FIFTY-FIRST DAY

Tuesday, April 19, 2011

The House of Representatives of the Twenty-Sixth Legislature of the State of Hawaii, Regular Session of 2011, convened at 11:40 o'clock a.m., with the Speaker presiding, after which the Roll was called showing all Members present with the exception of Representatives Carroll, Hashem, C. Lee and M. Oshiro, who were excused.

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

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 641 through 645) were received and announced by the Clerk and were placed on file:

Sen. Com. No. 641, transmitting H.C.R. No. 134, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING ALL ACTIVE, RESERVE, AND GUARD COMPONENTS OF THE UNITED STATES MILITARY AND THE ACTIVE AND RESERVE COMPONENTS OF THE UNITED STATES COAST GUARD TO MAKE RESOURCES AVAILABLE TO IMPROVE THE OPPORTUNITIES FOR CONTINUAL CARE FOR THE DOMESTIC ANIMALS OWNED BY MEMBERS OF THE UNITED STATES MILITARY AND UNITED STATES COAST GUARD WHO ARE REQUIRED TO DEPLOY OR RELOCATE," which was adopted by the Senate on April 18, 2011.

Sen. Com. No. 642, dated April 18, 2011, informing the House that the Senate has on April 15, 2011, reconsidered its action taken on April 14, 2011, in disagreeing to the amendments proposed by the House to the following Senate Bills and have moved to agree to the amendments, and that said bills have this day passed Final Reading:

S.B. No. 81, HD 2
S.B. No. 698, SD 2, HD 1
S.B. No. 1233, SD 2, HD 2
S.B. No. 1327, SD 2, HD 1
S.B. No. 1349, SD 1, HD 1
S.B. No. 1416, SD 1, HD 1

Sen. Com. No. 643, dated April 18, 2011, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 2, SD 2, HD 1	Dela Cruz, Chair; Kidani, Co-Chair; Kahele, Solomon, Slom
S.B. No. 11, SD 2, HD 2	Espero, Chair; Ige, Co-Chair; Kim, Kouchi, Wakai
S.B. No. 14, SD 2, HD 1	Nishihara, Chair; Kidani/Kouchi, Co-Chairs; Dela Cruz
S.B. No. 23, SD 1, HD 2	Dela Cruz, Chair; Galuteria, Co-Chair; Hee, Ryan, Solomon, Slom
S.B. No. 40, SD 2, HD 2	Green, Chair; Baker/Hee, Co-Chairs; Gabbard, Wakai
S.B. No. 41, SD 1, HD 1	Green, Chair; Hee/Baker, Co-Chairs
S.B. No. 44, SD 1, HD 1	Espero, Chair; Kidani, Slom
S.B. No. 45, HD 1	Espero, Chair; Hee, Co-Chair; Kim, Kouchi, Slom
S.B. No. 48, SD 1, HD 2	Espero, Chair; Kidani, Slom
S.B. No. 49, SD 1, HD 2	Espero, Chair; Kidani, Ryan
S.B. No. 52, SD 1, HD 1	Hee, Chair; Shimabukuro, Co-Chair; Slom
S.B. No. 98, SD 2, HD 1	English, Chair; Baker, Co-Chair; Kahele
S.B. No. 99, SD 2, HD 1	Baker, Chair; Ige/Kouchi, Co-Chairs; Nishihara, Slom
S.B. No. 101, SD 1, HD 2	Green, Chair; Shimabukuro, Slom
S.B. No. 106, SD 1, HD 1	Espero, Chair; Hee, Co-Chair; Shimabukuro
S.B. No. 112, SD 1, HD 1	Espero, Chair; Fukunaga/Kim/Ige, Co-Chairs; Kouchi, Slom
S.B. No. 120, SD 1, HD 1	Ige, Chair; Fukunaga, Kidani, Kim, Slom
S.B. No. 142, SD 1, HD 1	Dela Cruz, Chair; Ige, Co-Chair; Kouchi, Solomon, Slom
S.B. No. 145, SD 2, HD 2	Nishihara, Chair; Dela Cruz/Kidani/Kouchi, Co-Chairs; Slom
S.B. No. 150, SD 2, HD 2	Chun Oakland, Chair; Ige, Co-Chair; Ihara
S.B. No. 163, SD 1, HD 1	Ige, Chair; Kidani, Slom
S.B. No. 165, SD 2, HD 1	Espero, Chair; Fukunaga/Ige, Co-Chairs; Slom
S.B. No. 172, SD 2, HD 2	Espero, Chair; Hee, Co-Chair; Slom
S.B. No. 173, SD 2, HD 2	Espero, Chair; Hee, Co-Chair; Ryan
S.B. No. 181, SD 1, HD 1	Gabbard, Chair; Dela Cruz/Espero, Co-Chairs
S.B. No. 217, SD 2, HD 2	Chun Oakland, Chair; Hee, Co-Chair; Ihara, Shimabukuro, Slom
S.B. No. 219, SD 1, HD 1	Green, Chair; Espero, Co-Chair; Shimabukuro, Slom
S.B. No. 229, SD 1, HD 2	Hee, Chair; Shimabukuro/Kim, Co-Chairs
S.B. No. 240, SD 2, HD 2	Tokuda, Chair; Green/Ige, Co-Chairs
S.B. No. 243, SD 2, HD 1	Tokuda, Chair; Kidani, Co-Chair; Taniguchi
S.B. No. 244, HD 1	Tokuda, Chair; Taniguchi, Slom

