

## FIFTY-FIFTH DAY

Monday, April 21, 1997

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, convened at 11:41 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Ron Williams, The Ohana Christian Fellowship, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Fifty-Fourth Day.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 323 and 324) were read by the Clerk and were placed on file:

Gov. Msg. No. 323, advising the Senate of the withdrawal of the nomination of Gregory G.Y. Pai, Ph.D., to the Public Utilities Commission, under Gov. Msg. No. 205 dated February 24, 1997, in accordance with S.R. No. 115, S.D. 1.

In compliance with Gov. Msg. No. 323, the nomination listed under Gov. Msg. No. 205 was returned.

Gov. Msg. No. 324, advising the Senate of the withdrawal of the nomination of Cecil Bindel to the Waianae Coast Subarea Health Planning Council, under Gov. Msg. No. 302 dated April 14, 1997.

In compliance with Gov. Msg. No. 324, the nomination listed under Gov. Msg. No. 302 was returned.

At 11:44 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:56 o'clock a.m.

There being no objections, the Senate took the following action out of sequence as printed on the Order of the Day.

## ORDER OF THE DAY

## ADVISE AND CONSENT

Stand. Com. Rep. No. 1718 (Gov. Msg. Nos. 237, 242, 255, 257, 259, 260, 263 and 274):

Senator Baker moved that Stand. Com. Rep. No. 1718 be received and placed on file, seconded by Senator D. Ige and carried.

Senator Baker then moved that the Senate advise and consent to the nominations of the following:

SCOTT H. DUNN and ARTHUR C. TOKIN to the State Board of Public Accountancy, terms to expire June 30, 2001 (Gov. Msg. No. 237);

GEORGE R. RODRIGUES, JR., and CLIFFORD LABOY to the Board of Electricians and Plumbers, terms to expire June 30, 2001 (Gov. Msg. No. 242);

STEPHEN Y.H. KWOCK to the State Board of Public Accountancy, term to expire June 30, 2001 (Gov. Msg. No. 255);

TSUKASA MURAKAMI, R. P. BUCK SCHIPA, CHARLIE T. RODGERS, GERARD SAKAMOTO and EDGAR M. YOKOYAMA to the Contractors License Board, terms to expire June 30, 2001 (Gov. Msg. No. 257);

JAN A. NAKAHARA, MITZI C. H-YAMAMOTO and KENNETH R. JOYNER to the Board of Cosmetology, terms to expire June 30, 2001 (Gov. Msg. No. 259);

MODESTA S. GAERLAN-TOKUNAGA, D.D.S., MARTIN K. OISHI, D.D.S., JANEEN-ANN A. OLDS and CYNTHIA YAMADA to the Board of Dental Examiners, terms to expire June 30, 2001 (Gov. Msg. No. 260);

CAROLEE C. KUBO, JANIS C. AKUNA and STEPHEN E. GOMES to the Board of Directors of the Hawai'i Hurricane Relief Fund, terms to expire June 30, 2001 (Gov. Msg. No. 263); and

JANE FUKUNAGA to the Board of Public Broadcasting, term to expire June 30, 1999 (Gov. Msg. No. 274);

CHERYL K. HETHERINGTON, JANICE S. HIGASHI and THOMAS L. WARLING to the Board of Public Broadcasting, terms to expire June 30, 2001 (Gov. Msg. No. 274),

seconded by Senator D. Ige.

Senator Baker rose in support of the nominees as follows:

"Mr. President, on behalf of your co-chairs and the committee, I have some remarks in support of this standing committee report and these nominees to be inserted into the Journal."

The Chair having so ordered, Senator Baker's remarks are as follows:

"Mr. President, I rise to speak in favor of these nominations.

"Mr. President and colleagues, your Committee on Commerce, Consumer Protection and Information Technology diligently questioned the candidates and found them to be qualified to fulfill the responsibilities of their respective board duties. While each candidate brings a wealth of education, experience and skills to their respective positions, your committee was most impressed with their commitment and dedication to public service.

"In making its recommendation, Mr. President, your committee was mindful of the importance the various boards and commissions have with regard to ensuring that licensed professionals are practicing their vocations with the highest standard of integrity and that consumers in the marketplace are well protected. We are confident that the candidates before us will make a positive contribution to the board or commission they seek.

