if not the consumers who use petroleum products? This tax-shifting policy is a substitute for a blanket 1% GET increase on all sales and consumption of goods. This barrel tax displays a clear use of petroleum products and the corresponding impacts to the environment and therefore is an avoidable tax when our use of petroleum products is reduced.

"With the passage of this bill, a portion of the monies goes to some of the critical programs and positions like agricultural inspectors, of which the recently passed House and Senate re-instituted 22 of the 28 quarantine inspector positions eliminated from the Governor's budget. The portion of the tax being deposited into the Agricultural Development and Food Security Special Fund will provide continuous funding for these critical positions, so as not to be cut from the budget in future sessions and times of economic decline.

"Monies from the Agricultural Development and Food Security Special Fund may also be used for awarding grants to farmers and ranchers enduring extreme hardships, including economic challenges and the severe weather conditions.

"As a state, we need to keep in mind that currently, the general fund subsidizes several energy related tax credits. Unfortunately, the data available comes from 2005, but the energy conservation tax credit and renewable energy technologies tax credit cost the general fund:

- Over \$3.0 million in 2005;
- Over \$13 million in 2004; and
- Over \$5 million annually in 2003 and prior years.

"This measure will help to support not just the special funds in the bill, but all the tax credits that go to support businesses engaged in alternative energy industries. In more current years the credits have been modified, but still have significant impact on the general fund. The Department of Agriculture's budget was \$9.2 million this fiscal year, \$23.3 million for the Department of Land and Natural Resources, and \$21.4 million for the University of Hawaii's College of Tropical Agriculture and Human Resources. General funds currently allocated to the aforementioned Departments will continue to see more funding for existing energy, agriculture, and environmental special programs that benefit the public.

SUMMARY OF ESTIMATED IMPACT OF INCREASING THE ENVIRONMENTAL RESPONSE TAX (bbl tax) FROM THE CURRENT \$0.05/bbl to \$1.05/bbl

	<u>CY10</u>
Proposed Environmental Response Tax (bbl tax), \$/bbl	\$1.05/bbl
Proposed Environmental Response Tax (bbl tax), \$/gal	2.5¢/gal
Estimated Annual Input on Hawaii Drivers	\$15.00/driver/year
Estimated Monthly Impact on Hawaii Drivers	\$1.25/driver/month
Estimated Impact on Hawaii Drivers Per Day	4.0¢/driver/day
Estimated Annual Impact on Residential Electricity Bill	\$9.36/household/year
Estimated Monthly Impact on Residential Electricity Bill	78¢/household/moth
Estimated Impact on Residential Electricity Bill Per Day	2.6¢/household/day
Estimated Annual Increase in Fiscal Revenues	<u>\$30,369,573 per year</u>

"In the Governor's Message, she mentions being committed to making Hawaii a cleaner, greener, and more secure place to live, yet cannot support the stable funding source for sustainable food and energy security created by this legislation.

"This legislation expands the purpose of the tax so that Hawaii can focus on sustaining our economy through alternative energy systems, and energy and food security. For an island state, economic sustainability, including energy and food security, is critical for our survival. We import 85% of our food and 95% of our energy. Mr. Speaker, Hawaii has a fresh supply of produce for no more than 10 days.

"This measure will promote economic development for our State through overall job growth in environmental and technology sectors and opportunities for new business ventures focused on renewable energy resources. We have to ask ourselves as citizens of this State, whether or not we are going to be satisfied living with the major cost impacts imposed by the inevitable climate changes. For these reasons, I support the override."

Representative Ward rose in opposition to the override and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am presenting written comments in opposition to HB 2421, which increases Hawaii's barrel tax from \$0.05 per barrel to \$1.05 per barrel in order to tax our people for general fund revenues, as well as promote the State's food and energy security.

"Although I strongly support self-sufficiency and clean energy initiatives, I strongly oppose raising taxes, which is the last thing we should be doing in this economy. A barrel tax increase will make the price of almost everything in the State increase, causing additional financial hardship to families that are already struggling to get by and already have to pay \$0.60 per gallon in state and federal taxes.

"I also oppose HB 2421 because only 40 percent of the tax revenues will be used for energy and food security projects, while the other 60 percent will go toward Hawaii's general funds. If legislators were serious about the environment, all of the tax's revenues would be used for the special fund, not less than half. This bill is simply hiding a drastic tax increase behind a good cause.

"Finally, the portion of the tax increase that would go into the general fund is unnecessary for balancing the budget. The House Minority

financial plan not only balances the State budget without raising taxes, it allocates \$10 million into the environmental special fund. That barrel tax would only generate \$8 million for the special fund. (See general.com/budget.)

"While protecting the environment is certainly important, it doesn't justify increasing the barrel tax by 2000 percent. This bill is Job Killer number one. For these reasons, Mr. Speaker, I oppose HB 2421."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 2421, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," as contained in Gov. Msg. No. 283 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: Aquino, Awana, Belatti, Berg, Bertram, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Souki, Takai, Takumi, Thielen, Tokioka, Tsuji, Wooley, Yamane and Yamashita.

Noes, 9: Brower, Ching, Finnegan, Har, Marumoto, Nishimoto, Pine, Wakai and Ward.

At 11:50 o'clock a.m., the Chair noted that the motion to override the veto had carried, and H.B. No. 2421, HD 2, SD 2, CD 1, as contained in Gov. Msg. No. 283, was approved.

LATE INTRODUCTIONS

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

Representative Chang introduced the daughter of the late Eric Maehara: Ms. Natasha Maehara of Australia.

Representative Karamatsu introduced his sister, Ms. Lara Karamatsu; his former staff, Ms. Tracy Okubo; and his friends, Mr. Mike Noguchi and Ms. Zoe Tanaka.

Representative Ward introduced former Supreme Court Justice Steven Levinson; Ms. Janice Pechauer; and Ms. Sandy Ballard.

Representative Cabanilla introduced an active member of the Filipino community and the League of Women Voters, Ms. Amy Agbayani.

Representative Wooley introduced her constituent, Ms. Debi Hartmann of Laie; and the Representative's husband, Mr. David Henkin.

GOVERNOR'S MESSAGES

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 234, informing the House that on April 14, 2010, H.B. No. 1868, HD 1, was vetoed.

Gov. Msg. No. 234 and H.B. No. 1868, HD 1:

Representative B. Oshiro moved to override the veto of H.B. No. 1868, HD 1, as contained in Gov. Msg. No. 234, seconded by Representative Evans.

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

"Mr. Speaker, I rise in opposition to this. For sake of a better term this is the 'Pearl Iboshi' bill, Mr. Speaker."

Representative M. Oshiro rose to a point of order, stating:

"Mr. Speaker, point of order. I believe the current speaker is violating the rules by referring to a particular individual when this is a law of general application."

Representative Ward: "Mr. Speaker, I stand corrected. It's in parentheses."

The Chair addressed Representative Ward, stating:

"Representative Ward, please do not make mention of any particular name or person that this particular bill is addressing. This is basically in general law."

Representative Ward continued, stating:

"Mr. Speaker, I rise in support of the best and the brightest we have to run State government. Without names, we can commend them for their intellectual abilities, for their dedication, their loyalty. And Mr. Speaker, this bill says, if you get an appointment and you're smart and you're wise like a person I can't mention the name of, you will have to go to the penalty box for one year. You cannot go into civil service.

"Now how anti-intellectual can we become as a State government? It's the brains of the people that make government smart and run properly. As I said yesterday on the Floor, Japan has no resources, but they've got its people. It imports everything. You think we've got trouble importing 85% of our food and resources. It's the people that make our society great. What makes government work are good people.

"Mr. Speaker, this is not only for this Governor, it's for previous Governors' people, and future Governors, who when they get good people, they pull out of civil service. They should be able to go back into civil service. Why do we want to punish them? This is anti-intellectual. This is the way that they did it in China when they took the intellectuals and said, 'You guys are now demoted.' It was the Cultural Revolution. Is this some kind of appointment revolution that we're trying to create here? It's bad policy Mr. Speaker. It's anti-intellectual. It's punitive. It's bad policy. Thank you."

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

"Mr. Speaker, in support. I would say that the genesis of this bill is that it is true that you can come out of civil service and even if this bill goes into effect, you can still be appointed to a non-civil service position. But the problem that I was trying to address by introducing it is that, after eight years in an appointed position, you can come back and kick out the person who took your job after you left, and they're out of a job.

"So I think at some point, you just have to make a career choice. There's nothing to stop you from leaving civil service and going to an appointed position. But at some point it becomes so disruptive to come back and take the job away from the person who took your spot, that it just doesn't seem fair to me that you should be able to do that after a really extended period of time. So that's the genesis and there is no prohibition whatsoever on moving from civil service into the appointed positions.

"And if I remember correctly, this is the same rule they have at the federal level. You can get appointed, but I don't believe, and I'm not 100% sure, but I don't believe you have the right to go back after you've served on a Presidential Administration for eight years and you go back to the same civil service job. Thank you, very much."

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

"Yes Mr. Speaker, I want to speak in opposition to this veto. I believe that whoever the Governor is, he or she should have the right to select who they think can best serve the people of the State of Hawaii, and sometimes they need to pick some civil service person to come in and serve. I don't think we should end that process as has been the tradition for the past years, that after the term with the Governor is over, they can go back in the position. And I don't believe we should stymie the Chief Executive's

Office from getting the best possible person they can get to serve the people of the State of Hawaii. For this reason, I'm in opposition of this measure."

Representative McKelvey rose in opposition to the override and asked that the remarks of Representative Souki be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. I rise in opposition. I also ask that the words of Speaker Emeritus be entered as my own. I would deem this the anti-excellence bill. We want to do everything we can to encourage people who have proven themselves to do a good job to be able to be tapped to serve on behalf of the State, and not to feel like they're being punished or they can't. And I think that the Governor, as Speaker Emeritus I think alluded to, should have the chance to pick from the best and the brightest so we can deliver the best and the brightest service to the people of Hawaii. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 1868, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE," as contained in Gov. Msg. No. 234 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: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Takai, Tokioka, Tsuji, Wakai, Wooley, Yamane and Yamashita.

Noes, 10: Chang, Ching, Finnegan, Marumoto, McKelvey, Pine, Souki, Takumi, Thielen and Ward.

At 12:00 o'clock p.m., the Chair noted that the motion to override the veto had carried, and H.B. No. 1868, HD 1, as contained in Gov. Msg. No. 234, was approved.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 281, informing the House that on April 25, 2010, H.B. No. 2085, HD 1, SD 2, was vetoed.

Gov. Msg. No. 281 and H.B. No. 2085, HD 1, SD 2:

Representative B. Oshiro moved to override the veto of H.B. No. 2085, HD 1, SD 2, as contained in Gov. Msg. No. 281, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. Just short comments. Thank you. I will be voting in opposition. This bill I think has a really great goal that we're trying to coordinate records for health to make sure that we have the best healthcare system possible. The difficulty that I've been struggling with, especially hearing the bill in the Health Committee, is that the protection of privacy and HIPAA laws and everything related to that. I did vote yes on this bill going up to the Governor, but just in trusting the fact that the AG's Office, as well as others who are looking at the protection of privacy vetoed the bill, I will be support the veto. Thank you."

Representative B. Oshiro rose and stated:

"Mr. Speaker, I believe the speaker's comments were in regard to a different bill. This bill is about the QUEST contracts and whether they can continue. I believe she was speaking on HB No. 2086."

Representative Finnegan: "Mr. Speaker, that is correct. I will take my comments back. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 2085, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," as contained in Gov. Msg. No. 281 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, 45: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Souki, Takai, Takumi, Tokioka, Tsuji, Wakai, Wooley, Yamane and Yamashita.

Noes, 6: Ching, Finnegan, Marumoto, Pine, Thielen and Ward.

At 12:05 o'clock p.m., the Chair noted that the motion to override the veto had carried, and H.B. No. 2085, HD 1, SD 2, as contained in Gov. Msg. No. 281, was approved.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 282, informing the House that on April 25, 2010, H.B. No. 2086, HD 2, SD 2, was vetoed.

Gov. Msg. No. 282 and H.B. No. 2086, HD 2, SD 2:

Representative B. Oshiro moved to override the veto of H.B. No. 2086, HD 2, SD 2, as contained in Gov. Msg. No. 282, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In opposition, and I'd like to thank the Majority Leader for correcting me on the previous bill. Mr. Speaker, I just have the same comments, if that's okay. Do I have to repeat it? Okay. The same comments for this bill. Thank you."

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 2086, HD 2, SD 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE DATA," as contained in Gov. Msg. No. 282 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, 48: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chang, Ching, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, Marumoto, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Souki, Takai, Takumi, Thielen, Tokioka, Tsuji, Wakai, Wooley, Yamane and Yamashita.

Noes, 3: Finnegan, Pine and Ward.

At 12:08 o'clock p.m., the Chair noted that the motion to override the veto had carried, and H.B. No. 2086, HD 2, SD 2, as contained in Gov. Msg. No. 282, was approved.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 284, informing the House that on April 25, 2010, H.B. No. 2866, HD 1, SD 1, CD 1, was vetoed.

Gov. Msg. No. 284 and H.B. No. 2866, HD 1, SD 1, CD 1:

Representative B. Oshiro moved to override the veto of H.B. No. 2866, HD 1, SD 1, CD 1, as contained in Gov. Msg. No. 284, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, this bill is a little bit difficult to explain, but I'll try to do my best. This is otherwise called the 'death tax.' This bill proposes to impose a tax on the transferrable estate of a nonresident person who has a taxable estate in Hawaii. It also reestablishes the Hawaii Estate Tax on persons, noncitizen or otherwise, that's anybody, residents in Hawaii, who passed away after April 30th 2010.

"Mr. Speaker, the Economic Growth and Tax Relief Reconciliation Act of 2001 or EGTRRA did two things pertinent to this bill. First, it abolished the federal credit for state death taxes. Prior to this abolishment, paying Hawaii's State death taxes allowed you to take an equivalent credit on your federal estate tax return. In other words, you had a wash as far as your overall death tax bill was concerned. However, EGTRRA also eliminated the federal estate tax for 2010. There's no federal credit for state death taxes. But House Bill 2866 will reinstate the Hawaii State death tax anyway. This is not a wash. For those that have the unfortunate fate of dying after April 30, 2010 with a taxable estate, beneficiaries will have to deal with paying a new Hawaii State death tax without the benefit of taking a credit against a federal tax.

"Mr. Speaker, I realize that this is part of the financial plan. This is \$19 million a year I believe, and as we stated earlier Mr. Speaker, in our six-year financial plan and two year budget, we don't have this to balance the budget. Thank you."

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

"Mr. Speaker, in strong support. Mr. Speaker, this estate tax is a tax on the privilege of transferring property when a person dies. But let's make it absolutely clear: this particular tax will only affect the top 1% or less of residents of the State of Hawaii. It also puts an exemption on the first \$3.5 million net value of a person's estate. So we're really talking about just the very, very wealthy of us that can pay this particular tax.

"Mr. Speaker, this tax also helps not-for-profit organizations and charities. One of the things that we can do to lower our estate tax obligation is to give our money away. And I know that's hard for some, but our charities and not-for-profit organizations do benefit from a tax such as this. So this estate tax is progressive, it is for those who can pay it, and I know a lot of my clients, they're willing to pay this particular tax to help the rest of the residents who can't afford to. Thank you."

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

"Mr. Speaker, in support. I think it's also important to note that because it only affects the very highest income earners, in general, the highest income earners do not make their money from earned income. Because with earned income, you don't even have the right to see the tax money in your paycheck. Every time you get paid, the tax money that you pay is gone already. And if you suggested it to the IRS, to the State Department of Taxation, that, 'Hey, I'll tell you what. I'll just keep my tax money until the end of the year, and then I'll pay you in a lump sum.' It doesn't work that way.

"With wealthy individuals, the vast majority of the time their wealth is derived from capital gains. If you hang on to your property, one of your capital gain properties is either stocks or bonds or real estate, and keep it until the time of your death. Your basis is stepped up at death and you never pay tax on that at all.

"That of course is why the estate tax was originally instituted years and years ago when one of the big proponents of the estate tax was the Republican President Teddy Roosevelt. The reason for it was that it just wasn't fair that the wealthiest individuals never paid taxes on the biggest chunks of their incomes. So I think this is truly a fairness and an All-American bill, and I support it. Thank you."

Representative Finnegan rose and stated:

"Point of personal privilege. Mr. Speaker, I believe the previous speaker is saying that I'm not American. That this is an All-American bill."

Speaker Say: "No he did not mean it in that way Representative Finnegan."

Representative Finnegan: "Mr. Speaker, I don't think that taxing the rich because they have money according to what he says is necessarily fair. Mr. Speaker, I guess maybe this is the difference between the Representative from Downtown and me. When you buy a piece of property, you're not buying a piece of property with tax-free money. This is money that you've earned and you've paid taxes on. And what is expecting is afterwards when you, not even sell it, but you die, and you give it to your kids. No matter what the cost is of that property or the appraised value is of that property, because when you die, you have to pay taxes to give it to your kids. I don't understand what's fair in that. Thank you."

Representative Rhoads rose to respond, stating:

"Mr. Speaker. Thank you, in rebuttal. The reason it's fair is because if, say you buy a house, well houses are a bad example because we have specials rules for personal residences. But if you had a second house and you bought a second house and you paid \$100,000 for it and it increased in value before your death to a million dollars, when it's given to your heirs whoever they may be, the basis is stepped up to a million dollars. It's not the money that you paid to buy the property, the \$100,000. It's the gain that you got from having that piece of property appreciate from \$100,000, to a million dollars. And then you sell it again. This is essentially an investment property because it's a second residence. You never pay taxes on the \$900,000 if you keep it until you die, and that's the part that's not fair. Thank you."

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

"I just want to make a correction. In opposition, and in rebuttal. I think it's very misleading to say that we're just taxing the rich. I want to give you an example of a lot of people that I know that worked on the plantation and they were very wise. They happened to buy land. That was just their tradition. They're from the Philippines and I know many of them. They always invested by buying land.

"My grandmother for example, this doesn't affect her, but she's about a million dollars shy from this, from being taxed. My grandmother makes \$600 a month in social security. She never spent her money on frivolous things. She always saved, and saved, and saved, and saved. Technically her land is worth \$2 million, and we're saying that she's wealthy. She's just a couple houses shy of a couple of her friends, that if she does ever sell her land it's going to be worth this much.

"But what we're saying is that while you may be taxing the rich, or according to the Representative from Manoa are willing to give which they should while they're alive I guess, if that's what they're willing to do, you could be taxing a very economically poor family who happens to be land rich. Many of the families that this would relate to, they are land rich, but they don't want to sell their holdings. But according to this tax they're going to have to get rid of many of their holdings just to pay for the tax.

"So while we have this conversation of penalizing the rich to help the poor, I do want to remind the Body of a wonderful quote from Abraham Lincoln where he said, 'You do not make a weak man strong by making a strong man weak.'"

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

"Thank you very much, Mr. Speaker. In support, and may I have the words of my Vice-Chair entered into the record as if they were my own. And I can assure the good Representative from Ewa Beach, the word is 'net.' \$3.5 million net, which means you basically deduct the losses. So if they have a mortgage on the house and other types of things, you take that out. So even at \$2 million gross they wouldn't be affected. But I guarantee that after the net you won't be anywhere near it. Thank you, very much."

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

"Thank you very much, Mr. Speaker. In opposition as well. Thank you very much. I ask that the words of the Representative of Ewa Beach be entered as my own. Thank you, Mr. Speaker.

"My three concerns with this is, number one, I wanted to reiterate the concern that this would impose a tax on families with valuable land holdings that may not necessarily be what most people would define as wealthy, but it's just that their estate meets those thresholds.

"But number two, this measure targets individuals who are most capable of stimulating Hawaii's economy, providing a disincentive for residents and nonresidents looking to accumulate capital in the State of Hawaii to invest in the State. I think my colleague from Hawaii Kai has said numerous times and I paraphrase because I can't remember his exact words. But he basically had said numerous times that money will go where it feels welcome. It will go where it's attracted. We want it, right now, to increase our revenues, we want to attract revenues.

"The last, and this is an objection, and I think it's important to consider, is that this estate tax applies, it's unfair because it applies to persons who die after April 30, 2010 with little notice or time to inform the public, and does not provide enough time for individuals to adequately plan their estate or their current estate plan. I think that is something that we really have to take into consideration. But mostly I think it's time to try to attract people to business. I'll borrow if I may, one last quote from the Representative of Hawaii Kai who serves on the Finance Committee and is in the Small Business Caucus. He states that Hawaii is the second in the world as most expensive to do business after Japan, after Tokyo. That's something to consider. Thank you."

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

"Yes Mr. Speaker, unfortunately I'm in opposition to this measure. I believe that if someone can rise up from his roots and be able to garner an estate that has grown and is now able to leave it for his family to enjoy, I don't believe that they should be taxed. Not on this basis that we have here. And there's many a person like us who come from a plantation village who has managed to work very hard and get an estate and want to leave it to his family so that they can enjoy it. They can enjoy the fruits of his labor. And so on this measure, I would be voting against this override."

Representative B. Oshiro rose to speak in support of the override, stating:

"Mr. Speaker, I rise in support. Very briefly I just would like to explain, I don't think people are really understanding what's going on. Under our federal tax system and our current Hawaii law, we are tied to the federal tax system. And so right now that's the peg that we have. Back before this Act that the Minority Leader talked about, the exemption was down at \$675,000. Throughout the years it's continued to climb to \$3.5 million. That's the highest it's ever going to go. At 2010, this year, there was a glitch and they forgot to actually enact it. However, Congress is going to come back and they are going to put in an exemption that they promised to be lower than \$3.5 million.

"And so this is really about planning purposes. Right now we are tagging it at the highest level, the highest exemption that Congress has allowed. And so now we know how much money we are going to be making so we can put it in our financial plan. That is all we're doing. We've actually been giving the benefit to many of the residents by exactly

knowing where that exemption is. So we no longer have this floating exemption being tied to the federal level.

"That is the danger, that's where you don't get planning. What we've done is allow people to properly plan because now you know up to \$3.5 million you're fine. Anything after that, you need to plan. That's going to be it for the rest of time immemorial until we change and that is the purpose of this bill. Thank you."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. In rebuttal and still in opposition. That is about a Congress that is supposed to move on a bill. For one, they may not move on that bill. For two, Mr. Speaker, this bill is being interpreted that according to the previous speaker from Downtown, as a nonresident bill. That this is for second homes and investments. Mr. Speaker, this is on owner-occupants and it's noted so in the veto message as understanding it to be that way as well.

"Mr. Speaker, my husband used to work for mortgages and reverse mortgages and with that, he would help clients with as they get older and age, that they want to use their equity to pay for their care. And sometimes that's the only thing they have is property. Cash poor, property rich. Mr. Speaker, the way that some of the speakers are talking about this bill is like, 'Oh, it's just for the rich. We don't have to worry about it.' Mr. Speaker, I see it differently because I've been exposed to some of these people who are considered to be rich, and this price tag on this bill is \$19 million to those people. So Mr. Speaker, I still am in opposition."

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

"Thank you, Mr. Speaker. In strong support. And the reason why I support this is because I support the concept of the estate tax. The reason for the estate tax is to encourage people to use their money so that it will continue to fuel back into the economy, and you don't want to encourage people to hold on to a chunk of money until they die. The concept of an estate tax is to encourage people to spend the money. It's basic economic and capitalist principles, and I agree with that. Thank you."

Representative Pine rose to respond, stating:

"Still in opposition, Mr. Speaker, and I would like to use the words of the speaker from Wailuku as my own. As well as integrate my comments, my written comments from Second Reading when this bill came in front of us. I do want to rebut the Representative from Lahaina. I just want to explain that it's not just my family's culture, but I know it's, my friends to the right here always says, well it's also the Chinese culture. You never sell land. I want to give an example of some property that I know of within my family, just so people can understand how when you talk about net and gross and what's really going to be taxed.

"My grandmother bought a very simple piece of land on the North Shore for \$30,000. Her property tax bill said it was worth a million. So there are many families, the only way that they can give while they're alive as the previous speaker said, is to sell the land. Well, you know what my grandmother uses this land for? She uses it for the family members who are barely surviving in this economy. For my family members who have lost their jobs. This house is meant for whoever struggles. You can live in this home, and so it's been circulating through the families.

"I know many families who are like that. My grandmother was not as lucky to be able to invest in another home. If she invested in three homes or four homes at the time, she would be penalized underneath this bill. And they don't own any mortgages, so they would be forced to sell these homes according to this tax to reinvest into the economy instead of leaving it to their families. So that is why I'm still in opposition, Mr. Speaker."

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

"Yes Mr. Speaker, in support and I just would like to have brief comments about this bill. I really don't understand why my colleague from Ewa Beach is in big opposition to this bill when she had repeatedly said in

this Chamber that she represents the poorest district in this State and she had said so, so many times."

Representative Pine rose and stated:

"Mr. Speaker. I object to that comment and I have point of personal privilege."

Speaker Say: "State your point of personal privilege because all she is doing is reiterating what you stated on the Floor of the House which is recorded in the House Journal."

Representative Pine: "I never said that I represented the poorest district. I represent people who are amongst the poorest in the State."

Speaker Say: "Okay thank you very much for your clarification. Please proceed, Representative Cabanilla."

Representative Cabanilla: "So I don't understand whether she's standing up in opposition on the bill."

Speaker Say: "Representative Cabanilla."

Representative Thielen rose and stated:

"Mr. Speaker, could she address the measure before us?"

Speaker Say: "I'm asking ... Representative Thielen, you're out of order, I haven't recognized you. Representative Cabanilla."

Representative Cabanilla: "Is this opposition to represent the people she represents, or it's to represent the family?"

Speaker Say: "Representative Cabanilla. Representative Cabanilla, please speak and reference the bill that is before us. Please do not make any allusions to your colleague who lives right next door to you at this point in time."

Representative Cabanilla: "The opposition is about a tax for properties with a net value of \$3.5 million. Thank you, Mr. Speaker. And the parable that she has given is about a family member. And so now I question whether the opposition is to represent the district, or a family member which stands to give a conflict of interest."

Representative Pine rose and stated:

"Point of privilege, Mr. Speaker. I personally said this does not affect my family, but many people who we know. I was giving examples of property that my family owned."

Speaker Say: "Okay please proceed, Representative Cabanilla. Has that clarified your question about the previous speaker's comment on the Floor in opposition?"

Representative Cabanilla: "It's as clear as mud Mr. Speaker, but I will sit down."

At this time, the Chair stated:

"May we have some proper decorum here in this Chamber? I know the particular issues today are very heated, but to make references or statements from the Gallery is very uncalled for. This is your democratic House and Senate and this is how democracy works, and the debate that the Chair has allowed to occur.

"Personal innuendos and personal allegations are uncalled for here on this Floor. References to Members by name is uncalled for. References made about State employees are uncalled for also. So please confine your remarks to the measures that are before us and the context that each of these measures have.

"I know you all are tired. It's been a long two weeks of grueling Conferences, but let us have some proper decorum on behalf of the people

who are here in this Gallery. On behalf of your voters, and the constituents that you represent. So let's proceed on."

Representative Ward rose and stated:

"Thank you, Mr. Speaker. Blessed are the peacemakers."

Speaker Say: "Representative Ward, please don't make that kind of comment at the beginning of your statement."

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

"Thank you for saying that. I think you put a calm on this, and I just wanted to say one additional piece of objective information in opposition, Mr. Speaker. And that's in regards to the equity argument. I think we're missing one point, Mr. Speaker. We are in Hawaii. We have limited land. And the data that's very clear is that 90% of the land is owned either by 13 landowners and the government. Mr. Speaker, those are primarily trusts. They don't pay this. So if we're saying we're talking about the rich, we've got all of the other people with 10 or 12% of the land which they exchange. And as I think many people have said, we are basically asset rich, but cash poor.

"So when we say we're really going to hit the rich on this, those 90% landowners are the ones we're not touching on this. And if this is all about exchange of the land and the privilege of taxing that exchange, I think we're missing a big, big part of the picture. Thank you."

Representative Souki rose to a point of order, stating:

"Mr. Speaker, point of order. My point is that you didn't gavel us to come back in business so everything that the Representative said is not on the record."

Speaker Say: "It is on the record at this point. I was requesting for proper decorum. I did not ask for a recess."

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

"Thank you, Mr. Speaker. In opposition. Everyone who is talking about this bill is referring to the rich. I believe that we will actually impact a lot of middle class people who just go over the mark. People are going to have to sell their homes, their businesses, their farms, to be able to pay the tax, and then they'll come crying to you. That's why I'm in opposition. I would like to have the words of the Speaker Emeritus entered as my own. Thank you."

At this time, the Chair stated:

"Representative Ching, this is your third time if I'm not mistaken. You will not be recognized as this point. At this point in your career, don't you know parliamentary procedures and rules? Please understand what I am trying to say to all of you. If you are questioning the Chair's ruling, please be aware that I am aware of what is happening."

At 12:33 o'clock p.m. Representative Finnegan requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:34 o'clock p.m.

At this time, the Chair stated:

"At this point we've had a lot of discussion on this particular measure. For those Members who have not submitted their written comments or spoken on this Floor on this particular measure dealing with estate tax, the Chair will allow you to submit written comments, for those who have not spoken or submitted their written comments. If not, we will take the roll call vote."

At 12:35 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:35 o'clock p.m.

At this time the Chair called for a roll call vote and the motion to override the veto of H.B. No. 2866, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," as contained in Gov. Msg. No. 284 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, 43: Aquino, Awana, Belatti, Bertram, Brower, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Takai, Takumi, Tokioka, Tsuji, Wakai, Wooley, Yamane and Yamashita.

Noes, 8: Berg, Ching, Finnegan, Marumoto, Pine, Souki, Thielen and Ward.

At 12:38 o'clock p.m., the Chair noted that the motion to override the veto had carried, and H.B. No. 2866, HD 1, SD 1, CD 1, as contained in Gov. Msg. No. 284, was approved.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 285, informing the House that on April 25, 2010, S.B. No. 2159, HD 1, was vetoed.

Gov. Msg. No. 285 and S.B. No. 2159, HD 1:

Representative B. Oshiro moved to override the veto of S.B. No. 2159, HD 1, as contained in Gov. Msg. No. 285, seconded by Representative Evans.

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 2159, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ABSTRACT FEE," as contained in Gov. Msg. No. 285 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, 39: Aquino, Awana, Belatti, Berg, Bertram, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Say, Shimabukuro, Takumi, Tokioka, Tsuji, Wakai, Yamane and Yamashita.

Noes, 12: Brower, Ching, Finnegan, C. Lee, Marumoto, Pine, Saiki, Souki, Takai, Thielen, Ward and Wooley.

At 12:41 o'clock p.m., the Chair noted that the motion to override the veto had carried, and S.B. No. 2159, HD 1, as contained in Gov. Msg. No. 285, was approved.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 261, informing the House that on April 22, 2010, S.B. No. 2394, HD 1, was vetoed.

Gov. Msg. No. 261 and S.B. No. 2394, HD 1:

Representative B. Oshiro moved to override the veto of S.B. No. 2394, HD 1, as contained in Gov. Msg. No. 261, seconded by Representative Evans.