S.B. No. 249, SD 2, HD 2	Nishihara, Chair; Kidani, Co-Chair; Dela Cruz, Slom
S.B. No. 281, SD 2, HD 2	Nishihara, Chair; Kidani, Co-Chair; Dela Cruz, Wakai
S.B. No. 283, SD 1, HD 1	Dela Cruz, Chair; Solomon, Co-Chair; Kahele, Ryan, Slom
S.B. No. 285, SD 2, HD 2	Chun Oakland, Chair; Ige, Co-Chair; Green, Kahele, Slom
S.B. No. 289, SD 2, HD 1	Tokuda, Chair; Kidani, Co-Chair; Slom
S.B. No. 298, SD 3, HD 3	Baker, Chair; Hee, Co-Chair; Taniguchi
S.B. No. 318, SD 2, HD 2	Fukunaga, Chair; Tokuda/Ige, Co-Chairs; English, Kouchi
S.B. No. 333, SD 3, HD 2	Fukunaga, Chair; Ige, Co-Chair; Wakai
S.B. No. 570, SD 2, HD 1	Ige, Chair; Espero, Fukunaga
S.B. No. 573, SD 2, HD 2	Ige, Chair; Galuteria, Kahele, Kidani, Slom
S.B. No. 596, SD 2, HD 1	Green, Chair; Tokuda/Ige, Co-Chairs; Shimabukuro, Wakai
S.B. No. 631, SD 1, HD 2	Gabbard, Chair; Nishihara/Dela Cruz, Co-Chairs
S.B. No. 651, SD 2, HD 2	Baker, Chair; Ige, Co-Chair; Taniguchi
S.B. No. 652, SD 2, HD 1	Baker, Chair; Ige, Co-Chair; Slom
S.B. No. 723, SD 1, HD 2	Gabbard, Chair; Hee, Co-Chair; Slom
S.B. No. 741, SD 1, HD 1	Espero, Chair; Baker/Ige/Kouchi, Co-Chairs; Slom
S.B. No. 742, SD 2, HD 1	Espero, Chair; Ige, Co-Chair; Slom
S.B. No. 753, SD 2, HD 2	Fukunaga, Chair; Ige, Co-Chair; Baker
S.B. No. 754, SD 1, HD 1	Ige, Chair; Kidani, Kouchi, Slom
S.B. No. 758, SD 1, HD 2	Fukunaga, Chair; Wakai, Slom
S.B. No. 772, SD 2, HD 2	Fukunaga, Chair; Gabbard/Ige, Co-Chairs
S.B. No. 778, SD 1, HD 1	Fukunaga, Chair; Ige, Co-Chair; Slom
S.B. No. 779, SD 2, HD 2	Espero, Chair; Ige, Co-Chair; Kidani, Ryan
S.B. No. 806, SD 1, HD 2	Tokuda, Chair; Baker, Co-Chair; Slom
S.B. No. 809, SD 1, HD 1	Tokuda, Chair; Kidani, Co-Chair; Slom
S.B. No. 831, SD 2, HD 1	Fukunaga, Chair; Ige, Co-Chair; Baker, English, Slom
S.B. No. 900, SD 2, HD 2	Chun Oakland, Chair; Ige, Co-Chair; Fukunaga, Ihara, Slom
S.B. No. 903, SD 1, HD 1	Dela Cruz, Chair; Kidani, Co-Chair; Chun Oakland, Solomon, Slom
S.B. No. 912, SD 2, HD 1	Chun Oakland, Chair; Ige, Co-Chair; Fukunaga, Ihara, Slom
S.B. No. 975, SD 1, HD 2	Baker, Chair; Taniguchi, Slom
S.B. No. 1006, SD 1, HD 1	Gabbard, Chair; Green, Slom
S.B. No. 1025, SD 1, HD 1	Hee, Chair; Shimabukuro, Co-Chair; Gabbard
S.B. No. 1054, SD 1, HD 2	Hee, Chair; Shimabukuro, Co-Chair; Slom
S.B. No. 1065, SD 1, HD 1	Espero, Chair; Hee, Co-Chair; Shimabukuro
S.B. No. 1067, SD 1, HD 2	Hee, Chair; Shimabukuro, Co-Chair; Slom
S.B. No. 1086, SD 1, HD 2	Baker, Chair; Galuteria, Taniguchi
S.B. No. 1089, SD 1, HD 2	Hee, Chair; Shimabukuro/Kim, Co-Chairs
S.B. No. 1107, SD 1, HD 2	Ige, Chair; Chun Oakland, Kidani, Kouchi, Slom
S.B. No. 1153, SD 1, HD 2	Nishihara, Chair; Kidani, Co-Chair; Wakai, Slom
S.B. No. 1161, SD 1, HD 3	Fukunaga, Chair; Espero/Baker, Co-Chairs; Slom
S.B. No. 1174, SD 2, HD 1	Tokuda, Chair; Kidani, Co-Chair; Slom
S.B. No. 1213, SD 1, HD 1	Espero, Chair; Dela Cruz, Co-Chair; Slom
S.B. No. 1219, SD 2, HD 2	Solomon, Chair; Ige, Co-Chair; English, Ryan, Slom
S.B. No. 1221, SD 2, HD 1	Espero, Chair; Hee, Co-Chair; Ryan
S.B. No. 1244, SD 2, HD 1	Gabbard, Chair; Baker, Co-Chair; Slom
S.B. No. 1247, SD 2, HD 2	Dela Cruz, Chair; Ige, Co-Chair; Kim, Solomon, Slom
S.B. No. 1270, SD 2, HD 1	Baker, Chair; Ige, Co-Chair; Kidani, Kouchi, Taniguchi
S.B. No. 1271, HD 1	Ige, Chair; Espero, Kidani, Kouchi, Slom

S.B. No. 1278, SD 1, HD 2	Baker, Chair; Galuteria, Taniguchi, Slom
S.B. No. 1282, SD 1, HD 1	Tokuda, Chair; Nishihara, Slom
S.B. No. 1284, SD 2, HD 1	Tokuda, Chair; Chun Oakland/Kidani, Co-Chairs; Slom
S.B. No. 1311, SD 2, HD 1	Solomon, Chair; Kidani, Co-Chair; English, Kahele, Ryan
S.B. No. 1331, SD 2, HD 2	Tokuda, Chair; Kidani, Co-Chair; Slom
S.B. No. 1332, SD 2, HD 2	Tokuda, Chair; Espero, Co-Chair; Slom
S.B. No. 1347, SD 1, HD 2	Baker, Chair; Taniguchi, Slom
S.B. No. 1348, SD 2, HD 3	Baker, Chair; Green/Ige, Co-Chairs
S.B. No. 1355, SD 1, HD 2	Fukunaga, Chair; Ige, Co-Chair; Chun Oakland
S.B. No. 1356, SD 1, HD 1	Ige, Chair; Fukunaga, Kidani, Kouchi, Slom
S.B. No. 1358, SD 2, HD 2	Espero, Chair; Ige, Co-Chair; Kahele, Slom
S.B. No. 1360, SD 1, HD 2	Chun Oakland, Chair; Ihara, Slom
S.B. No. 1382, SD 2, HD 1	Tokuda, Chair; Kidani, Co-Chair; Slom
S.B. No. 1383, SD 2, HD 2	Tokuda, Chair; Kidani, Co-Chair; Slom
S.B. No. 1385, SD 2, HD 2	Tokuda, Chair; Dela Cruz/Ige, Co-Chairs
S.B. No. 1394, SD 1, HD 1	Chun Oakland, Chair; Dela Cruz/Ige, Co-Chairs; Slom
S.B. No. 1483, SD 1, HD 1	Baker, Chair; Kim, Taniguchi, Slom
S.B. No. 1485, SD 1, HD 1	Tokuda, Chair; Kidani, Co-Chair; Slom
S.B. No. 1493, SD 1, HD 3	Gabbard, Chair; Fukunaga, Co-Chair; Ihara
S.B. No. 1496, SD 1, HD 1	Espero, Chair; Fukunaga/Ige, Co-Chairs; Slom
S.B. No. 1503, SD 2, HD 1	Tokuda, Chair; Kidani, Co-Chair; Ryan, Slom
S.B. No. 1511, SD 1, HD 2	Nishihara, Chair; Dela Cruz/Ige, Co-Chairs; Wakai, Slom
S.B. No. 1522, SD 2, HD 1	Baker, Chair; Hee, Co-Chair; Slom
S.B. No. 1533, SD 1, HD 1	Hee, Chair; Shimabukuro, Co-Chair; Slom
S.B. No. 1549, SD 2, HD 1	Dela Cruz, Chair; Kouchi/Ige, Co-Chairs; Galuteria, Solomon, Slom
S.B. No. 1555, SD 2, HD 2	Dela Cruz, Chair; Ige, Co-Chair; Galuteria, Kouchi, Solomon, Slom

Sen. Com. No. 644, dated April 18, 2011, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the Senate to the following House Bills:

H.B. No. 4, HD 2, SD 2	Tokuda, Chair; Espero/Kidani, Co-Chairs; Kouchi, Slom
H.B. No. 79, HD 1, SD 1	Ige, Chair; Espero, Fukunaga, Kidani, Slom
H.B. No. 121, HD 1, SD 1	Espero, Chair; Kidani, Co-Chair; Slom
H.B. No. 122, HD 1, SD 2	Gabbard, Chair; Dela Cruz/Nishihara, Co-Chairs; Ihara, Slom
H.B. No. 129, HD 2, SD 2	Green, Chair; Chun Oakland, Co-Chair; Slom
H.B. No. 130, HD 1, SD 1	Espero, Chair; Kidani, Co-Chair; Slom
H.B. No. 159, HD 1, SD 2	Tokuda, Chair; Kidani, Co-Chair; Slom
H.B. No. 200, HD 1, SD 1	Ige, Chair; Chun Oakland, Dela Cruz, English, Espero, Fukunaga, Kahele, Kidani, Kim, Kouchi, Ryan, Tokuda, Wakai
H.B. No. 227, HD 2, SD 2	Nishihara, Chair; Hee/Solomon, Co-Chairs; Kahele, Slom
H.B. No. 235, HD 2, SD 2	Fukunaga, Chair; Baker, Co-Chair; Wakai
H.B. No. 270, SD 1	Espero, Chair; Dela Cruz/Kidani, Co-Chairs; Slom
H.B. No. 273, HD 1, SD 1	Green, Chair; Baker/Chun Oakland, Co-Chairs
H.B. No. 277, HD 2, SD 2	Espero, Chair; Kidani, Co-Chair; Kouchi
H.B. No. 301, SD 1	Fukunaga, Chair; Hee/Espero, Co-Chairs
H.B. No. 318, HD 2, SD 2	Espero, Chair; Kidani, Co-Chair; Slom
H.B. No. 319, HD 1, SD 1	Baker, Chair; Taniguchi, Slom
H.B. No. 320, HD 2, SD 1	Baker, Chair; Galuteria, Green, Taniguchi, Slom
H.B. No. 331, HD 2, SD 2	Dela Cruz, Chair; Solomon/Kouchi/Ige, Co-Chairs; Ryan, Slom
H.B. No. 338, HD 2, SD 1	Tokuda, Chair; Kidani, Slom
H.B. No. 393, HD 2, SD 2	English, Chair; Hee, Co-Chair; Slom