"On behalf of Co-Chair Senator David Ige and myself, we strongly recommend confirmation of the following:

Scott H. Dunn and Arthur C. Tokin, State Board of Public Accountancy;  
George R. Rodrigues, Jr., and Clifford Laboy, Board of Electricians and Plumbers;  
Stephen Y.H. Kwock, State Board of Public Accountancy;  
Tsukasa Murakami, R.P. Buck Schipa, Charlie Rodgers, Gerard Sakamoto and Edgar M. Yokoyama, Contractors License Board;  
Jan A. Nakahara, Mitzi C.H. Yamamoto and Kenneth R. Joyner, Board of Cosmetology;  
Modesta Gaerlan-Tokunaga, Martin K. Oishi, Janeen-Ann A. Olds and Cynthia Yamada, Board of Dental Examiners;  
Carolee C. Kubo, Janis Akuna and Stephen E. Gomes, Board of Directors of the Hawai'i Hurricane Relief Fund; and  
Jane Fukunaga, Cheryl K. Hetherington, Janice S. Higashi and Thomas L. Warling, Board of Public Broadcasting.

"Thank you, Mr. President."

Senator Sakamoto then requested a conflict ruling as follows:

"Mr. President, on Gov. Msg. No. 257, I have a relative who is an appointee on that."

The Chair ruled that Senator Sakamoto was not in conflict.

Senator McCartney rose in support of Gov. Msg. No. 237 and said:

"Mr. President, I, too, would like to insert some remarks in the Journal in favor of Gov. Msg. No. 237."

The Chair having so ordered, Senator McCartney's remarks read as follows:

"It is my pleasure to insert these remarks into the Senate Journal on behalf of Scott H. Dunn, the governor's nominee to the State Board of Public Accountancy. Scott is dedicated and committed to public service, and I wholeheartedly support his nomination."

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### FINAL READING

Conf. Com. Rep. No. 2 (H.B. No. 118, H.D. 1, S.D. 1, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 2 be adopted and H.B. No. 118, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Matsunaga rose in support of the measure and said:

"Mr. President, I rise in support of this measure.

"This measure represents a commitment to the provision of substantially similar governmental rights and benefits to those couples who are barred by law from marriage. The conferees agreed that while the traditional concept of marriage may be reserved as per current law, permanent commitments which bear the same burdens and share the same aspirations as married couples, should, as a matter of fundamental fairness, be afforded the economic benefits provided by the State of Hawaii to married couples.

"And Mr. President, I have additional remarks I would like inserted into the Journal. Thank you."

The Chair having so ordered, Senator Matsunaga's remarks read as follows:

"The proposed C.D. 1 incorporates the form and substance of the bill as received from the House. Adult couples who are prohibited by law from marriage and who are not already married will be able to register as 'reciprocal beneficiaries' with the Department of Health. Upon doing so they will qualify for certain governmental benefits that are expressly provided for in our laws.

"In identifying the governmental benefits to be included, we used as our starting point the original House draft of the bill and S.B. No. 98, Relating to Economic Benefits, a measure co-introduced by 10 of our Senate colleagues, Senators Iwase, Ige, Tanaka, Kawamoto, Aki, Sakamoto, Tam, Bunda, Solomon, and Anderson. The Senate bill proposes a model similar to H.B. No. 118, C.D. 1, except that the triggering mechanism is an unregistered 'Affidavit of Shared Necessities of Life'.

"Specific areas of inclusion initiated by S.B. No. 98 and H.B. No. 118, H.D. 1, include:

1. State Government Retirement System Benefits. S.B. No. 98 would have permitted the health benefits and death benefits of public employees to accrue to their identified life partner. The proposed CD includes these benefits and, in the absence of any reason to the contrary, all other similar rights and benefits accruing to government employees.
2. Wrongful Death Actions. Both the House bill and S.B. No. 98 provided for wrongful death standing. The conference draft incorporates the principle of providing equivalent standing and inheritance in the case of death and serious injury to other areas. These include: workers compensation benefits, anatomical gifts and corpse disposition rights, criminal victims rights, and inheritance of public leases.
3. Hospital Visitation and Health Care Decisions. The most striking acknowledgement of the real needs of living partners in the House bill is its inclusion of hospital visitation and health care decisions. Accordingly, the House appears to acknowledge that matters of health are certainly among the most significant in any life partnership. The proposed draft incorporates this principle by including rights relating to insurance (including pre-paid medical insurance), family leave, and mental health notifications and authority.
4. Tenancy in the Entirety. H.B. No. 118, H.D. 1, in including tenancy in the entirety privileges, appears to acknowledge that the legitimate pooling of resources is deserving of appropriate protection. In accordance with this principle, the conference draft includes relevant statutory provisions acknowledging the shared interest in resources. These include certain criminal and collection defenses, partnership exemptions, and tort standing. As a corollary to these rights, the draft also includes reciprocal beneficiaries as among those who may be subject to criminal enforcement or notification under our domestic violence and youthful offender statutes.

"Despite the conference draft's breadth, it does not include all rights and benefits, nor does it impose all burdens. This is because it is the committee's view that the extension of such rights and burdens can and should be limited when a substantial government interest would be injured by such an extension.

"Accordingly, the conference draft does not include the marital rights and benefits which arguably conflict with other substantial governmental interests. [[Included among such arguable interests and consequent exclusions are:

1. The State's interest in preserving the traditional family. As manifested in both H.B. No. 117 and the committee's proposed C.D. 1, the citizens of our state may choose to limit marriage to couples of the opposite sex. If they do so, we would be logically obliged to limit benefits and burdens that explicitly relate to the institution of marriage to such couples.

Thus, the proposed conference draft does not include any rights, benefits or burdens imposed or granted by our laws explicitly relating to marriage (Ch. 572, 576D-D), divorce (Ch. 580), parentage and adoption (Chs. 578, 584, 571 pts. IV-V), premarital agreements (Ch. 572), mutual support and community property (572-3, 575-2, Ch. 51), dower and curtesy (Ch. 533), evidentiary spousal privileges (Ch. 626) and wiretap exceptions (803-46). Additionally, the proposed draft excludes certain very specific family use exceptions. These include: harbor fishing (188-34); Kaneohe Bay recreation permits (200-39); nehu and iao fishing (188-45); and agriculture regulation exceptions (Chs. 141-168).

2. The State's interest in avoiding federal and interstate conflicts. With the passage of the federal Defense of Marriage Act, the federal government seems to have signaled an unwillingness to support or acknowledge the extension of marital benefits to couples other than those in traditional marriages. Similarly, a number of other states have statutorily indicated some discomfort with potential extension of marital benefits. It is a legitimate and substantial state interest to avoid conflict with other states and to acknowledge the power of the federal government within their proper jurisdiction.

Thus, the proposed draft excludes those programs which are substantially funded or regulated by the federal government including social service benefits (Ch. 346), government housing programs (Ch. 359), airport and urban redevelopment and relocation (Chs. 111, 261), veterans burial benefits (Ch. 363), certain resident military benefits (e.g. 288-107(g)), state health family assistance (Ch. 321), unemployment insurance definitions (Ch. 383), certain banking exceptions (Chs. 412-417) and Hawaiian homelands inheritance (HHCA 209). Additionally, we have excluded relevant interstate compacts so as not to imply or impose an express burden of recognition on other states. Relevant compacts include those relating to probation and parole (353-81), mental health (Ch. 335), adoption assistance (Ch. 350C), and reciprocal enforcement of support (Ch. 576).]]

"Mr. President, we feel that the contents of this bill represents a reasonable, fair and balanced approach. We urge its passage."

Senator Iwase also rose to support the measure and stated:

"Mr. President, I rise to speak in support of the bill.

"Mr. President, this bill, H.B. No. 118, brings us nearer to the end of a journey that we started back in 1994 when we enacted a law and reaffirmed that law in 1995. It dealt with the same-sex marriage issue. And let me quote from the 1995 law. We created a commission which was to provide to the Legislature recommendations. They were supposed to 'examine the major, legal and economic benefits extended to married opposite-sex couples, but not to same-sex couples; examine the substantial public policy reasons to extend or not to extend such benefits ... and recommend appropriate action which may be taken by the legislature to extend such benefits to same-sex couples.'