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

"Thank you, Mr. Speaker, in opposition. I just wanted to mention for the edification of the audience what this bill is about. The purpose of this bill is to delete the requirement that the Department of Human Resources Development be the Chairperson of the Deferred Compensation Plan Board of Trustees. There are some other things in here, but the bill is objectionable because it negatively impacts the State's supplemental retirement plan for over 28,000 government employees by changing the composition of the plan's Board of Trustees."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 2394, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE BOARD OF TRUSTEES OF THE DEFERRED COMPENSATION PLAN," as contained in Gov. Msg. No. 261 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, 45: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Souki, Takai, Takumi, Tokioka, Tsuji, Wakai, Wooley, Yamane and Yamashita.

Noes, 6: Ching, Finnegan, Marumoto, Pine, Thielen and Ward.

At 12:45 o'clock p.m., the Chair noted that the motion to override the veto had carried, and S.B. No. 2394, HD 1, as contained in Gov. Msg. No. 261, was approved.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 262, informing the House that on April 22, 2010, S.B. No. 2501, SD 1, HD 1, was vetoed.

Gov. Msg. No. 262 and S.B. No. 2501, SD 1, HD 1:

Representative B. Oshiro moved to override the veto of S.B. No. 2501, SD 1, HD 1, as contained in Gov. Msg. No. 262, seconded by Representative Evans.

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

"Mr. Speaker, I am in opposition to this particular measure. I would like to request a ruling on a conflict of interest. My husband is a retired CPA," and the Chair ruled, "no conflict."

Representative Marumoto continued in opposition to the override, stating:

"Thank you. I am in opposition to this motion to override Senate Bill 2501, and if I could just explain the current law. It does require peer review of all CPA firms and almost all firms undergo this type of review every two or three years. The larger firms undergo this on a three year basis and they have their own procedures. Anyone who is a member of the Hawaii Society of CPAs undergoes this peer review. So if you're not a member of that firm, then there is no requirement.

"If you do this type of work called attest work, this bill would require accounting firms that do attest work to undergo peer review in order to obtain a permit to practice in Hawaii. Every accounting firm that performs attest work must undergo a peer review every three years according to this bill. Adequate peer review is good for the consumer because it ensures the quality of the firm and supposedly the work that it puts out.

"However, the measure mandates office-specific peer reviews that may not be consistent with current peer review standards of the American Institute of CPAs. Many multistate and multinational firms in Hawaii already participate in the nationally recognized system of peer review that includes the work they perform in Hawaii.

"The Accountants Council points this out as a flaw in the bill. In a communication, they say, 'including the Hawaii offices and Hawaii engagements of foreign or multistate firms,' should be stricken from section 5(a) because they are inconsistent with nationally accepted standards of performing and reporting in peer review the American Institute of CPAs. Instead, section 5(a) should simply read, 'Every firm required to obtain a firm permit to practice pursuant to section 466-7 shall undergo a peer review every three years on the firms attest work and submit evidence of such peer review at the time of the renewal of the firm's permit to practice under section 466-7.'

"This change in requirement, if this bill passes, may discourage some multistate firms from taking jobs in Hawaii. And I might point out that frequently, the State and county governments have utilized big firms, these multistate firms, to do reports and audits for us. We might have fewer accountants from which to choose if this bill passes.

"Finally, while many firms, big and small, who do attest work do undergo peer review, some small local firms do not undergo peer review. They may not even know about this bill, and in fact may avoid membership in the Hawaii Society of CPAs that requires peer review from its members. Some small firms will now be mandated to spend several hundred dollars or maybe a few thousand dollars to comply with this requirement. So I encourage you to consider a no vote. Mahalo."

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

"Mr. Speaker, I'd like a ruling on a potential conflict. Mr. Speaker, I'm a CPA," and the Chair ruled, "no conflict."

Representative Choy continued in support of the override, stating:

"In strong support, Mr. Speaker. Only three firms lobbied the Governor to veto this bill. Just three firms. There's over 250 firms in the State of Hawaii. The three firms that lobbied the Governor to veto this particular bill were the large multi-international firms.

"But we must ask ourselves, why? If they are peer reviewed as the previous speaker said, if they do such great work, why are they so afraid of peer review? The truth be known that the large international firms in the State of Hawaii are so small that they may be a part of their national program, but their offices are rarely, if ever, selected.

"Mr. Speaker, my firm is now undertaking its seventh peer review, and that's over a 25 year period. This particular bill, the way it was crafted, levels the playing field for all local firms, or I should say all CPA firms for the State of Hawaii. Because it is recognized that peer review is good for the consumer.

"Mr. Speaker, in the ten years of the accounting wars, this is the first time the Hawaii Society of CPAs and the Hawaii Association of Public Accountants actually supported one measure and it was this one. So colleagues if you could support me in this measure, I would really appreciate it. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. In opposition. Mr. Speaker, this is a confusing bill. I really had to dig into this bill and listen to the people on both sides. I just wanted to clarify some of the things that the previous speaker had said. It's possible that just three large firms lobbied the Governor to veto this bill, but I remember what took place prior to the passing of this bill up to the Governor.

"It wasn't just the three firms being against this bill all the way through this bill passing from Committee to Committee. No, it was not. It was many, many people wanting a change of language. Many accountants and the bigger group, and I can't remember the acronym for it, but the bigger accountancy firms wanting to see some change in language. Livid that that

language was in there, in that bill, that forced a different kind of local peer review on these big companies.

"What happened was they said, 'even though this 'poison pill' was in there, we're now going to back off. It's obvious that the bill is going to pass.' So make no mistake, there was contention on this bill between accountants both big and small. Between small accountants with each other. Medium size accountants and accounting firms. So it's not just three large firms.

"Now let's go to that particular issue. The reason why I eventually voted no on the Final Reading, and now I'm voting no against the veto override was because one of the things that was mentioned in the Finance Committee was that there was a state that was doing the same exact thing as Hawaii wanted to do. And as I mentioned in the Final Reading, from the Board of Accountancy in Washington State, they reversed their movement to have the local office peer reviews for these national firms. These national firms are the ones that do the audits on big companies and banks like HECO, Bank of Hawaii. And so what took place Mr. Speaker was Washington State, after a few years of having this, corrected their actions and said, 'bad policy.' Now there is no state in the nation that is doing this.

"Mr. Speaker, I can understand if we're cutting edge and we want to do something better. But when the only state that decided to be cutting edge turned around and said, 'no we're not going to do this because its more harm than good.' That's what made up my mind in saying no to this measure. Thank you, Mr. Speaker."

Representative Ching rose in opposition to the override and asked that the remarks of Representative Finnegan be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Marumoto rose to respond, stating:

"Thank you, Mr. Speaker. I don't think that the larger firms are afraid of a local peer review. They have their own stringent peer review and the firm will pay up to \$100,000 or so to undergo this. It really will affect the very small firms who are not members of the Hawaii Society of CPAs and who do attest work. I agree with the words of the Minority Leader. We will be the only state in the Union to have this type of review and I don't think it's really good policy.

"I rebut the remarks of the Manoa Representative who said there were only three firms that are involved in the Accountant's Coalition who are in opposition to this measure. There are actually five firms and they are Ernst & Young LLP, Deloitte and Touche LLP, KPMG LLP, Grant Thornton LLP, and these firms have offices in Hawaii, and then there's Price Waterhouse who is no longer located here, but comes back to do certain jobs in Hawaii. Thank you, very much."

At 12:56 o'clock p.m. Representative Takai requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:57 o'clock p.m.

At this time, the Chair stated:

"Once more the Chair will restate the motion that is before this Body. This is a roll call vote. For those who support the roll call will vote 'aye', for those who oppose the override will vote 'no.' After this we'll have a short recess since the Senate has already adjourned for today and they want to present to us a *sine die* resolution. So just think about it, we're way behind the Senate at this point in time because of the lively debate this morning and this afternoon."

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 2501, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCOUNTANCY," as contained in Gov. Msg. No. 262 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, 45: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Souki, Takai, Takumi, Tokioka, Tsuji, Wakai, Wooley, Yamane and Yamashita.

Noes, 6: Ching, Finnegan, Marumoto, Pine, Thielen and Ward.

At 12:59 o'clock p.m., the Chair noted that the motion to override the veto had carried, and S.B. No. 2501, SD 1, HD 1, as contained in Gov. Msg. No. 262, was approved.

At this time, the Chair stated:

"Members of the House, we will take a 15 minute recess to allow our Senate counterparts to say *aloha* and *sine die* to all of us."

At 12:59 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:32 o'clock p.m., with Vice Speaker Magaoay presiding.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 286, informing the House that on April 25, 2010, S.B. No. 2650, SD 2, HD 2, CD 1, was vetoed.

Gov. Msg. No. 286 and S.B. No. 2650, SD 2, HD 2, CD 1:

Representative B. Oshiro moved to override the veto of S.B. No. 2650, SD 2, HD 2, CD 1, as contained in Gov. Msg. No. 286, seconded by Representative Evans.

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

"Thank you Mr. Speaker, I rise in support of a veto override for Senate Bill 2650, CD 1. Mr. Speaker."

At 1:33 o'clock p.m. Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:34 o'clock p.m.

Representative Mizuno continued, stating:

"Thank you, Mr. Speaker. Seeing that nobody is opposing the veto override, I'd like to submit written comments in support of the veto override of this measure."

Representative Mizuno's written remarks are as follows:

"I rise in support of SB No. 2650, CD 1. I would like to commend the Minority Leader for her passion and her position in seeking to improve State services and reduce costs. Interestingly, I am in complete agreement with the Minority Leader in moving toward becoming more efficient by improving the delivery of State services and reducing costs. I believe our differences stem from the method of seeking improvement of service, cost savings & making sure we are not in violation of federal or State law.

"Background: As this Body is aware of, in March of this year the Department of Human Services (DHS) Director issued notices to 228 DHS employees statewide that (mostly eligibility workers) their positions would be abolished and eligibility offices would be closed in all 31 locations statewide.

"Who will feel the impact? Statewide Beneficiaries: over 300,000 – low income needy individuals and families – aged, blind and disabled,

homeless, domestic abuse victims, our QUEST and Expanded QUEST beneficiaries, and all lower income children and adults. This move to close every single public assistance office will weaken Hawaii's health and human services safety net and increase welfare fraud. If EPOD is allowed to move forward it would gut the Department of Human Services.

"I would like to share with you the genesis of SB 2650, CD 1. This was our statement made before every I.B. on Oahu, Maui, Kauai and Hilo.

"It is not by a dictatorship, but rather through respect and relationships that we will find a solution to our dilemma. We are looking for consensus builders and solutions seekers – by the end of this briefing we will have identified a summary of viable solutions.

"On Maui, your Chair of the Hawaiian Affairs Committee, the Representative from Kihei, and your Speaker Emeritus held a briefing in a packed HGEA office in Wailuku. On Kauai your stellar Kauai delegation was met with 3 Council Members in a packed Kauai Community College room with their community members. On the Big Island, over 150 community members attended your legislative briefing on EPOD.

"Mr. Speaker SB2650, CD1 was created by the people of Hawaii, this was done with collaboration and consensus from our briefings.

"EPOD is not acceptable for the following reasons:

1. The Supplemental Nutrition Assistance Program (SNAP) Administrator for DHS, Linda Tsark, testified against the Eligibility Processing Operations Division (EPOD) plan and was shocked that the Director failed to consult with her before sending out the termination notices to 228 DHS employees. In fact, the SNAP Administrator stated at a subsequent legislative briefing that we could lose up to \$15 million dollars in federal public assistance if we are not in compliance with federal rules and regulations.
2. The Chief Investigator for the DHS Welfare Fraud Division spoke against the EPOD plan and was concerned that the DHS Director failed to consult with him or his office before moving forward with the EPOD proposal.
3. A letter dated April 2, 2010 from U.S. Congresswoman Mazie Hirono to DHS Director Koller states in relevant part, "I have received a copy of a March 9, 2010, letter to you from [the] USDA Food and Nutrition Service, regarding the state's plan for reorganization.... I am concerned that my constituents, especially those on the Neighbor Islands, continue to receive the critical support provided by this office, especially access to SNAP, which is federally funded...[The USDA] has several questions regarding timely processing of applications, providing clients access to face-to-face interviews, and improving access to services for persons with limited English proficiency. I would appreciate receiving a copy of your response...." We contacted Congresswoman Hirono's office yesterday and they informed us that they have not received a response from Koller.
4. The Letter:
 - a) The United States Department of Agriculture and its Food and Nutrition Service (FNS) provided in a letter to Koller dated March 9, 2010, which states in relevant part, "...the State agency must grant a face-to-face interview to any household which requests one. Please explain how this requirement will be met if there are no offices on many of the Neighbor Islands."
 - b) Federal Regulations and Title VI of the Civil Rights Act of 1964 requires that State agencies provide language services to limited English proficient applicants or recipients of public assistance benefits. Moreover, Executive Order 13166 requires agencies to develop and English proficiency. The U.S. Dept. of Agriculture posed the question to Koller in their March 9th letter "Please explain how these requirements will be met under the proposed reorganization."
5. Just yesterday my Legislative Aide, Raytan Vares, called the U.S. Dept. of Agriculture Regional SNAP Director Dennis Stewart

regarding their letter sent to DHS Director Koller (March 9, 2010). This is what was stated to my Legislative Aide, "No, no, no, we have not received a response letter from Director Koller regarding our concerns on EPOD. We understand the worry this has caused to the people of Hawaii, which is why we have our eye on this EPOD plan. We are very concerned and will follow up with a second letter soon." (Concern: 115,000 participants in SNAP former food stamp program & \$15 million dollars in federal public assistance).

6. A DHS employee forwarded an email, dated March 15, 2010, with the time 3:08 p.m. This email went to only certain DHS employees and provides, "Hi everybody, Director Koller is requesting recommendations and comments for EPOD operations. Please email to me suggestions from yourself and staff by noon tomorrow, Tuesday, 3/16/10." This is not meaningful consultation with staff and DHS employees. Shortly thereafter, Director Koller sent out termination notices to 228 DHS employees.

7. The Director does not have a plan when she launched her campaign to close every single welfare office in the state. How do I know that? At one of our briefings we received this copy of this Solicitation Title: Eligibility Processing Operations Division (EPOD) with a Solicitation date of issue: Feb. 25, 2010.

"What does this solicitation request: Expert testimony at the Director's request to the Legislature on EPOD.

Assistance in communicating with the media and public;
 Assistance in preliminary planning of office configuration;
 Assistance in more fully defining work flow processes and procedures;
 and
 Assistance in determining help with the application process and other assistance required regarding EPOD.

"Mr. Speaker, it is not by dictatorship, but rather through respect and relationships that we find solutions to our concerns with EPOD. Today we found solutions and consensus. Today the House of Representatives can override the Governor's veto of SB2650, CD1 and stop the DHS Director's plan to close every single public assistance office in our State.

"For all of the foregoing reasons, I support a veto override for SB2650, CD1 to ensure the 228 hardworking DHS employees continue to provide essential services to over 300,000 of our most needy residents in our State."

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

"I think I'm being called out, Mr. Speaker. I am going to vote in opposition to this measure. Mr. Speaker, this is the infamous EPOD bill. The Eligibility Processing Operations Division, and let me just talk about what this bill is. This has to do with a modernization project within the eligibility area within the Department of Human Services for programs like Medicaid, for programs like Food Stamps or now what's called SNAP, cash assistance and other programs.

"And what this program was meant to be, and across the nation what they found is that through a different application process, through modernization of using technology, whether it be phones or online and mainly phones, and organizing workflow in a different way, consolidating all of these different things in a big modernization program, that you will find across the nation that services to the vulnerable are quicker and easier for the client, number one. And the federal government has been pursuing and encouraging states to move in this direction.

"Mr. Speaker, when I look at that and when people hear that they say, 'Of course. Don't we want to do that? Government should try and do what it can to have quicker and easier services for the clients.' So in this case the controversy in this bill is in this program of modernizing this program. The Department of Human Services Director had mentioned that she will close down 31 smaller offices and consolidate into two processing offices in Hilo and Honolulu. But what has taken place since then is that there was a

bill and a variety of Committee hearings talking about how the Legislature did not want this to move forward.

"And then a bill that arose on Final Reading, the changes that were made was about doing a pilot project only for the Island of Oahu. I objected during the Final Reading of that bill because I felt that in doing just the pilot program that you really change the whole essence of the program and the modernization.

"Mr. Speaker, I don't mean to offend anyone that works in government, but often times if we don't speak up for what we feel is best for the people of Hawaii, for the taxpayers of Hawaii, for these vulnerable that I believe through all the things that I've read, whether it be in SNAP manuals, or whether it be in correspondence going back and forth with the testimony from the Department of Human Services, or letters between the Regional Administrator and the Department of Human Services. I believe that this program is better for the people of Hawaii because it does number one, give quicker service and is easier for these clients.

"So what does that mean? Usually when you take applications you can either do it face to face, and/or through the mail, or through fax. In the MedQUEST Division right now 85% of their applications come through the mail. Mr. Speaker, what this program does aside from all the modernization of streamlining and doing things differently, it also introduces using the phone to take applications, as well as online applications. Through using the phone and using online, they're finding that these services, these application services end up being much quicker and much more efficient to the workflow. The design of the old model doesn't work as quickly, as efficiently, and you get services to your client much faster.

"Mr. Speaker, it's so important that we look at these ways of improving services for the people of Hawaii and let me just kind of tell you, it's been pretty controversial. There was a petition from, and I'll read it. A petition to Governor Lingle to keep two Department of Human Services Waianae Mall offices open. It says, 'This will allow the eligibility workers to provide the necessary services to over 6,000 people on the Leeward Coast. These two offices are essential for assisting the elderly.'

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

Representative Finnegan continued, stating:

"Thank you, Mr. Speaker. 'These two offices are essential for assisting the elderly, disabled, and families with critical services of medical care, food EBT cards, and financial needs.' Number one, well, let me read on. 'Many of these populations don't have Internet or fax access so face to face interaction is vital.' And then I think there were about a thousand signatures on this petition.

"Mr. Speaker, I was not born, but I was raised in Waianae so I probably know many of the people who are on this petition. But let me just correct a couple things that were used to have people sign this petition. It says, 'with critical services to medical care.' There is no Medicaid Office application process in Waianae currently. They've already consolidated that in Honolulu so there is no access to Medicaid in Waianae currently.

"Like I said, 85% of the applications come through the mail. By providing online and, another thing it says here, 'Internet or fax access, but face to face interaction is important and is vital.' They don't mention anything about a telephone in here. I bet if you were to ask them, 'Did they have a telephone,' the list wouldn't be a thousand people long because I still go to Waianae and there are many telephones in Waianae, Mr. Speaker.

"Mr. Speaker, the other thing that's troublesome is we heard about the need to collaborate and consult with those who work in the program. I want to read a part of the testimony that was submitted, or a letter that was submitted March 25 on page 19 to Sanford Chun of HGEA, field services officer. It says:

HGEA continues to find disapproval for DHS not engaging enough staff in developing EPOD. This is a strange contention since public unions

have complained in the past when State Directors and exempt managers have sought to communicate with subordinate staff who are union included members about proposals to make changes affecting their working conditions.

As previously explained, DHS refrained from contacting staff who are included HGEA members to discuss our EPOD reorganization concept due to it being inextricably linked with our proposed RIF of eligibility positions, which on advice of counsel required that we first engage in consultation with HGEA before contacting its members. However, once you qualified at the February 23rd Legislative Hearing that HGEA had no objection to DHS conferring with staff about our proposed EPOD reorganization, DHS began to gather input directly from staff and will continue to do so on an ongoing basis both before and after the EPOD and RIF are implemented.

"Mr. Speaker, I had a discussion with my husband on this because he's a part of the firefighter's union and he said, 'Absolutely.' You can't, especially when you're talking about reorganization or RIFing, you can't talk to the people who you possibly will be RIFing. You have to go through the union. You have to consult with the union. So Mr. Speaker, all the talk that was why didn't you consult with people down line and all of that kind of stuff, it's because they can't talk.

"Mr. Speaker, probably the most bothersome thing aside from processing applications and looking at the different states, whether it be Florida, Mexico or Utah. Utah now has 80% of their applications come online and that actually helped a lot, the staff's ability to keep up with applications and do things better. Mr. Speaker, if you were to compare, and this has nothing to do with the way people work here. This is the model that they were taught ..."

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

Representative Finnegan continued, stating:

"Thank you, Mr. Speaker. This is the model that they were taught. This is the model that the system has given them, and now DHS is looking at a way to modernize it. Mr. Speaker, when modernizing eligibility in New Mexico, processing and eliminating assignments of cases to individual workers has made it possible to reduce the average time to determine eligibility from 20 days, to 6.2 days. This is why it's conceivable to say that you can take some offices and consolidate them, modernize the program, and possibly, possibly RIF employees.

"It's not fun to talk about this Mr. Speaker, but I think we owe it to the public to talk about this. Mr. Speaker, now this is probably the most troublesome thing in doing my research more recently, and that is a report of overdue Medicaid eligibility applications. It goes from the time of this report, and I'd like to include this in the Journal Mr. Speaker.

"It goes from the time of September 2009, up until March 21, 2010. From September to January 25th, 2009, the overdue applications fluctuate 300, 200, 100, but for the most part they're just a little within each other. You know 331, 262 and so on. On January 25th, 2010, the applications in this division was at 307. Mr. Speaker, January 29th is when they opened consultation with HGEA regarding EPOD reorganization and the RIFs. By February 1st, 2010, the number of overdue applications was 471. By March 21st, 2010, the number of overdue applications was 813.

"I don't know if people are connecting the dots like I am in looking at this Mr. Speaker, but it goes from 200 and 300, to 400 within a matter of days. And then a month and a half later, doubles to 800 of overdue applications. Mr. Speaker, what the argument has been, has been we need to do this for the vulnerable people of Hawaii, and this data shows that there was a work stoppage because of this EPOD reorganization, modernization plan. 813 people, 265% increase from January 25, 2010 to March 21st, 2010 in overdue applications.

"That is troubling because the whole reason for having the stoppage on EPOD was because of the vulnerable population not being able to get their medical, not being able to get food stamps, not being able to get cash

assistance. And in a matter of one and a half months, the overdue applications went up 265%. That's even after the RIFs took place last year and everything.

"Mr. Speaker, this program is about giving better services, quicker services, so that people can get medical insurance. It's been proven across the country that it does do this. The federal government is behind it. What do you say to that? This is not about the vulnerable population not getting their services. I don't know how much more clearer I can be."

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

Representative Finnegan continued, stating:

"This is the defining bill Mr. Speaker, if we're going to stand up for the people of Hawaii and do what we say we want to do. Which is provide services to those who cannot provide for themselves. To do it easier. To do it with more quality. To do it faster. If there is a possibility that we can save money Mr. Speaker, then we should.

"We argued on this House Floor how we needed to raise taxes because of energy. We all believe in energy and clean energy. We all believe in many of these things that we're funding in the budget that we passed. But yet when there is an opportunity to say that maybe government should have some change. Maybe there should be change for the better. Let's reorganize. Let's get better services. Let's get quality in there so that these people don't have to take off of work, march down into an office. Instead they can go ahead and pick up a phone.

"You know there's the whole complaint about fraud. That this is going to increase fraud. After looking at this across the nation Mr. Speaker, they did not see an increase in fraud.

"I hope that we have the guts to sustain the veto and to allow this program to move forward, to work with and encourage the Department of Human Services, to say, 'Whoa. Wait a minute.' Before you start RIFing anyone, let's try and see what we can do without strapping them, and then doing this kind of stuff that the workers themselves ... How can you ... I'm at a loss for words. I know that's hard to believe.

"Mr. Speaker, this is a very serious subject, I know. And this is about jobs, I agree. I understand. But we have an obligation and a responsibility here. We need to let government be more efficient where it can be so that we can afford and prioritize our spending in places that are most important right now. And if there are ways to do that, we definitely should do it. Thank you."

Representative B. Oshiro rose and stated:

"Mr. Speaker, pursuant to Rule 50, I'd like to yield my time to the Chair of Human Services to rebut her comments. Thank you."

Representative Mizuno rose to respond, stating:

"Thank you, Majority Leader. Mr. Speaker, I still rise in support of the veto override of Senate Bill 2650. I want to commend the Minority Leader for her passion on her position in seeking to improve State services and reduce costs. Interestingly, I'm in complete agreement with the Minority Leader in moving toward becoming more efficient by improving the delivery of State services and reducing costs. I believe our differences stem from the method of seeking improvement of service, cost savings, and making sure we're not in violation of State or federal law.

"Mr. Speaker, as this Body is aware of, in March of this year the Director of Human Services issued termination notices to 228 DHS employees. They were informed that their positions were being abolished and that eligibility offices throughout the State, all 31 of them, would be closed, and two call centers will be opened in their place.

"Who will this effect? Who will be impacted by this EPOD plan of the Director's? Mr. Speaker, over 300,000 legal residents in the State of Hawaii. This will be our blind, our aged, our disabled. This will be those that are on QUEST and Expanded QUEST. This will be our *kupuna*. Our

children and adults in low income households. They will close every single office, every single public assistance office in the State of Hawaii Mr. Speaker, if this plan was to go forward. If we allow EPOD to go forward, this will gut the Department of Human Services.

"Mr. Speaker, I want to explain the genesis of this bill and how we came up with this bill. We went to every single county, Mr. Speaker. And in every single briefing we had, I made sure this statement was made to every single county that we were at, when we met with community members throughout the State. It's not by dictatorship, but rather through respect and relationships that we will find a solution to our dilemma. We are looking for consensus builders and solution seekers. By the end of this briefing we will have identified a summary of viable solutions.

"Mr. Speaker, we went to Maui County. The Representative from Kihei, Speaker Emeritus, the Chair of Hawaiian Affairs, did a great job working with a packed room at the HGEA office in Wailuku. We went to Kauai Community College, Mr. Speaker. Also a packed room where your three stellar Kauai Representatives met with three Kauai Council Members and the entire community, the Kauai community, they came out and they talked. We worked on solutions. We met them, Mr. Speaker. Mr. Speaker, we went to the Big Island. 150 community members were there and we talked, and we listened to the community. Not by dictatorship, but by relationship and respect, Mr. Speaker.

"Mr. Speaker, Senate Bill 2650, CD 1 was created by the people of Hawaii. This was done with collaboration and consensus from your people.

"EPOD is not acceptable for the following reasons. With complete respect to the Minority Leader, she mentioned that a lot of the employees that were talking were on the RIF list. I disagree, that's not correct. The reason I know that is because the Supplemental Nutrition Assistance Program Administrator for the Department of Human Services, Linda Tsark was never consulted with EPOD. She was so courageous in coming to the briefings, even the briefing that Director Koller was at. On February 23rd she sat next to the Director of Human Services and openly said, 'This is not right. You have not consulted with me. We have not consulted or worked with the federal government. This is wrong.' This is your top person at the Department of Human Services which deals with the SNAP program. That's 115,000 people in the State of Hawaii that receive food stamp benefits. Your top person disagreed with the Director."

Representative Tsuji rose to yield his time, and the Chair "so ordered."

Representative Mizuno continued, stating:

"Thank you, Mr. Speaker. Another person that was not on the RIF list was your Chief Investigator of the Department of Human Services Welfare Fraud Division, Eric Weyenberg. He also courageously came to the briefings and spoke out against EPOD despite the Director of Human Services being there. This is your expert in welfare fraud. He spoke up against it. In fact a number of investigators spoke up saying that this system would not work. You will not have witnesses. If you use a phone call we cannot connect that. We cannot make a case. They explained, in fact, Rick Damerville, prosecutor from the Big Island said, this will not work. Florida had six prosecutions in one year because they could not get material information against those that committed fraud through the phone or fax. You can't prove that this person did through a phone call or through a fax.

"Also Mr. Speaker, on April 2nd of this year, Congresswoman Mazie Hirino sent a letter to the Director of Human Services. In the letter, and I'll just provide in relevant part what it stated. She said, 'I'm concerned that my constituents, especially those on the Neighbor Islands, continue to receive the critical support provided by this office, especially access to SNAP which is federally funded. The United States Department of Agriculture has several questions regarding timely processing of applications, providing clients with access to face-to-face interviews and improving access to services for persons with limited English proficiency. I would appreciate a copy of your response.'

"We contacted Congresswoman Hirono's office yesterday. She has not gotten a response from the Department of Human Services Director.

"Now I want to also address what the Minority Leader said about this statement. I wrote it down. The Minority Leader said that the federal government is behind it. The federal government is behind it, this EPOD program. That's not exactly true, Mr. Speaker. The reason I can say that is because I have a letter before us from the United State Department of Agriculture. It was sent to the Director of Human Services and it's dated March 9th, 2010. It provides in relevant part Mr. Speaker, 'The State agency must grant a face-to-face interview with any household which requests one. Please explain how this requirement will be met if there are no offices on many of the Neighbor Islands.'

"It goes on to another request, 'Federal regulations in Title VI of the Civil Rights Act of 1964 requires state agencies to provide language services to limited English proficient applicants or recipients of public benefits. The United States Department of Agriculture posed this question to the Director in their March 9th letter. Please explain how these requirements will be met under the proposed reorganization.'

"Mr. Speaker, the last paragraph says, 'Please address these concerns within 30 days.' Obviously it's been more than 30 days and these have not been addressed.

"In fact, we called the United States Department of Agriculture yesterday and spoke to the Regional Director Dennis Stewart regarding the letter that was sent to the DHS Director in Hawaii. Dennis Stewart had this to say and I quote, these are his exact words, I quote, 'No, no, no. We have not received a response letter from Director Koller regarding our concerns on EPOD. We understand the worry. This has caused the people of Hawaii which is why we have our eye on this EPOD plan. We are very concerned and will follow up with a second letter soon.'

"It's the federal government, Mr. Speaker. 115,000 of our people currently get these benefits. If we don't play by the federal rules we can be blocked out. 115,000 of our people. How much money is that, Mr. Speaker? Well if you're the SNAP Administrator you would know. Linda Tsark said \$15 million in federal public assistance to Hawaii that we could lose. Mr. Speaker, again, that's not me saying it."

Representative Brower rose to yield his time, and the Chair "so ordered."

Representative Mizuno continued, stating:

"Yes, again \$15 million that we may not get if we are not in compliance with federal law.

"Further Mr. Speaker, we talk about working with DHS workers, meaningful consultation. What I find quite offensive is that an email was sent and dated March 15, 2010 with the time 3:08 pm. First of all this email went out to only certain DHS employees and this is what it stated. 'Hi everybody. Director Koller is requesting recommendations and comments for EPOD operations. Please email me suggestions from yourself and staff by noon tomorrow, Tuesday 3/16/10.'

"This is not meaningful consultation with staff and employees. Less than 24 hours is actually kind of offensive, Mr. Speaker.

"Furthermore Mr. Speaker, the reason I know that the Director doesn't really fully understand EPOD is because right after our briefing on February 23rd with the Senate, the Senate Majority Leader had asked the Director a question about EPOD. He had said something to the effect of, what is your plan? There must be a plan. What is your plan for EPOD? And the Director was unable to explain or answer that question. The concern I have is that she didn't know how to answer that because she didn't really have a plan.