H.B. No. 424, SD 1	English, Chair; Gabbard, Co-Chair; Slom
H.B. No. 484, SD 2	Green, Chair; Baker, Co-Chair; Slom
H.B. No. 491, HD 1, SD 1	Espero, Chair; Ige, Co-Chair; Kim, Slom
H.B. No. 492, HD 2, SD 2	Espero, Chair; Ige, Co-Chair; Kim, Slom
H.B. No. 496, SD 2	Dela Cruz, Chair; Solomon/Kidani/Gabbard, Co-Chairs; Slom
H.B. No. 505, HD 2, SD 2	English, Chair; Espero, Co-Chair; Slom
H.B. No. 526, HD 1, SD 2	Fukunaga, Chair; Espero, Co-Chair; Wakai
H.B. No. 597, HD 1, SD 1	Green, Chair; Hee, Co-Chair; Wakai, Slom
H.B. No. 605, HD 2, SD 2	Espero, Chair; Kidani, Co-Chair; Ryan
H.B. No. 608, HD 3, SD 1	Green, Chair; Chun Oakland, Co-Chair; Slom
H.B. No. 614, HD 2, SD 1	Green, Chair; Chun Oakland, Co-Chair; Slom
H.B. No. 663, HD 2, SD 2	Baker, Chair; Hee, Co-Chair; Slom
H.B. No. 667, HD 1, SD 2	Nishihara, Chair; Fukunaga/Kidani/Dela Cruz, Co-Chairs; Slom
H.B. No. 678, HD 3, SD 2	Fukunaga, Chair; Baker/Hee/Ige, Co-Chairs
H.B. No. 688, HD 2, SD 2	Tokuda, Chair; Hee/Kidani, Co-Chairs; Kouchi, Slom
H.B. No. 747, HD 1, SD 2	Espero, Chair; Baker, Co-Chair; Slom
H.B. No. 828, HD 2, SD 1	Fukunaga, Chair; Hee/Ige, Co-Chairs; Slom
H.B. No. 848, HD 2, SD 1	Ige, Chair; Chun Oakland, Kidani, Kouchi, Slom
H.B. No. 850, HD 1, SD 2	Solomon, Chair; English/Ige, Co-Chairs; Ryan, Slom
H.B. No. 865, HD 2, SD 2	Nishihara, Chair; Ige/Wakai, Co-Chairs
H.B. No. 866, HD 2, SD 2	Nishihara, Chair; Kidani, Co-Chair; Wakai, Slom
H.B. No. 879, HD 1, SD 2	Baker, Chair; Hee, Co-Chair; Slom
H.B. No. 889, HD 2, SD 2	Green, Chair; Hee, Co-Chair; Shimabukuro, Slom
H.B. No. 902, HD 2, SD 1	Green, Chair; Tokuda/Ige, Co-Chairs; Shimabukuro, Slom
H.B. No. 905, HD 1, SD 1	Green, Chair; Chun Oakland, Co-Chair; Slom
H.B. No. 915, HD 2, SD 2	Espero, Chair; Kidani, Co-Chair; Slom
H.B. No. 924, HD 2, SD 2	Baker, Chair; Hee, Co-Chair; Slom
H.B. No. 931, SD 1	Dela Cruz, Chair; Solomon, Co-Chair; Slom
H.B. No. 945, HD 2, SD 1	Tokuda, Chair; Kidani, Co-Chair; Nishihara
H.B. No. 953, HD 2, SD 1	Tokuda, Chair; Kidani, Co-Chair; Taniguchi
H.B. No. 985, HD 2, SD 2	Espero, Chair; Ige, Co-Chair; Kidani, Ryan
H.B. No. 1000, HD 2, SD 2	Espero, Chair; Fukunaga/Kidani, Co-Chairs
H.B. No. 1020, HD 2, SD 2	Dela Cruz, Chair; Solomon/Kim/Kidani, Co-Chairs; Slom
H.B. No. 1045, HD 1, SD 2	Baker, Chair; Espero, Co-Chair; Slom
H.B. No. 1049, HD 2, SD 2	Baker, Chair; Espero, Co-Chair; Slom
H.B. No. 1053, HD 1, SD 1	Baker, Chair; Green, Co-Chair; Slom
H.B. No. 1060, HD 1, SD 2	Fukunaga, Chair; Ige, Co-Chair; Wakai
H.B. No. 1071, HD 2, SD 1	Green, Chair; Espero/Hee, Co-Chairs; Slom
H.B. No. 1079, HD 2, SD 1	Dela Cruz, Chair; Solomon/Kidani, Co-Chairs
H.B. No. 1082, HD 1, SD 2	Dela Cruz, Chair; Solomon/Ige, Co-Chairs
H.B. No. 1089, HD 1, SD 1	Ige, Chair; Fukunaga, Kidani
H.B. No. 1093, HD 1, SD 2	English, Chair; Hee, Co-Chair; Slom
H.B. No. 1094, HD 1, SD 2	Baker, Chair; English/Hee, Co-Chairs; Taniguchi, Slom
H.B. No. 1130, SD 1	Baker, Chair; Hee, Co-Chair; Slom
H.B. No. 1134, HD 1, SD 2	Green, Chair; Baker/Hee, Co-Chairs; Shimabukuro, Slom
H.B. No. 1164, HD 1, SD 1	Dela Cruz, Chair; Solomon/Ige/Kouchi, Co-Chairs; Slom
H.B. No. 1179, HD 3, SD 1	Ige, Chair; Espero, Fukunaga, Kim, Slom
H.B. No. 1183, HD 2, SD 1	Fukunaga, Chair; Ige, Co-Chair; Chun Oakland