"We were looking, three years ago and two years ago, to enact a measure which would provide economic benefits. One of the positive aspects of this bill is that it is not limited to the issue of sexual orientation but extends benefits to couples who are not necessarily involved with same-sex relationships. It could be an aunt and a niece or nephew, a grandparent and a grandchild, a brother and a sister, a 'hanai' parent and a 'hanai' child. It is an experiment in aloha. It is an experiment which we can review in two years to determine the economic benefits to the State of Hawaii or the economic burdens to the State of Hawaii and will give us an opportunity to again act.

"But the journey is not at an end. Before this session ends, we must act on H.B. No. 117 which is a constitutional amendment. I hope that we achieve the two-thirds vote that we must achieve in order to place that important constitutional amendment on the ballot.

"Finally, Mr. President, at the beginning of this session, ten Senators introduced a bill which is part of a package to address this issue, a bill on hate crimes, S.B. No. 99. It is a bill that we still need, and it was emphasized yesterday, when a sick individual or individuals defaced national cemeteries and other cemeteries in this state with the sick words of hate. Senate Bill 99 would apply to gender, to religion, to national origin, to sexual orientation and to race. And if a crime is committed

because of hate, a judge would be allowed to enhance the penalties.

"What happened yesterday is a cancer in our society. It's an insult to the core values we hold in this state. We pride ourselves as being the 'Aloha State' and it is my hope that the Judiciary Committee and other members of this body will act next year on a hate crime bill to complete the journey which we have travelled now for four years and which will hopefully soon come to an end.

"Thank you, Mr. President."

Senator Levin supported the measure as follows:

"Mr. President, I rise to speak in favor of this bill with enthusiasm.

"I want to simply thank and congratulate the conferees and the chairs who got us to this point. I think they did an extraordinary job under extraordinary conditions. I think they deserve the appreciation and gratitude of all who are interested in civil rights.

"When you deal with a difficult issue and you wind up with a compromise measure, there is often a tendency to feel something of a let-down. But I believe that this bill will prove to be a major and very positive landmark on the road to equal justice for all.

"Thank you."

Senator Slom rose to speak against the measure and said:

"Mr. President, I rise to speak against the bill.

"Mr. President, I think that this bill represents just another example of us trying to put the cart before the horse. We've heard many times in this body that this issue that has dragged on for three years at the expense of our economic and income issues is not a civil rights matter, but then we keep hearing about civil rights. Mr. President, I don't think it has to do with civil rights, either. I think it has to do with contractual rights and benefits and I think it is an interference by the government into private contractual rights.

"In addition to that, Mr. President, I think that before we pass this or any other bill, we should always look and review and analyze very carefully the cost before we pass the bill. I don't think it's good enough to pass the bill and say, 'Let's wait and see what the costs are going to be.' That's why the State of Hawaii is in debt right now and doesn't have any money, and that's why our people are struggling day by day.

"In addition to that, Mr. President, we've already heard from the attorneys in our community who are looking at this bill with a great deal of enthusiasm because they are anticipating how they will get involved to an even greater extent, if that's possible.

"And finally, Mr. President, I look at this, if we're talking about discrimination and extending rights to everyone, then what we have to do is look at the single people within our community who for many years have been subsidizing other people as well. As we look around our community and find more and more people that are widowed or in an individual status, they themselves do not enjoy and will not enjoy the kinds of rights and benefits that we are now going to forcibly bestow upon a certain select group of people.

"So, for these and other reasons, Mr. President, I am going to vote 'no.' Thank you."

Senator Sakamoto rose to speak on the measure as follows:

"Mr. President, I'd like to speak with some reservations on this bill.

"And yes, as the previous speaker mentioned regarding cost of some of these individual measures, we spend the whole session addressing one of the specific components, so I have concerns about costs. On the other hand, with Hawaii's cost of living, some of these provisions will benefit people who cannot get married but can see some relief in some of these provisions.

"On a positive note, Mr. President, I think this body is taking the right step in taking things back from the court and not letting the court kick us around, but letting us take action. And part of it is we've been kicked around by the court on some of these decisions that forced this predicament that embroiled us for so long. But as we take positive action and hopefully spend the time to clearly bring out the financial impacts, moral impacts, societal impacts, we can be a pro-active body as we go forward. So I'd like to vote with reservations, Mr. President."