"The reason why I make such a statement is because a courageous employee was able to get this to us. This is a solicitation for service. They're asking for assistance, the Director is, on EPOD. This is dated February 25th. Two days, February 25th, 2010, two days after that briefing. It simply says that expert testimony at the Director's request to the

Legislature on EPOD, expert testimony. She's trying to get some help here. Assistance in communicating with the media and public. I can go on. The point I'm making is that if you knew what you were doing you wouldn't have to do a solicitation for assistance two days after an informational briefing.

"Mr. Speaker, I'm going to end here, but it's not by dictatorship but rather through respect and relationships that we find solutions to our concerns. Today I believe we found solutions and consensus. Today the House of Representatives can override the Governor's veto of Senate Bill 2650, Conference Draft 1, and we can stop the DHS Director's plan to close every single public assistance office in our State. For all the foregoing reasons I support a veto override of Senate Bill 2650 to ensure that 228 hard working DHS employees continue to provide essential services to over 300,000 of our most needy residents in our State. Thank you, Mr. Speaker."

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

"Mr. Speaker, standing in support of the override and I'd like the words of the Chair of Human Services to be entered into the Journal as my own. I would also like to add that I find it ironic that a certain member of the Minority Caucus, I guess the Representative from Hawaii Kai, doesn't consider this bill to be job killer number 18. Thank you."

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

"Thank you Mr. Speaker, in support of the override. Mr. Speaker, I would like the words from the Chair of the Human Services Committee to be inserted in the Journal as my own. I'd also like to add that with all due respect, and I do respect the Minority Leader, I disagree with several things that she mentioned today. I want to talk about it, and I've said it before in this Chamber, it's about transparency.

"If you look at this bill, what the bill does is it takes a pause and yes, the Neighbor Islands they do need an office there. They do need people there. This bill will allow for instance on Maui, the Maui section in Wailuku. Also Central Maui Unit will be preserved. East Maui Unit 1 and 2. I represent East Maui. If you know about East Maui, it's very difficult to connect to the Internet back there, or to provide for those kinds of EPOD services that they're talking about. And then there's West Maui Unit 1 and 2.

"On the island of Molokai there's one office there. I have a petition here of 200 signatures that was just taken yesterday and there's more that are coming, because the people there have agreed that they need their face-to-face office.

"On Lanai, the Speaker, myself and the Representative from Lahaina went there, and we went there to meet with the employees there. What happened because the island is so small, the people of that island showed up and shared with us. These were people who could not utilize a fax machine because why? There was no public fax machine because at that time, the one that they have was not working.

"The other thing that we learned on Lanai was that there are people who have challenges. It's very hard for them to understand when doing the application that they'll be able to fax or email. Even when they're talking on the phone or trying to get somebody on the phone, they have to wait for hours.

"My point here is that this bill will allow for a pilot project to look at this system. We don't want to just shove this system down our throats, especially with the State because one of the things that are not being talked about is the cost of that system.

"Yes, there are things that are wrong with this Department. Yes, there are things that we need to improve. But this Administration has been in office for eight years. Why is it in the last year that they're proposing such a system when they could have started a process with consultation, with looking at and working with those employees, working with the unions to look at what system best fits Hawaii. Because we are an island system.

"Furthermore, the transparency part. This bill allows for Chapter 91 so there are public hearings. There is consultation. And thanks to the Chairs of Human Services Committee, they provided that with the people. So I agree with my Chair, because it is a collaboration, it is a consensus, it is the word of the people. Yes, we are in a budget crisis, but nobody's talking about the cost of a new system. Nobody's talking about when you email or when you actually send that application here on Oahu, who's going to handle those hundreds and hundreds of applications? It goes into an email box and then what? We need to evaluate the situation, and the pilot project allows for that. But why do we only have to look at EPOD? There could be other programs out there, other systems that we can look at. But there was no transparency in the consultation.

"So I beg to differ with my colleague, the Minority Leader, and some of her comments, but I share the same concern. I'm just asking my colleagues to support this measure and override the veto because we need to start somewhere. By allowing the Administration to dictate this kind of system overhaul at the last hour, of the last year, to me is not acceptable. They should have done this sooner and there would be more consultation and we as a Body would be able to evaluate the cost. Yes, they have outdated programs. They have outdated computers, even fax machines.

"If you talk to the employees, like my Chair, I've spent hours talking to employees because why? Nobody has really paid attention to what their needs are. They just made these executive decisions and have not had that transparency nor have they even talked to us.

"My point here Mr. Speaker, is that this bill will allow for a process so that whoever comes in to the Administration that pilot project will address the concerns, but look more closely and evaluate the cost to put in a new system. And yes, nothing is perfect, but the whole point is that we need this transparency process and we need to listen to the people of Hawaii, and what they want because yes, it is their tax dollars. What I haven't heard in the debate is the cost for a new system.

"And hopefully in the end we can come up with a system that improves the way we process applications, the way we serve the most needed communities, but more importantly that the relationships that we have with the people continues so that their quality of life is improved and that we're doing our jobs as public servants. I thank you very much."

Representative Ward rose and stated:

"Mr. Speaker, I rise in rebuttal to the Representative from Kalihi, who's generally very accurate and honorable, but this time he's got his facts incorrect. There is no job killer number 17. There are only 15, and if he had a chance to look at the interactive online budget, we did not, did not fund EPOD. In fact he will see there are \$8 million that the Minority balanced budget, which is online, interactive, for everybody to see, funds the Department and does not put any money out of the budget for the sake of EPOD. So just to straighten the record, even though I appreciate his attempt to bring attention to the online budget which I encourage everybody to look at. It's the first transparent budget for the people of Hawaii to see where we spend our money and there's been no money taken to do the EPOD. Thank you."

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

"I rise in support of the override. Yes, everything that our Chair said is true. I've even heard from Maui's office that they're already starting to implement this program. They've already put the slips out to people letting them know they're going to have to switch their office. I mean it's already starting, so we couldn't do this at a better time. We need to do this right away because they are so committed to making this happen, they're moving ahead with the plan already.

"She wanted me to say this today because she felt she needed to get that kind of support or help because she does not want it to happen. She does have this relationship with these folks, and she knows she does a good job, so she wants to keep it and I think it's a good idea. I think we need to just move ahead on this override right away."

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

"In support, Mr. Speaker. And I would like the words from the Representative from Kalihi entered into the Journal as my own. I'd like to also mention that the override would really assist Kauai. There are five facilities on Kauai that would be impacted had the bill gone through. And I'd like to list two of them in my district. One is the West Kauai Unit in Eleele, and another one which is in Representative Morita's district is the East Kauai Unit in Kapaa. Thank you."

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

"Thank you, Mr. Speaker. In strong support. Mr. Speaker, I first want to tell you my background. I'm an 'IT geek,' Mr. Speaker. I ran several networks from my house including Novell 4.1 in a Windows 2000 Server. And what troubles me about this proposal or about the issue here is that from an IT perspective, it doesn't make sense. When you roll out code Mr. Speaker, when you roll out product, you do a small scale testing called a beta to work out the bugs. You don't just throw it out there and let the end user suffer. And that's what this bill does.

"It says, 'Beta test in Oahu. Work out the kinks in Oahu, so if there is a failure, a breakdown in the system, you can get to offices and have that face-to-face interaction.' The Neighbor Islands, especially in Lanai, don't have that option Mr. Speaker. I'm glad my friend from Hawaii Kai mentioned that this will cost \$8 or \$9 million, but I have many questions. What software are you using? Is it Google Apps? Is it Windows? What's the proprietary cost? Where are the IT positions? Where are they?"

"The Minority Leader is correct in saying the federal government wants us to move in that direction and pursue this. But they don't say just jam it out without any kind of testing or consultation.

"It's great to talk about Utah and other states. That's the end product Mr. Speaker, that's not the process. We have such a terrible IT situation in this State that it's the subject of an Auditor's report. We even passed a bill to create a Chief Information Officer at the cabinet level.

"Mr. Speaker, to say that we want to roll this out with proper consultation, where are the line items for IT positions. On the website, how are you going to get to Tagalog or any other language? Do you have to navigate through English to get to a PDF link that is in Tagalog or will there actually be a Tagalog interface, Mr. Speaker. Question unresolved, Mr. Speaker.

"Mr. Speaker, I approach this from an IT background because it bothers me. You just don't throw something out there and let the customer, the consumer, suffer the unintended consequences. Let's do it on Oahu, let's do it right, and then we can roll out the product, Mr. Speaker. I agree exactly with the Minority Leader. I agree with the federal government. We need to pursue electronic delivery systems. But we need to do it in a rational, logical way because Mr. Speaker, at this point the approach of the Administration borders on science fiction. But by making sure the IT positions are there, by making sure the hardware is there Mr. Speaker, by making sure that the system works, then we can have fact. And then if that's the case Mr. Speaker, beam me up. Beam me up Mr. Speaker, okay.

"On the telephone issue if I may just finish. Yes, there are plenty of telephones in Waianae. But who is on the other end, Mr. Speaker. Hello? Thank you, very much."

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

"Mr. Speaker, in strong support. When the original plan was unveiled, I was stunned. Take a place like Na'alehu or Pahala where you've got elderly plantation immigrants that have language difficulties, physical difficulties. They're 80 miles from Hilo. They're not going to get to Hilo. And if the plan as proposed by the Director goes through, you're going to find domestic violence. You're going to find theft. You're going to find suicides. All of this on top of the problems that we're already having with vogue, and for the life of me I cannot understand how we could possibly compare Utah and New Mexico with Pahala and Na'alehu.

"I will agree with one thing. There won't be any backup of applications because of many areas that I represent, there will be no applications submitted. Thank you."

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

"Thank you, Mr. Speaker. I'm standing in very strong support. I want to add the words from the Chair of Human Services and the Representative from Hana in the Journal as if they were my own and then I'll just touch on a couple of other things that they haven't already mentioned.

"To follow up on the Representative from West Kauai's comments, the three other sections on Kauai are in Lihue, in South Kauai, and in Central Kauai in Kapaa. Five units Mr. Speaker, on Kauai. I think the most profound statement that I heard about this issue came from the Chair of the Finance Committee when he said, 'We have people in these rural areas that need the support.' So I want to thank our colleagues from the Oahu District for not being Oahu-centric on this issue is.

"I also want to applaud my colleagues from the County of 500,000 or more, because a lot of times people from the Neighbor Islands talk about this Legislature and Honolulu being Oahu-centric. But our colleagues looked at the Neighbor Islands and said, 'We have people in these rural areas that need the support.' So I want to thank our colleagues from the Oahu District for not being Oahu-centric on this issue.

"I also think about the many people and many issues Mr. Speaker, that people email us and call us about, whether it's Act 221 tax credits, whether it's House Bill 444, and I think why aren't there more people faxing us, calling us, and emailing about this issue. Because this issue is going to affect hundreds and hundreds of people, Mr. Speaker. But guess what? They don't have faxes. They don't have emails. They don't have cell phones. And it's clear to me that that's why they're not contacting us about this issue. But when I go back on Kauai it's loud and clear Mr. Speaker, when I see them on the island.

"And so in closing Mr. Speaker, I'd like to say that this Session there were not very many things that we could feel good about. But if we can override this veto Mr. Speaker, and for the many people that this bill will service, I think we can feel good about that. Thank you, very much."

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

"Thank you, Mr. Speaker. In strong support. Thank you. The Kauai position was strongly stated by my two Kauai Legislative brothers so I'd like to adopt their words as my own. Thank you."

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

"Thank you, Mr. Speaker. In strong support. This point has already been made, but I want to make it a little stronger. I have about 30 years of background in business dealing with multiple offices in multiple states. There isn't any business entity that I've ever worked for that would ever in their right mind take a project and go statewide without going through a pilot project. You would just get laughed out of the boardroom. So I think this bill, let's override this veto because this bill does the right thing. We need a pilot project.

"And I can't imagine, I'm from the Big Island, we have 16 offices, in one fell swoop we're going to close these offices, consolidate in one location, move over 200 people to Hilo. And we're going to have people from East Hawaii in the Hilo area unit. We've got people in North Hilo Units 1, 2 and 3. We've got Central Hilo Unit 2. We've got South Hilo Unit 1, 2 and 3. I've got the Ka'u Unit. The South Kona Unit. The West Hawaii and Kailua-Kona, North Kona Unit 1, North Kona Unit 2, Kamuela, Hamakua, Unit in Honokaa. I mean, are they kidding me? They're going to close these all at one time without a pilot? Thank you, Mr. Speaker."

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

"Mr. Speaker, in strong support. Just for background, I was a director for an anti-poverty agency for almost 20 years. I'm well aware of the problems

of the poor, and how important it is that we get to the poor and not away from the poor. We developed community councils all in the respective districts so we could have the one-to-one relationship. Now what we have that is being proposed is to do away with those things. And the only consideration for the original bill that came from the Administration was to save money. Not to save people, but to save money. And this Legislature here has spoken. It's people before money.

"Mr. Speaker, I just hope that we continue with this spirit. Furthermore, I would want to incorporate the speech from the Chair of Human Services who's done a wonderful job on this bill with the Chair of Economic Development from Lahaina. Thank you, very much. It was a very nice speech. And for the Chair of Hawaiian Affairs from Maui. All of them had beautiful speeches. In fact, you all have. Thank you, very much."

Representative Finnegan rose to respond, stating:

"Thank you, Mr. Speaker. In rebuttal. And Mr. Speaker, I just don't have the time this time around to explain all the things that I would like to rebut on every single point that was made. Instead I understand that many people don't understand how this will work, so what I'd like to do is just tell you a little story.

"The other day I came home and my husband told me this story of my dad. There was one of those fog mirrors in the bathroom with a radio on it, and we put it back in the box because the fog part didn't work. We put it back in the box, we went outside, and we put it in the garage. My husband comes home from work, he sees my dad with the part that's supposed to go over the shower, over his neck, turned on the radio, and was working in the carport cleaning up, and working in the yard cleaning up.

"So what's the story about? It's about utilizing the tools that you have, seeing things differently than what it is used for currently. It's about being able to accomplish something that you don't think you can accomplish. But when you see that there are elements of accomplishment when you have a 20-day application process of approval brought down to 6.2 days. When you have situations like a work stoppage.

"One of the comments that a previous speaker made, 'save people before money.' So this means save jobs before people? Because that's what the work stoppage was all about. There was no continuing of taking applications. It was, we need to make a point. A point that 800 more applications in the MedQUEST Division are not going to be done because of this plan. Because we want to stop this plan. That's what I heard in those numbers.

"Mr. Speaker, we may not see how this is going to be done, but if it's happening in other areas, and the biggest part of this plan aside redirecting workflow are the phones. The phones have been around a very long time. People have been talking on phones and communicating on phones for a very long time. Online applications isn't email. It's like when you do an application online, but that's only part of it."

The Chair addressed Representative Finnegan, stating:

"Representative Finnegan, your three minutes is coming up shortly. Please summarize."

Representative Finnegan: "Thank you Mr. Speaker. I do have a lot of comments in rebuttal, but I did want to say. Let's think differently. Let's believe in a system that can be better than we have today. Thank you."

At this time, the Chair stated:

"Members, the Chair will call for the question. We've had a lot of lively discussion for one hour."

At 2:28 o'clock p.m. Representative B. Oshiro requested a recess and the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:28 o'clock p.m.

At this time, the Chair stated:

"The Chair will allow the Members to insert comments into the Journal."

Representative M. Oshiro rose to speak in support of the override, stating:

"Mr. Speaker. In strong support with written remarks. Thank you."

Representative M. Oshiro's written remarks are as follows:

"I rise in support of overriding the Governor's veto of Senate Bill 2650 CD1.

"Mr. Speaker, please let the Journal reflect the following facts:

1. The Governor sought to cut 45 vacant positions counts and another 76 laid-off positions from HMS 236, Case Management for Self-Sufficiency;
2. The Governor sought to cut 53 positions and another 60 laid-off positions from HMS 902, General Support for Health Care Payments;
3. The Legislature provided \$2,450,502 in funds for 76 positions in HMS 236;
4. The Legislature provided \$2,250,607 in funds for 60 positions in HMS 902; and
5. The Legislature restored all the vacant position counts in these areas.

"If EPOD were implemented, these two program ID's are the areas in the budget where the line staff would be most affected.

"The point here is that the resources exist to NOT implement EPOD. The Legislature has provided them. While efficiency in government should be strived for, there is the time and money to take a measured approach to ensure success for all stakeholders."

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

"Thank you, Mr. Speaker. In strong support with written comments please."

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, I rise in support of this bill which authorizes the Governor to develop and implement an eligibility-processing operations division pilot project for counties with a population of 500,000 or more. What it also does is it prohibits the Governor from moving forward on a plan which may look good to them on paper, but will in actuality result in the denial of services to those who are most needy.

"As the policy-making body of State government, we must look for innovative ways to cut costs and enhance the delivery of services to the public. However, we must also be cautious that in such zeal for progress, we do not end up 'throwing out the baby with the bath water,' Mr. Speaker.

"In the past, the DHS Director moved quickly to limit early childhood reimbursements to families and coupled these cuts with promises of assistance in rent subsidies and other programs that would help to ease the loss of the childcare money. These were empty promises and the Director seems to wonder why we grow weary of her promises.

"This bill will allow for a demonstration project to work out the glitches and to see if the program being proposed is viable. It is also a measured and deliberate approach as we are also facing an impending change in administration and it would be unfair to burden the next Administration with a half-implemented plan full of glitches."

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

"Thank you, Mr. Speaker. In strong support and if I may adopt the words from the Representative from Kalihi Valley I would appreciate it."

Representative Ching rose in opposition to the override and asked that the remarks of Representative Finnegan be entered into the Journal as her own and asked that her written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to this override, and stand in support of Governor's veto of S.B. 2650 – Relating to the Department of Human Services. I enter the following objections as stated by Governor Lingle:

The purpose of this bill is to allow the Governor, through the Department of Human Services (DHS), to establish an eligibility processing operations division (EPOD) pilot project on Oahu. This bill also prohibits the DHS from implementing any transfer of eligibility functions via a reorganization proposed before and during the effective date of the measure, other than the pilot project.

This bill is objectionable because it denies equal access for Hawaii residents living on the neighbor islands to utilize and receive public benefits, such as welfare assistance, Medicaid, and the Supplemental Nutrition Assistance Program services. The reorganization, proposed and approved before the legislature passed this measure, is designed to increase the convenience with which clients across the State can apply for services and renew their eligibility to retain services through the establishment of a call center and online applications. Residents could also receive in-person assistance at remaining DHS offices, community-based social service agencies, hospitals, and health clinics statewide.

This measure would provide easier access to the application and the renewal process for residents on Oahu only, which is not fair to those living on the neighbor islands, and discriminates against them based solely on the location of their residence.

This bill is also objectionable because it would limit DHS's ability to reduce the backlog of applications and renewals for public assistance, which has increased statewide since 2008 because of the global economic recession. If EPOD cannot be fully implemented statewide, only those applications originating on Oahu will benefit from faster, more responsive, processing. Neighbor island applications are currently delayed for as long as four months, and the processing periods are not within the required federal timelines. The backlog will continue to grow. This does not serve our most needy residents well.

Furthermore, the original state-wide proposal would have improved the quality of service to public assistance recipients statewide while saving the taxpayers of the State an estimated \$8 million annually. There is nothing wrong with improving service and also saving money. The original program should proceed.

"Thank you."

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

Representative Shimabukuro's written remarks are as follows:

"Email from Mr. Adam Lee:

"Subject: DHS Director Lillian Kohler's reorganization plan; floodgate for welfare fraud

Dear Senators Chun Oakland, Ihara, Green, Hemmings and Representatives Mizuno, Brower, Au Bellati, Bertram, Carroll, Nishimoto, Shimabukuro, Yamane and Ward:

I am the senior Special Investigator with the welfare fraud investigations office of the State of Hawaii's Department of Human Services (hereafter 'DHS'), and I must inform you of a major problem of Director Lillian

Kohler's proposed reorganization plan that would lead to a flood of welfare fraud.

Ms. Kohler's reorganization would, among other things, remove a pivotal part of the traditional application process where the client/applicant undergoes an extensive interview and meets face to face with the DHS Eligibility Worker. This 'face to face' moment is where the DHS Eligibility Worker verifies the information on the application and warns the client/applicant of criminal prosecution if the client/applicant lies to DHS concerning the information provided on the application and subsequent DHS forms.

My office successfully investigates and prosecutes many cases of welfare fraud, and every one of them heavily relies on the 'face to face' interview between the client/applicant and the DHS Eligibility Worker.

In brief, a key element to proving fraud is the defendant's state of mind to intend to do something wrongfully. During the 'face to face' meeting between a client and his/her DHS Eligibility Worker, the client is informed that it is wrong to lie to DHS, and thus any subsequent lies by the client inherently displays his wrongful intention. Thus, if it were not for the 'face to face' meeting between the client and DHS Eligibility Worker, my office would not be able to prove a client's intent to steal welfare benefits should such malfeasance occur.

Director Kohler's proposed reorganization seeks to remove the 'face to face' meeting between client/applicant and DHS Eligibility Worker, and consequently also removes a pivotal element in prosecuting welfare fraud. Director Kohler's plan would essentially open a floodgate allowing a deluge of welfare fraud to occur, and my office and the Attorney General's office would be helpless to prosecute such crimes.

Hardworking taxpayers demand their taxes be used rationally and our programs assisting the poor be effective. Unfortunately, Director Kohler's proposed reorganization plan that deletes the above 'face to face' meetings fails this demand because it increases the amount of public assistance funds going to those who are ineligible and decreases the pool of funds available for those who are truly needy.

I humbly suggest that if Director Kohler's reorganization plan were to occur, then please at a minimum require 'face to face' interviews, described above and currently used now, in order to assist our enforcement efforts against welfare fraud.

I thank you for your time and respectfully request your attention to this issue and to take action to prevent Director Kohler's short sighted reorganization.

Sincerely,

Adam Lee
Special Investigator
Investigations Office
Department of Human Services, State of Hawaii"

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 2650, SD 2, HD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HUMAN SERVICES," as contained in Gov. Msg. No. 286 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, 47: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoy, Manahan, Marumoto, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Souki, Takai, Takumi, Tokioka, Tsuji, Wakai, Ward, Wooley, Yamane and Yamashita.

Noes, 4: Ching, Finnegan, Pine and Thielen.

At 2:31 o'clock p.m., the Chair noted that the motion to override the veto had carried, and S.B. No. 2650, SD 2, HD 2, CD 1, as contained in Gov. Msg. No. 286, was approved.

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 275, informing the House that on April 25, 2010, S.B. No. 2840, SD 2, HD 1, was vetoed.

Gov. Msg. No. 275 and S.B. No. 2840, SD 2, HD 1:

Representative B. Oshiro moved to override the veto of S.B. No. 2840, SD 2, HD 1, as contained in Gov. Msg. No. 275, seconded by Representative Evans.

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

"Mr. Speaker. Just very briefly in opposition. We have some testimony from three contractors and they claim that the bill is problematic and could have unintended consequences, an effect of higher costs and project delays that will cause further detriment to the State's economic condition and local workforce. They also say that this bill would be difficult, if not impossible for contractor's to certify on a monthly basis when the total number will not be known until the end of the contract, that's the total number of workers. So because that is a real problem I urge everyone to vote no. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition. Thank you. My great-grandfather came here really long ago. He worked as a commercial agent to keep peace within the Chinese community and the Kingdom at the time. And I think it's important, and I think it's been pretty, probably for those who have served in this Legislature, an obvious thing, that I believe that if we keep local culture, which by extrapolation means support local people, support our locals, it's been pretty clear what my dedication has been. Really clear. That's why I formed the Heritage Caucus, to protect our local people, to protect our local businesses, to keep what is local here.

"But I'm going to read from the *Honolulu Advertiser* and I'm proud to say that my district has the first L&L, my district had Masu's Massive Plate Lunch until he went under. He's no longer there. Maybe that's a good metaphor because it's kind of like two parents. They really want the best for their child. Sometimes they fight over what's best for their child, they love what's best for their child, they want to see the child do well. And I think that might be a good metaphor for what we have here. It's all again back to how do we help that child bloom or that student bloom.

"I want to read from the *Honolulu Advertiser*: 'The mission when government seeks to get construction work done is to find a qualified company for their job at the best possible price,' this is from the *Honolulu Advertiser*, April 29. 'All kinds of complications can creep into the process and the state does not have the best reputation for getting contracts issued promptly. But now imagine the bidders will have to meet one more requirement, ensuring that at least 80% of the workers are Hawaii residents. That's what Senate Bill 2840 would require and Governor Linda Lingle is right to veto it. It's an illogical, impractical, anti-business measure designed only to give Legislators an easy to remember jingle during election season. Local jobs for local people. Except for a commercial aired last summer by the Painter's Union griping about mainland workers hired to repair the Aloha Stadium, no hard evidence has been presented to show that this is actually a problem. Actually, most construction jobs are already filled by Hawaii residents. The cost and hassle of moving workers here from the mainland is generally seen as something to avoid. The problem faced by the construction industry is not the lack of workers, but the lack of work."

At this time the Chair addressed Representative Ching, stating:

"Representative Ching. I'm pretty sure everybody has read that editorial. Would you like to insert it in the Journal as your comments? Or just summarize it? I'm pretty sure everybody has read that."

Representative Ching continued, stating:

"I would like to reference the *Honolulu Advertiser's* editorial, as well as the *Star-Bulletin's* editorial, *Locals Jobs Will Backfire*, both with the same position. Again, it's how do we help our local people. So if we increase costs, and also the comment is made about some of the objection of how do you define 'local.' I'm going to go, come move here. Have my driver's license. Now I'm local. Well, you know, what not. I'm going to have a place here. Well there're a lot of problems with this bill.

"We have to remember that if we continue to have a bad economy, we're going to continue to not be able to have our worker's come off the bench and work and restore and revitalize our economy. So voting on this, thinking well, you know, yeah, that's right. Let's see how it comes out. But I think these are compelling arguments and it's very rare when both dailies, one of the last times maybe I'll be able to say that, which is an example in itself, right? The economy is down because business supports the newspapers, but now it's paid for by their ads. But now no newspaper right? So now we're down to a one newspaper town. So just to say, and this is probably last time I'll be able to say it for a while. Both dailies came out in support of the Governor's veto. Thank you."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to the override, and in support of Governor Lingle's veto of S.B. 2840, SD 2, HD 1, a.k.a. the "local jobs for local people" bill which would require at least eighty percent of workers on construction procurements to be Hawaii residents.

"With the goal to direct jobs to the State's unemployed, the bill may seem to have good intentions; however, a bill such as this could backfire, triggering expensive and time-consuming challenges to contract bids and awards. While the bill has been touted as a job creation measure, the end result would likely discourage job creation by increasing project costs to taxpayers, as well as increasing the likelihood of project delays due to additional grounds for protests by contractors who are not selected. It is ironic that the General Contractors Association of Hawaii opposes this bill, warning that it would increase State and county project costs.

"In her veto message, Governor Lingle draws our attention to the fact that compliance requirements under this bill are tenuous and ill-defined for contractors, as well as State and county agencies that must monitor and enforce compliance. Additionally, the Governor points out that the bill is vague on whether the eighty percent requirement must be maintained every day the project is underway or over the duration of the contract. Further, the language does not specify if the eighty percent quota applies only to jobsite staff or all contractor staff, including administrative and managerial personnel.

"In an editorial piece titled "'Local jobs' bill might backfire" published by the *Star-Bulletin* on April 24, 2010, the article raises an excellent point in reporting, "It [S.B. 2840] ... could be challenged on the basis of the 14th Amendment requirement that a state may not abridge a person's rights as a U.S. citizen." The article also reminds us of the demise of similar measure passed into law in 1978 and then overturned in 2006 by District Judge David Ezra who in his ruling cited many flaws with such legislation.

"In all honesty, the problem faced by the construction industry is not the lack of workers but the lack of work. Until the lending markets loosen up, projects—and jobs—will be hard to come by. This bill will do nothing to resolve that basic problem. Thank you."

Representative Cabanilla rose to speak in support of the override with reservations, stating:

"Mr. Speaker, in support with reservations. And it's not that I don't support local jobs for local people. I do that. But I do know that in the construction industry there're a lot of specialties. Just like in nursing Mr. Speaker, there're a lot of specialties. And at times our construction industry does not have the adequate members or certain types of specialties to be able to do their jobs, and that would necessitate them to bring in people or specialized workers from other states.

"And in that respect, I do agree with them that on certain occasions, in certain specialties, they need that provision. And by passing this kind of law that's going to tie up their hands in being able to complete their job in a timely manner.

"And also right now we have a lot of people unemployed. What is going to happen Mr. Speaker, when the job market, when we are now in a better economic situation, and we are in a flourishing situation when there're a lot of jobs and we don't have the people to meet them. Thank you, Mr. Speaker."

Representative B. Oshiro rose to speak in support of the override, stating:

"Mr. Speaker, I rise in support. Very briefly, I'd just like to ask permission to submit a letter by Professor John Van Dyke dated March 24, 2010 where he answers some of the legal and constitutional and international trade questions that have been raised through this bill.

"In addition, I'd just like to make one comment. It's really related to our Procurement Code. Back in 2005, what we passed was the Small Business Preferences and Set Asides. The purpose of that that's codified in 103D-906 was that was where we wanted to give the Administration the opportunity to really give small businesses, local businesses, government contracts. That was the purpose of the bill. And unfortunately to date, 5 years later, not a single contract has been issued under this Small Business Set Asides. That is why we are faced with this bill before us. We passed legislation, we create a policy in the Procurement Code and unfortunately that gets ignored.

"So at this point when we have 90% of our union brothers and sisters that are currently not working on various islands across the State, when residents are suffering because of a lack of jobs, because often times those projects are being given away to mainland corporations, I think it is entirely appropriate for us to step forward and say at this time, we don't find that to be acceptable as a government, as a policy. In our Procurement Code what we're going to do is set a priority and give those jobs and those residents what they need to do to survive. For those reasons, I stand in support. Thank you."

Representative B. Oshiro submitted the following letter:

**Hawaii State Legislature
Joint Hearing
House Committee on Labor and Public Employment
House Committee on Economic Revitalization, Business, & Military Affairs
Tuesday, March 9, 2010
10:30 a.m.
Conference Room 309**

Re S.B. No. 2840 S.D. 2 Relating to Public Procurement

**Testimony of Jon M. Van Dyke
On Behalf of
District Council 50**

Introduction Regarding the Changes to the Original Bill.

S.B. No. 2840 (which was identical to H.B. No. 2736) has been strengthened by several technical changes, changes to its purpose section, and a change to facilitate enforcement. These changes will assist in enabling the State to defend the constitutionality of the statute, should it be challenged after enactment.

S.B. No. 2840 S.D. 2 contains a long purpose section explaining the economic conditions that underlie the enactment of this statute. This material will be useful in helping a reviewing court understand the need for this legislation. It also contains a specific reference to the test utilized by the U.S. Supreme Court in *United Building & Construction Trades Council of Camden County & Vicinity v. Mayor and Council of the City of Camden*, 465 U.S. 208 (1984), with regard to the Privileges and Immunities Clause, and explains why "the purpose of this Act is substantially related to the important governmental goal of reducing unemployment." Again, this addition will be useful in defending the statute should it be challenged.