H.B. No. 1230, HD 2, SD 1	Nishihara, Chair; Dela Cruz/Espero, Co-Chairs; Kahele, Kouchi, Slom
H.B. No. 1248, HD 1, SD 1	Nishihara, Chair; Kidani/Kouchi, Co-Chairs; Slom
H.B. No. 1270, HD 1, SD 1	Ige, Chair; Espero, Fukunaga
H.B. No. 1277, HD 2, SD 2	Nishihara, Chair; Kidani/Kouchi, Co-Chairs; Solomon, Slom
H.B. No. 1300, HD 2, SD 2	Fukunaga, Chair; Ige, Co-Chair; Slom
H.B. No. 1307, HD 1, SD 1	Fukunaga, Chair; Ige, Co-Chair; Slom
H.B. No. 1308, HD 2, SD 2	Fukunaga, Chair; Tokuda/Ige, Co-Chairs; Kouchi, Slom
H.B. No. 1312, HD 2, SD 2	Dela Cruz, Chair; Solomon/Ige, Co-Chairs; Kouchi, Slom
H.B. No. 1322, HD 2, SD 2	Tokuda, Chair; Ige, Co-Chair; Taniguchi
H.B. No. 1326, HD 2, SD 1	Tokuda, Chair; Taniguchi, Slom
H.B. No. 1342, HD 1, SD 2	Fukunaga, Chair; Espero/Baker, Co-Chairs; Solomon, Slom
H.B. No. 1405, HD 1, SD 1	Solomon, Chair; Kidani/Dela Cruz/Galuteria, Co-Chairs; Hee
H.B. No. 1411, HD 2, SD 2	Baker, Chair; Ige, Co-Chair; Taniguchi
H.B. No. 1434, HD 2, SD 1	Baker, Chair; Hee, Co-Chair; Taniguchi
H.B. No. 1447, HD 2, SD 2	Baker, Chair; Hee, Co-Chair; Slom
H.B. No. 1483, HD 1, SD 2	Nishihara, Chair; Kidani/Galuteria/Kouchi, Co-Chairs; Ryan, Slom
H.B. No. 1505, HD 2, SD 1	Dela Cruz, Chair; Solomon/Kouchi/Ige, Co-Chairs
H.B. No. 1520, HD 2, SD 2	Gabbard, Chair; Baker, Co-Chair; Ihara
H.B. No. 1529, HD 2, SD 1	Solomon, Chair; Ige/Dela Cruz/Galuteria, Co-Chairs; Hee, Slom
H.B. No. 1552, HD 1, SD 2	Nishihara, Chair; Baker/Kahele, Co-Chairs; Slom
H.B. No. 1566, HD 1, SD 1	Dela Cruz, Chair; Ige/Kouchi, Co-Chairs; Solomon
H.B. No. 1568, HD 2, SD 2	English, Chair; Nishihara/Ige, Co-Chairs; Slom
H.B. No. 1570, HD 2, SD 1	Nishihara, Chair; Dela Cruz/Kidani, Co-Chairs
H.B. No. 1626, HD 1, SD 2	Espero, Chair; Ige, Co-Chair; Kahele, Ryan
H.B. No. 1642, HD 2, SD 1	Fukunaga, Chair; Ige, Co-Chair; Baker, Slom
H.B. No. 1654, HD 1, SD 1	Green, Chair; Espero, Co-Chair; Slom

Sen. Com. No. 645, dated April 18, 2011, informing the House that the President has appointed as conferees on the part of the Senate, for the consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 105, SD 2, HD 1	Baker, Chair; Espero, Co-Chair; Galuteria, Taniguchi, Slom
S.B. No. 155, SD 2, HD 1	Baker, Chair; Espero, Co-Chair; Taniguchi
S.B. No. 233, SD 2, HD 1	Green, Chair; Baker/Chun Oakland, Co-Chairs
S.B. No. 787, SD 2, HD 1	Green, Chair; Chun Oakland, Co-Chair; Baker, Nishihara, Slom
S.B. No. 797, SD 1, HD 1	Green, Chair; Chun Oakland, Co-Chair; Baker, Nishihara, Slom
S.B. No. 893, SD 3, HD 2	Baker, Chair; Espero, Co-Chair; Slom
S.B. No. 1274, SD 2, HD 3	Baker, Chair; Green/Espero, Co-Chairs
S.B. No. 1277, SD 2, HD 2	Baker, Chair; Hee/Espero, Co-Chairs
S.B. No. 1285, SD 2, HD 1	Fukunaga, Chair; Espero, Co-Chair; Wakai, Slom
S.B. No. 1300, SD 2, HD 2	Green, Chair; Chun Oakland/Baker, Co-Chairs; Nishihara, Shimabukuro, Slom
S.B. No. 1458, SD 2, HD 3	Green, Chair; Chun Oakland/Espero, Co-Chairs; English, Shimabukuro
S.B. No. 1519, SD 3, HD 2	Baker, Chair; Espero, Co-Chair; Taniguchi

INTRODUCTIONS

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

Representative Manahan welcomed members of the Pan-Pacific Southeast Asia Women's Association, Hawaii:

Ms. Mary Keegan, President;
Ms. Asipau Pamela McMoore, First Vice President;
Ms. Elaine Singh, Second Vice President;
Ms. Lorrie Maland, Third Vice President;
Ms. Teresita Bernales, Nomination Chair;
Ms. Irene Fujimoto;
Ms. Tiva Aga;
Ms. Florence Goh;
Ms. Faye Domke; and
Ms. Florence Kelley.

Representative Awana introduced the students of Nanakuli High and Intermediate School who participated in the Blue Planet Foundation's We Have the Power clean energy rally. They were accompanied by staff members, Ms. Marlene Takahashi and Ms. Jackie Ku.

Keanu Freitas;
Wade Kalua;
Lyle Tuiloma;
Joshua Auilla;
Nakanaela Kipi;
Sosaia Ofa;
Henry Kawailima;
Joseph Balera;
Lazette Pang;
lokelani Acasia-Kamakea;
Nelson Mangrobang
Abner Hemios;
Jayden McCoy;
Melvin Midallia;
Leo Suesue; and
Alika Say.

Representative Choy introduced students from Roosevelt High School and the University Laboratory School.

Representative Tokioka introduced his friend, Mr. Gerald Orozco, former Legislative Director for the Los Angeles City Council. He was accompanied by Mr. John Carlin.

At 11:47 o'clock a.m. the Chair declared a recess subject to the call of the Chair.

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

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering certain House Bills for Final Reading by consent calendar. (Representatives Awana, Carroll, Chang, Cullen, Hashem, Herkes, Ichiyama, C. Lee, Souki and Wooley were excused.)

UNFINISHED BUSINESS

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

H.B. No. 1134, HD 1, (SD 2)

Representative Belatti rose to speak in opposition to the motion, stating:

"Thank you. I rise in opposition, but I'll reserve my comments for Final Reading."

The motion was put to vote by the Chair and carried, and the House agreed to the amendments made by the Senate to the noted House Bill, with Representative Belatti voting no, and with Representatives Carroll, Hashem and C. Lee being excused.

H.B. No. 1134, HD 1, SD 2:

Representative B. Oshiro moved that H.B. No. 1134, HD 1, SD 2, pass Final Reading, seconded by Representative Evans.

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

"Thank you, Mr. Speaker. I rise in opposition to this motion on House Bill 1134, House Draft 1, Senate Draft 2. Thank you. First I'd like to start by clarifying what a no vote means at this point in the legislative process with regards to this bill. I think we all agree that the Prepaid Health Care Act is one of the landmark pieces of legislation that we hope to preserve.

"So a no vote now means simply that we are pushing this bill to Conference so that the troubling questions that had persisted with the movement of this bill can be answered more definitively, or a compromise effective date can be placed into this measure that preserves the Prepaid Health Care Act, but allows the industry to move forward with all the measures that they have to do to comply with regulations.

"I think this is the better, more cautious approach to take because I think back to comments like, 'measure twice, cut once.' I think this bill and the removal of the termination clause raises even more troubling questions that we can take a pause by enacting a compromise effective date. I believe that a no vote here will actually help improve this measure. For my conscience, for my constituents I don't want to let this bill move forward if it should in fact jeopardize prepaid health care in the State of Hawaii. Thank you, Mr. Speaker."

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

"Mr. Speaker, in opposition. My concerns to this measure go not only to the possibility of an ERISA preemption, but to a phrase in the purpose clause as well. The Hawaii Prepaid Law will be repealed, and I quote from the purpose clause. 'Upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the healthcare provided by this chapter, or upon the effective date of federal legislation that provides for the mandatory prepaid health care for the people of Hawaii.'

"I take issue with the ambiguous phrase, 'in a manner at least as favorable.' That is a condition, should Congress pass a law that provides for voluntary healthcare for Hawaii. What does at least as favorable mean? Access to healthcare, prescriptive medicines, external review committees. Or does it refer to the number of people covered. Perhaps a higher percentage than is covered by our present prepaid insurance. This may prove to be a contentious provision.

"Of course it is more likely that Congress will pass a Mandatory Health Insurance Act so this concern in that case will be moot. But because there are real unknowns, I would prefer that we go slow in this bill.