Senator Bunda then rose to say:

"Mr. President, could you have the Clerk cast my vote with reservations."

The Chair so ordered.

Senator M. Ige then rose to speak against the measure and said:

"Mr. President, I rise to speak against this measure, as well.

"Simply put -- I believe it's the wrong issue, the wrong time. And I just do not believe that I can go along and support this measure as it's written. Thank you."

Senator McCartney rose to speak in favor of the bill and said:

"Mr. President, I rise to speak in support of this measure.

"First, Mr. President, I'd like to thank our co-chairs from Palolo and from Maui and the member from Hilo. It was a rough and tough conference and I think in the end we did what we had to do and we did the right thing. And I think today on the floor everybody is going to vote their conscience and do what they believe is right for the people of Hawaii.

"I'd like the remarks of the Senator from Palolo to be inserted into the Journal as my own. And I think, Mr. President, much has been said, much has been learned, and much more needs to be done so that all our people are treated with fairness, dignity, and respect under the law.

"Thank you, Mr. President."

The Chair so ordered.

Senator Chun Oakland also rose to support the bill as follows:

"Mr. President, I'd also like to speak in support of this measure and would the Clerk please insert the remarks of the Senator from Kau as if it were my own. Thank you."

The Chair so ordered.

Senator Chumbley, rising in support of the measure, then stated:

"Mr. President, I rise to speak in favor of this measure.

"This bill has been subject to a great deal of misrepresentation and unfair criticism, and I would like to take an opportunity to address, just briefly, a couple of concerns. I do have quite lengthy remarks I'd like to have inserted into the Journal with supporting documentation, but I'd like to address

the issue of the economic impacts and costs -- the private sector costs, in particular.

"The largest red herring attack upon the bill is that it will impose costs upon the private sector. Simply, there is no evidence to support any such concern. The bulk of the so-called debate centers around the pre-paid health insurance. The bill, indeed, requires that reciprocal beneficiary coverage be made available on an equal basis with family coverage, but nowhere -- but nowhere -- in our law is it required that employers provide family coverage. This bill does not do so. So, no private employer will be required to provide reciprocal beneficiary coverage.

"Some employers voluntarily pay for family coverage. This bill would permit them to do so for reciprocal beneficiaries, but this will be a matter of employer choice. And if they do provide such coverage, evidence from the 100-plus private employers, 49 colleges, 62 state or local governments, and 22 unions that provide some form of domestic partnership benefits have yet to report a single case of significant adverse impact. In fact, according to a recent study by the International Foundation of Employee Benefit Plans provided to us by HMSA, it concludes that while the concern with increased costs have been raised, what experience has borne out does not support these fears. In general, there is no evidence to indicate that the average health care cost of a domestic partner, either same-sex or opposite sex, will be significantly higher than that of a spouse.

"I have attached to my remarks a copy of the study for inclusion in the record and we will provide for the record and any member's request all the details backing that up.

"I urge all my colleagues to support this measure.

"Thank you, Mr. President."

The Chair so ordered and identified the attachment of Senator Chumbley's remarks and supporting documentation as EXHIBITS "A" to "E."

Senator Metcalf rose to support the measure as follows:

"Mr. President, I have some written remarks in support of the measure that I would request be inserted into the Journal."

The Chair so ordered and Senator Metcalf's remarks follow:

"Mr. President, I rise to speak in favor of H.B. No. 118, H.D. 1, S.D. 1, C.D. 1.

"This measure together with a proposed ballot question in the form of a constitutional amendment that we will be taking up later this session seek to deal with issues flowing from the decision in Baehr v. Lewin. In this case the court has ruled that absent a compelling state interest, same sex couples cannot be denied the right to marry. Beyond the arguments and the passions expressed in the debate that now surrounds the court's decision, are fundamental questions regarding the effective parameters of the legislature and the courts to act.

"Most Hawaii citizens favor extending rights, benefits and burdens associated with marriage to same sex couples. Yet it is clear they wish at this time to reserve to themselves the question of whether the legislature shall have power to determine whether marriage shall be limited to opposite sex couples only.