S.B. No. 2840 S.D. 2 also contains a new section requiring contractors to "provide the procurement officer with documentation sufficient to demonstrate compliance with this chapter." This addition will facilitate enforcement, and raises no constitutional issues.

S.B. No. 2840 S.D. 2 does not contain the definition of "shortage trade," which is contained in H.B. No. 2736 H.D. 1. It would probably be best to add this definition to the statute as ultimately passed, to avoid any ambiguity on this matter.

S.B. No. 2840 S.D. 2 says that the Act "shall take effect on July 1, 2010." This date needs to be changed to July 1, 2010, so that this statute can address the immediate economic challenges facing our community.

The Constitutional Regime Governing This Bill.

Laws giving preference to local residents for work funded by state taxpayers have been found to be constitutional under the Market Participant Exception to the Dormant Commerce Clause, *White v. Massachusetts Council of Construction Employers, Inc.*, 460 U.S. 204 (1983), and they can also be constitutional under the Privileges and Immunities Clause if they are substantially related to the important governmental goal of reducing unemployment. *United Building & Construction Trades Council of Camden County & Vicinity v. Mayor and Council of the City of Camden*, 465 U.S. 208 (1984). The determination whether a specific local preference law is constitutional is, therefore, fact-specific and depends on whether the law is properly related to a specific unemployment problem needing attention. Because of the serious unemployment in Hawai'i's construction industry, and because of Hawai'i's unique geography, the approach taken in S.B. No. 2840 and H.B. No. 2736 logically addresses Hawai'i's unemployment challenges and should be found to be constitutional under existing caselaw if a proper legislative record confirms the relationship between this law and the current rates of unemployment in the construction industry.

Hawai'i's Unemployment Challenges in the Construction Industry.

The unemployment rate in Hawai'i as of December 2009 was 6.9%. As Governor Lingle acknowledged in her State of the State Address, the construction industry has been hit especially hard during the current economic downturn. Between December 2008 and December 2009, 4,900 construction jobs were lost.¹ This problem appears to be exacerbated by the practice of some contractors who receive state public works contracts to hire nonresident construction workers.

S.B. No. 2840/H.B. No. 2736 Relating to Public Procurement.

This Bill is designed to address the problem of unemployment in Hawai'i's construction industry. It requires any contractor awarded a public works contract to "ensure that Hawai'i residents comprise not less than eighty per cent of the workforce employed to perform the contract." This requirement also applies to subcontracts of \$50,000 or more, but it does not apply to "procurements for professional services under section 103D-304 and procurements for small purchases under chapter 103D-305." In addition, "hours worked by employees within shortage trades, as determined by the department of labor and industrial relations, shall not be included in the calculations for purposes of this section."

The Privileges and Immunities Clause.

United Building & Construction Trades Council of Camden County & Vicinity v. Mayor and Council of the City of Camden, 465 U.S. 208 (1984), involved a municipal ordinance enacted by the City Camden, New Jersey, requiring that at least 40% of the employees of

¹ Hawai'i Dept. of Labor and Industrial Relations, Hawai'i's Seasonally Adjusted Unemployment Rate at 6.9 Percent in December, Jan. 22, 2010.

2

contractors and subcontractors working on City construction projects be City residents. The Supreme Court ruled that the Privileges and Immunities Clause in Article IV of the U.S. Constitution protected the right of all U.S. citizens to seek employment from private employers, even those receiving governmental contracts, and that discrimination against citizens of other states can be justified only "where there is a 'substantial reason' for the difference in treatment" and if it can be shown that the nonresidents "constitute a peculiar source of the evil at which the statute is aimed." 465 U.S. at 222. In explaining this test, the Court noted that it would be proper in the usual case to defer to the judgment of local legislative bodies, especially when they are utilizing taxpayer funds to stimulate their local economy and to create jobs:

* "The fact that Camden is expending its own funds or funds that it administers in accordance with the terms of a grant is certainly a factor – perhaps the crucial factor – to be considered in evaluating whether the statute's discrimination violates the Privileges and Immunities Clause." *Id.* at 221 (emphasis added).

* "Every inquiry under the Privileges and Immunities Clause 'must... be conducted with due regard for the principle that the states should have considerable leeway in analyzing local evils and in prescribing appropriate cures.' *Toomer v. Witsell*, 334 U.S. 385 (1948). This caution is particularly appropriate when a government body is merely setting conditions on the expenditure of funds it controls." *Id.* at 222-23 (emphasis added).

The U.S. Supreme Court remanded the *Camden* case back to the New Jersey Supreme Court to apply this test, because no factual record had been prepared when the case came to the U.S. Supreme Court. No further recorded proceedings took place in this particular case, however, so we do not know how the test was in fact applied. And in the following 26 years, no other cases have come before the U.S. Supreme Court to reevaluate the appropriate test or to apply it to any other fact situations.

Some lower courts have struck down statutes mandating employment preferences,² and

² See, e.g., *People ex rel Bernardi v. Leary Construction Co., Inc.*, 10 Ill.2d 295, 464 N.E. 2d 1019 (1984) (striking down a law requiring an absolute preference for Illinois residents in public works projects because nothing in the record, including the complaint itself, showed that nonresident laborers were a cause of unemployment in Illinois); *W.C.M. Window Co. v. Bernardi*, 730 F.2d 486 (7th Cir. 1984) (ruling that this same Illinois law violated the Privileges and Immunities Clause, in light of the complete failure of the state to make any attempt to justify the law); *Robison v. Francis*, 713 P.2d 259 (Alaska 1986) (striking down a law requiring that 95% of the workers on public works contracts be Alaska residents, as violating the Privileges and Immunities Clause); *Opinion of the Justices to the Senate*, 393 Mass. 1201, 469 N.E.2d 821 (1984) (rendering a nonbinding advisory opinion, without the benefit of any record of legislative findings, that a proposed bill requiring that 80% of workers on public works contracts by Massachusetts residents would violate the Privileges and Immunities Clause); *State v. Enserch Alaska Construction, Inc.*, 787 P.2d 624 (Alaska 1990) (striking down a law requiring that 50% of the construction workers in economically distressed areas to be hired for public works projects in that area, as violating the Equal Protection Clause of the Alaska Constitution); *A.L. Blades v. Verusalm*, 121 F.3d 865 (3rd Cir. 1997) (striking down a Pennsylvania law requiring that all laborers on public works contracts have lived in Pennsylvania for at least three months prior to their employment, as violative of the Privileges and Immunities Clause).

3

others have upheld them.³ A number of states do now have such statutes, as listed below.

The clearest case upholding a resident-preference hiring law is *State v. Antonich*, 694 P.2d 60, 61-64 (Wyo. 1985), upholding a requirement that available and qualified Wyoming residents be hired in preference to nonresident laborers. The Wyoming Supreme Court explained that "[w]ithout question, reduction in unemployment among Wyoming citizens constitutes a valid state goal," *id.* at 62, and ruled "that Wyoming's Preference Act... precisely fits the particular evil identified by the State." *Id.* at 63. The court went on to say:

"We hold that the Wyoming Preference Act does not violate the privileges-and-immunities clause of the federal constitution, notwithstanding the Act's infringement upon a recognized fundamental right. The Act narrowly addresses the goal of reduced unemployment among the state's taxpayers by preferring available, qualified residents for government-funded positions. Since the degree of discrimination bears a close relation to the state's valid reasons for discriminatory treatment, we affirm the Act's validity under the test established in *Toomer v. Witsell*, *supra*, and refined in subsequent cases."

Id. at 64. This decision has been cited with approval by the U.S. Court of Appeals for the Eighth Circuit, in *A-G-E Corporation v. United States*, 968 F.2d 650, 654 (8th Cir. 1992), where the court stated that "[a] direct attack on Wyoming's resident preference statutes [alleging that it violates the Privileges and Immunities Clause] would clearly face an uphill battle after *White v. Massachusetts Council of Constr. Employers, Inc.*, 460 U.S. 204 (1983), and *United Bldg. & Constr. Trades Council v. Camden*, 465 U.S. 208 (1984)."

Other post-*Camden* decisions that have upheld local preference statutes include:

* *Gary Concrete Products, Inc. v. Riley*, 285 S.C. 498, 331 S.E.2d 335 (1985), upholding a law requiring procurements to be made from South Carolina residents, so long as the South Carolina bidder is not more than 2% higher than that of the nonresident bidder for procurements under \$2,500,000 and not more than 1% higher for procurements over \$2,500,000.

* *APAC-Mississippi, Inc. v. Deep South Construction Co., Inc.*, 288 Ark. 277, 704 S.W.2d 620 (1986), upholding the requirement that contracts be awarded to bidders who paid local taxes, unless they are more than 3% higher than the lowest nontaxpaying bidder.

* *Bristol Steel & Iron Works, Inc. v. State Dept. of Transportation & Development*, 507 So.2d 1233, 1236 (La. 1987), upholding a law requiring that public works contracts must be awarded to Louisiana resident contractors unless it is more than 5% higher than the lowest

³ The decision in *Walsh v. City and County of Honolulu*, 423 F.Supp.2d 1094 (D.Hawaii 2006), which struck down a residency requirement for public employees, is not directly applicable to HB No. 2376, because that decision was based on the court's conclusion that the residency requirement had the impermissible purpose of deterring immigration. HB No. 2376, by contrast, is designed to address Hawai'i's significant unemployment problem in the construction industry, and it utilizes a flexible approach, which will still permit one-fifth of all construction workers to be nonresidents.

4

responsible nonresident bid, explaining that the statute "serves a legitimate state interest, i.e., encouraging Louisiana's industries, and is rationally related to advancing that purpose."

* *Big Country Foods, Inc. v. Bd. of Educ. of Anchorage Sch. Dist.*, 952 F.2d 1173 (9th Cir. 1992), upholding a requirement that Alaska school districts receiving state funds purchase dairy products harvested in Alaska unless the price is more than 7% higher than products of like quality harvested outside the state.

Other States with Resident Preference Statutes

Other states statutes that mandate resident-hiring preferences include:

* Idaho Code, Title 44, Chapter 10 § 44-1002, requiring that 95% of the employees in public works contracts be Idaho residents.

* Montana Code Annotated, § 18-2-409, requiring that 50% of the employees on public works contracts be "bona fide Montana residents."

* Oklahoma Statutes, Title 61, § 9, stating that all public works contracts "shall require employment of Oklahoma labor and the use of Oklahoma materials if available...and can be procured at a cost no higher than the same quality of labor or material available from outside this state."

* West Virginia Code Annotated, § 5A-3-37, giving a preference to bidders utilizing at least 75% West Virginia residents who have lived in West Virginia continuously for at least two years, as long as their bid does not exceed the lowest qualified bid by 2 1/2%.

* Wyoming Rules & Regulations, Chapter 14, § 6, giving a preference to Wyoming contractors, if their bid is not more than 5% higher than that of the lowest responsible nonresident bidder, and requiring that resident laborers be used whenever possible.

Applying the Governing Test to S.B. No. 2840/H.B. No. 2736

The decisions since the 1984 *Camden* case confirm that each resident-preference statute must be examined in light of the specific situation in the affected community and the record made to support the statute. Hawai'i's geography complicates its employment situation, because many construction workers cannot easily move or relocate their families to distant sites where jobs might be available, and thus are limited to job opportunities in our islands. Because of this constraint, because the construction industry has been particularly hard hit in the current downturn, and because some contractors receiving public works contracts have brought in workers from elsewhere rather than hiring available local workers, a strong case can be made that S.B. No. 2840/H.B. No. 2736 is substantially related to the important government goal of reducing unemployment. The 80% figure in the Bill provides a contractor with sufficient flexibility to bring in workers from elsewhere who may have unique skills unavailable here, but at the same time ensures that taxpayer moneys spent for public works projects will help alleviate

5

unemployment in Hawaii's construction industry. The cases cited in footnote 2 can be distinguished, because they either involved situations where no legislative record was made, or they involved an absolute (or near-absolute) preference rather than the 80% utilized in HB No. 2736, or they involved local state constitutional provisions inapplicable here.

If the proper legislative record is made, therefore, S.B. No. 2840/H.B. No. 2736 should be found to be constitutional. As explained in the introductory section to this testimony, the changes made to Section 1 in S.B. No. 2840 S.D. 2 will assist a reviewing court in understanding the purpose for this legislation and should ensure that it will be found to be constitutional.

6

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

"Mr. Speaker, I'm standing in support. Mr. Speaker, the essence of this bill is to support local people. Mr. Speaker, this is a way that we can set policy to get local people jobs. It doesn't mean they have to hire local people, but that's the first preference, Mr. Speaker. These local people represent our brothers, our sisters, our sons, daughters, mothers, our neighbors. They need jobs, Mr. Speaker.

"With ever-increasing issues of homelessness, unemployment, Mr. Speaker, it's time to get our people working so that they can feel good about their families, feel like they're participating in a community, and Mr. Speaker, this is an issue that resonates throughout the State. We need our people working now. Thank you."

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

"Thank you, Mr. Speaker. In opposition. Thank you, Mr. Speaker. You know I had voted for this bill before it went up to the Governor's Office and I had some concerns regarding the unconstitutional part of the bill, but I did pass it through. I didn't really look at or study all of the different testimony, and now that I take a look at the veto message, as well as really looked and studied the different testimony that had come in, I do support the Governor on her veto.

"This was a great way to pass this bill. How can you be against local jobs for local people? The bottom line is I think we all want local jobs for local people. I do agree with the Majority Leader when he says that this small business preference in the Procurement Code is something that we need to exercise and we need to find a way to make sure that that is exercised, because from my understanding it's not. If I'm not mistaken, that was a joint effort in 2005 between the Administration and with the cooperation of the Legislature and the Administration that that particular part of the law, of the Procurement Code, was passed together.

"Mr. Speaker, we just have to enforce that. Be able to get the change of culture, to get the small business preference exercised. What happens in this bill is it's not workable with the way that you have to keep track and all of this kind of stuff. It hurts more than it helps.

"Mr. Speaker, when I look back at, and ask questions about the Stadium, that's in my district, and ask the Stadium about the work that was done, it was because of the interpretation, as well as process of the procurement system why it ended up with the mainland company being awarded the project. The first time that procurement went out it was awarded to a mainland company, then it was challenged and it was also sent out again. I don't know the terminology. I apologize for that. But then it was sent out to bid again. Through that, a local company won, but because there's certain disclosures that you need to make and I believe it was one of the subcontractors you had to name. Because of the process, and that that particular local contractor did not name the subcontractor, that mainland company was able to come and challenge it again, and through that it went to the mainland company.

"Mr. Speaker, it's very unfortunate that that happened, but what we have here is we have a situation where we can do better with the laws that exist without passing this bill that will make it worse, in my opinion, for the construction industry. Thank you, Mr. Speaker."

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

"Mr. Speaker, thank you. In support. Just to hopefully assuage the concerns of the Representative from the 42nd District. There is a provision in the bill that allows if you have a classification that's in shortage, that the 80% does not apply to that. So if there are jobs that the requisite number of people are not available locally, this law does not apply.

"Also with regard to, I think it was the Governor's concern about this being detrimental to the economy. It's hard to see how that's possible because it is government contracts, and the government is going to put out the same number of contracts whether or not this is in effect. So it's hard to understand why that would make any difference. So I think that's the only points I had. Thank you, very much."

At 2:46 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:46 o'clock p.m.

At this time the Chair called for a roll call vote and the motion to override the veto of S.B. No. 2840, SD 2, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT," as contained in Gov. Msg. No. 275 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: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Ito, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Souki, Takai, Takumi, Thielen, Tokioka, Tsuji, Wakai, Ward, Wooley, Yamane and Yamashita.

Noes, 5: Ching, Finnegan, Marumoto, Pine and Sagum.

At 2:48 o'clock p.m., the Chair noted that the motion to override the veto had carried, and S.B. No. 2840, SD 2, HD 1, as contained in Gov. Msg. No. 275, was approved.

At 2:48 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 2:52 o'clock p.m., with the Speaker presiding.

END OF CALENDAR

At this time, the Chair stated:

"Members, at this time we had deferred two measures to the end of calendar, which were House Bill 1642 and Senate Bill 1311 on page 2. At this time, we will be taking up House Bill 1642."

At this time, the Chair addressed the Clerk who announced Gov. Msg. No. 259, informing the House that on April 22, 2010, H.B. No. 1642, HD 1, SD 2, CD 1, was vetoed.

Gov. Msg. No. 259 and H.B. No. 1642, HD 1, SD 2, CD 1:

Representative B. Oshiro moved to override the veto of H.B. No. 1642, HD 1, SD 2, CD 1, as contained in Gov. Msg. No. 259, seconded by Representative Evans.

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

"Written comments in strong support."

Representative Shimabukuro's written remarks are as follows:

"Mr. Speaker, I rise in strong support of an override to the Governor's veto of House Bill 1642. The purpose of this bill is to ensure fair and equitable practices in the procurement bid process 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.

"I would like to quote a 4/29/10 email from Emmanuel Kintu, Executive Director, Kalihi-Pālana Health Center, and Board Chair, Hawai'i Primary Care Association.

"Aloha!

For the good of Community Health Centers throughout Hawai'i and the vulnerable populations they serve, I urge you to override the Governor's veto of HB1642.

Passage of this bill provides vital consumer protection and quality health care for community health center patients by ensuring transparency in the bidding process for QUEST and QUEST Expanded health care programs.

The implementation process for the most recently awarded QUEST Expanded RFP resulted in barriers to care, such as inadequate provider networks, patient medications, and transportation.

Specific challenges that community health centers experienced, and in some cases continue to face, include:

CHCs or other community service organizations that provide transportation to clients are not an option that Med-Quest Division (MQD) or the plans would pay for unless the organization provided transportation to all QUEST Expanded clients and followed all MQD/plan transportation regulations.

Patients are asked to get transportation from family members or friends. If that isn't possible, the bus is the next option if the patient is physically and cognitively able to catch the bus, if a bus runs regularly, and if the patient lives within a quarter mile of a bus stop. The Handi-Van is the next option for those who can't take a bus, with Handi-Tran as the last viable alternative for areas Handi-Van is unable to service. For health centers in rural areas, this transportation issue poses a particularly difficult access problem.

Payment and reimbursement issues, including denial of claims, for prescription medications and PPS rates.

Multiple services provided at the same time are not being entirely paid for.

Serious shortage of specialist providers and inadequate communication between the plans and community health centers on the provider network.

Please support the veto override of House Bill 1642, so that community health center patients are provided the best possible access to the quality health care they deserve."

"In addition, I would like to rebut the Governor's Objections.

"The Governor claims the bill will require organizations to obtain licensure prior to bidding: This is not true. HB 1642 allows the purchasing agency to determine whether licensure is necessary. According to the bill, applicants are required to have licensure as stated in the Request For Proposals. Therefore, the purchasing agency has full control over licensure requirements.

"The Governor claims the bill will limit the number of qualified providers, decreasing competition and increasing costs: This is not true. The requirement that appropriate licensure is obtained prior to bid submission adds assurances that bidders are qualified. In 2007, DHS's QUEST Expanded Access RFP stated that bidders must be a Hawaii licensed Health Maintenance Organization or Mutual Benefit Society. Despite this requirement, Ohana Health Plan was awarded a contract after failing to obtain either license. Since then, Ohana operates without a HMO or MBS license and instead operates under the Hawaii indemnity insurance licensure of WellCare, its mainland for-profit parent company. HB1642 will close this loophole. Further, there is no evidence that the current procurement process decreases costs. To the contrary, in Fall 2009, DHS increased QUEST Expanded Access health plan contracts with Ohana and EverCare, from approximately \$600 million a year to \$650-\$660 million a year despite a large State deficit.

"The Governor claims HB 1642 allows the bidder to dictate the award amount: This is not true. Bids for health and human services are requested on a "per person per month" basis. For QUEST health insurance coverage services, bidders propose a per person, per month rate. DHS then pays contracted health plans the rate multiplied by the number of enrollees served for the month. HB 1642 will not force the State to pay more than necessary for services.

"The Governor claims the bill is flawed because contract amounts cannot be determined in advance: This is misleading. HB 1642 does not require the State determine in advance total contract amounts. Bids for health and human services are contracted on a per person, per month basis. The State awards contracts for a "per person, per month" rate and are paid based on that rate multiplied by the number of beneficiaries they served during the month. Additionally, this bill will have no impact on the ability of an agency to set rate schedules because contracts are for a per person, per month rate.

"The Governor claims the bill is based on the misperception that the State should not be paying contractors for taxes: This is false. HB 1642 requires that proposals include all costs, fees, and taxes. In no way does the bill prevent an agency from paying contractors for taxes. The bill does require that any costs, including taxes, are included in the bid amount. This is to prevent the current practice of agencies accepting a bid, excluding taxes, then paying the contractor for taxes after contracted. The inclusion of taxes and other costs in the bid, up front, provides added transparency in the procurement process.

"Rebuttal to Ohana Healthcare's latest claims:

"Ohana Claims: That they have paid taxes; No one disputes that they have paid taxes which are required by law. However:

FACT:

- Ohana NEVER INCLUDED the cost of the tax in their Bid Proposal.
- The STATE is PAYING Ohana the amount of the tax they owe OVER and ABOVE what it bid.
- The FEDERAL GOVERNMENT would have PAID the additional \$13 million if the TAXES were INCLUDED in the Bid Proposal.

"Ohana Claims: That they saved the State millions of dollars

FACT:

- The State expected SAVINGS when it created the QExA program NO MATTER who was AWARDED the Contract.

"Ohana Claims: The RFP was consistent with HRS 103D

FACT:

- NOT TRUE. the Contracts for Health and Human Services are Governed by Hawaii Revised Statutes (HRS) Chapter 103F and NOT HRS 103D.

"Ohana Claims: This bill will jeopardize many jobs and disrupt care for 41,000 beneficiaries of the QExA program

FACT:

- NOT TRUE. BOTH Ohana and Evercare HAVE contracts that DO NOT end until June 2011 and this bill DOES NOT affect their CURRENT CONTRACTS.

"Ohana Claims: This bill may put Medicaid waivers and matching funds at risk

FACT:

- There is NO Evidence of this and is a MISLEADING STATEMENT.

"Ohana Claims: This bill will cost the State millions of dollars.

FACT:

- There is ABSOLUTELY NO BASIS for this statement.

"Mr. Speaker, these concerns raised are very serious. I wish to draw Members' attention to SCR 179, which we adopted this Session. SCR 179 was introduced by the Senate Health Committee Vice Chair, and states:

WHEREAS, there are reports that the two health plans that the Department of Human Services has awarded contracts to under the QUEST Expanded Access programs do not have adequate networks of primary care providers; and

WHEREAS, concerns have arisen that the State lacked adequate assurances from the two health plans regarding the ability of the plans to deliver services; and

WHEREAS, these concerns have led to lawsuits in the federal courts to block the contract awards under the QUEST Expanded Access programs...

"As reported in SCR179, patients impacted by QExA have filed a lawsuit in federal court, which is scheduled for trial in the coming months. We need this bill to improve this situation and avoid future liability for our state.

"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.

"HB 1642, as amended by your Conference Committee, makes it clear that bid proposals should contain all costs, fees, and any taxes that the bidder may be obligated to pay. Furthermore, the bill prohibits any award from including payment or rebates not included in the proposal. The bill does not end existing contracts ... but it does provide transparency to the process and it will ensure fairness in future bids and awards. Why should

we continue to subsidize for-profit companies with unproven local track records? Why should we provide up-front advantages, enabling them to compete with non-profit insurers who have responsibly served Hawaii's most needy and under-served populations in cooperation with 16 community health centers on all islands?

"This bill began its long journey early in the 2009 Session. I urge my colleagues to reaffirm the stand that both House and Senate made when it sent this legislation to the Governor."

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

At this time the Chair called for a roll call vote and the motion to override the veto of 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," as contained in Gov. Msg. No. 259 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: Aquino, Awana, Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chang, Chong, Choy, Coffman, Evans, Hanohano, Har, Herkes, Keith-Agaran, C. Lee, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Sagum, Saiki, Say, Shimabukuro, Takai, Takumi, Tokioka, Tsuji, Wakai, Wooley, Yamane and Yamashita.

Noes, 9: Ching, Finnegan, Ito, Karamatsu, Marumoto, Pine, Souki, Thielen and Ward.

At 2:56 o'clock p.m., the Chair noted that the motion to override the veto had carried, and H.B. No. 1642, HD 1, SD 2, CD 1, as contained in Gov. Msg. No. 259, was approved.

At this time, the Chair stated:

"In reference to Senate Bill 1311, SD 1, HD 1, Members of the House, we will not be taking this measure up at this time. Madame Clerk, please file this measure with the House."

Gov. Msg. No. 197 and S.B. No. 1311, SD 1, HD 1:

At this time, Gov. Msg. No. 197 was placed on file.

ORDER OF THE DAY

UNFINISHED BUSINESS

At this time, the Chair stated:

"Members of the House, may we proceed back to the Order of the Day, Unfinished Business, where we deferred two measures to the end of the calendar. Senate Bill 2646, Senate Draft 1, House Draft 2, Conference Draft 2; and also Senate Bill 2405, Senate Draft 2, House Draft 1, Conference Draft 1."

S.B. No. 2646, SD 1, HD 2, CD 2:

Representative B. Oshiro moved to recommit S.B. No. 2646, SD 1, HD 2, CD 2, to the Committee on Conference, seconded by Representative Evans.

Representative Ching rose to speak in opposition to the motion to recommit, stating:

"Thank you, Mr. Speaker. I rise in opposition to the recommittal of this measure. This measure, which was supported by so many people and passed out of the Senate, recognizes that surfing specifically, water-based recreation in general, are significant elements of Hawaii's culture, history, recreation and economy, and therefore should be identified, promoted and

protected as reserves by the DLNR working in partnership with federal, State and departments. We're on *sine die*.

"The introducer of this bill, born to Fred Sr. and Lillian Freitas Hemmings, a true *keiki o ka 'aina*, part Portuguese and Caucasian, of Portuguese heritage, graduated from Punahou, was a quarterback of the football team, won the Makaha International and numerous surfing championships, and was inducted to the Punahou Hall of Fame here in Hawaii. He's listed as one of Hawaii's top surfing athletes."

Representative B. Oshiro rose to a point of order, stating:

"Point of order, Mr. Speaker."

At this time, the Chair addressed Representative Ching, stating:

"Representative Ching, will you conclude your remarks in regards to the bill that is before us which is surfing reserves. It is nothing to do with the colleague in the other Chamber. So please confine your remarks to those sites that are being included and part of the discussion in regards to surfing reserves, please."

Representative Ching: "Mr. Speaker, this is and I was in the hearing for this bill, and I learned very much about the merits of this bill."

Speaker Say: "Representative Ching."

Representative Ching: "I believe this is a good bill and that it should not be recommitted."

Speaker Say: "Okay. That's your position. It's a good bill and it should not be recommitted."

Representative Ching: "And the only conclusion I can have of why this bill is being recommitted is what I have said on the Floor before."

Speaker Say: "And that is incorrect at this point in time. So please, if you want to speak on the recommittal, the motion to recommit, please do so."

Representative Ching: "I do feel that this bill should not be recommitted. That it's important to the economy of Hawaii to recognize those heritage sites. As a founder of the Heritage Caucus I think this is the kind of thing we want to help promote not only our culture, which I've always said our culture is unique to the world and of all of it, surfing is up there with the top of what is unique to Hawaii."

"I just believe that in promoting surfing, we are promoting the economy, and it's a win-win because we are also promoting our unique Hawaiian culture. It is just one of the saddest things that I can think of that, on this particular day, that this will be recommitted. Additional written comments please."

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to the recommittal and in strong support of S.B. 2646, SD 1, which designates Waikiki and certain areas of the north shore of Oahu as Hawaii surfing reserves."

"As expressed in the written testimony submitted by the Historic Hawaii Foundation: "The bill recognizes that surfing specifically, and water-based recreation generally, are significant elements of Hawaii's culture, history, recreation and economy, and, as such, certain areas should be identified, promoted and protected as surfing reserves by the Department of Land and Natural Resources, working in partnership with federal, state and county departments and other organizations.... The bill refers to examples from Australia as precedent, along with consideration given to the concept in New Zealand.... In Hawaii, surfing has occurred in Waikiki every day for centuries and is...integral to the recreational, economic and cultural values of Hawaii."

"I applaud the efforts of my colleagues for taking steps to ensure that these areas are recognized and protected. Thank you."

Representative Finnegan rose to speak in opposition to the motion to recommit, stating:

"Thank you, Mr. Speaker. Just in opposition of the recommittal. Mr. Speaker, I believe that this bill is being recommitted for rumors that have been going around instead of the actual merits of the bill, so that's my opposition. Thank you."

Representative Manahan rose to speak in support of the motion to recommit, stating:

"Mr. Speaker, I'm rising in support of the recommittal. As the Chair of one of the lead Committees in the Conference Committee, as well as where the bill was referred, I support the recommittal because I think in the end, especially when we had to offer the floor amendment, there was a lot of miscommunication and I think a lack of communication. I don't believe we have enough information to go on right now. This issue can be taken up at a future date, but certainly at this point I believe it should be recommitted. Thank you."

Representative Ward rose to speak in opposition to the motion to recommit, stating:

"Mr. Speaker, I rise in opposition to the motion for two reasons. Mr. Speaker, first reason is it's untimely. It has gone through hearing, after hearing, after hearing, and passed through. We even amended it on the Floor the other day, so it's had the reiterations of the democratic process. So why at the 11th hour are we doing this? It's unorthodox."

"Second reason is, it's unfair. Mr. Speaker, I know you don't want to see how this will affect somebody who's given 20 years of his life. He's a hall of famer."

The Chair addressed Representative Ward, stating:

"Representative Ward, you're out of order in regards to making any reference or allusions."

Representative Ward: "Mr. Speaker, let's be real. This is the 'swan song' for one of Hawaii's best."

Speaker Say: "Representative Ward, you are out of order. Please confine your remarks to the motion to recommit."

Representative Ward: "Mr. Speaker, I challenge you to say I'm out of order to speak for Fred Hemmings for receiving this."

Speaker Say: "Representative Ward, you are out of order. You are out of order."

Representative Ward: "I disagree with you."

Representative Marumoto rose and stated:

"Mr. Speaker, I agree with the previous speaker who said that this bill went through several hearings and passed the House, and passed the Senate, and was amended in both houses. And now at the 11th hour, the plug is being pulled on it. I can only surmise that it could be for political reasons. If anyone could possibly explain and edify me."

The Chair addressed Representative Marumoto, stating:

"Representative Marumoto, you are out of order in reference to any political reason. There is no allusion to political reasons."

Representative Marumoto: "If there're any reasons, any testimony which came to light in the past 48 hours, I would certainly like to know it. But it's a shame that we cannot pass something in tribute to someone who's leaving the Senate after many years of public service. I would hope that this is, as you say, not political. Thank you."

Speaker Say: "Representative Marumoto, I believe you are out of order in making that statement because you are incorrect."

Representative Finnegan rose and stated:

"Mr. Speaker, point of information. Mr. Speaker, I just would like to know why don't we just vote on the bill instead of recommitting it. If you want to kill it on the House Floor, it would be better to let the House vote than to have it recommitting without having the people know the vote on the particular measure. Thank you."