"I also note that there is a lot of favorable testimony from many important groups in the community, HMSA, Hawaii Association of Health Plans, ILWU, Chamber of Commerce of Hawaii, American Cancer Society, American Association of Retired Persons.

"However on February 23rd the AG opined that House Bill 1134 is preempted by ERISA, the Employee Retirement Income Security Act. There might have been a change since February, but I note that the Department of Commerce and Consumer Affairs defers to the Department of Labor and Industrial Relations. The Department of Labor testimony has been in support. However the Department concludes federal legislation appears eminent and such amendment may not possess the level of high quality healthcare currently enjoyed by Hawaii's citizens. The Department notes however the changes to the Prepaid Health Care Act are subject to preemption by the federal ERISA Healthcare Act.

"So for those reasons, I think we should step back and reassess the possible adverse ramifications of House Bill 1134. Thank you."

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

"Thank you, Mr. Speaker. I rise in opposition to this measure. I'd first like to incorporate the words of the previous two speakers as if they were my own. And I'd also like permission to insert additional written comments. Thank you, Mr. Speaker.

"You know, Mr. Speaker. I had made some statements yesterday and as a result of the statements, we received a couple of communications. One was from HMSA, and the other from the Hawaii Association of Health Plans. And let me be very clear, crystal clear, I personally support the Hawaii Prepaid Health Care Act. It's done us best for the last 30-plus years, and it will continue to do us best, better than, I argue. Better than the federal Healthcare Act that's coming into being hopefully January 1st,

2014. Okay so let's make that very clear. My no vote by no means suggests that I don't support the Hawaii Prepaid Health Care Act. In fact my note vote today shows that I totally support the Prepaid Health Care Act and I'm very concerned about the effective date.

"The effective date, upon approval, means that any time after the Governor signs it, we're basically up in the air. The feds can come down and rule against us immediately. All I suggested is we delay it. Now I've made the recommendation of delaying it one day prior to the effective date of the federal Act, December 31st, 2013. We have since learned from HMSA that that's not practical. I agree with that, but what's the harm with extending the effective date to June 30, 2012, one year. One additional year to work with the feds to make it crystal clear that our intentions as the State of Hawaii is to continue the Prepaid Health Care Act. What's the harm?

"From my perspective there is no harm so I don't understand why we're here on the Floor today rushing this piece of legislation at the request of HMSA and the Hawaii Association of Health Plans, because I do believe as lawmakers we need to be very clear as to what the effects this will have on probably the most or one of the most significant pieces of legislation that the Hawaii State Legislature has ever passed. Thank you, Mr. Speaker."

Representative Takai's written remarks are as follows:

"April 18, 2011 at 6:13 p.m.

"I responded to her email and requested clarification. Unfortunately, I didn't receive a reply to this email. Below are her email and my response.

From: Jennifer Diesman [Jennifer_Diesman@hmsa.com]
Sent: Monday, April 18, 2011 6:13 PM
To: Jennifer Diesman; Mark Oto
Subject: HB 1134 HD1, SD2 - Relating to Prepaid Health Care

HMSA Blue Cross Blue Shield of Hawaii
An Independent Licensee of the Blue Cross and Blue Shield Association

April 18, 2011

TO Members of the Hawaii House of Representatives

FROM: Jennifer Diesman and Mark Oto

Re: **HB 1134 HD1, SD2 – Relating to Prepaid Health Care**

We write to provide information regarding HB 1134, HD1, SD2, which would repeal Section 393-5, Hawaii Revised Statutes, the sunset provision in the State's Prepaid Health Care Act (PHCA). This measure is needed now to communicate Hawaii's commitment to preserving the 35 year old PHCA.

We understand legal questions have been raised. And, as a result, it has been suggested that the effective date of the bill can be delayed until December 31, 2013, which is one day before the federal Affordable Care Act (ACA) must be fully implemented, on January 1, 2014.

As you know, the PHCA has delivered undeniable benefits to our islands: better overall health in Hawaii compared to the mainland, lower uninsured rates, remarkable access to care and generally smaller dues for health plans. The individual mandate in the ACA is unproven. It is because the PHCA is established and effective that it is imperative that Hawaii takes action now to preserve it, even as we move towards fully implementing the ACA in 2014. Taking action now signals to the federal government and Congress our clear intention to preserve the PHCA.

From an operational perspective, it's not possible to wait until 2013 for clarity on which direction the State will pursue --- the federal ACA or Hawaii's own PHCA. There is a cloud of uncertainty for health plans and employers who purchase health care coverage for their employees. For example, the planning required of employers and health plans to comply with both the PHCA and ACA as parallel, and sometimes conflicting, regulatory schemes takes a huge amount of effort. Having the sunset provision issue immediately addressed would reduce that uncertainty and make for a more successful implementation of the ACA, while ensuring the continued benefits of the PHCA.

We all are committed to the successful implementation of the ACA while preserving Hawaii's own, unique PHCA. We believe the passage and enactment of HB 1134, HD1, SD2 is an important step to that end.

Please do not hesitate contacting me at (808) 561-6397 or e-mail me at Jennifer_Diesman@hmsa.com

Mahalo.

Jennifer Diesman

From: Rep. K. Mark Takai
Sent: Tuesday, April 19, 2011 12:59 AM
To: Jennifer Diesman; Mark Oto
Cc: All Reps; Sen. Josh Green; Sen. Roz Baker
Subject: Diesman: HB 1134 HD1, SD2 - Relating to Prepaid Health Care

Jennifer:

Thanks for your email. I, too, share your commitment to the implementation of the federal ACA and the continuation of Hawaii's PHCA.

My concern is that this bill may jeopardize Hawaii's PHCA and our ERISSA exemption.

All I'm requesting is that we take this bill into conference and extend the effective date of the act to a later date, which will allow additional time to ensure that a bill like this will not eliminate PHCA upon the effective date of this act.

Maybe December 31, 2013 is too far away. However, what's wrong with June 30, 2012 or December 31, 2012 (it still gives us the 2012 session to fix something should be find a problem).

Does HMSA actually need more than two years to plan? And is there anything wrong with an effective date of June 30, 2012 or December 31, 2012?

Can you let us know about this before 11 a.m. on Tuesday.

By the way, passing a bill with a delayed effective date can still signal to the Feds that we intend to keep our PHCA.

Thanks, K. Mark Takai"

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

"Mr. Speaker, I rise also in opposition. First, Mr. Speaker, I commend both sides of the aisle for the commitment that they have with this issue. A no is a no - not a yes with reservations. A sincerely-felt issue as some of us very sincerely will, and I will repeat. What is the hurry? What is the rush? And I hope someone from the other point of view will answer the question. Why now?

"Generally speaking, Mr. Speaker, we are told to be wary of rushing anything. When you buy a house and the salesman says, 'If you don't buy today it's going to be gone tomorrow.' Or the car salesman, 'If you don't buy today, it's going to be gone.' I think that makes us a little edgy and the methodology. Even though the House is accused of being the Body that is more adjusted and responds quickly to the people's needs. The Senate being the more deliberate. If it does get through the House, hopefully the Senate as a deliberating body will stop this in the tracks.

"Because we don't want to jeopardize what we have, therefore being premature, Mr. Speaker. And as Shakespeare said, 'Discretion is the better part of valor.' I think to be discrete is to contemplate this, weigh the options, and then act. Because there are two sides of this issue. They're too uncertain that if we do pass it and we make a mistake, there's going to be a lot of regret and a lot of mourn. Therefore, Mr. Speaker, I think this is premature and I vote no. Thank you."

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

"Mr. Speaker, I rise in support. The reason I support this is I believe that we need to take affirmative steps to ensure that our Prepaid Health Care Act remains in place. And unfortunately, currently because of the uncertainty that exits on the federal level, we don't have that certainty. Therefore my understanding is the signals we received from the US Department of Health and Human Services is that we need to take affirmative action to demonstrate that we want our Prepaid Health Care Act to stay in place. That is the purpose and intent behind the passage of this bill. Because otherwise without this bill, at any moment our Prepaid Health Care Act could automatically sunset without any of our control or without us doing anything. That is something we want to avoid at all costs. And therefore that is the purpose of putting forward this bill.