"As legislators we have the responsibility to choose correctly irrespective of whether those choices flow with or are contrary to the passions of the moment. This is an essential element of the public trust. At the same time this responsibility cannot be translated into fiat to ignore that which manifestly reflects the public will. To act otherwise is to substitute autocracy for

democracy. Far too much has been invested in our democracy to justify a lurch in that direction.

"The courts have a special and unique role in our system of government key among which is the principle that any citizen can be heard and have their case determined impartially independent of their popularity, wealth, power or status. The only criteria to be applied by the court in determining cases and causes are law and equity.

"In drafting this measure and the constitutional amendment later to be voted on, your Senate conferees have been mindful of the need to enact legislation regarding rights, benefits and burdens to be extended to reciprocal beneficiaries and to advance the public discussion on the question of a constitutional amendment. This approach has been taken in recognition of the constraints of what can be accomplished without weakening the legislature's position as that instrument of government designed especially to respond to the public will.

"Within the parameters of the legislature's effective abilities to act, H.B. No. 118, H.D. 1, S.D. 1, C.D. 1, advances the simple reverence for life philosophy espoused by the late Albert Schweitzer. It is an approach to life guided by a respect for the individual, out of which can be deduced a demand for the greatest possible freedom for the individual to live as he or she sees fit on the one hand, and the demand for social justice in the form of equal rights and equal possibilities for all on the other.

"House Bill 118, H.D. 1, S.D. 1, C.D. 1, will promote social justice in advancing equal rights and possibilities for all law abiding members of our community while the proposed constitutional amendment later to be considered will allow for the discussion and expression of the public's voice with respect to whom a marriage license shall be issued."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 2 was adopted and H.B. No. 118, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNMARRIED COUPLES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Ige, M., Kawamoto, Slom).

At 12:10 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:16 o'clock p.m.

#### STANDING COMMITTEE REPORTS

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1720) recommending that the Senate advise and consent to the nominations of the following:

RONALD A. DARBY to the Kaneohe Bay Regional Council, in accordance with Gov. Msg. No. 153; and

GRETCHEN M. GOULD and KIM NICHOLAS HOLLAND, Ph.D., to the Kaneohe Bay Regional Council, in accordance with Gov. Msg. No. 269.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1720 and Gov. Msg. Nos. 153 and 269 were deferred until Tuesday, April 22, 1997.

Senators Bunda and M. Ige, for the Committee on Government Operations and Housing, presented a report (Stand. Com. Rep. No. 1721) recommending that the Senate advise and consent to the nominations of MARVIN B. AWAYA and EARL S. WAKAMURA to the Rental Housing Trust Fund Commission, in accordance with Gov. Msg. No. 203.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1721 and Gov. Msg. No. 203 was deferred until Tuesday, April 22, 1997.

Senators Bunda and M. Ige, for the Committee on Government Operations and Housing, presented a report (Stand. Com. Rep. No. 1722) recommending that the Senate advise and consent to the nomination of ALLAN LOS BANOS, JR., to the Hawai'i Housing Authority, in accordance with Gov. Msg. No. 243.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1722 and Gov. Msg. No. 243 was deferred until Tuesday, April 22, 1997.

Senators Bunda and M. Ige, for the Committee on Government Operations and Housing, presented a report (Stand. Com. Rep. No. 1723) recommending that the Senate advise and consent to the nomination of CLAIRE H. MOTODA to the Procurement Policy Office Board, in accordance with Gov. Msg. No. 273.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1723 and Gov. Msg. No. 273 was deferred until Tuesday, April 22, 1997.