Speaker Say: "The Chair would like to recommit it at this point in time."

Representative Belatti rose to speak in support of the motion to recommit, stating:

"Thank you, Mr. Speaker. In support of the recommitment. Some very brief comments. I'm supporting this recommitment because over the past few days, after the testimony had been heard in hearing, we've been getting lots of emails about the lack of consultation of the local community on this issue.

"So recommitment does not mean that this bill is dead, it just means that it needs to go back and be worked on more. There are many bills, many great ideas, many important things that do not get dealt with by this Body. So I think that this is no different and it should be taken up by a future Legislature. Thank you very much."

Representative Morita rose to speak in support of the motion to recommit, stating:

"Thank you, Mr. Speaker. In support of the recommitment. I think the Representative from Waikiki said it best in the last debate on the floor amendment of this bill. As various sites were removed from the bill, it read more like a resolution. So the democratic process did work, and the bill wasn't substantive enough to warrant this being in statute. Maybe the proper venue is a resolution and a congratulatory certificate. Thank you."

Representative Brower rose to speak in support of the motion to recommit with reservations, stating:

"Thank you, Mr. Speaker. In support with reservations and a few brief comments. Thank you. There is a lot of concern that this may hint at development of professional sports at the beach. It may displace local residents, displace them and sometimes ..."

The Chair addressed Representative Brower, stating:

"Representative Brower, in being fair with the Members of this Body, please confine your remarks to the motion to recommit. I support the recommitment because ..., and not go into anything else."

Representative Brower: "Thank you, Mr. Speaker. I support the recommitment with reservations, and I would look forward to working on this more in the future. Thank you."

Representative M. Oshiro rose to speak in support of the motion to recommit, stating:

"Mr. Speaker, I stand in support of the recommitment. Number one, it's better late than never to put to rest the measure that is not ready for acceptance by our surfing community and those who recreate in the surf. Number two Mr. Speaker, for all the thousands of surfers out there who are not world champions, or who engage in commercial aspects of surfing, but do it for the love of the sport, I speak for them. Thank you."

Representative Pine rose and stated:

"Point of information, Mr. Speaker. I still have not heard why we are recommitting the bill. What were all those emails? What were the reasons? Who objected? We had all Session. We've heard from so many people about so many bills. Can someone on this Floor be honest and just share with me who these people are and what was said?"

The Chair addressed Representative Pine, stating:

"Representative Pine, you are out of order at this point. If you want to speak on the motion to recommit, you may do that at this point in time. I was very fair by having the first speaker share what this bill was all about. I was very forthright with her that that is not part of the motion to recommit. This is to discuss the motion to recommit."

Representative Pine continued, stating:

"Okay. I'll be more clear in my discussion of being against recommitting the bill. It's because no one has given me any answers to these questions, Mr. Speaker. I was elected to represent the 43rd District. I do surf. My family surfs. And this is the one bill that did not get a lot of objection.

"I find it sad for democracy that I'm experiencing the recommitment of a bill that had no opposition. Experiencing people recommitting a bill, killing a bill. By recommitting this bill today you are killing this bill. And you remove the person's name who introduced it. So Mr. Speaker, for the sake of democracy I vote no, because we are recommitting this bill with a lack of information as to why we are recommitting the bill, and I believe that's just wrong."

Representative Belatti rose to respond, stating:

"Thank you, Mr. Speaker. In rebuttal. The previous speaker asked what kind of testimony and emails that we've been receiving. We did receive an email from Mahina Chillingworth of Hui O He'e Nalu from the North Shore community, and I would request that I be able to insert it."

Representative Belatti submitted the following:

"North Shore Questions SB 2646
Sent: Wednesday, April 28, 2010 6:46 PM
To: All Reps; All Senators
Dear Legislators:

The North Shore Surfing Community was not presented any information on this bill and the affects a surf "reserve" will have on our ocean areas in the North Shore. The creation of a surf reserve is not clearly defined in the bill. The Hui O He'e Nalu is the largest surfing organization on the North Shore and the State of Hawai'i with over 200 active members with strong ties to the surfing community and we question this bill.

We believe the bill should be stopped and should come back to the community so proper study, input and review can be done by community members before the North Shore agrees to be a part of a Surf Reserve.

Community members from Honolulu Bay and Makaha are also objecting to being included SB 2646. Honolulu Bay was removed from the bill, Makaha is in the process of working to be removed from the bill, why is the North Shore still in the bill when we don't want to be in it either?

Thank you for time and consideration.

Aloha,
Mahina Chillingworth
and the 250 members of the Hui O He'e Nalu"

Representative Finnegan rose and stated:

"Mr. Speaker, I understand that the speaker is talking on answering a question but ..."

Speaker Say: "It was a point of rebuttal, and she was making references to those people who had testified in opposition to the bill."

Representative Finnegan: "Correct Mr. Speaker."

Speaker Say: "That is the motion to recommit that there is that motion to recommit in explaining why."

Representative Finnegan: "So does that extend our right to talk about the bill?"

Speaker Say: "No. It was the process."

Representative Finnegan: "Okay, thank you."

The motion was put to vote by the Chair and carried, S.B. No. 2646, SD 1, HD 2, CD 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAII SURFING RESERVES," was recommitted to the Committee on Conference, with Representatives Ching, Finnegan, Marumoto, Pine and Ward voting no, and with Representative Chang being excused.

At this time, the Chair stated:

"Members, at this time the Chair will be taking Senate Bill 2405, Senate Draft 2, House Draft 1, Conference Draft 1, which is Conference Committee Report No. 52-10, out of order."

Conf. Com. Rep. No. 52-10 and S.B. No. 2405, SD 2, HD 1, CD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, Conf. Com. Rep. No. 52-10 and the attached proposed CD 1, on the disagreeing vote of the Senate to the amendments proposed by the House in S.B. No. 2405, SD 2, HD 1, entitled "A BILL FOR AN ACT RELATING TO TAXATION," were recommitted to the Committee on Conference.

SUSPENSION OF RULES

Contrary to the Order of the Day, Representative B. Oshiro moved to suspend the rules of the House to reconsider action taken in postponing indefinitely H.B. No. 444, HD 1, SD 1, seconded by Representative Karamatsu.

At 3:11 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 4:29 o'clock p.m.

At this time, the Chair stated:

"Members of the House, and residents and family and friends in the Gallery, the Chair would like to state to all of you that we do believe in proper decorum. The Members don't want to hear verbal abuses or physical threats. You are all well-educated individuals out there, and I hope that will you listen and not cheer or go after Members, whatever happens today.

"For the Members of the House and for the people in the Gallery, let me say this. Our colleague Representative Blake Oshiro, the Majority Leader, made a motion to suspend the rules to reconsider action previously taken in indefinitely postponing action on House Bill 444, House Draft 1, Senate Draft 1. The second was done by Representative Jon Riki Karamatsu. For a motion of this nature, the suspension of the rules, there will be no debate. The Chair has decided that it will not be a voice vote because for the people who are in the Gallery, your advocates and supporters, it will be a roll call vote. So at this time the motion has been made. Is there any discussion on the motion to suspend the rules?"

Representative Pine rose and stated:

"Yes, Mr. Speaker. This is just to reconsider, and not any final vote on the issue?"

Speaker Say: "No, not yet. Just a suspension of the rules."

At this time the Chair called for a roll call vote and the motion to suspend the rules of the House to reconsider action previously taken in

postponing indefinitely H.B. No. 444, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," was put to vote by the Chair and carried on the following show of Ayes and Noes:

Ayes, 34: Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Ching, Chong, Coffman, Finnegan, Hanohano, Herkes, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Marumoto, McKelvey, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Pine, Rhoads, Saiki, Say, Shimabukuro, Takumi, Thielen, Wakai, Wooley and Yamashita.

Noes, 17: Aquino, Awana, Chang, Choy, Evans, Har, Ito, Magaoay, Manahan, Mizuno, Sagum, Souki, Takai, Tokioka, Tsuji, Ward and Yamane.

RECONSIDERATION OF ACTION TAKEN

Representative B. Oshiro moved that the House reconsider its action taken in indefinitely postponing action on H.B. No. 444, HD 1, SD 1, seconded by Representative Karamatsu.

At this time, the Chair stated:

"Any discussion Members of the House? Let me explain to the Gallery. This motion now is to reconsider action taken in indefinitely postponing action on House Bill 444, House Draft 1, Senate Draft 1.

"The previous motion, for the audience in the Gallery, was to suspend the rules. Does everyone get that? It was to suspend the rules of the House in order to take up the second motion which is to reconsider action taken in indefinitely postponing action on House Bill number 444, House Draft 1, Senate Draft 1. We had a second from Jon Riki Karamatsu. In this particular motion, Members of the House, there is a full debate."

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

"Mr. Speaker, I rise in opposition to the motion. Mr. Speaker, earlier I gave two reasons why the Fred Hemmings surfing bill should not be recommitted."

The Chair addressed Representative Ward, stating:

"Representative Ward, we are not addressing that issue at this point."

Representative Ward continued, stating:

"We're addressing a recommittal and the reverse of that, Mr. Speaker. But the two reasons why I spoke against that were the same as this one. First it's untimely, secondly it's unfair. Untimely, why? Mr. Speaker, it's time to go home. We're minutes away from adjourning. Why now? In January we had on this Floor this issue and it was voted down. Albeit it was silent and mysterious and democracy should be open, it should be transparent. And I commend the Chair that everything is going to be on the record, fully, completely and with a roll call. But Mr. Speaker, it's a very, very untimely, very, very untimely issue.

"Secondly, it's unfair. Mr. Speaker, unfair because this maneuver without public hearings, without recognition, even though I know there's been a lot of lobbying going on, is the equivalent of, I don't know if you ever played hockey, but as soon as the puck hits the ice everyone starts flailing away with their sticks. And what we're going to do to the community after this vote, no matter which way it goes, we're going to have a beehive of negativity for the next 6 or 8 months. And everybody's going to get hit with a stick. If you vote for same sex marriage, you're out of here. If you vote against it, you're out of here. Nobody's going to be safe. This is going to cause chaos in the community. It's not what we as 'legislators' are to do on the last day, before sine die. In fact, within the last hour, Mr. Speaker. So it's untimely, it's unfair, and I think this is not a wise move to take. Thank you."

Representative Finnegan rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. For the edification of the audience I will be voting yes on this second motion."

The Chair addressed Representative Finnegan, stating:

"We're going to have a roll call vote so there is no problem about making it known right now. Please proceed. But you're in support of the motion."

Representative Finnegan continued, stating:

"Thank you, Mr. Speaker. Mr. Speaker, when I had spoken about this issue before, I talked about walking away from our votes with peace. One way or the other, whatever you decide is your decision as legislators, and I think that that's what the previous speaker was talking about when he was doing the opposite of what I'm doing in a vote. He was talking about peace as well.

"Mr. Speaker, I feel at peace if we are to let the people who have come here on a daily basis, who have sat up there in the gallery, taken the time to talk to our offices, taken the time to write in newspapers or whatever. I feel at peace if we give them a straight answer. And Mr. Speaker, we have four motions here. And I believe that the loud and clear motion on where you stand will be made in motion number three. We are on motion number two, and that's why I'm voting in favor of this reconsideration. Thank you."

Representative Ching rose to speak in support of the motion, stating:

"Thank you, Mr. Speaker. I rise in favor of the motion. I think that when we are elected we know that our job is not easy. We're elected by the people to make sure that people do hold us accountable for what we believe and it's up to us to be able to just explain it. But it's important first of all, that our people trust us. And that our people know who we are, what we are. That is why it is hard. It is not the easiest job and I hope that people know that. And you hope that people sometimes, just agree to disagree. But you hope that you can agree on another matter that is important to the State of Hawaii. But I think that utmost, I agree with my colleague that people deserve, the voters deserve, the right to know where we stand, to know what we voted. And this is an important part of good government. Thank you."

At this time the Chair called for a roll call vote and the motion that the House reconsider its action taken in indefinitely postponing action on H.B. No. 444, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," was put to vote by the Chair and carried on the following show of Ayes and Noes:

Ayes, 34: Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Ching, Chong, Coffman, Finnegan, Hanohano, Herkes, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Marumoto, McKelvey, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Pine, Rhoads, Saiki, Say, Shimabukuro, Takumi, Thielen, Wakai, Wooley and Yamashita.

Noes, 17: Aquino, Awana, Chang, Choy, Evans, Har, Ito, Magaoay, Manahan, Mizuno, Sagum, Souki, Takai, Tokioka, Tsuji, Ward and Yamane.

DISPOSITION OF MATTERS PLACED ON THE CLERK'S DESK

At this time, the Chair stated:

"Members of the House, ladies and gentlemen in the Gallery, the next motion that this Body will consider is the motion to agree to the Senate amendments to House Bill 444, House Draft 1, Senate Draft 1. So it's a four-motion process to get to Final Reading. Does everyone understand this, Members of this House?"

Representative B. Oshiro moved to agree to the amendments made by the Senate to H.B. No. 444, HD 1, (SD 1), seconded by Representative Karamatsu.

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

"Mr. Speaker. Somebody's got to go first right? Mr. Speaker, I rise in opposition. I didn't think that I would have to give this speech, but it is, and it's time to do so. Mr. Speaker, what I think we have to realize is that there's a precedent being set here that I'm not sure everybody realizes is totally understood or realizes what's going on. What I'm talking about is the issue of domestic partnership, civil unions, same sex marriage is a bundle of rights which everybody should have except for one thing that's going on, Mr. Speaker.

"As we look at this on a national level, even though it started here in 1993 when Judge Levinson made his declaration, it's an issue that the American people when given the choice have said, 'Hey you legislators, hey you courts, we don't want same sex marriage'. And I know people are going to stand up and say that this is not about same sex marriage. Mr. Speaker, I would refer you to essentially what has been going on in the mainland.

"Case in point is the courts in Connecticut have already said that their civil unions bill that they passed into law is separate and unequal to marriage. Does that sound familiar for those and many lawyers who are here?

"All of you remember Plessy vs. Ferguson, as long as you have separate schools for blacks and separate for white, as long as they're equal it's okay. And then after years and years of experience came Brown vs. The Board of Education. They said, even though it's separate, it is inherently unequal, and basically that's what the courts have ruled in Connecticut.

"Mr. Speaker, we are just about to enter on that slippery slope if we go to this part. And I know there's a lot of nice language where it says a partnership and it calls marriage something else, but it basically uses the same statute as the marriage statute. So, a rose by any other name is a rose, is a rose.

"So Mr. Speaker, I just want to know for those who are voting for this, let their eyes be open. Let them remember that in 1998 the people of Hawaii spoke. And as recent as December of 2009, SMS Research in a poll said, when asked the question between November 30 and December 1, do you strongly favor, favor, oppose, or strongly oppose a law that allows marriage between two persons of the same sex? 66% of respondents with an opinion answered opposed, or strongly opposed. Mr. Speaker, the numbers have maybe changed 2 or 3 percentage points over a decade.

"The people of Hawaii don't want it, and what we're doing is setting up the legal apparatus if you will, so we get basically Plessy vs. Ferguson, then we get Brown vs. The Board of Education and it gets struck down. And every place that it gets struck down Mr. Speaker, the people are the ones who say, 'Hey, nobody asked me.'

"So Mr. Speaker, if we in effect want to do this, let's go back to the people of Hawaii and let's say, 'Hey look. Do you want to have this? You don't want to have it?' But don't leave it to this Body because each time any Legislature in the country has done it, they have done it without the knowledge of the people, and then the people turn around and in 31 states have a constitutional amendment against it.

"Having said that Mr. Speaker, this is really, really untimely. It's like when you're at a wedding ceremony, you're about ready to get champagne and celebrate the marriage, and then for formality they say, 'Does anyone disagree with this or forever hold your peace.' And suddenly what otherwise was a wedding, and I'm not saying today was a wedding because we had a little bit of argument. But Mr. Speaker, this is where somebody's running up, and I forget the name of the movie, and plucking the bride out and running away with it and dividing two families big time. And that's what we're going to do to this community with this bill, with this vote. If we go further we're going to Plessy vs. Ferguson and then ultimately, Brown vs. The Board of Education. Thank you, Mr. Speaker."

Representative McKelvey rose and stated:

"Thank you very much. Mr. Speaker. Now is the time I think that it's most poignant for me to say my piece."

The Chair addressed Representative McKelvey, stating:

"You don't want to save it for Final Reading?"

Representative McKelvey continued in support of the motion, stating:

"No, because I agree with the Senate Amendments, and I think that's the crux of my thing. Members and the public, you know I voted against this measure when it left the House. The reason why I voted against this measure when it left the House was because in the name of ending discrimination, it discriminated in that only same sex couples could be afforded a civil union. What the Senate did was make it applicable to heterosexuals too. I disagree with my good friend from Hawaii Kai because I believe by doing that it takes it out of the realm of Plessy vs. Ferguson, for it is equal now. If my girlfriend and I want to have a civil union, then we can have a civil union.

"I think there was a letter to the editor of the *Star-Bulletin*. I tried to search for it, but I couldn't find it. It summed it up the best. The homosexual lifestyle is one that an individual chooses, but it's not for me. The bottom line is that people are entering marriage as if it was just a revolving door, Mr. Speaker. People get married, they get divorced. They get married, they get divorced. It's a mockery of the institution.

"To me, civil unions, especially that between a man and a woman, gives people the chance to really search within themselves to have that relationship. Then if they want to get married to make that promise before the greater being, forever and ever. Yes this will afford members of the same sex community the rights, contractual rights that they have so long afforded, but it also gives heterosexual members of the community a chance to enter into a relationship and to really explore whether or not they will hold the words, 'forever,' Mr. Speaker. I know I will suffer the slings and arrows of both sides for what I said today, but I believe that by having this Act equal to everybody, man and woman, that perhaps the institute of marriage will be restored to the sanctity that it once was.

"Anyway Mr. Speaker, I just say that I do support what the Senate did. I believe now it is truly fair, and I do think it takes it out of the realm of the Connecticut court ruling. Thank you, very much."

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

"Thank you, Mr. Speaker. I stand in opposition. I just wanted to say that I believe in the dignity of every person, every person under the heavens. And I believe that everyone, and I know that everyone is someone's son or daughter. I am a mother to a precious one. That everyone deserves dignity and love. I just do believe, I mean I am old fashioned and I'm the founder of the Heritage Caucus. I'm an old-fashioned person, and I believe in traditional marriage. Thank you."

Representative M. Oshiro rose to speak in support of the motion with reservations, stating:

"Mr. Speaker, I stand in strong support, but I do have some reservations however on section 3 and section 6 of the measure. I'll save the rest of my comments for Final Reading. Thank you."

At this time the Chair called for a roll call vote and the motion to agree to the amendments made by the Senate to H.B. No. 444, HD 1, (SD 1), entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," was put to vote by the Chair and carried on the following show of Ayes and Noes:

Ayes, 31: Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chong, Coffman, Hanohano, Herkes, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Marumoto, McKelvey, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Takumi, Thielen, Wakai, Wooley and Yamashita.

Noes, 20: Aquino, Awana, Chang, Ching, Choy, Evans, Finnegan, Har, Ito, Magaoay, Manahan, Mizuno, Pine, Sagum, Souki, Takai, Tokioka, Tsuji, Ward and Yamane.

FINAL READING

H.B. No. 444, HD 1, SD 1:

At this time, the Chair stated:

"Members of this House, family, friends and residents in the Gallery, this is the fourth motion in the legislative procedural process and that is the motion to pass Final Reading."

Representative B. Oshiro moved that H.B. No. 444, HD 1, SD 1, pass Final Reading, seconded by Representative Karamatsu.

The Chair addressed Representative Ward, stating:

"Representative Ward, would you like to incorporate your comments on the motion to agree to the Senate Draft at this point in time?"

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

"Actually Mr. Speaker, there's something I left out of my other one. Mr. Speaker, in addition to being as I mentioned, with the equality in our schools, there's another argument that I think is missing. If this is really about equality and it's really about just getting a more comprehensive bundle of rights Mr. Speaker, we have reciprocal beneficiaries. That was the genius of 1998. That's the bill that exists now. If we really just wanted to do that as my colleague from Maui says, let's fill up the reciprocal beneficiaries all the way to the top.

"If the issue is just rights, if the issue is just benefits, we've got that already as a repository for every member in our community. It's for those who are of a particular sexual persuasion and of different persuasions. So Mr. Speaker, that to me is an alternative that's not being considered, but it's an option that should be mentioned because if it was all about rights and equality, that would have been filled up much before we do what we're in the process of doing.

"Again Mr. Speaker, this is going to be the 'tinder box' of the months to come. And for those of you who know that tomorrow's the beginning of when we take our legislative hats off and our governing abilities and we go out to the people of Hawaii, the vote in the next 5 minutes is going to have ripples, repercussions and serious implications for all of us. May God help us. Thank you."

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

"Thank you, Mr. Speaker. With all due respect, I'd like to vote no Mr. Speaker. Thank you, very much."

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

"I support this motion and it's just very simple. When people would come into my office and ask if I was for civil unions I would say, 'No. I'm for civil rights.' And that's what all this is about. Thank you."

Representative B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in support. I will not take up any time. I just want to take this opportunity to sincerely thank this Body from the bottom of my heart. It means a lot to me that we're taking this vote today. I'm not sure what the outcome will be, but it does reaffirm my belief for why I'm here and what we are about. And so for that I thank you, I thank this Body, and I'd also like to submit written comments."

Representative B. Oshiro's written remarks are as follows:

"I am in strong support of HB444, an important bill about equality. Hawaii has a long history of diversity, acceptance and protection of civil and individual rights. This is another step in that continuum of doing the right thing, regardless of the timing because it is always the right time to do the right thing. While it has been mischaracterized as being about marriage and/or religion, that is inaccurate; the bill, its language, contents, purpose and intent is simply about how the government treats its citizenry and that as a state, the government should not discriminate, regardless of gender or sexual orientation.

"In 2009, thirty-three members of the House joined in co-signing HB444, Relating to Civil Unions. This bipartisan measure was a clarion call in support of equality. Now, nearly a year later, after two lengthy public hearings, multiple Floor debates, and discussion with community members – this measure is before us one final time.

"Earlier this year the House moved to indefinitely postpone this bill. The pulse of the majority of this Body indicated that the time was not right to take action. The immediate focus had to be on balancing our State's budget – sentiments echoed by constituents, as well as the Governor at the time. That difficult work has now been done, thanks to the remarkable work by the Finance Chair and the Finance Committee, and as Session draws to a close and after much time and consideration – we pause for a moment to reconsider HB444.

"For many in our State, there has been an expectation that the State would extend equal rights to same-sex couples following the Hawaii Supreme Court's 1993 decision (*Baehr v. Lewin*), and the subsequent action by our State to recognize reciprocal beneficiaries (RB). However, as we have seen over the years, the rights and privileges extended to RBs have not been on par with those extended to opposite-sex couples. In fact, of the 1781 laws governing marriage, only 172 govern RBs. Our vote today in support of HB444, which creates civil unions, seeks to correct this inequity.

"Article I, Section 5 of the Hawaii State Constitution states: 'No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.' Members, this measure will address the constitutional injustice facing many couples in our State.

"Concerns have been raised regarding the bill's January 1, 2010 effective date. However, I would direct Members' attention to the Attorney General's memo dated November 25, 2009 (which I will submit to the Journal). In the memo, addressed to Senator Les Ihara, Jr., Deputy Attorney General Russell A. Suzuki states the following, "We advise that H.B. 444, H.D.1, S.D.1 would not be invalid because its effective date precedes the date that the bill becomes law. Such legislation is often referred to as retroactive or retrospective legislation. See *Roe v. Doe*, 59 Haw. 259, 581 P.2d 310 (1978)."

"As I have said in the past regarding this issue, there comes a time when we need to do our job and not simply worry about keeping our job.

"Members, today we are presented with the chance to right injustice. It is the right time for us to do the right thing and to do our job in passing this bill. As stated by Martin Luther King, Jr. "The arc of the moral universe is long, but it bends towards justice." Today, let us bend that arc a little further."

Representative B. Oshiro also submitted the following memo:

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 OLUKOHE STREET
HONOLULU, HAWAII 96813
(808) 586-1500

MARK J. BENNETT
ATTORNEY GENERAL

LISA M. GINOZA
FIRST DEPUTY ATTORNEY GENERAL

November 25, 2009

The Honorable Les Ihara, Jr.
State Senator, 9th District
The Twenty-Fifth Legislature
415 South Beretania Street
State Capitol, Room 220
Honolulu, Hawaii 96813

Dear Senator Ihara:

Re: Effective Date of H.B. No. 444,
H.D. 1, S.D. 1, Relating to Civil Unions

By email dated November 11, 2009, you requested our advice as to whether it is necessary to further amend H.B. No. 444, H.D. 1, S.D. 1, by changing the bill's effective date from January 1, 2010, to a later date, such as January 1, 2011. We understand from the memorandum that you received from the Legislative Reference Bureau dated August 18, 2009, that your concern is that a bill might be deemed defective or invalid if an effective date precedes the date the measure passes and becomes law or that the bill might otherwise be subject to veto by the Governor.

We advise that H.B. No. 444, H.D. 1, S.D. 1 would not be invalid because its effective date precedes the date that the bill becomes law. Such legislation is often referred to as retroactive or retrospective legislation. See *Roe v. Doe*, 59 Haw. 259, 581 P.2d 310 (1978) ("While, therefore, it cannot be questioned that the legislature has the power to enact a retrospective law unless it contravenes some constitutional inhibition, it is also a recognized rule that retrospective laws are not favored and all laws will be construed as prospective unless the language employed imperatively requires a contrary construction.") Thus, the bill would not be invalid because its effective date precedes the date of its enactment. However, while the bill's validity would not be an issue, whether the bill is to be interpreted as being retroactive to the bill's stated effective date of January 1, 2010 or effective on the date

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The Honorable Les Ihara, Jr.
November 25, 2009
Page 2

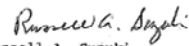
the bill becomes an act would be brought into question. While section 1-3 of the Hawaii Revised Statutes provides that "[n]o law has any retrospective operation, unless otherwise expressed or obviously intended," it would appear that when a legislature enacts a law with an obvious effective date that precedes the date the bill is passed, that such a bill would be interpreted to be retroactive legislation.

For all intents and purposes, if this bill is passed with an effective date of January 1, 2010, there will be administrative problems that the Department of Health would face and civil union ceremonies would probably not be available until the Department of Health has developed the forms and procedures for obtaining the civil union license and persons who would be authorized to solemnize a civil union are licensed.


There are likely other practical problems that would result from an effective date preceding enactment, as well as from an "on approval" effective date that does not provide sufficient time for planning and implementation. That is presumably why this bill's drafters provided a six-month lag between the presumed adoption (mid - 2009) and the effective date (January 1, 2010). Such a lag makes sense from a policy perspective and to avoid litigation and uncertainty.

Should you have questions, please feel free to contact us further.

Very truly yours,


Russell A. Suzuki
Deputy Attorney General

APPROVED:


Mark J. Bennett
Attorney General

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

"Thank you very much, Mr. Speaker. In support. I think on this issue, as I mentioned to other colleagues, that when I got into office 18 years ago this was an issue that came up and it's been around with all of us for the last 18 years. I'm glad we're taking a vote on it. And whether or not it succeeds, the fact of the matter is we are voting, we are being held accountable, and I applaud the leadership for allowing this to happen. Written comments into the Journal with your permission. Thank you."

Representative Takumi's written remarks are as follows:

"Mr. Speaker, when I was first elected to office in 1992, little did I know that as a result of the Hawaii Supreme Court ruling on the Baehr v. Lewin case, I would soon be embroiled in a contentious social issue.

"Here we are 18 years later, and whether it's called same-sex marriage, domestic partnerships, civil unions or reciprocal beneficiaries, it still continues to divide our community, our families and, indeed, our Legislature.

"We've all gotten the e-mails, letters and phone calls. For or against, eloquent or crude, tolerant or bigoted, compassionate or indifferent, they reflect the best and worst in all of us.

"There are no easy answers. But I believe that there is a just answer. And that is the bill before us.

"All of us who are privileged to serve in this Chamber are here for one reason and one reason only: to make a difference. Now, we may disagree on how we go about resolving problems confronting our communities, but we all share the common value of wanting to make a difference in the lives of the people of Hawaii.

"Today, we can make a difference.

"There are those who say that voting in support of this measure will mean some of us losing in the upcoming election. This may very well prove true.

"But, Mr. Speaker, this is a small price to pay compared to the thousands of people out there who are denied the very same rights, benefits and obligations that most of us enjoy and are entitled to simply because of our sexual orientation. This is not right.

"Today, we can make it right.

"Finally, there are those who say that we shouldn't do anything given all the pressing issues that must be dealt with, and that this doesn't quite rise to the level of taking action.

"But rise it does, Mr. Speaker. Rise it does. And today, at long last, so must we."

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

"Mr. Speaker, in support. I'd like to insert written comments and I also would like to remind everyone on both sides of the argument to stay positive because so many times on so many issues, people have gone negative. I just want to keep reminding everyone that we're here to do the best we can and don't attack anyone, because my friends are also the ones who are saying no, too. So I just want to remind everyone of that. Thank you, very much."

Representative Karamatsu's written remarks are as follows:

"I rise in support. Since our existence, we as a human race have been very judgmental of others, especially a minority sector of people because of their sex, color of skin, ethnicity, religious beliefs, culture, behavior, and lifestyle. It is the majority of the people that decides what is

acceptable for society, and often times the minority of the people get the short end of the stick.

"Our great State and country have come so far in regards to equality and compassion. In the past, we had laws that discriminated against every type of minority. We have done so much to correct our wrongful acts by changing our laws to be inclusive rather than exclusive.

"However, we still have much work to do in creating equality for all in our great State and country. In regards to the same-sex community, not all of our laws extend the same rights to them as we do for the heterosexual community. We as a society want people to take care of each other, rather than harm one another. This "civil unions" legislation would allow heterosexual couples and same-sex couples to enter into a contract. A civil union contract is like our marriage agreement under the law in which everything is shared such as tax liabilities, tax incentives, privacy, personal property, real property and children, and when there is dissolution of the partnership, everything shared is divided as equally as possible. The law protects each partner to be fairly treated.

"Keep in mind that we are not only allowing rights, but requiring responsibility on all partnerships. There are legal liabilities if partners do not care for each other. Too often, we hear of cheating, domestic violence, sexual abuse, fighting over money and property, and partnering because of financial greed. Our actions are the real threat to marriage or civil unions.

"This "civil unions" bill is a step towards unifying our State and country even further. We as a society must have love and compassion, rather than anger, hate, and discrimination. Let us try to eliminate or at least minimize our judgments on what we see physically before us. We are judging our fellow family, friends, and neighbors because they have a minority lifestyle. Let us look at this issue not only legally, but esoterically. Body is nothing more than emptiness and emptiness is nothing more than body. Rather than just looking at what is before us, let us look deeper and see the souls of others. One's soul can radiate love and compassion, or it can radiate hate and discrimination. Instead of judging others, we need to look within our own soul and better ourselves. Let us spread love and compassion and provide equality for all. Thank you."