"As to the question of whether we're rushing. I would say there's no rush. This is something that has moved through the legislative process. I do think there is a wide and varied amount of opinions as to what the practical effect of this will be and I think no one knows, and that is the unfortunate uncertainty that exists. Because, my understanding is the Department of Health and Human Services currently is in the process of issuing regulations. Some of these regulations are hundreds of pages, and that's just a single regulation because it comes with the regs, and it also comes with the opinions and interpretations thereby. When this is completed what will happen is there's going to be thousands of pages of regulations.

"Under the federal law, all you have is the 'skeleton.' The flesh is actually put on the bones through the regulation. The reason why we need to take action now is Hawaii stands sort of in limbo. We cannot demonstrate to the Department of Health and Human Services that we are committed to our Prepaid Health Care Act as long as this termination, this automatic sunset clause exists in our law. Because what they will tell us is, 'Why should we actually go through the process of evaluating our regulations against what you have passed to determine whether you will be in compliance or not. Whether you will actually be preempted or not, when at the end of the day, this could all just dissipate by any action of the Legislature.' And so what we need to do is affirmatively show we want to keep this in 'stone.'

"Now there is another question as to whether our action today could possibly preempt it. That's a whole other question. Again, I think that one remains uncertain. However I do take some comfort in two pieces of authority.

"The first one is found in the Republic of Iraq vs. Beaty 129 Supreme Court 2183 in 2009, where the Supreme Court of the United States held that a sunset clause is generally construed not to define substantive rights or powers, but instead merely to limit the time in which they may be exercised. So what this is saying under our US Supreme Court law of the land is generally sunset clauses, whether you leave them in place, whether you take them away, are procedural and not substantive in nature.

"The second reason I also believe that this actual action under the preemption question, whether we pass this is not that dangerous is because when you look at the legislative history of the Congress, and that is how preemption is determined. There is only one test under preemption under the Constitutionality of preemption and that is Congressional intent. When you look at what happened in 1974, a United States Supreme Court Case in 1981, Standard Oil Company vs. Agsalud 663 F.2d 670 where they actually held that our Prepaid Health Care Act was preempted by ERISA. It was later in that year that we finally got our exemption from ERISA and since 1974, things have remained okay.

"And so I think there's Congressional intent not only in the ERISA bill, but also in the ACA, the federal healthcare legislation that shows they want Hawaii's law to remain in place. And so I don't think that any preemption would suddenly throw out the baby with the bath water to entirely delete our exemption under ERISA just because we've taken this one step in affirmatively showing we want to keep our Prepaid Health Care Act.

"The third thing that I would say brings me comfort when it comes to this preemption doctrine."

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

Representative B. Oshiro continued, stating:

"And I'm sorry, this is my last point. Preemption is a limited doctrine in application. What that means is if there is a preemption question, if there is a challenge that is brought, all that will happen is House Bill 1134 in its enacted form will be found invalidated. It won't actually throw out the entire Prepaid Health Care Act. That is not the way preemption works. That is never the way preemption has worked.

"And so because of those three things I really don't think we need to fear a loss of our ERISA exemption and instead what we need to do is take affirmative action to show we want our Prepaid Health Care Act to stay in place. Thank you."

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

"Thank you very much, Mr. Speaker. In opposition. And actually I think the Majority Leader raised some very salient points and I'm not going to doubt those points. My colleague from Pearl City also raised some relevant points as well. The reason for my opposition is not because I don't think we ought to take affirmative action. I do believe we must do something. The question is, why do we have to something today? I don't know whether or not we should delay it a year, two years, six months, or a day.

"But I do know that given our legislative process, and we still have a few weeks, it seems to me that we can get a bit more clarity to kind of clear up some of the ambiguities that seem to exist among some of the Members because today is not the final day. We don't have to vote on this today, by the way, and we can get some clarity.

"Say for example, I think some colleagues would feel some assurances if they had a letter from Senator Inouye's office and if Senator Inouye said himself that we really need to take action. I believe, and my office believes in checking with the various federal agencies that are relevant to the issue, that a delay, or no delay, would be prudent. As of today, we do not have that kind of assurance. And again it's not as if it's the last day. If it were the last day, frankly I would vote yes. But since we still have time, I do not see what the rush is to pass out something today.

"My last point, to correct my good friend from Hawaii Kai and to correct historical inaccuracies. If you're going to quote Shakespeare, you know in *Henry IV*, Falstaff said, 'The better part of valor is discretion,' and not the opposite way around. Thank you, Mr. Speaker."

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

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

Representative Johanson's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in opposition to HB 1134. Let me be clear - I strongly support the Hawaii Prepaid Health Care Act (PHCA). Changes to our State laws should be done carefully in a manner that is thorough and legally incontrovertible. I oppose HB 1134 because I am concerned that, in rushing this legislation through, we may potentially be

jeopardizing the existence of the PHCA and creating legal uncertainty for Hawaii's current healthcare laws.

"To date, the Legislature has not clearly and publicly addressed the potential adverse implications of this legislation. There is no public record explaining the reasons for the immediate repeal of Section V of PHCA when the Patient Protection and Affordable Care Act does not fully become effective until 2014. Additionally, the Legislature has not received a definitive explanation or guidance on this measure from our State's Attorney General. On February 23, 2011, the Attorney General stated his opposition in written testimony because it was not clear whether the repeal of Section V of the PHCA is a non-substantive amendment that is not preempted by ERISA. The Attorney General then switched his position a few weeks later. Unfortunately, at the time the House was asked to pass this measure, the Attorney General had not explained whether H.B. 1134 will or will not impact the PHCA and the preemption issue.

"I believe my colleagues and I may benefit from being prudent and waiting for clearer guidance before proceeding. The people of Hawaii enjoy quality healthcare and I want to be sure that they are able to keep it. The state of our healthcare system is important to all of us. Consequently, our constituents deserve certainty that we are preserving that system, not jeopardizing it."

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

"Thank you, Mr. Speaker. May I have a ruling on a potential conflict? And I apologize for not doing this earlier, but I broker health insurance. Thank you, very much," and the Chair ruled, "no conflict."

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

"Mr. Speaker, in opposition, with written comments. The gist of my comments is the lack of due diligence on the part of the Legislature in passing legislation that could have very sweeping ramifications. I also note that the Attorney General switched his position within a matter of three weeks. First on February 23rd, 2011, he testified in opposition to this measure. Three weeks later he changed his testimony basically by changing one word from saying, that the Attorney General is opposed, to saying that the Attorney General is not opposed to this bill. That testimony was submitted on April 4th, 2011. Thank you, very much."

Representative Saiki's written remarks are as follows:

"I submit these written comments in opposition to H.B. 1134 because there is no need to rush this legislation. By doing so, this Body is jeopardizing the continued existence of the Prepaid Health Care Act (PHCA). There are at least two reasons that the actions of this Body are premature.

"First, this Body has not clearly and publicly addressed the potential implications of this legislation. There is no public record (e.g., committee reports, testimony) that explain the reasons that Section V of the PHCA must be immediately repealed when the Patient Protection and Affordable Care Act (PPACA) does not become fully effective until 2014. It is also unclear whether the PPACA meets the requisite elements of H.R.S. § 393-51, *i.e.*, whether the PPACA constitutes "federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter". It is not sufficient to point to anecdotal statements from unidentified sources that support this legislation. In the event of litigation, there should be a written record that clearly evinces the basis and justification for this legislation.

"In this respect, the second reason this legislation is premature is because the Attorney General has not provided definitive guidance on this matter. On February 23, 2011, the Attorney General stated his opposition in written testimony because it was not clear whether the repeal of §393-51 is a non-substantive amendment that is not preempted by ERISA. Only amendments that provide for the "effective administration" of the PHCA are preempted.