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

"Thank you, Mr. Speaker. I rise in favor of this motion. I think all of us, all Americans believe in the right to life, liberty and the pursuit of happiness. And to me happiness is defined by a loving family and a faithful life partner, and I'm blessed with both. Sad is the person who has none of these. We would have a more contented populace and a better world if everyone had a large family, or at least someone. I don't believe our society will come crashing down if we pass this bill. It hasn't in Canada, and Mexico, and Spain, and other jurisdictions. Nothing is dearer to me, and to many of you here, than our family values. And because I believe we are all God's little children, for this reason I vote to enact civil unions. Thank you."

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

"Mr. Speaker, I rise in opposition. Mr. Speaker, I believe in traditional family values, and I think I'll save the rest of my remarks for written comments. Thank you."

Representative Choy's written remarks are as follows:

"Mr. Speaker, I stand in opposition of HB 444. The issue of civil unions will be debated for decades and there is really no right answer. I would have preferred to put this issue on the ballot to let the people decide, but even that suggestion is arguable.

"This issue is one of equal rights and not civil rights. Being an equal rights issue, it is our job to determine the parameters of equality for our society. We do this all of the time. For example, we put in place laws that limit the amount of speed we can drive on our highways. It's ironic that we place a speed limit of 55 MPH on our freeways, but allow cars to be built

that can exceed the limit by as much as three times. But I guess that's just the character of our society to give people the choice.

"The purpose of our laws is to set standards so people can determine whether they are in compliance with rules that are beneficial for all of our society. Marriage between one man and one woman is just such a rule. What we did today in passing HB444 was to abolish that limit. So let's ask ourselves what other limits should we augment or should we have any limits at all. History has shown that societies without limits no longer exist. History will judge us on this issue. I hope we guessed right."

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

"Mr. Speaker, I rise in opposition. However, I wish that at the end of this vote here that the healing process will begin for all. Thank you, very much."

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

"Thank you, Mr. Speaker. I rise in strong support and would like to submit written comments into the Journal. Thank you."

Representative Morita's written remarks are as follows:

"This bill is nothing less than a matter of civil rights and I support it for this reason. The Hawaii State Constitution is clear on our obligation to treat everyone equally under the law and it is sad that we have for so long denied a portion of Hawaii's population civil rights. I am glad this Body, in the final hours of the Legislative Session, has found the strength and courage to do the right thing, to pass this bill, to grant equality to same-sex couples.

"Opponents of the bill frame their opposition in terms that are either inaccurate, incorrect, or misplaced. I would be remiss if I did not take this opportunity to respond to, and correct, statements made today in this Chamber by some of those opponents. Aside from the religious context from which many civil unions opponents draw their objections, there are other, more insidious oppositional talking points that are simply not accurate.

"The most common point made, in my opinion, refers the vote taken in 1998 to amend the Hawaii State Constitution. There appears to be a common misunderstanding about what exactly the question was that was put to voters. In that year, the question was put to the voters to add a section to Article I (Section 23) of the Hawaii State Constitution to read as follows:

The Legislature shall have the power to reserve marriage to opposite-sex couples.

"While the belief may have been that the amendment defined marriage as exclusive to opposite-sex couples, as it clearly states, the amendment does nothing more than give the Legislature the exclusive domain over the definition of marriage. So while the Legislature has the authority to define marriage in this way, it has not to this day done so, thus leaving the question open. What's more, despite how this section may read, it does not excuse the State from granting equal rights and protections as defined in Article I, Section 2, Section 3, and Section 5.

"So, despite the cries from civil unions opponents that, "the people have already spoken on this issue," is in fact not correct. All the people did in 1998 was remove the authority on this issue of the Judicial Branch of the State and place it solely under the purview of the Legislature.

"As stated above, there is a common theme from opponents claiming the people of Hawaii voiced their opposition and that the Legislature should not be taking it up again. To this point there are two additional points of clarification that need to be addressed here. First, as my colleague Representative Chris Lee stated so clearly, there is a whole new generation of young people, who have come of voting age since 1998, who feel very differently about this issue than do the bill's opponents. Recent polls have consistently shown that large numbers, if not the vast majority, of young people support not only civil unions, but full marriage equality. For the

opponents to insist the Legislature should be forever silent on this issue because of a vote taken more than a decade ago strongly suggests they intend to ignore the clear fact that the demographics in Hawaii have changed since 1998 and an entire generation of voters have come of age.

"I do not mean to suggest here that this issue should be posed to voters. The Hawaii State Constitution clearly gives the Legislature the duty and authority to protect the equal rights of Hawaii's people. What's more, as this is quite simply an issue of equal rights, the will of the majority should not be given a voice here. Never should the will of the majority be allowed to subjugate or deny equal rights to a minority group. As Thomas Jefferson said, in his first inaugural address, "Bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate would be oppression."

"Secondly, it is important to point out the difference between HB 444, which is a bill allowing for civil unions for same and opposite-sex couples, and marriage. The bill makes clear that marriage will remain the exclusive domain for opposite-sex couples, while only granting, through civil unions, all the rights, responsibilities, and privileges granted under the State's marriage statutes. The very first sentence in the bill makes this point abundantly clear:

The intent of this measure is to recognize civil unions in Hawaii. By establishing the status of civil unions in our State, it is not the Legislature's intent to revise the definition or eligibility requirements of marriage under Chapter 572, Hawaii Revised Statutes.

"Additionally, HB 444 allows for opposite-sex couples to enter into a civil union, instead of marriage, should they choose to do so. The bill's supporters understand the notion of equality under the law, which is why they supported an amendment to include opposite-sex couples, in addition to same-sex couples, as being eligible to enter into a civil union.

"Finally, I want to address the religious aspects of the opposition's talking points. Article I, Section 4 of the Hawaii State Constitution is explicit regarding the "separation of church and state:"

No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof....

"Despite what some may believe, or wish to be true, Hawaii is not a Christian State, nor a religious state of any kind and the Legislature should not and cannot make laws or deny rights protected by the Hawaii State Constitution simply because doing so might be contrary to the beliefs of some. It is also important here to point out that this bill would not, under any circumstances, abridge the free expression of religion by churches who chose not to perform ceremonies for same-sex couples. Churches and priests at such churches will not be forced by this, or any other law, to perform a religious ceremony that is contrary to their faith.

"In closing, I want to thank Majority Leader Blake Oshiro and Representative Jon Riki Karamatsu for refusing to give up on this issue and lifting HB 444 from the darkness of an indefinite deferral, where it was certain to have otherwise remained.

"I also urge Governor Linda Lingle to live up to her campaign promise and support equal rights by allowing this bill to become law, with or without her signature. Mahalo."

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

"Thank you, Mr. Speaker. In support. Mr. Speaker, I just would like to read a quick sentence and this is from the Waikiki Neighborhood Board when it adopted its family equality resolution stating that civil unions have been recognized nationally and internationally as a compromise measure that protects a definition of marriage as being solely between a man and a woman while allowing family equality protection before the law for all couples whether they are same or opposite sex.

"On this issue, I have my personal beliefs. But I also have my beliefs that I think I need to take as a Representative for my district, and going

over a lot of information provided to me by constituents. That is truly why I support this measure. Thank you."

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

"Mr. Speaker, I rise in support with some reservations. Just so that everyone knows, my reservation is with the current Senate Draft, section 3, civil unions void. I think that particular section that was put in as a floor amendment by the Senate is inartfully drafted and it may create problems of interpretation and application in the pursuit of this particular civil unions bill. I just would like to register that in a public forum.

"My other concern Mr. Speaker, is that this particular draft before us still contains the effective date of January 1st, 2010. I believe the Attorney General has already opined that in and of itself, it might not be a fatal defect, but it might give pause to the Governor to have a technical reason for vetoing this particular measure. Those are my two reservations.

"But the third point I think most important this evening Mr. Speaker, is to thank you and your leadership team for giving us the ability to take care of business this Session. And as your Finance Committee Chair, I told the community at large and I told this Caucus that first order of business was dealing with the \$1.2 billion shortfall, and indeed we have completed that assignment and duty as of yesterday. So the timing of this matter is appropriate for us to take up this Session, and I thank you for giving me the indulgence to take care of business first with the budget, the budget bills, and to make sure we had a balanced financial plan. I thank you.

"I'd also like to thank the Majority Leader. Mr. Speaker, twice I had the privilege of serving as the Majority Leader of the Democratic Caucus and I know how hard he has worked in that position. How so many times he had to put aside his own interest, and his own passions, and his own vision of what Hawaii should look like. I really appreciate that because it takes a special person to be able to do it Mr. Speaker. It takes a very special individual. So I'm really proud to be associated with the Representative from Aiea who shares my same name, and just thank you Mr. Speaker and thank him for being here today."

Representative C. Lee rose and stated:

"Thank you, Mr. Speaker. In the last public vote back in the 1990's I was not yet old enough to vote. Yet today here I am and people who are 11 years younger than I are now able to. So for our generation, and it's on everyone's behalf who was not able to vote the last time around that I cast my vote today. Thank you."

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

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

"Mr. Speaker, I stand in opposition to this motion. But I'd like to share a message to church members and to members in the gay community. Don't change your heart. Show a lot of respect and love to others, and no matter what happens it's going to be okay. Thank you, Mr. Speaker."

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

"Thank you, Mr. Speaker. Respectfully in opposition, and may I request permission to enter comments into the Journal."

Representative Har's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB444, H.D.1, S.D. 1. By bringing this bill up with no warning to the public on the last day of the Legislative Session, I believe we are demonstrating that we are not listening to the voice of the people here in our State and are ignoring their overwhelming desire for us to focus on other issues this Legislative Session.

"I have heard from the constituents I represent in the 40th District, and it has been made very clear to me that the vast majority are opposed to this

measure. Accordingly, I will cast a 'no' vote on this bill, as I believe I was sent here to represent the will of my constituents and not to pursue my own personal agenda. Thank you, Mr. Speaker."

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

Representative Ching's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to H.B. 444 – Relating to Civil Unions. In this last minute action, the voices of a 70% majority were ignored.

"Second, throughout the 1990's, our community engaged in an emotional, decade-long debate over the legalization of same-sex marriage. The Legislature, for its part, had amended HRS§572-1 to clarify that marriage *"shall be only between a man and a woman[.]"* The Legislature also passed a Reciprocal Beneficiary law where it expressly found that *"the people of Hawaii choose to preserve the tradition of marriage as a unique social institution based upon the committed union of one man and one woman."*

"Ultimately, the decision was put to the public in the form of a constitutional amendment. On November 3, 1998, the people of Hawai'i overwhelmingly made their voice clear on this matter and decided that "the Legislature shall have the power to reserve marriage to opposite-sex couples." Hi. Const. 1-23.

"In July of 1997, the Legislature enacted the Reciprocal Beneficiaries law (Act 383) providing reciprocal beneficiaries with hospital visitation, insurance benefits and property and inheritance rights. This bill is unnecessary.

"When a controversial law such as H.B. 444 comes to this Body we must look to the people of Hawaii for guidance and take into account what they have to say. To find out what the people of Hawaii have to say on H.B. 444 we need not look any further than their vote in 1998 on this very same issue, where an overwhelming 70 percent of Hawaii's voters voted in favor of traditional marriage. As elected members of the State of Hawaii Legislature, it is our responsibility to uphold past electorate decisions. Our State and country are facing an economic crisis of epic proportions. We should focus on solving our pressing economic problems rather than using our limited resources to redefine marriage contrary to the express will of the people. Thank you."

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

Representative Yamane's written remarks are as follows:

"Mr. Speaker, I rise in opposition. I would like to state that I do support the civil rights for all people and express that I have personally worked with many people who do support this measure. As a social worker, I have fought discrimination and worked with clients dealing with the hate and persecution of others.

"My opposition is that this bill will affect many families and all of the population within our State. Mr. Speaker, to recognize civil unions in our State is a significant social issue, one that should be brought to the people of our State to decide and vote on. In 1998, the State Legislature set precedence on the issues pertaining to civil unions and marriage by allowing the people to vote. Since the people voted on an issue similar to this in 1998, I believe that the people should be provided the same opportunity to vote on this measure. I fully support allowing all people equal protection under our Constitution. However, in respect to the 1998 vote made by our electorate, I believe that the term "marriage" should remain as is and separate from the description of a civil union.

"Additionally Mr. Speaker, I would like to state for the record that this bill has a flawed effective date establishing that this policy begin and become effective on January 1, 2010. Members, we are all aware that a policy like this, House Bill 444, will bring significant changes to our society. Today we are well passed the January 1, 2010 date this bill refers

to. Passing significant legislation with this retroactive effective date will pose a myriad of problems for our State and further pressure our already limited State resources.

"Mr. Speaker, as the Chair of the Committee on Health, I along with my Committee members oversee the administration of the State Department of Health. A policy like this will need an effective date several months from now to enable the Department of Health to administratively prepare the legal documentation and procedures to legally recognize and implement civil unions in this State. To establish a law with such a significant social impact using this current effective date as written would overload the Department, especially during a time when the Department of Health has suffered from layoffs and furloughs.

"There is much anger and confusion on what this bill does and how it passed both of the houses of this Legislature; and today because of this overt anger, confusion, and haste action, I vote in opposition to this measure. I look forward to the opportunity to hear from our communities and discuss what needs to be done in order to equally protect all of our populations under our Constitution."

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

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker. I support HB 444. As I wrote in remarks to the House Journal last Session, whether or not we personally believe that same sex relationships are consistent with our moral or religious beliefs, we cannot ignore the fact that we have gay and lesbian neighbors in same-sex relationships in the communities we live in. I appreciate that two-thirds of my colleagues on both sides of the aisle are giving all of us an opportunity to bring this matter to a final, open vote by suspending the rules and bringing HB 444 back for a vote.

"As my Big Island colleague and fellow freshman legislator points out, we swore an oath to uphold the Hawaii State Constitution which enshrines and echoes the words of our country's Founding Fathers: that all Hawaii residents are created equal and entitled to certain "inalienable rights": "the enjoyment of life, liberty and the pursuit of happiness." Haw. Const. Art. I, Sec. 2. Further, our Constitution also requires: "Equality of rights under the law shall not be denied or abridged by the State on account of sex. The legislature shall have the power to enforce, by appropriate legislation, the provisions of this section." Haw. Const. Art. I, Sec. 3.

"I still support this bill, as amended by the Senate to extend Civil Unions to all couples, for human compassion and social justice reasons. I remain convinced that encouraging all our citizens to form marital relationships – even if we must call them something else, and even as we continue to limit the legal term "marriage" and the federal and state rights and obligations associated with marriage to opposite sex couples in Hawaii law – is sound public policy and consistent with our shared history as Americans and our basic American value of equal justice under the law and fair application of our laws.

"As my West Maui colleague has pointed out, for all the hand-wringing and rhetoric about preserving "traditional marriage," too many enter marriage lightly in our country today. As I've observed before, preventing same gender legal relationships has little to do with determining or influencing whether a person's heterosexual marriage is succeeding or not. I believe in marriage and the values of devotion, fidelity and commitment inherent in the relationship. But I know that the strength of my relationship with my spouse depends more on how well I relate to her and the time I spend with her than how my neighbor relates to his or her own significant others. If we want to talk about protecting marriage, we need to work on issues that strain our relationships – an economy that requires both partners and parents to work and often to work two or more jobs, a culture that values narcissism and acquisition and living beyond our means and the means of our islands to support that lifestyle, and an assumption that we need to and can blame others for the problems we face in our own lives.

"As I suggested last Session, marriage benefits our society precisely because any civil benefits conferred on couples are conditioned upon the solemn promises of spouses to mutually meet very specific responsibilities to each other. Marriage is a sacrifice of our individualism and our personal selfishness – in my religious tradition, we believe that marriage unites two people as one. I certainly believe that remains good for people to be in relationships to love, honor and respect each other, and where there are socially enforced and legally supported rights and obligations.

"The late William Sloane Coffin once observed:

It is not Scripture that creates hostility to homosexuality, but rather hostility to homosexuals that prompts some Christians to recite a few sentences from Paul and retain passages from an otherwise discarded Old Testament law code. In abolishing slavery and in ordaining women we've gone beyond biblical literalism. It's time we did the same with gays and lesbians. The problem is not how to reconcile homosexuality with scriptural passages that condemn it, but rather how to reconcile the rejection and punishment of homosexuals with the love of Christ. It can't be done. So instead of harping on what's "natural," let's talk of what's "normal," what operates according to the norm. For Christians the norm is Christ's love. If people can show the tenderness and constancy in caring that honors Christ's love, what matters their sexual orientation? Shouldn't a relationship be judged by its inner worth rather than by its outer appearance?

William Sloane Coffin, *Credo*: 39 (2004). Further, "[t]he assertion that gays threaten to destroy heterosexual marriage is an assertion only, not an argument. If anyone destroys marriage, it's married people, not gays." W.S. Coffin, *Credo*, p. 41.

"So I am compelled to vote in favor of letting people make a legal commitment to the person they love. I know that the success of my own marriage will continue to depend on the love I pour into it more than whether we as a community, and today as a Legislature, exclude other citizens from entering into a similar kind of union.

"I urge my colleagues to vote in favor of equality and fairness, and in favor of the bill."

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

Representative Wooley's written remarks are as follows:

"Mr. Speaker, I am in support of this bill. I believe it is time for us to move forward. If we fail to act, if we fail to pass this bill, we will allow the State government to continue to discriminate against one minority group in violation of our State Constitution, a Hawaii Supreme Court case, and our commitment to treat people equally under the law. And as I have heard from many constituents, if this bill does not become law, the State will cause some families and some children to be treated differently, to be discriminated against and given fewer rights, simply because of who they are and what people in their family may believe.

"There have been and continue to be many inaccurate statements about this bill. For that reason, I want to emphasize the following: this bill does not sanction marriage or define marriage to allow for same sex couples. Currently, in the State, marriage is between a man and a woman. This bill does not change that.

"This bill simply makes clear that the State government will not sanction unequal treatment of people. The government will not grant special privileges to only some people, based on their sex, sexual orientation, race, ethnicity, or religion.

"This bill, like so many, is not perfect. It is a compromise bill. This issue has divided families, churches, communities, and the House itself. My job, however, is not to just vote on the easy, uncontroversial bills. My job is to represent my constituents and vote my conscience.

"Mr. Speaker, we are about to make a very important vote and policy decision. I am proud and very privileged to be here for this vote, and to

show my willingness to stand up against discrimination. Though some will claim the bill does not go far enough, and others will rally because it goes too far, I believe time will show us that this is the right bill to pass, and it is past due.

"Mahalo Mr. Speaker, and Majority Leader, for allowing us to take this vote."

Representative M. Lee rose in support of the measure and asked that the remarks of Representative Marumoto be entered into the Journal as her own and asked that her written remarks be inserted in the Journal, and the Chair "so ordered." (By reference only.)

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in support. We did not plan to be voting on this today, however that we are doing so is the right thing to do.

"I voted in favor of HB444 in the past because I see no reason why same gender couples should not have the same access to equal rights and quality of life as others.

"I see this as a good thing for our society, which seems to have changing attitudes on issues such as civil unions. My own four children support civil unions and would be proud of my positive vote.

"Stable relationships lead to a healthy society and this is one step in that direction. I believe we live in a state where we can be tolerant and respectful of each other's rights, even though there may be differences in our race, religion, culture, age or sexual identity."

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

Representative Sagum's written remarks are as follows:

"Mr. Speaker, I rise in opposition to HB444, Relating to Civil Unions. We live in a State where we can, and should be tolerant and respectful of each others' rights, even though there may be differences in our race, religion, culture, age or sexual identity. The issue of Civil Unions, to a great number in my community, is not viewed solely as a civil rights issue, but rather perceived negatively as one that erodes the sanctity of marriage, and therefore the erosion of the family.

"During the Regular Session of 1997, the Hawaii Revised Statutes was amended with the addition of a new Chapter entitled "Reciprocal Benefits". The purpose of this Chapter is to extend certain rights and benefits which are available only to married couples composed of two individuals who are legally prohibited from marrying under State law.

"I would prefer that the Legislature address any additional "Civil Union" rights and benefits by strengthening the reciprocal benefits law cited in Act 383, Session Laws 1997."

Representative Coffman rose and stated:

"Thank you Mr. Speaker, I just want to remind this Body that our Constitution states that our government must treat all individuals equally and fairly. I just want to quote one part of the Constitution, Article I of the Bill of Rights in Section 3 of the Hawaii State Constitution states and I'm going to quote, "Equality of rights under the law shall not be denied or abridged by the state on account of sex. The Legislature shall have the power to enforce by appropriate legislation the provisions of this section," and I believe that's what we're doing today, Mr. Speaker. Thank you."

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

"Thank you, Mr. Speaker. In support and may I request that my remarks from the first go around last year be inserted as my remarks. Thank you," and the Chair "so ordered." (By reference only.)

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

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

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

Representative Nakashima's written remarks are as follows:

"Mr. Speaker, I rise to speak in favor of this important, landmark legislation.

"One of the guiding principles of our nation and State is that all people are created equal. In order for this sentiment to truly be demonstrated, all people should be treated the same in the eyes of the law. This important legislation ensures that all people, regardless of sexual orientation, have access to the same rights and privileges. This bill is not a statement of support or opposition of same sex marriage; it simply creates a new chapter within the law that recognizes the commitment between two people, regardless of gender.

"I would like to thank our Majority Leader, the good representative from the 33rd District, who has worked tirelessly towards achieving equal rights for all couples.

"Thank you, Mr. Speaker. I urge you and the rest of our colleagues to support this measure."

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

"Thank you, Mr. Speaker, in opposition with my comments from Third Reading in the House last year," and the Chair "so ordered." (By reference only.)

Representative Berg rose in support of the measure and asked that the remarks of Representatives Marumoto and Coffman be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

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

"Thank you, Mr. Speaker. In support and may I have my words from the last motion entered into the Journal again, and also the words of the Representative from Waikiki."

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

Representative Ward's written remarks are as follows:

"Mr. Speaker, I am presenting these additional written comments in opposition to HB 444, Relating to Civil Unions. My opposition is multi-faceted, and I will explain each of my reasons in detail. However, ultimately, I believe this legislation is not in the best interest of the State of Hawaii and its citizens, and I encourage the Governor to veto this measure when it comes to her desk.

"The first reason for my opposition is a legal concern that this bill allows civil unions, but does not allow for their dissolution. The bill as written purports to grant partners to a civil union all of the "rights, benefits, protections, and responsibilities under law [...] pursuant to chapter 572," which is the chapter in the Hawaii Revised Statute that deals with marriage. However, nothing under Chapter 572, nor this bill, accounts for how to leave a civil union. For a marriage solemnized under Chapter 572, Chapter 580 would be the chapter that deals with annulment or divorce. There is no such reference or provision in House Bill 444, House Draft 1, Senate Draft 1 (HB 444).

"The bill, therefore, presumes a faulty premise, that partners in a civil union choose to, and will, stay in that civil union forever. Reality is that marriages and civil unions or reciprocal beneficiaries change and dissolve over time. A granting of rights, such as envisioned under HB 444, would

have the unintended consequence of making permanent certain choices under this law.

"For instance, the granting of rights under Chapter 572 would allow partners in a civil union to have survivorship rights in a State pension. Because there is no grounds for the termination of the civil union, a surviving civil union partner would be entitled to the decedent's State pension benefit, even if the surviving partner had a falling out, or did not want their partner to vest in that benefit. A similar situation would occur under our State's workers' compensation laws as well.

"Another legal conflict comes about because of the lack of federal recognition of civil unions as equivalent to marriage, especially in the tax law area. Partners in a civil union could, in theory, take advantage of our State's probate and intestate laws to bequeath assets to their surviving partner as if they were a surviving spouse. If those assets comprise a taxable estate, while the property may pass, the federal government would still impose a federal estate tax (post-2010) and not grant a marital deduction as would be available to married couples.

"A different type of federal conflict may arise in the health benefits arena. The federal government is a large employer within the State, and it is probable that a federal employee that is a resident of Hawaii would likely wish to extend federal health benefits to a partner in a civil union, especially if the other partner is unemployed. Because the federal government does not recognize civil unions, the federal employee may not be able to accomplish securing health benefits for their partner.

"Another major concern is the January 1, 2010 effective date of the legislation which means HB 444 will have retroactive effect. While the constitutional defectiveness of such an effective date can be debated, what is clear is that the retroactive date of the bill will pose an administrative nightmare for the Department of Health.

"First, the Department of Health is not ready to implement HB 444 nor has funding been set aside for this function. Forms will have to be reprinted to accommodate this new law, both for the persons seeking to join in a civil union and those having to receive licenses to solemnize civil unions.

"Second, the Department of Health will have to administer a retroactive law, something any Department would be ill equipped to do. Record keeping and cataloging would become nearly impossible, and would likely require extra manpower to accommodate. If anything, the Department of Health has less manpower than in the last fiscal biennium due to furloughs imposed by the Governor, and agreed to by the Legislature.

"Third, there would likely be a rush to enter into civil unions because, quite frankly, it is a better deal than the reciprocal beneficiary law as it is currently written. That rush would exacerbate the first two points under this section due to those dissolving a reciprocal beneficiary arrangement, which requires paperwork processed by the Department of Health, and entering into a civil union, which also requires yet-to-be created paperwork by the Department of Health. Because the costs of HB 444 were not taken into account when appropriations were made for the Department of Health, the cost of implementing HB 444 through the Department of Health would have to be done with existing resources, meaning other Department of Health functions would have to suffer.

"Another financial concern is that those that enter into a civil union will now be able to avail themselves of the State income tax advantages that are currently available to married persons. This represents a heretofore unknown negative revenue impact to personal income tax levels.

"Because this was not incorporated into the Executive's 6 year Financial Plan, the House Minority Caucus' Financial Plan, nor the nonexistent Majority Caucus' Financial Plan, there is no way to know how much HB 444 would throw the balances of the out years out of whack. In other words, HB 444 may necessitate a general excise tax increase, continuation of Furlough Fridays, further program cuts, or a combination of all three.

"This is clearly an unacceptable outcome that was exacerbated by the fact that HB 444 was not referred to the House Finance Committee or the

Senate Ways and Means committee to determine the fiscal impact of such legislation. In a year where critical attention needed to be paid to the State Budget, where every decision by both Chambers and the Executive Branch was scrutinized and criticized, to not comment or hold public hearing or even to ask what the fiscal impact of HB 444 would be on the State Budget is the height of irresponsibility, and borders on a dereliction of the legislative duty.

"Yet another financial concern is that those that enter into a civil union where at least one partner is an employee of the State or a county could now avail themselves of health benefits under the Employer-Union Health Benefits Trust Fund (EUTF), representing an additional cost to the EUTF. On April 12, 2010, a letter was transmitted to the Chairs of the House Committee on Labor & Public Employment and the Senate Committee on Labor, with courtesy copies to the Speaker of the House and the Senate President, detailing the insolvency of the EUTF. In that letter, it is clearly stated that because of the current governance situation, the State will be unable to provide medical benefits to its employees in the near future.

"Implementation of HB 444 will only exacerbate and accelerate the demise of the EUTF, and health benefits for State employees whether they belong to a civil union or not. This is also an unacceptable outcome.

"Furthermore, the same situation faced by EUTF will be faced by our private employers. Due to our Prepaid Health Care Act, a partner in a civil union will now be able to secure family insurance from their private employer. This will represent an unknown and unbudgeted cost impact for private employers, the backbone of our economy. The policy call of this Legislature and the Executive branch was to help private employers as a means of addressing unemployment and helping resuscitate our economy. That was the reason for such measures as the bill to relieve the pending unemployment insurance increases faced by private employers. Implementation of HB 444 would simply eradicate any savings created through that bill, and would once again exacerbate unemployment in the private sector due to increased health care costs.

"Again, these financial concerns should have been brought to the Finance Committee for review. In the last two years on Finance Committee, we have reviewed everything from tax increases, to land zoning, to jet ski permits because it was the practice of this Legislature in a time of economic crisis to be extra careful about any bill with a fiscal impact. Yet, this bill which changes so much more than the renewal of a jet ski license never got a finance hearing. I can only assume that the single referral of this bill to the Judiciary committee was done to avoid public hearings and speed up the passage of the bill which is shameful for a Body that is supposed to represent the people of Hawaii.

"Of course, the single referral of HB 444 is just one among the many manipulative and deceptive actions taken by Members of the House of Representatives to pass this bill. In January, when we tabled HB 444 we were told that it would take a 2/3 majority to bring the bill back to the Floor. According to the rules, it should have taken a 2/3 majority, but as I have since realized, it only takes a simple majority to change the rules. Mr. Speaker, aside from the neglect of public notice and other rules that were suspended to pass HB 444, I strongly object to the change in the number of votes required to bring this measure to the floor. Regardless of the subject matter of the bill, I believe it sets a bad precedent for other governing bodies who can now say if you don't have the votes all you have to do is change (i.e. "suspend") the rules. Mr. Speaker, this action goes against the very principles of democracy and undermines the faith that the citizens of Hawaii have in their Legislature. It is unthinkable that a rule-making body would show such little respect for their own rules.

"Mr. Speaker, HB 444 is a monumental bill regardless of which side you view it from. This Legislature should not have broken its House Rules and rushed a bill with obvious flaws through the legislative process. We should have given it much more time in the public eye. Increased hearings and more public notice would have taken up our time as legislators, but it is what we are elected to do. But, unfortunately, HB 444 has revealed that the majority of this Body is content to neglect their duties when it is most beneficial for their political careers. At the beginning of this Session, HB 444 was killed silently by a vote that did not tell the public where their Representatives stood on this issue. At the time, it was said that no one

wanted to take a vote in an election year, and thus, the public was left not knowing where their elected officials stood on the issue. Now, the public knows where each of us stands, and they can act accordingly.

"In light of my arguments outlined above, particularly in regard to the neglect this Body has shown toward democracy and the citizens to whom we swore we would uphold the principles of democracy, I am reminded of the words in the Declaration of Independence which state that "it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect their Safety and Happiness."

"Mr. Speaker, we have let down the people of Hawaii and the democratic process. If the people of Hawaii want the contents of HB444 to become law, we should ask them again in a plebiscite on the issue instead of doing what we did in the 2010 Legislative Session. Let the people be the final arbitrator of this decision, not us. We are all up for reelection this year so the plebiscite will be on us instead - and if what we did this session no longer represents the will of the people, it is the right and duty of the people to change those who represent them.

"Thank you, Mr. Speaker for this opportunity to add written comments."

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

Representative M. Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in support of House Bill No. 444, Senate Draft 1, Relating to Civil Unions, although with some reservations.

"This bill would recognize, and establish the status of civil unions in Hawaii, and entitle persons who enter into a civil union the same rights, benefits, protections, and responsibilities under law as are granted to those who contract, obtain a license, and are solemnized under Hawaii's marriage law.

"Although I support the intent and purpose of this bill, I have some reservations on the particular language found in the Senate Draft 1.

"First, regarding §-3, found on page 2, this section would void civil unions between persons who are related to one another. It should be noted that under Hawaii's Reciprocal Beneficiaries Law, Chapter 572C, Hawaii Revised Statutes, related persons are not prohibited from entering into a reciprocal beneficiary relationship. Pursuant to Act 383, Session Laws of Hawaii 1997, the Legislature asserted that related persons such as a mother and son, or father and daughter, or brother and sister, who are prohibited from marriage would still receive some of the benefits of marriage, but not all, to support their caring relationships. It was recognized that in Hawaii many generations of families typically provide lifelong care and companionship to their aging parents and siblings and this practice was valued by our society and deserved the protection and support of State laws. Conceivably, under House Bill No. 444, Senate Draft 1, persons who are related and are in a reciprocal beneficiary relationship would be prohibited from entering into a civil union relationship under this bill.

"My concern is that should a related couple in a reciprocal beneficiary relationship be barred from entering into a civil union, one could argue that this prohibition denies the related couple equal protection under the law because of the couple's familial relationship. To deny the equal protection of law on the basis of one's "creed" would invoke strict scrutiny upon challenge and require a compelling state interest to allow the restriction to stand. I cannot imagine a compelling state interest that could overcome that burden and therefore, the enactment of this bill could potentially set the entire Civil Union law up for constitutional challenge. After all, if we remove the irrelevant issues of sexual conduct and practice from the discussion of equal rights for all of Hawaii citizens one would be challenged to find a compelling reason for this distinction based upon one's familial relationship and standing.

"I find it ironic that in this measure to address the civil rights of same sex couples we may be passing legislation supporting discrimination against and seemingly condoning the unequal status of reciprocal beneficiaries whose relationships prohibit them from marriage. And, truth be told, this may not be a mere academic exercise or hypothetical question for a constitutional law exam. According to the Department of Health, there are currently about 1,300 persons registered in reciprocal beneficiary relationships in Hawaii. Presumably many are between persons of the same-sex, but there are probably others between child and parent, or sibling. The Department of Health does not keep records of the gender composition of the reciprocal beneficiaries, but it would not be unreasonable to have a substantial number of non-same-sex partners affected by this new law. As such, I find this provision inconsistent with the fundamental principle of equal protection and equal treatment under our laws. Future Legislatures should review and reconcile the provisions of Section 572C, Hawaii Revised Statutes, with the provisions of House Bill No. 444, Senate Draft 1, so that it comports with the equal protection provisions of both the State and Federal Constitutions.

"Second, regarding the effective date of January 1, 2010, the Attorney General has already opined that making this law retroactive to the beginning of this year may give sufficient cause for the Governor to veto this bill on technical grounds. In particular, I adopt as my own remarks and for placement herein the Floor remarks of Senator Les Ihara dated January 22, 2010, wherein he eloquently articulated the legal concerns regarding the Attorney General's opinion and the Attorney General's unsolicited commentary on whether Governor Lingle would veto the measure. It is truly unfortunate that the amendment failed by a 15 to 10 vote, and we in the House did not take up a similar amendment as it would have foreclosed a technical excuse for a Governor's veto and taken away an excuse of taking a position on the important underlying public policy issue.

"Despite these concerns, I support this bill.

"I am reminded of the words of U.S. Supreme Court Justice Sandra O'Connor, who wrote in *Lawrence v. Texas*, 539 U.S. 558 (2003):

"Moral disapproval of a group cannot be a legitimate governmental interest under the Equal Protection Clause because legal classifications must not be 'drawn for the purpose of disadvantaging the group burdened by the law.' Id., at 633. Texas' invocation of moral disapproval as a legitimate state interest proves nothing more than Texas' desire to criminalize homosexual sodomy. But the Equal Protection Clause prevents a State from creating 'a classification of persons undertaken for its own sake.' Id., at 635. And because Texas so rarely enforces its sodomy law as applied to private, consensual acts, the law serves more as a statement of dislike and disapproval against homosexuals than as a tool to stop criminal behavior. The Texas sodomy law 'raise[s] the inevitable inference that the disadvantage imposed is born of animosity toward the class of person affected.' Id., at 634."

"I believe this House is applying this same principle through the passage of House Bill No. 444, Senate Draft 1. We are standing on the principle that moral disapproval alone cannot, should not, and will not be reason enough to deny any group of citizens the equal protection of our laws. In other words, whether one accepts or detest same-sex relationships in all its variations or opposite-sex relationships in all its variations as well, the laws of the land must be applied equally regardless of race, age, religion, or creed. To do otherwise condones the removal of basic rights from any minority whenever the views or actions are not in line with that of the majority.

"Our laws are intended to treat everyone equally -- especially for those who are unpopular or even detested. Can we imagine that at one time in our Nation, it was illegal to marry across racial lines? Less than fifty years ago, an African-American and Caucasian could not marry in some states. Indeed, if Hawaii had a law like this, President Obama would not have been born.

"As absurd and unthinkable as these laws were by today's standards, they were the laws of the land and these laws were deemed constitutional

by the Nation's highest court. These were the laws that denied thousands of people their fundamental right to enter into personal relationships. Today, laws which restrict the benefits of "marriage" to only opposite-sex couples do nothing more than allow the majority to impose their animosity toward a smaller class of persons with whom they disapprove. With the passage of House Bill No. 444, Senate Draft 1, we are correcting this discrepancy for the protection of all.

"In closing, it is with great respect and admiration for the Speaker of the House and the Majority Leader that I so reluctantly cast my vote with reservations. But, my concerns with this measure are well known within the Body and are but my honest legal analysis and opinion. I have not one iota of displeasure at the means employed to bring this bill to vote nor of the timing of this bill's passage and disapproval for it being approved today should not in any way be inferred by my friendly criticism and candid remarks. To the contrary, I applaud and congratulate the Speaker and Majority Leader for allowing a public vote on this contentious and divisive issue, but only after the Supplemental Budget bill was unanimously passed and relevant revenue bills were resoundingly approved over the Governor's vetoes. Despite the odds and detractors, we held true to our mission and principals. This is a great day for all of us.

"Finally, I wish to reaffirm my commitment to my Wahiawa community and especially my Christian brothers and sisters, that they not be anxious or alarmed by the vote that I cast this day. I have cast my vote after much prayer and meditation. I have found that peace that surpasses all understanding and accept what God has planned for me. Truth be told, any threat to any notions of traditional marriage comes from within the body and not without. This vote today and the consternation it causes among some believers says more about the well being of the church than granting equal rights to Gay couples. Consider that about one-half of marriages end in divorce and many of us "Baby-Boomers" know of many households where single parents are raising families. These are the facts of life and I don't foresee granting Civil Union status to change this one bit. Gays want to enter into lifelong commitments and be bound to each other "to death do us part." And, we all know devout members of our own churches, both Catholics and Born-Again Christians, who have been divorced and remarried. And, for the most part, we get over it, accept their new marriage, and try to love them unconditionally, although some Christians do not accept persons who remarry. In their eyes, those who remarry commit adultery. Since I have remarried, in the eyes of some, my wife and I are living in sin and should be stoned to death. And lastly, my study of the Bible has not yielded any passage where Jesus condemns homosexual conduct, but he did strongly condemn the scribes and Pharisees as hypocrites in Matthew 23.

"Moreover, how can we reconcile the fact that in Hawaii we sanction a marriage between a convicted rapist, spouse-abuser, murderer, child-support scofflaw, or child molester, while we may deny legal Civil Union status to same-sex couples? Does this make any sense? Is this fair and just? All of these members of our community can get married and enjoy all the privileges, rights, and benefits, but for a class of citizens with certain sexual orientations we treat them as second class. Indeed, let us be careful that we not "point out the splinter in our brother's eye while failing to see the blinding plank in our own." (Matthew 7:1-5). And, let us not forget for one moment that we are each to "work out our salvation with fear and trembling; for it is God who is a work in you, both to will and to work for His good pleasure." (Philippians 2:12-13). Certainly, "Hatred stirs up strife, but love covers all transgressions." (Proverbs 10:12).

"Think about it. What same-sex couples seek are lifetime commitments, stable partnerships between two people, and exclusive physical companionship and monogamy. They simply seek what we all espouse for our own marriages and our sincere hope for all newlyweds. They simply want what we want and what they value is what we value -- a monogamous relationship between two persons based upon mutual respect, devotion, filial piety, and unconditional love.

"Mr. Speaker, I must also ask my brothers and sisters in Christ Jesus that they not be further led astray by what you may read or hear from the pulpit and among the pews over the next several weeks and months. Remember, that we are to "render unto Caesar that which is Caesar" and the legal rights and benefits of Civil Unions does not concern itself with marriage.

Anyone who says that it does is not telling the truth. For Civil Unions does not impose upon any religious faith or religious practice or religious tradition, but is a secular contractual arrangement that provides the same burdens and benefits of marriage.

"Nor does Civil Unions demand or require that the holy sacrament of the marriage ceremony be used in solemnizing the Civil Union. Whether any religious order or faith or branch or denomination chooses to conduct such ceremony is left to the discretion of that particular church, denomination, temple, or synagogue, but none is mandated in the law.

"For these aforementioned reasons, I stand in support of this measure with reservations on legal aspects of the bill, but with wholehearted and unrestrained endorsement of the equal protection constitutional provisions therein."

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

Representative Bertram's written remarks are as follows:

"I rise to speak in favor of HB 444. This bill extends the same rights, benefits, protections, and responsibilities of spouses in a marriage to partners in a civil union. Thank you."

At this time the Chair called for a roll call vote and the motion that H.B. No. 444, HD 1, SD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," pass Final Reading, was put to vote by the Chair and carried on the following show of Ayes and Noes:

Ayes, 31: Belatti, Berg, Bertram, Brower, Cabanilla, Carroll, Chong, Coffman, Hanohano, Herkes, Karamatsu, Keith-Agaran, C. Lee, M. Lee, Luke, Marumoto, McKelvey, Morita, Nakashima, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Shimabukuro, Takumi, Thielen, Wakai, Wooley and Yamashita.

Noes, 20: Aquino, Awana, Chang, Ching, Choy, Evans, Finnegan, Har, Ito, Magaoay, Manahan, Mizuno, Pine, Sagum, Souki, Takai, Tokioka, Tsuji, Ward and Yamane.

At 5:09 o'clock p.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 444, HD 1, SD 1

INTRODUCTION OF RESOLUTIONS

The following resolutions (H.R. Nos. 276 and 277) were announced by the Clerk and the following action taken:

H.R. No. 276, entitled: "HOUSE RESOLUTION AUTHORIZING AND EMPOWERING THE SPEAKER TO PERFORM AND CARRY OUT ANY OFFICIAL LEGISLATIVE BUSINESS DURING THE INTERIM BETWEEN THE 2010 AND 2011 REGULAR SESSIONS," was jointly offered by Representatives B. Oshiro and Finnegan.

On motion by Representative B. Oshiro, seconded by Representative Finnegan and carried, H.R. No. 276 was adopted.

H.R. No. 277, entitled: "HOUSE RESOLUTION INFORMING THE SENATE AND THE GOVERNOR THAT THE HOUSE OF REPRESENTATIVES IS READY TO ADJOURN SINE DIE," was jointly offered by Representatives Say and Magaoay.

On motion by Representative B. Oshiro, seconded by Representative Finnegan and carried, H.R. No. 277 was adopted.

ANNOUNCEMENTS

Representative Ward: "Mr. Speaker, yesterday we saluted our colleagues who are going on to bigger and better things. Representatives Karamatsu, Berg, Wakai and Magaoy and those who haven't announced who may be doing announcements. We send our best to them. And I wanted to thank the women in this House, the women in this Caucus, and the women in this building. I want you to know that I may be in the process of being the only male to lose his private bathroom because I have the pleasure of having these five ladies as my counsel.

"But lastly Mr. Speaker, and seriously, I'd like to pay tribute to the one lady who's going to end her eight year term. The one lady who's given her life and given her all as our Governor. I'd like to go on record as saying, thank you Governor Lingle for what you've done. Thank you for being at the helm of the 'ship of state,' and may the wind be at your back in the future. Thank you, Mr. Speaker."

Representative Har: "Thank you, Mr. Speaker. Members, today was a grueling day and it is *sine die*, but I want to ask you to please join me in wishing a very happy birthday to my esteemed Water, Land Chair. It has truly been an honor and pleasure working with him for the past two years. Please join me in wishing a happy birthday to Representative Ken Ito."

Speaker Say: "Representative Chris Lee, would you like to offer another happy birthday to your colleague to your right? Representative Joe Bertram."

Representative C. Lee: "Mr. Speaker, it gives me phenomenal pleasure to be able to stand up here and talk about my colleague who's been to my right these last few months. Mr. Bertram, Happy Birthday. He's 28 years old. Congratulations."

Speaker Say: "There was also another Member who had his birthday a few days ago, and I think we should all recognize our senior statesman, Speaker Emeritus Speaker Joe Souki on your birthday a few days ago."

At this time, the Chair delivered his remarks as follows:

"Members, thank you for your efforts during this past difficult Session. In January of 2009 in my Opening Day speech, and again in my January of 2010 Opening Day speech, I laid upon us certain challenges. Members for the most part, you answered those challenges. This great recession made our jobs very, very difficult. We made many hard decisions that disappointed, frustrated and even angered certain people. We however, were forced to make those tough decisions because of the dismal economic and budgetary situation.

"If you recall during the 2009 Session, we along with the Senate and Governor closed a \$2.1 billion budget deficit. During this 2010 Session we again with the Senate and the Governor closed another \$1.2 billion budget gap. I am proud of this House because we accomplished this without increasing the general excise tax, without increasing income taxes on the middle class and the lower income families, and for our Neighbor Island colleagues, without scooping the counties' share of the hotel tax, which surely would have led to real property tax increases. History for me I believe, will show that we together with the Senate and the Governor bore the burdens of this great recession we are in.

"Although we had our disagreements, I enjoyed the disagreements on the Floor of this House and the lively debate on issues. We all participated in the legislative process with good faith, with the public good foremost in our mind, and a sense of responsibility for our actions.

"There is one thing I would like to note. In addition to acting responsibly, we mounted a tremendous challenge against the special interest groups. This is the first time in history, for me that is, that we crossed over to the Senate various revenue enhancement bills targeted at the special interests in order to avoid a broad-based regressive tax increase. For the first time in my 34 years we forced into Conference Committee a bill to take away certain general excise tax exemptions for those special interests. For me that was a significant unprecedented step even though,

shucks, the bill did not pass. Let us take pride for having acted responsibly and having acted against the special interests to support once more, the ordinary taxpayers.

"We could not have done this without help and I'd like to thank our staff: the House Chief Clerk's Office, Pat, CJ, Denise. Our Sergeant-at-Arms, Mr. Kevin Kuroda, Mr. Lon Paresa and their staff. The House Majority Staff, Ms. Linda Oamilda, and our two chief legal counsels, Mr. Jim Funaki and Mr. Richard Dvnoch. The House Minority Research, Boyd. Where are you Boyd? He's hiding, Malia? Okay. The Legislative Reference Bureau, Ken Takayama and Charlotte Carter-Yamauchi. The Auditor's Office, Marion Higa and her staff. And finally to all of you, the Capitol TV. And also thank you very much to the House Majority and Minority leadership teams.

"Thank you to Finance Committee Chair Marcus Oshiro, Vice-Chair Marilyn Lee and all the other Committee members. You did the most important and hardest work of the Session and I commend you, the Chair and Vice-Chair and the Committee members in getting your pictures in the paper on a full page ad this morning.

"Finally I would like to especially thank the Majority Leader, Blake Oshiro. Yes, I disappointed him tremendously in the beginning of Session and I regret that tremendously. Yet he continued to perform his duties with his usual diligence, competence and effectiveness. He was someone I could rely on. Someone with whom I could speak freely with. Someone I could trust without a doubt. In sum, he is someone more than merely a co-worker for all of us. We all consider Blake a true friend. Blake, please stand.

"I also forgot to mention our House Leadership, Vice Speaker Mike Magaoy, Majority Floor Leader Cindy Evans, and our Majority Whip Representative Pono Chong. And Lynn, Kym, Cynthia, Corinne, Barbara, and Gene, thank you very much for all you have contributed to the people of the State of Hawaii.

"And so as part of our ritual here in the State House of Representatives, I'd like to recognize four individuals who will be leaving this illustrious Body, The State House which represents our *'aina*.

"The first individual I'd like to recognize is Representative Glenn Wakai. Glenn, would you please stand? Representative Glenn Wakai, your work to improve Hawaii's economy and to foster better ties with our friends in the Pacific Island Nations has raised awareness of the importance of both endeavors. We know that the two issues are intrinsically linked, and we look forward to further developing those relationships as a result of your efforts.

"Representative Magaoy, please present this gavel to Representative Wakai and Representative Wakai, please say a few words."

Representative Wakai gave his farewell remarks as follows:

"Thank you, Mr. Speaker. I will drill down my farewell speech into a three-minute news live shot. The winds of change brought me to the State House of Representatives and those same winds are swirling around me again.

"In 2002, I needed a change. I had spent 11 years in the television news business. Journalism was fun. It certainly was an exciting profession. Reporters are given a front row seat to events that are big at the time, and today was certainly a case in point of the excitement and the awareness that they build in our community, but Journalists do not have a hand in directly changing anything. In fact, they're paid to keep their opinions out of stories.

"I knew I wanted to advocate for a better Hawaii and there was no more important place to do that and achieve that than right here in this building. I found great gratification here. It's been a pleasure to work with all of you to effect change in Hawaii that has made the Hawaii we have now and we'll have in the future so much brighter. We all share a desire to create a

better Hawaii, and although we have a different view on how to get there, at the end of the day we work collaboratively.

"I've enjoyed learning and the lively debate that takes place here every day. There are moments of frustration when good ideas seem to die away, and some questionable legislation moves on. But at the end of the Session a vast majority of the bills we have passed improve life for our neighbors. What I enjoyed most about being a part of the House is coming up with solutions to societal problems. Not just through legislation, but through bold and sometimes very creative solutions.

"In my first term, residents of Moanalua were squawking about feral chickens waking them up before the sun came up. Government really couldn't help them, so I got a trap from the Humane Society, dragged it up and down the hillside of Moanalua Valley, and over a five week period got rid of 21 chickens that were irritating neighbors.

"Tomorrow will be another tragic Furlough Friday. My staff Sharon, Dan, Beth and Tracy and I have turned that day of dread into Fantastic Fridays. Since January we've been giving middle school and high school kids opportunities to paint over graffiti, learn about alternative energy, learn about aquaculture and its role in our sustainable future. We're cultivating learning and civic responsibility in an otherwise unstructured day for our children.

"And as you mentioned at the top Mr. Speaker, one of my proudest accomplishments here has been the creation of a nonprofit that has taken surplus medical and educational supplies throughout the Pacific. We have done so for a number of years and Mr. Speaker, you've allowed me as well as Representative Berg to travel down to Micronesia to witness firsthand some of the struggles that those entities have to face. And I understand why Micronesians come here and tap \$120 million out of our State budget. We often cry about the federal government not taking responsibility for this policy.

"But in 2005, we began by sending 20 boxes of medical supplies to American Samoa. Three weeks ago we sent two Matson containers to Pohnpei and another one to Kosrae. In five years, through a nonprofit that really was spawned by my role here in the State House, we sent more than \$600,000 to our neighbors from the Marshall Islands all the way to Palau. It all began by identifying a problem and coming up with a sensible solution.

"Each of us has been given extraordinary powers by our constituents. Sometimes that power is squandered by those who believe the responsibilities begin and end simply in this Chamber. When I talk to children and I talk to them about what makes being a politician special? I tell them elected officials are like mutants. We're like characters in the X-Men. We are political mutants, we can choose to be with the good guys, Wolverine, Cyclops, Phoenix, those who fight for important causes. Or we can be politicians who side with those the likes of Magneto and Mystique and use their mutant abilities to empower themselves or their friends. These mutant powers are temporary. Each of us leases space here. None of us owns our office space. The public expects more from us and we should give them what they deserve.

"We work as a group of 51 in this Chamber. We also can change the world through the power of one. One visionary person with one desire to put the needs of others first. I would like to hearken back to last August when CJ Leong gave Pat Mau-Shimizu the greatest gift of all. CJ's kidney continues to clean Pat's blood. That is the greatest gift one human being can give to another. What a fantastic act of kindness. When we all pass, God is not going to care if we were Republicans or Democrats, or whether we're black or white. We will all be judged on what we did for others so let us be kind, generous and humble.

"I thank my constituents for giving me the opportunity to serve them. It is with profound sincerity that I thank all of you, all 51 of my colleagues for allowing me to be part of a wonderful process. I proudly leave this Chamber as the winds of change take me to a different place. Speaking live from the Floor of the House. Back to you, Mr. Speaker."

Speaker Say: "Thank you very much, and congratulations. The next individual, I think all of you have really seen him in the news lately, is Representative Jon Riki Karamatsu as the Chair of Judiciary. Jon, you have dealt with a high number of high profile, highly controversial issues. I realize that it hasn't been easy, but we're all glad you were up to the challenge and maintained your convictions in the midst of difficult times. To you, you have my sincere admiration and best wishes. Presenting his gavel is Majority Leader Blake Oshiro."

Representative Karamatsu gave his farewell remarks as follows:

"Mr. Speaker, it has been an honor for me to serve in the Hawaii House of Representatives. My eight years here has been a great experience. I have learned so much and met so many wonderful people. To become a politician is a dream come true for me. In 1996, I set my goals to make Hawaii and the United States a better place, most of which is the foundation of my political platform today. That year, I also created my logistical plan to run for the Hawaii State Legislature in 2002. Leading up to 2002, I served as Vice President of the Associated Students of the University of Hawaii at Manoa, participated in community organizations, served on the Pearl City Neighborhood Board, volunteered for political campaigns, and worked for legislators. After I graduated from the University of Hawaii at Manoa with a B.A. in political science in 1997, I went to Washington State where I graduated from Gonzaga University School of Law in 2001. I returned back to Hawaii that year and passed the Hawaii State Bar Association examination and received my law license.

"In 2002, I launched my campaign for the Hawaii House of Representatives, District 41, which encompasses Waipahu and its subdivisions of Waipahu Town, Waikele, Village Park, and Royal Kunia. I received no endorsements. One of my opponents was a well-know community leader, and she received most of the union endorsements. Another opponent was an insurance man, got endorsements from the business trades. All I had was the support of my family and my friends, most of which were a bunch of twenty-year-old kids. These family and friends are still the core of my campaign today. Some of them are here. With only about \$13,500, we had a low budget campaign. I walked my district three times. Despite what many thought, we won that race.

"I was excited to begin my political career in the Hawaii House of Representatives. Before I met you Mr. Speaker, I had heard about you because of my grandpa, Maurice Karamatsu, who was really good friends with your father-in-law, Stephen Kotake. I had heard how my grandpa really liked you because you were so humble. Even with your college degree in Education, you worked as a busboy for a restaurant because you were loyal to the company. As you were my grandpa's friend, I pledged my loyalty to you. As soon as I met you, I knew everything felt right.

"When you asked me what Committee I wanted to be in, I responded that I wanted to be in the Economic Development & Business Concerns Committee. You told me, 'No. You should be in Tourism & Culture Committee. Your grandpa was in tourism. While at Duty Free, it is your grandpa who helped open the Japan market to Hawaii.' You often told me that. At that time, the Chair of the Tourism & Culture Committee was headed by the Representative from Hilo. In my freshman year I stumbled here and there, but I soon learned from the Representative from Hilo. It was during this time that we did a pretty big thing. We divided the tourism marketing contracts by regions of the world instead of one big contract. I found out that the Chair had so many friends, not only from Hawaii, but all over the world, especially Taiwan and China. He was more than a State Representative, but almost like that of a United States Senator. Everybody loved him. I learned not only how to be a Chairman of a Committee, but the importance of building friendships.

"In one of my early meetings as a freshman, I met the head of the Commission of the Status of Women, which was at risk of being eliminated by the newly elected Administration. At the end of the meeting, I committed to help protect the Commission, and I organized a letter with the support of the Women's Caucus and later the Administration backed off on trying to eliminate that Commission. Because of my stance on issues important to women, I was later invited to speak at the Women's Caucus press conference. In later years, I introduced bills that the caucus has supported. In 2006, I coordinated a donation drive for the Sex Abuse

Treatment Center and even got actor Daniel Dae Kim to volunteer and the television show *Lost* to donate their pilot show script so we could auction it off to get some funds for the cause.

"In 2003, I introduced a bill to give local filmmakers a discount at State film facilities. The State film office decided to give these discounts administratively, so we pulled back the legislation. So sometimes you can get them to do things without forcing it. In the second year of my freshman term, I passed a law that required the Department of Agriculture to authenticate Ni'ihau shell leis to empower the Ni'ihau shell lei makers and protect consumers from fraudulent sales using the Ni'ihau shell branding. I introduced a resolution asking the Department of Accounting and General Services to conduct a study on the cost of maintaining Aloha Stadium, versus building a new stadium. Their conclusion: renovating the stadium was more cost effective, something they are still in the process of doing. Also that year, I took an active role to help pass a bill that helped the airport concessionaires in re-negotiating their leases with the state because they were still suffering from the aftermath of the 9/11 attacks.

"However, I have to admit that I made a freshman mistake when I passed the bill mandating ethics training for State government officials. Everyone, including the Governor and her cabinet had to take this course. Some people were a little salty at me at that time. It was 'my bad.' I think actually it should be in the House Rules. I kind of joked around with the Ethics Commission that maybe we should repeal it. So if you guys are okay with it, you can repeal it.

"The 2004 elections were intense. I was targeted by the Republican Party with the Governor and Lieutenant Governor walking door-to-door in my community with their respective groups. I won re-election.

"In 2005, my biggest legislative idea was on creating a Kindergarten to 12th grade science and technology magnet school to prepare our children for Hawaii's knowledge-based economy. Although my bill did not pass, the following year I was pleased when the Governor made innovation in education a priority and we passed a bill that expanded learning in science, technology, engineering, and math for public schools.

"That year, as a Finance Committee member, I was assigned to many Committees. I was approached by the Representative from Upcountry Maui and also the former Representative from West Kauai, Bertha Kawakami, to help them on bills that would be harmful in what they thought was a little too lopsided against business. I helped both of them to address their concerns, but I took a lot of heat from certain Chairs. There was also miscommunication with a Senator on another Conference. I got yelled at by all three Chairs and even the Finance Chair at that time was upset. Back then, Bob Nakasone's office, for those of you who used to go there a lot, was like a haven. So I went there. And I went outside on the balcony and Mr. Speaker, you and Senate President were sitting on lawn chairs in the dark further down. You saw my frustration and told me to come to where you were. I sat by you on the concrete. Not too long later, Representative Bob Nakasone came out of his office and sat by me to the right. With all the pressure I was going through, I broke down and cried and explained that I was just trying to find balance on bills for this issue, as well as for dear friends Representative Bertha Kawakami and the Representative from Upcountry Maui. Your words of advice and Representative Nakasone's presence brought me comfort.

"Mr. Speaker time and time again, you have helped me in some of my toughest challenges. I remember in 2004, with the support of some of my closest colleagues, we voted against the Majority on a bill that would have negatively impacted research on State land. You told me, 'The State probably didn't know what happened tonight, but tonight when you go home, you will see how peaceful it is.'

"After the 2005 Legislative Session, Representative Ken Hiraki decided to leave the House of Representatives to take a position with Hawaiian Telcom, thus leaving that chairmanship open, and with your appointment with the Representative from Puna to that post, the Economic Development post was vacant, and you appointed me to that position, which I took extreme honor in you considering me. It was a dream Committee because I love that subject matter and it is one of my biggest goals to someday make Hawaii an economic power per capita.

"Mr. Speaker, at the 2006 Democratic Party of Hawaii Convention, I presented you my typed-out strategy to run for statewide office in 2010. The only other elected official I shared this plan with was Representative Bob Nakasone at that time. On the Saturday of that Convention, you hosted a number of our colleagues to a dinner at a Chinese restaurant. My friend Wayne Yagi was my driver that night. As we were leaving, I realized I didn't have my strategy with me. I told Wayne that I forgot something very important, and he told me 'Nah, you can look for it tomorrow.' I panicked, 'Wait, you don't understand. If someone finds my papers they'll know exactly what I'm going to do in 2010.' My strategy was so detailed, I had it done month by month. The next morning when I went to the Convention really tired, Mr. Speaker you and Senate President Bunda at that time, were chairing the Convention and you called a recess, walked down the stage and down the long aisle. You walked right up to me and pulled some papers from your back pocket and told me, 'You forgot something.' It was my strategy for my statewide 2010 campaign.

"In 2006, as Chair of the Economic Development & Business Concerns Committee, I went full blast. I introduced a bill to give tax credits for film production in Hawaii, 15% on Oahu, 20% on Neighbor Islands to make Hawaii competitive in the world to attract film projects, especially the huge Hollywood blockbuster movies. Together with the Representative from Hilo who was still Chair of the Tourism & Culture Committee, and the Senator from Makiki, my friend and former boss, we passed the companion bill which was a Senate Bill into law. That Legislative Session, I also passed a bill that expanded the Small Business Innovation Research Grants and the Small Business Technology Transfer Research Grants to maximize federal matching dollars to help Hawaii's start-up technology businesses."

Representative Ito rose to yield his time, and the Chair "so ordered."

Representative Karamatsu: "I also was fortunate in passing a bill floating \$10 million in special purpose revenue bonds for Hoku Scientific, Inc., a local technology and renewable energy company to help build their facility in Kapolei. Further, I had a bill that included in the sexual assault law, 'the use of a substance in subjecting one to a sexual assault' to address the problems of date rape drugs. My bill was incorporated into an omnibus criminal bill that was passed into law.

"That year, as a result of a request by a number of Neighbor Island Representatives, Mr. Speaker, you asked me to help save the Island of Hawaii from a looming lawsuit regarding the Hokulia development on agricultural land. I had a land use bill carried over from the previous year. I placed an amendment inserting language that would grandfather the Hokulia development, thus protecting that project from the suit. That lawsuit was settled soon after.

"Mr. Speaker, you came up with the \$100 million Innovation Fund bill, one of the biggest bills of 2006. This Fund was to be used for investments and grants for Hawaii science and technology companies. You told me to go with it. Returns on investment would go back into the Fund, and I tweaked the bill so that it would always have a corpus to collect interest to help replenish the Fund. During Conference, a little before midnight, the deadline for all Conference bills, you called me to go to Conference Room 309. I was in my office enjoying the evening with my friends. I told everyone, I had to go. It was show time. My staff and a number of my friends followed me out of the office with a good friend of mine filming with a video camera. We joined my Co-Chair from the Finance Committee, the Representative from Upcountry Maui. Our whole group entered Room 309, which was extremely packed with so many people overflowing, and for those of you who are new, it was a lot more packed than it was these past couple years.

"Our counterpart was then Ways & Means Chair, the Senator from Manoa and his co-chair was the Senator from Makiki. I threw over the House proposal. Later, the Senator threw over a different proposal. I looked at the Senate's version, and then looked at my friend, the Representative from Upcountry Maui. We had that look like, 'What the heck is this?' I called a recess. My Co-Chair and I exited the back door. We talked a little in the hallway with little time before the midnight deadline. I

said, 'Let's talk to Pono,' whose office was only a few feet away. After all, he was a former Ways and Means staffer and just plain brilliant.