"However, three weeks later, on April 4, 2011, the Attorney General switched his position. In new testimony, he wrote that he is "not opposed" to this legislation. Curiously, the only difference between the February 23 and April 4 testimonies is the addition of "not" before the word "opposed." (The April 4 testimony also added a non-substantive paragraph at its conclusion.) In short, the Attorney General has not explained whether H.B. 1134 will or will not impact the PHCA and the preemption issue.

"The rushed nature of this legislation has drawn the attention of the media subsequent to the final reading vote. Attached is the transcript of the article that appeared in *Civil Beat* on April 21, 2011. The article highlights some of the additional internal questions surrounding this bill.

"Thank you, very much."

"**House Clashes Over Saving Hawaii Health-Care Law**
By Chad Blair 04/20/2011

The state House passed a bill Tuesday designed to keep the landmark Hawaii Prepaid Health Care Act intact in light of recent federal legislation.

But 14 House members — six Democrats and all eight Republicans — voted against House Bill 1134, in spite of their commitment to the 1974 act.

The disagreement over the bill centers in part on perceptions of political maneuvering. There is also concern that HB 1134 might actually end up hurting Hawaii's health law, the first in the nation to set minimum standards of health-care benefits for workers.

But a key supporter of the bill defends the process the bill went through and says it is legally sound.

HB 1134 now heads to the desk of Gov. Neil Abercrombie for his consideration.

What HB 1134 Does
When the Hawaii act was enacted some 35 years ago, the Legislature anticipated that a similar health-care law might be enacted at the federal level. In that event, a termination clause was built into the Hawaii act.

In 1993, the Clinton administration pushed federal heath-care reform, ultimately unsuccessfully. But, hedging its bets, Hawaii's Legislature enacted Act 99 in 1994, which repeals the Hawaii act's termination clause upon the passage of a federal health-care law.

In 2010, President Obama signed into law the federal Patient Protection and Affordable Care Act. At the behest of Hawaii's congressional delegation, the federal act carves out an exemption so that Hawaii's act can continue.

But the federal legislation has never been popular, and Republicans have been talking about repealing or dramatically amending it ever since. Those efforts gained urgency with the fall of the U.S. House to the GOP, thanks in part to Tea Party voters.

In response, HB 1134, introduced by House Majority Leader Blake Oshiro, calls for eliminating both the original termination clause and the Act 99 termination clause.

HMSA's Involvement
Prior to Tuesday's floor vote, no Democrats had voted against the measure.

But, on Tuesday several argued in caucus prior to the vote and later on the House floor that they now had concerns about the bill that they wanted to work out in conference committee.

What upsets some House members who ultimately voted against HB 1134 is the role of the Hawaii Medical Service Association.

HMSA testified in support of the bill, as did the Department of Labor and Industrial Relations, the Hawaii Association of Health Plans, the American Cancer Society and AARP Hawaii.

In testimony dated March 22, Jennifer Diesman, HMSA's vice president for government relations, wrote, "The provisions of HB 1134 HDl offer a simple, single step to maintain the premium health care that the majority of people in Hawaii already enjoy."

Diesman argued the same point in two other pieces of written testimony.

The problem, say several lawmakers, is that HMSA sent an email to all House members on Monday — the day the House voted to defer voting on the measure for 24 hours — warning against amending HB 1134 to delay implementation of the bill until Dec. 31, 2013 — the day before the federal act must be fully implemented.

"From an operational perspective, it's not possible to wait until 2013 for clarity on which direction the State will pursue — the federal (health-care act or ACA) or Hawaii's own (health-care act, PHCA)," wrote Diesman. "There is a cloud of uncertainty for health plans and employers who purchase heath care coverage for their employees. ... Having the sunset provision issue immediately addressed would reduce that uncertainty and make for a more successful implementation of the ACA, while ensuring the continued benefits of the PHCA."

Democrat Rep. Della Au Bellati, who voted against HB 1134, told Civil Beat she doesn't understand how HMSA — "the largest insurer in the state" — got wind that the bill might be amended.

"(Diesman) could not have had access to that information unless she was privy," she said. "She was in effect lobbying us when this all should have been done internally."

Democrat Rep. Mark Takai, who also voted against HB 1134, wrote Diesman back on Tuesday saying that he wanted to preserve the Hawaii act.

"My concern is that this bill may jeopardize Hawaii's PHCA and our ERISA (Employee Retirement Income Security Act) exemption," he wrote. "All I'm requesting is that we take this bill into conference and extend the effective date of the act to a later date, which will allow additional time to ensure that a bill like this will not eliminate PHCA upon the effective date of this act."

Takai added, "Does HMSA actually need more than two years to plan? And is there anything wrong with an effective date of June 30, 2012 or December 31, 2012?"

(Takai's email was cc'd to all House members as well as Democratic Sens. Josh Green, chairman of Senate Health, and Roz Baker, a committee member.)

Asked about her email and the possibility that the bill might have been amended, Diesman chose to reiterate HMSA's support for the legislation.

"We think it is a good bill," she said. "We think preserving the Prepaid Health Care Act is a good thing for the people of Hawaii, and until we know what happens with the federal law, we want to make sure we preserve what's good with our system and ultimately take what's good about the federal system and apply to it to Hawaii's."

Democrat Rep. Ryan Yamane, chairman of House Health, also said he was not surprised that HMSA responded quickly once the vote on HB 1134 was deferred Monday. That's what lobbyists do, he said.

"They are in this building a lot — they have a lot of bills they are following, so for them to get involved, well — that's for them to say," he explained.

The AG's Concerns

The Hawaii Chamber of Commerce, meanwhile, took no position in its testimony on HB 1134 but advised that HB 1134 would not have any legal effect "based on the narrow exception" that ERISA granted to Hawaii's law.

ERISA supersedes state laws related to employee benefits.

"The Chamber believes the people of Hawaii need time to understand the benefits" of the federal health-care act "before determining which model will hold down costs," the chamber said in its testimony.

But, the Attorney General's Office on Feb. 23 submitted testimony in opposition to HB 1134 precisely because ERISA "likely" preempts it — in spite of the "narrow exemption" for Hawaii.

Louie and Deputy Attorney General Gary Ige wrote, "Any substantive amendment to the PHCA would go beyond the allowable exemption of amendments only for the "effective administration" of the PHCA and would, therefore, be subject to preemption."

Rep. Belatti says House leadership informed members in the caucus before the floor vote that there was now a legal opinion in support of the bill having an effective date, and that the opinions were from the law firm of Alston Hunt Floyd and Ing.

"But that legal opinion was never part of of the official committee hearing testimony," said Belatti.

One House Democrat who voted against HB 1134 said members were told that the attorney general later reversed his opinion on the bill.

But that second opinion was not among the bill's written testimony as of Wednesday afternoon, a day after the floor vote.

A spokesman for the attorney general sent Civil Beat separate testimony from Deputy AG Ige.

The first, dated March 2, clarifies the AG's position, stating that the office is "not opposed" to the intent of HB 1134 but that it "continues to have legal concerns" how a repeal of the Hawaii act could be preempted by ERISA. Ige also writes, "However, since there is no case on point, should the repeal be challenge on preemption grounds, the outcome cannot be predicted with certainty."

The last paragraph of Ige's testimony states that, even if a court rules that ERISA preempts HB 1134, "such a ruling would not affect the Hawaii Prepaid Health Care Act as it exists today..."

Testimony from Ige dated April 6 to state senators says much the same.

Rep. Yamane said he has no problem with the AG's office at first opposing a bill and then later modifying its position.

"We were advised that this measure was good to go, that it was clean," said Yamane. "It also passed 25-0 in the Senate and has gone through several committees in both chambers. For someone to suggest that the bill was somehow sprung on them, well, that surprises me."