"When we entered his office, the Representative from Enchanted Lake/Maunawili was sitting on the carpet of his office fixing or doing something. We looked at him on the ground. He looked up at us with that surprised look like, 'What in the world are you guys doing here?' I told him that we're in Conference. I think he replied sarcastically like, 'Uh yeah.' I told him that he needed to look at this CD1 and calculate the numbers as quick as you can. In what seemed like seconds, he explained that the numbers were smaller than what was agreed by Speaker and Senate President. I grabbed the CD1 and together with the Representative from Upcountry Maui, we went back into the Conference Room.

"The Ways and Means Chair asked us to agree to his proposal. In front of the crowd trying to listen what we were saying, I told him, 'No. We are sticking to the House position.' Time was ticking. Apparently this bill was tied to the Streamline Use and Sales Tax bill. With only minutes left on the clock, the Ways and Means Chair, a little disturbed, agreed to go with the House's position. We passed the Innovation Fund, as well as the Streamline Sales and Use Tax bill. On Final Reading, the House killed the Streamline Sales and Use Tax bill. In revenge, the Senate killed our Innovation Fund bill. Usually when the Senate finished earlier, which is always the case, they would come to the House, and the Speaker would recess so we could shake their hands. However, this time, when the Senate came over they couldn't get in because Mr. Speaker, you locked all the doors. I heard that some of the Senators were knocking on the door. I am still not sure if you were upset over the Innovation Fund or some other bill. Anyways, looking back, it was kind of funny.

"For 2007 Mr. Speaker, you asked me to be your Vice Speaker. After much thought, I joined your leadership team. That year, I was very fortunate with the help of all of you to pass the bill floating \$10 million for Sopogy, Inc. to develop a solar farm at the Natural Energy Laboratory of Hawaii in Kona, which is already under construction. My memorable bill of that year was working with the Hongwanji's Young Buddhist Association in passing a law recognizing September 21 of each year as Peace Day to promote peace programs, improve international relations, and increase educational awareness of peace. I have chaired that event for the past three years.

"On October 16, 2007, I crashed my car, and called the police ..."

Speaker Say: "Representative Karamatsu, would you like to insert the rest of your speech in the Journal please? After that last statement."

Representative Karamatsu: "All right. I'll insert the rest into the Journal, but I'll just say the rest of the speech kind of summarize the last three years. The last four years. But I also included in my speech a lot of thanks for all of you because all these bills wouldn't have been passed without all of you. So my speech was to basically thank everyone and each of you for everything you've done.

"I also do want to mention some of my mentors that helped me: Senator Najo Yoshinaga was one who paved the way for me. The late Eric Maehara, a great attorney and friend. Senator Carol Fukunaga also helped me too. And really Mark Takai when I was younger, when I was a kid, he took me in his office and I learned how to run an office, detail by detail because of Mark Takai. Also campaigning. And I want to thank the Minority Caucus as well. Without you, there really isn't that much balance here so I'm glad there is some debate here with you. And I do have some written comments for kind words for all of you.

"And I want to thank the people of Waipahu for giving me the opportunity to represent them. To my dad Richard Karamatsu, my mom Laraine Karamatsu, my younger sister Mia Karamatsu, and my sister Lara Karamatsu for all their love and support.

"Also I want to thank my extended family, friends, and also my loved ones who passed away, all my ancestors. I'm grateful for all my staff, past and present, and I want to insert all their names into the Journal. Also to all the staff in government for all your work.

"Finally I appreciate every person who has touched my life and I would like to conclude with you, Mr. Speaker. After we die, some of our names will fade and some of our stories will be forgotten. However as politicians who truly love to serve, we will never die. We live on in the laws we pass, the programs we fund, and the infrastructure we appropriate. Most importantly, we live on in the souls we've touched. Thank you, very much."

Representative Karamatsu continued in his written remarks as follows:

"On October 16, 2007, I crashed my car, called the police, and was charged with DUI. As a result, I stepped down as Vice Speaker of the House. However, Mr. Speaker, you gave me the opportunity to be Vice Chairman under the Representative of Haiku Valley and Kaneohe, the Chairman of the Water, Land, and Ocean Resources, & Hawaiian Affairs Committee (Representative Ken Ito) who I would eventually declare as the founder of Itoism because of his deep philosophical thought. As his disciple, I was ready to take on a new realm of laws.

"In 2008, the Representative from Kaneohe (Representative Ken Ito) and I drew our swords and charged. Together with the other Representative from Hilo (Representative Clift Tsuji), the fighter of Coqui frogs, we passed a monumental bill that created incentives for the important agricultural lands classification, a 1978 constitutional mandate that had been unresolved for thirty years.

"We charged into another battle to resolve another 30-year issue in regards to the 1978 constitutional mandate of funding 20% of ceded lands revenues to the Office of Hawaiian Affairs. The Office of Hawaiian Affairs had been suing the State of Hawaii for years saying they are not receiving their share of funds. We moved a bill requiring the State to convey certain lands and make additional payments to the Office of Hawaiian Affairs; however, the Senate did not move on it when it reached them. Nonetheless, it was a good attempt to resolve the dispute.

"Further, in 2008, I passed a bill that required the government to better maintain records to prevent identity theft as was requested by the Identity Theft Task Force that I sat on for two years with the Senator from Makiki (Senator Carol Fukunaga). In addition, I passed a law prohibiting a towing company from charging the owner of a vehicle hooked up for towing if the owner of the vehicle appears on the scene. Further, I helped Sopogy, Inc. again by passing a bill floating \$35 million in special purpose revenue bonds to help it with the development of a solar farm on Oahu. Lastly, I was able to get a \$1 million appropriation inserted into the budget bill for beach restoration in resort areas that matches private funds.

"In the 2008 elections, I was at a low. I had a talk with Representative Bob Nakasone in his office. As usual, he asked, 'So how's everything?' I told him everything was okay. He told me, 'Don't forget your dream.' I looked at him and said, 'Rep. Nakasone, I don't know. I can't see past tomorrow.' He stated again, 'Jon, don't forget your dream.' I looked up to him, smiled, and nodded. Those were the last words he told me. He was hardly in his office and I was campaigning like crazy, so we didn't get a chance to talk to each other again. Representative Nakasone passed away on December 7, 2008.

"My opponents attacked me on everything including my DUI. With the help of Calvin Azama, policy adviser of Speaker (Calvin K.Y. Say), who walked my district with me three times, I won the primary election and in the general election, I had the most votes in my career.

"Mr. Speaker, I entered 2009, honored to be your new Judiciary Committee Chairman. After going through some tough challenges, I was back a thousand times stronger. I introduced a package of bills to help retain doctors and lower medical liability insurance. I drafted the health information technology bill in hopes to bring all parties together to prepare Hawaii for \$10 to \$1 federal matching funds available in 2011 that will interconnect the computer networks of all of Hawaii's health providers. I created a bill that would protect our prime agricultural lands.

"In my goal to protect our public from harm, I passed legislation that created the criminal impersonation law and updated our harassment and stalking laws to include electronic communication. I also passed

legislation protecting our pet animals by allowing a temporary restraining order be extended to pet animals and ensuring our pet animals are humanely treated when placed in confinement. Further, I changed the joint and several liability tort laws to help our small professional design companies.

"Moreover, I enjoyed working with the Representative from Wahiawa, Chairman of the Finance Committee (Representative Marcus Oshiro) to ensure there was enough funding for the Judiciary Branch despite the bad economy.

"This year, 2010, I continued serving as your Judiciary Committee Chairman. With the economy continuing to be in bad shape, I searched for any cost savings for the State in the Judiciary budget besides cutting costs to programs and positions. I focused on ensuring there is enough funding for our specialty courts, which has been proven successful in turning individuals' lives around to be productive citizens rather than abusing illegal drugs or committing crimes, which not only betters our society but saves the state a lot of money.

"I also worked to pass the campaign finance bill that reorganizes the existing campaign finance provisions in the campaign finance laws, by dividing long sections into shorter sections with clear titles for quick reference and group laws on one subject together, among other things, and with a few substantive changes such as an inclusion of a new section to provide for transparency and to indicate that the campaign finance laws should be construed to support transparency.

"I passed a bill authorizing certified shorthand reporters to administer oaths and affirmations in the performance of their duties as deposition officers without the necessity of being notaries public, which will help make the process faster for this important service in our legal system.

"Another measure I passed revised laws prohibiting the cruel treatment of pet animals by specifying the standards of care that an owner must provide a pet animal, including the type of pet enclosure and under what conditions and when veterinary care must be provided but without affecting animals that are raised for food.

"In my term as Judiciary Committee Chairman, there were a number of issues that I worked on that did not pass but went very far in the Legislature, some on the brink of passage. Although such legislation may not have passed, it stirred discussion throughout the State of Hawaii. After all, the Legislature is where important issues get an opportunity to at least be discussed.

"My career in the Hawaii House of Representatives has been a good one. I thank the people of Waipahu for giving me the honor to represent them.

"Mr. Speaker, I want to thank you for all your love and support. You have been a great mentor for me. I want to thank my other mentors, the Representative from Hilo and our Higher Education Chair (Representative Jerry L. Chang) and the late Representative Bob Nakasone. I have sincere appreciation for my dear friends who provided support for me, the Representative from Kaneohe (Representative Ken Ito) who I shared many humorous conversations, the other Representative from Hilo (Representative Clift Tsuji) who I had many wonderful conversations, and the Representative from West Kauai (Representative Roland Sagum) who I enjoyed hanging out with, which helped me to relieve some of the stress I was going through. I sincerely appreciate all of your unconditional friendship.

"Thank you to the Vice Speaker (Representative Michael Magaoay), Majority Leader (Representative Blake Oshiro), Majority Floor Leader (Representative Cindy Evans), and Finance Chairman (Representative Marcus Oshiro) for supporting the Speaker and for your open leadership in this institution.

"I also want to say, "mahalo" to the other Representative from Kaneohe, our Majority Whip (Representative Pono Chong) and his partner in crime, the Representative from upcountry Maui (Representative Kyle Yamashita) for all our healthy policy discussions; Representative from Kalihi Valley who made me laugh as we talked about our experiences in politics,

especially our experiences with the media; the Representative from Ewa Beach and lower Waipahu (Representative Rida Cabanilla) who has been very loyal to me; Representative from Pearl City-Aiea (Representative K. Mark Takai) who I learned the logistics of campaigning and managing an office; and the rest of the majority caucus, past and present, for and all the great memories.

"I also want to thank the Minority Caucus. I passed some of your bills too. I appreciate you bringing some balance in the Legislature.

"I want to send my thanks to several more mentors, Senator Carol Fukunaga for sharing her experience and network with me, the late State Senator Nadoo "Najo" Yoshinaga who paved the way for me, and the late Eric Maehara, a great attorney and friend.

"I am grateful for all my staff throughout my legislative career. I also want to thank every person I have worked with in my political career.

"I want to especially thank my dad, Richard Karamatsu, mom, Laraine Karamatsu, younger sister Mia Karamatsu, and baby sister Lara Karamatsu for all their love and support. Thank you to my extended family and friends as well for all their love and support. I also send my appreciation to all my loved ones who passed away and all my ancestors. Finally, I appreciate every person who has touched my life.

"Mr. Speaker, after we die, some of our names will fade and some of our stories will be forgotten. However, as politicians who truly love to serve, we will never die. We live on in the laws we pass, the programs we fund, and the infrastructure we appropriate. Most importantly, we live on in the souls we've touched.

"Thank you."

Speaker Say: "Next we have the Vice Speaker, Representative Michael Magaoay. I feel the need to extend my personal thanks to you for helping me and the rest of leadership through the last two years. Your assistance in running our daily Floor sessions and attending to everything from legislation to policy, to working one-on-one with our Members has been a tremendous service. Thank you very much for being a part of our leadership team."

Representative Magaoay gave his farewell remarks as follows:

"Thank you Mr. Speaker, and colleagues. I will not copy what we just heard, but I have been really blessed to be here. I've been here for ten years. For me, coming to politics came about in the later part of my life. I came in at 47 because as a successful electrical engineer, I always told myself to give back to the community. I had been living in Mililani and decided to go back to Waiialua where I was born and raised just after my son Michael was born. It was my father's first grandson so basically being a parent, I know Henry you're a new parent, but if this was your first grandchild, as soon as we moved to Waiialua, my son did not sleep with my wife and I. He was with the grandparents all the time, sleeping with them.

"But the reason I mentioned that is because as you continue your life, your conviction has to be there for whoever you serve. The district that I have, District 46, it is a huge district. If you want to walk it, you talk about walking. You've got to walk from Del Monte, Kunia, all the way to Laie. It's a big district and you've got plenty of areas to go look at.

"But I've been blessed to be here because I'm part of the Class of 2001. And if you want to talk about debate, in the Class of 2001 we had 7 Republicans and we had 4 Democrats. Out of the Class of 2001 there are only two people here remaining and that's Representative Blake Oshiro and myself. And after this Session, I guess you'll have one. But during that time we had 12 existing Republican Representatives. We had Representative Marumoto and Representative Thielen and along the way you had new people come on board. But we had 19 Republicans. Talk about your Mason's Rules and all the procedures we had. You guys had it easy, because for every rule, there was a snag and we had to go run to our book, talk to Mr. Funaki and Mr. Dvonch as far as how do we counter.

What do we do? So you've got it easy, Representative Ward. That was hard. We had to take each procedure one at a time.

"I look at all of you as leaders and pillars of your various communities because times have changed. If you look around you, the shift is there. Come 2010, you have the census and the 2012 redistricting. There are going to be a lot of opportunities for you as you look at different doors in life. My door is kind of bittersweet because I've been with you for ten years, and I got to know the Speaker and everybody else. Your camaraderie and fellowship is really... There are no words to describe it because each of you is unique in your own way. You are all unique. This Capitol is so interesting because if you want to know what's going on in this Capitol, just go to the balcony on the Third or Fourth floor. Especially if there's a certain bill you're chasing. You see people running like mice or rats going to one office or the other.

"This institution. I know a lot of you are lax sometimes, and like to joke around. But we need to somehow maintain our decorum because I notice there's a lot of the younger generation coming in, and the question is, who wants to come here because of the pay. But I think it's the loyalty that you have within yourself, and your conviction that we look at. For me, like I said, it's bittersweet because I wasn't looking at leaving. It just happens that another door opened and he officially announced his retirement on the Senate side, so I'm looking at his seat. We have very good leaders in this district with Representative Marcus Oshiro and Representative Marilyn Lee. As for District 46, it's a wide district, but if you want exercise, there's a lot of time for you to walk.

"All I can say to all of you is we're all going to smell the roses, but today as we conclude, Blake Oshiro he was with me for 10 years and we grew. Everyone else in this Body grew too. We came through some rough times and I really appreciate your camaraderie Blake, because for you to pass something that I was always against, and with you pushing it, and we look at ourselves as leaders and what we can do, and what is best for the community. A lot of times it didn't happen, But this time, it happened. Back in 2001, I was the Vice Chair of Economic Development and we started Act 221. This year, now we suspend Act 221. So we have the life that we have.

"I just want to close by thanking everybody. Mr. Speaker, I can't thank everybody here because I don't want you all to be late for a certain function at 6:00 so that's the reason why. But I'd like to close with something that is always true to my heart because like I tell everybody here, life is so short. You have to pick your direction where you're going because you never know what tomorrow brings, and hopefully tomorrow comes and God willing, that you're still alive.

"But I want to read a quote from a famous gentleman named Winston Churchill, and it's an address he gave to the Harrow School of England 69 years ago. And it's something very short and sweet, but if you take it to heart, it'll probably help you. He says, 'Never give in, never give in, never, never, never - in nothing, great or small, large or petty - never give in except to convictions of honor and good sense.'

"So that's my challenge to all of you as you move forward, with your discernment, as you look at what transpired through the Session. It's going to be hard out there because there will be so many running for office. Like anything on a mango tree, we are at the bottom of the tree because people like to pick the plump prize which is always at the top.

"So I would like to say as you go out there, work hard, because you're out there to make a difference. Remember, always keep your head high. It really was a pleasure for me to work with all of you. Like the Speaker said, I want to thank all of the staff, and I want to say thank you, very much. *Mahalo nui loa* to all of you. Thank you."

Speaker Say: "Finally, our last colleague that will be leaving is Representative Lyla Berg. Lyla, your contributions to public education and your diligent work with the Education Chair, Roy Takumi, have shown a true caring for Hawaii's *keiki*. We often say that our children should be our number one priority, but you have lived to that motto and we thank you for doing so. Aloha and best wishes."

Representative Berg gave her farewell remarks as follows:

"Thank you Mr. Speaker, and thank you colleagues. I was cautioned by our colleague from Pearl City not to cry, and knowing me, you know that's impossible. When I called my son today to let him know this was the last day of Session and the last day of this role that I'm playing, he told me, 'Keep it short, Mom.' Probably neither of these two comments I can adhere to, but I will certainly be as concise as I can.

"I'm deeply grateful for what happened today and for the opportunity to be here with all of you. This morning when I got up I was so excited, it was like the first day of school, the first day of our Session as some of you remembered when you were freshmen. I was excited and nervous and a little anxious and frustrated and all of the emotions. And what I had to stop and think about on my way in is, what I was doing here and why I was so excited.

"Some of you know that my career in education led me to start Kids Voting Hawaii, to be a part of Project Citizen, to do everything I could to help our young people be part of the process. And when I decided to run for office in 2004, it was because my son said to me, 'Either shut up complaining Mom and run for office, or stop doing what you're doing.' And when a child says that, you know you have to follow.

"One of the things I've learned being here is how a bill becomes a law. And I also learned how the process works for a bill to become a law. I've learned to cope with frustration and disappointment. I've learned to appreciate the virtue of patience. I've learned how to sleep less, eat more, and laugh at things that I never thought were funny before. I've learned to understand things that I really had no way of understanding before. And right now as I move to the next place, I can assure you that what I have learned from each and every one of you will stay deeply in my heart.

"From the Education Chair I learned that you don't argue publicly with the Chair. You discuss things with him and in the final analysis when the vote comes in, you can vote against ice cream. He will call you at 10:00 however in the evening and say, 'Now what happened with that bill?' And that's what I hope that we will continue to have no matter what role we find ourselves in. We will all be involved in public service in some way. We are all connected and inextricably bound now after these few years together.

"One of my constituents called me the other day and she said, 'You know, you're such an enigma. I can't decide who you are.' She says 'You're a cross between Mother Teresa and Xena the Warrior Princess.' I would rather actually be likened with Madeleine Albright and being a statesman or stateswoman. But alas, I'm Miss Lyla, so when you're clicking your television channels or when you see me in public, the Representative from Hawaii Kai still calls me 'Miss Lyla.'

"Some of you know that I also do volunteer teaching in the summer time. I won't be teaching this summer, but I go to South Africa to work with principals and help them help their teachers in their schools as one of the largest emerging democracies on this planet. And one of the things I've learned from our colleagues in South Africa is the word *Ubuntu*, which in Zulu means, 'I am who I am because of who I am with you.'

"And so what I wanted to give you as a gift is the *'olelo no'eau* from our indigenous people and our ancestors here in Hawaii. Each of you has a purple card. These come from my card series. These are phrases from Mary Kawena Pukui, they're *'olelo no'eau* and perhaps it will guide you in the interim. Perhaps it will help to ease your heart as we leave this building today. Mine is translated as, 'peace and tranquility in the face of disturbance.' *La'i hauola i ke kai ma'oki'oki*.

"So as I leave you and the colleagues and all our colleagues for the next part of our journey and the next vignettes of our lives, I want to share with you one quote. There's a young woman, well I guess she's not so young anymore. Pia Zadora, maybe you've heard of her before. And in interviews she was asked, 'Pia, what's your life about?' And what she said is, 'I came to this place to live out loud,' and I invite all of you to live out loud.

"In the words of our esteemed colleague from Puna, *Maika'i ke akua, Mahalo ke akua, no ka pōmaika'i, i au ka kou ma kēia hana pono. Me ke aloha pūmehana pauole.* My love is with you forever. Thank you, very much."

Representative Marumoto: "Mr. Speaker, I rise on a point of information. Would you or any of the Members give us a status report on the UH Men's Volleyball game against Stanford? It's very important. Go Bows."

Representative Chang: "Stanford won the first game 25-20."

Representative Cabanilla: "Thank you, Mr. Speaker. May I please be permitted to make a few comments. I would like to go on record to thank the first female Governor of the State of Hawaii. And I think that she did a very good job. She had a very tumultuous time in the latter half of her career as Governor, but I think by being a member of the Women's Caucus I want to acknowledge her services. Although I did not agree with her politics all the time, I admire her for her stamina in standing up for what she believed in. And I hope that with that service that she provided the State, that there will be more women to go to the Fifth Floor Mr. Speaker. We have proven that we could do the job. So I hope that we will promote more women to be in that role. Thank you, Mr. Speaker."

Speaker Say: "Before closing, there were some names I omitted that I should also recognize. Jacee, will you please stand, with the Majority Leader's office. Georgette Deemer with the House Majority Staff Office also. And for all of you, my two 'bodyguards' that always try to protect me, Mr. Azama and Mr. Takeshita. And for those State employees that work for the State House if I made any omission, I apologize if I did not recognize you or mention your names, but I hope I did in thanking them for a job well done in seeing us all through."

Representative Ching: "I just also wanted to thank one of the State employees that I meant to introduce earlier, if I may. It's Deputy Director Ken Kawahara of DLNR who has been very helpful not only in DLNR broad issues, but on historic preservations as well."

Representative Tokioka: "Thank you, Mr. Speaker. On that note as well, I think it's important for us to acknowledge all of the Department Heads from the Lingle Administration because many of them we may never see again in their capacity. Although we didn't always agree with them, I think many of them have shown true heart in all of the work that they did in helping us through this tough time. So on behalf of yourself Mr. Speaker and this House, I think we'd like to tell them how much we appreciate what they have done. Thank you."

LATE INTRODUCTIONS

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

Representative Thielen introduced her granddaughters: Ms. Emma Helper; and Ms. Natalie Helper, Co-Chair of the Gay Straight Alliance at Punahou School.

Representative Har introduced Councilman Nestor Garcia, City Budget Council Chair and former colleague.

Representative Berg introduced her staff, office manager Ms. Jen Wilbur, committee clerk Mr. Matt Prellberg, and legislative aide Ms. Marata Tamaira.

Representative Ward: "Mr. Speaker, there's one person who has a really thankless job in this Chamber and it's the most important job, and it's you. Could we have a round of applause for Speaker Say? Thank you Speaker, you deserve it."

Speaker Say: "No, no, no. Representative Blake Oshiro, let's go home. Thank you, to all of you."

ADJOURNMENT

Representative B. Oshiro moved that the House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, adjourn Sine Die, seconded by Representative Finnegan.

The motion was put to vote by the Chair and carried, and at 6:07 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, adjourned Sine Die. (Representatives Bertram and Manahan were excused.)

HOUSE COMMUNICATIONS

House Communication dated April 29, 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. 444, HD 1, SD 1

H.B. No. 921, HD 1, SD 2

House Communication dated April 29, 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 passed the following bill on Final Reading:

H.B. No. 1948, HD 1, SD 1, CD 1

House Communication dated April 29, 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 adopted House Concurrent Resolution No. 297, SD 1, CD 1.

House Communication dated April 29, 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 the following Bill heretofore vetoed as set forth in Governor's Message dated April 14, 2010, and approved said bills by an affirmative vote of two-thirds of all members of which the House is entitled:

H.B. No. 1868, HD 1

House Communication dated April 29, 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 the following Bills heretofore vetoed as set forth in Governor's Messages dated April 22, 2010, and approved said bills by an affirmative vote of two-thirds of all members of which the House is entitled:

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

S.B. No. 2394, HD 1

S.B. No. 2501, SD 1, HD 1

House Communication dated April 29, 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 the following Bills heretofore vetoed as set forth in Governor's Messages dated April 25, 2010, and approved said bills by an affirmative vote of two-thirds of all members of which the House is entitled:

H.B. No. 2421, HD 2, SD 2, CD 1

H.B. No. 2085, HD 1, SD 2

H.B. No. 2086, HD 2, SD 2

H.B. No. 2866, HD 2, SD 1, CD 1
 S.B. No. 2159, HD 1
 S.B. No. 2650, SD 2, HD 2, CD 1
 S.B. No. 2840, SD 2, HD 1

House Communication dated April 30, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered House Bill No. 1642, HD 1, SD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated April 22, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. In addition, a copy of House Bill No. 1642, HD 1, SD 2, CD 1, designated as Act 69 of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, was enclosed.

House Communication dated April 30, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered House Bill No. 1868, HD 1, heretofore vetoed as set forth in a Governor's Message dated April 14, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. In addition, a copy of House Bill No. 1868, HD 1, designated as Act 70 of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, was enclosed.

House Communication dated April 30, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered House Bill No. 2085, HD 1, SD 2, heretofore vetoed as set forth in a Governor's Message dated April 25, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. In addition, a copy of House Bill No. 2085, HD 1, SD 2, designated as Act 71 of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, was enclosed.

House Communication dated April 30, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered House Bill No. 2086, HD 2, SD 2, heretofore vetoed as set forth in a Governor's Message dated April 25, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. In addition, a copy of House Bill No. 2086, HD 2, SD 2, designated as Act 72 of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, was enclosed.

House Communication dated April 30, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered House Bill No. 2421, HD 2, SD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated April 25, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. In addition, a copy of House Bill No. 2421, HD 2, SD 2, CD 1, designated as Act 73 of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, was enclosed.

House Communication dated April 30, 2010, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable Governor Linda Lingle; and Ms. Myra Shozuya, Revisor of Statutes, Legislative Reference Bureau; transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered House Bill No. 2866, HD 1, SD 1, CD 1, heretofore vetoed as set forth in a Governor's Message dated April 25, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. In addition, a copy of House Bill No. 2866, HD 1, SD 1, CD 1, designated as Act 74 of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, was enclosed.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 659 through 668) were received by the Clerk:

Sen. Com. No. 659, transmitting H.C.R. No. 13, entitled: "HOUSE CONCURRENT RESOLUTION EXTENDING THE DEADLINE FOR THE HOME FOR LIFE TASK FORCE TO REPORT ON ITS FINDINGS AND RECOMMENDATIONS FOR REDUCING BARRIERS TO AGING IN PLACE AND FACILITATING MULTIGENERATIONAL LIVING," which was adopted by the Senate on April 29, 2010.

Sen. Com. No. 660, transmitting H.C.R. No. 19, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO CREATE A DATABASE RESOURCE WEBSITE TO HOUSE REAL-TIME AVAILABILITY OF ALL JUVENILE SERVICES FROM THE LOWEST LEVEL OF CARE TO THE HIGHEST LEVEL OF CARE FOR THE APPROPRIATE PLACEMENT OF JUVENILES IN HAWAII," which was adopted by the Senate on April 29, 2010.

Sen. Com. No. 661, transmitting H.C.R. No. 158, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF HUMAN SERVICES, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH, TO DEVELOP A PROGRAM TO ENCOURAGE BREASTFEEDING AMONG MOTHERS WHO RECEIVE MEDICAL ASSISTANCE FROM MEDICAID," which was adopted by the Senate on April 29, 2010.

Sen. Com. No. 662, transmitting H.C.R. No. 162, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE PROVISION OF EDUCATION TO INCARCERATED PARENTS TO ENSURE CHILD SUPPORT ISSUES ARE ADDRESSED WITHOUT DELAY AND UPON RELEASE, TO PREPARE THEM FOR REINTEGRATION WITH THEIR CHILDREN AND FAMILIES, INCLUDING GRANDPARENTS WHO HAVE RAISED THEIR CHILDREN," which was adopted by the Senate on April 29, 2010.

Sen. Com. No. 663, transmitting H.C.R. No. 199, HD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO CONSIDER CERTAIN FACTORS BEFORE ENTERING INTO CONTRACTS WITH MANAGED CARE ORGANIZATIONS THAT PROVIDE MEDICAID BENEFITS UNDER QUEST MANAGED CARE PLANS," which was adopted by the Senate on April 29, 2010.

Sen. Com. No. 664, transmitting H.C.R. No. 256, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO EXAMINE AND EVALUATE THE VERACITY, EXTENT, AND EFFECT OF CERTAIN ALLEGATIONS OF SHORTCOMINGS OF PROGRAMS FOR ADULTS WITH SPECIAL NEEDS," which was adopted by the Senate on April 29, 2010.

Sen. Com. No. 665, transmitting H.C.R. No. 297, SD 1, CD 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING REPORTS ON THE ECONOMIC VALUE OF EXPANDED WORKFORCE

DEVELOPMENT CAPACITY AND STEM INITIATIVES," which was adopted by the Senate on April 29, 2010.

Sen. Com. No. 666, dated April 29, 2010, informing the House that the Senate has this day overridden the Governor's veto by a two-thirds vote of all the members to which the Senate is entitled to the following bills:

H.B. No. 1642, HD 1, SD 2, CD 1
 H.B. No. 1868, HD 1
 H.B. No. 2085, HD 1, SD 2
 H.B. No. 2086, HD 2, SD 2
 H.B. No. 2421, HD 2, SD 2, CD 1
 H.B. No. 2866, HD 1, SD 1, CD 1
 S.B. No. 2159, HD 1
 S.B. No. 2394, HD 1
 S.B. No. 2501, SD 1, HD 1
 S.B. No. 2650, SD 2, HD 2, CD 1
 S.B. No. 2840, SD 2, HD 1

Sen. Com. No. 667, dated April 29, 2010, informing the House that the following bill has this day passed Final Reading:

S.B. No. 2646, SD 1, HD 2, CD 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAII SURFING RESERVES."

Sen. Com. No. 668, dated April 30, 2010, transmitting S.R. No. 126, entitled: "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE," which was adopted by the Senate

OTHER COMMUNICATIONS

Senate Communication dated May 5, 2010, transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered Senate Bill No. 2159, HD 1, heretofore vetoed as set forth in a Governor's Message dated April 25, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 2159, HD 1, designated as Act 64 of the Twenty-fifth Legislature of the State of Hawaii, was enclosed.

Senate Communication dated May 5, 2010, transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered Senate Bill No. 2394, HD 1, heretofore vetoed as set forth in a Governor's Message dated April 22, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 2394, HD 1, designated as Act 65 of the Twenty-fifth Legislature of the State of Hawaii, was enclosed.

Senate Communication dated May 5, 2010, transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered Senate Bill No. 2501, SD 1, HD 1, heretofore vetoed as set forth in a Governor's Message dated April 22, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 2501, SD 1, HD 1, designated as Act 66 of the Twenty-fifth Legislature of the State of Hawaii, was enclosed.

Senate Communication dated May 5, 2010, transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered Senate Bill No. 2650, SD 2, HD 2, CD 1, heretofore vetoed as set forth in a Governor's Message dated April 25, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 2650, SD 2, HD 2, CD 1, designated as Act 67 of the Twenty-fifth Legislature of the State of Hawaii, was enclosed.

Senate Communication dated May 5, 2010, transmitting a copy of the document certifying that on April 29, 2010, 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, reconsidered Senate Bill No. 2840, SD 2, HD 1, heretofore vetoed as set forth in a Governor's Message dated April 25, 2010, and approved said bill by an affirmative vote of two-thirds of the members to which each chamber is entitled. A copy of Senate Bill No. 2840, SD 2, HD 1, designated as Act 68 of the Twenty-fifth Legislature of the State of Hawaii, was enclosed.