Congressional Involvement

Belatti also said House leadership informed members that Hawaii's congressional delegation "was working on this, but it is unclear who in the delegation was pushing this — we have not had any communication in writing."

But Yamane said that he understands that the delegation is involved with integrating the state and federal legislation, and that the point person for that is Rep. Oshiro.

Civil Beat left a message with the Oshiro's office. Oshiro is an attorney with Alston Hunt, an influential local law firm whose clients include HMSA and other businesses in the health-care industry.

Late Wednesday the House Minority Caucus released a statement critical of the passage of HB 1134.

House Republican Leader Gene Ward said in the release, "This bill, passed by the House yesterday, will jeopardize the superior Hawaii healthcare by repealing a portion of the 1973 law, subjecting Hawaii's program to a potential legal challenge."

"The Attorney General also continues to have doubts about this bill," Rep. Cynthia Thielen said in the statement.

Rep. Barbara Marumoto told Civil Beat that, while the Department of Labor and Industrial Relations supports the bill, it also said passage of HB 1134 could "trigger" ERISA.

"They said that, and the (Department of Commerce and Consumer Affairs) did not say diddly-poop — he just deferred to Department of Labor," she said. "And the AG's testimony the first time said the bill was dangerous. The next time they came in, (Democratic Rep.) Scott Saiki pointed out that their testimony was exactly the same but instead of saying the AG was opposed they just changed one word to say they are not opposed."

Marumoto continued: "So, we are saying we don't want to kill the bill, but that we should all just take a deep breath, assess the situation, talk to some legal beagles. Why take a chance with our Prepaid Health Care Law?"

Honolulu Civil Beat"

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

"Thank you, Mr. Speaker. I'm standing in support. May I have the words of the Representative from Aiea inserted as my own? I do just want to clarify to the Members that this has been an ongoing issue since the passage of the federal Healthcare Reform Act. This has been an ongoing thing for the last 18 months in which we've been working with local and federal counterparts to get some discussion going as to how to trigger the discussion about Hawaii's Prepaid Health Care Act, Mr. Speaker. So this has not been done just for the last three months, but over a year and a half. Thank you."

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

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

Representative Ward rose and stated:

"Mr. Speaker. Yes, just a comment and suggestion. Regarding what the Majority Leader said. Those were very salient points, but when you mention the notion of affirmation and intention, Mr. Speaker, this sounds like a reso to me. We don't need a bill if we want to just say what we affirm and what our intent is. A reso, as well as what the Representative who mentioned a letter from our Congressional delegation should do the trick. Thank you."

The motion was put to vote by the Chair and carried, and H.B. No. 1134, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO PREPAID HEALTH CARE," passed Final Reading by a vote of 35 ayes to 14 noes, with Representatives Belatti, Ching, Fontaine, Hanohano, Johanson, Marumoto, Nishimoto, Pine, Riviere, Saiki, Takai, Takumi, Thielen and Ward voting no, and with Representatives Carroll and C. Lee being excused.

At 12:37 o'clock p.m., the Chair noted that the following bill passed Final Reading:

H.B. No. 1134, HD 1, SD 2

REPORTS OF STANDING COMMITTEES

Representative Awana, for the Committee on International Affairs presented a report (Stand. Com. Rep. No. 1740) recommending that H.R. No. 175, as amended in HD 1, be adopted.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.R. No. 175, HD 1, entitled: "HOUSE RESOLUTION RECOGNIZING THE SEVERITY OF THE CRISIS BEING EXPERIENCED BY THE PEOPLE OF JAPAN WITH THE RECENT EVENTS OF AN EARTHQUAKE AND TSUNAMI AND SUPPORTING THE EFFORTS OF ORGANIZATIONS WITHIN HAWAII TO ASSIST THE PEOPLE OF JAPAN," was adopted, with Representatives Carroll and C. Lee being excused.

FINAL READING

Representative B. Oshiro moved to agree to the amendments made by the Senate to the following House Bills, seconded by Representative Evans and carried: (Representatives Carroll and C. Lee were excused.)

H.B. No. 122, HD 1, (SD 2)
H.B. No. 1069, HD 2, (SD 1)

H.B. No. 122, HD 1, SD 2:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 122, HD 1, SD 2, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Final Reading by a vote of 49 ayes, with Representatives Carroll and C. Lee being excused.

H.B. No. 1069, HD 2, SD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, H.B. No. 1069, HD 2, SD 1, entitled: "A BILL FOR AN ACT RELATING TO EFFECT OF FINDING OF UNFITNESS TO PROCEED," passed Final Reading by a vote of 49 ayes, with Representatives Carroll and C. Lee being excused.

At 12:39 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 122, HD 1, SD 2
H.B. No. 1069, HD 2, SD 1

SUSPENSION OF RULES

At this time, the Chair stated:

"At this time Members, please note that the Chair has discharged the House Conferees previously appointed to House Bill No. 389, HD 3, SD 2. It's on page 9. So at this time, the House will now proceed to reconsider its disagreement to the Senate amendments to certain House Bills, including the aforementioned measure."

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the rules were suspended for the purpose of reconsidering action previously taken in disagreeing to amendments made by the Senate to certain House Bills. (Representatives Carroll and C. Lee were excused.)

RECONSIDERATION OF ACTION TAKEN

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

House Bills, seconded by Representative Evans and carried: (Representatives Carroll and C. Lee were excused.)

H.B. No. 389, HD 3, (SD 2)
H.B. No. 1004, HD 1, (SD 1)

ANNOUNCEMENTS

Representative Ward: "Mr. Speaker. Just another announcement that I made yesterday that tomorrow at 10:00, the Budget Summit will be at the Auditorium. It's a chance for all those who've seen what the Minority Caucus has put online at Hawaii State Budget Online. It's a chance to either throw flowers or tomatoes, but to really know how we can balance the budget without raising the GE Tax. Thank you."

COMMITTEE REASSIGNMENTS

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

S.B. No.	Re-referred to:
831, SD2, HD1	Committee on Economic Revitalization & Business, then to the Committee on Finance

S.C.R. Nos.	Re-referred to:
44, SD1	Committee on Housing
53, SD1	Committee on Human Services
84, SD1	Committee on Hawaiian Affairs
85, SD1	Committee on Energy & Environmental Protection, then to the Committee on Finance

ADJOURNMENT

At 12:42 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 11:30 o'clock a.m. tomorrow, Wednesday, April 20, 2011. (Representatives Carroll and C. Lee were excused.)

HOUSE COMMUNICATIONS

House Communication dated April 19, 2011, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the House to the following Senate Bills:

S.B. No. 199, SD 2, HD 1	M. Oshiro, Chr.; Chong, Ito, Yamashita, Ward
S.B. No. 831, SD 2, HD 1	McKelvey/M. Oshiro, Co-Chrs.; Choy, Evans, Ward

House Communication dated April 19, 2011, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the Speaker has this day appointed as Conferees on the part of the House for consideration of amendments proposed by the House to the following House Bill and Senate Bill:

H.B. No. 1038, HD 2, SD 2	Rhoads/M. Oshiro, Co-Chrs.; Yamashita, Fontaine
S.B. No. 1341, SD 2, HD 1	Rhoads/M. Oshiro, Co-Chrs.; Yamashita, Fontaine

House Communication dated April 19, 2011, 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 made the following change to the conferees on the following measure:

S.B. No. 753, SD 2, HD 2	Added Representative Yamashita as a member.

House Communication dated April 19, 2011, from Patricia Mau-Shimizu, Chief Clerk of the House of Representatives, to the Honorable President and Members of the Senate, informing the Senate that the House has reconsidered its action taken in disagreeing to the amendments made by the Senate on April 14, 2011, and gives notice of intent to agree to the following House Bills:

H.B. No. 389, HD 3, SD 2
H.B. No. 1004, HD 1, SD 1

House Communication dated April 19, 2011, 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. 122, HD 1, SD 2
H.B. No. 1069, HD 2, SD 1
H.B. No. 1134, HD 1, SD 2