Senators Bunda and M. Ige, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1724) recommending that the Senate advise and consent to the nominations of BRIAN T. TAMAMOTO, MOMI W. CAZIMERO and ALFRED LAURETA to the State Foundation on Culture and the Arts, in accordance with Gov. Msg. No. 239.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1724 and Gov. Msg. No. 239 was deferred until Tuesday, April 22, 1997.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1725) recommending that the Senate advise and consent to the nominations of SHARON GOODHART, SUSAN A. KOBAYASHI and NANCY G. BARRY to the Oahu Library Advisory Commission, in accordance with Gov. Msg. No. 247.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1725 and Gov. Msg. No. 247 was deferred until Tuesday, April 22, 1997.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1726) recommending that the Senate advise and consent to the nomination of MERCEDES B. LEIALOHA to the Hawai'i Library Advisory Commission, in accordance with Gov. Msg. No. 248.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1726 and Gov. Msg. No. 248 was deferred until Tuesday, April 22, 1997.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1727) recommending that the Senate advise and consent to the nomination of MARY JO SWENEY to the Kauai Library Advisory Commission, in accordance with Gov. Msg. No. 249.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1727 and Gov. Msg. No. 249 was deferred until Tuesday, April 22, 1997.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1728) recommending that the Senate advise and consent to the nomination of NORA A. KAWASAKI to the Maui County Library Advisory Commission, in accordance with Gov. Msg. No. 250.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1728 and Gov. Msg. No. 250 was deferred until Tuesday, April 22, 1997.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1729) recommending that the Senate advise and consent to the nominations of WALTER NUNOKAWA, Ph.D., and HERBERT A. SEGAWA to the Board of Directors, Research Corporation of the University of Hawaii, in accordance with Gov. Msg. No. 275.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1729 and Gov. Msg. No. 275 was deferred until Tuesday, April 22, 1997.

Senators Bunda and M. Ige, for the Committee on Government Operations and Housing, presented a report (Stand. Com. Rep. No. 1730) recommending that H.C.R. No. 206, H.D. 2, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 206, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE WAIMANALO HOUSING RESIDENTS ASSOCIATION, HAWAII HOUSING AUTHORITY, HOUSING FINANCE AND DEVELOPMENT CORPORATION, OFFICE OF HAWAIIAN AFFAIRS, AND THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO RESEARCH ISSUES AND IDENTIFY OPTIONS TO ENABLE THE RESIDENTS OF THE WAIMANALO HOMES PROJECT TO REMAIN LIVING THERE," was adopted.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1731) recommending that H.C.R. No. 267, H.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 267, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII TO REPORT ON PLANS TO RELOCATE ANY PARTS OF THE INSTITUTE FOR ASTRONOMY TO THE BIG ISLAND," was referred to the Committee on Ways and Means.

Senators Kawamoto and Sakamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1732) recommending that H.C.R. No. 107, H.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 107, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO PROCEED WITH THE FUNDING OF THE NEW CARRIER KNOWN AS CVN-77, AND HOMEPORTING THE SHIP AT PEARL HARBOR," was adopted.

Senators Kawamoto and Sakamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1733) recommending that H.C.R. No. 128, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 128, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES DEPARTMENT OF DEFENSE TO CONTINUE ITS EFFORTS TO EVALUATE THE CURRENT UNITED STATES MILITARY PRESENCE IN OKINAWA," was adopted.

Senators Kawamoto and Sakamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1734) recommending that H.C.R. No. 286, H.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 286, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO GIVE PRIORITY TO THE MAUKA HIGHWAY AS AN ALTERNATIVE HIGHWAY TO FARRINGTON HIGHWAY ON THE LEEWARD COAST," was referred to the Committee on Ways and Means.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1735) recommending that H.C.R. No. 231 be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 231, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE PRESIDENT OF THE UNITED STATES TO NOMINATE AND THE UNITED STATES SENATE TO CONFIRM AT LEAST ONE QUALIFIED RESIDENT FROM THE STATE OF HAWAII TO SERVE AS AN ACTIVE JUDGE ON THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT," was adopted.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1736) recommending that the Senate consent to the nomination of SANDRA P. SCHUTTE to the office of Judge, District Court of the Third Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Jud. Com. No. 5.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1736 and Jud. Com. No. 5 was deferred until Tuesday, April 22, 1997.

Senators Chumbley and Matsunaga, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 1737) recommending that the Senate consent to the nomination of RHONDA I. LAI LOO to the office of Judge, District Court of the Second Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Jud. Com. No. 6.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 1737 and Jud. Com. No. 6 was deferred until Tuesday, April 22, 1997.

Senators Kawamoto and Sakamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1738) recommending that H.C.R. No. 210 be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 210, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING AND URGING IMPLEMENTATION OF THE HAZARD MITIGATION PLAN DEVELOPED IN RESPONSE TO THE WAIANAE DISTRICT FLOODING," was referred to the Committee on Ways and Means.

Senators Kawamoto and Sakamoto, for the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1739) recommending that H.C.R. No. 280 be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 280, entitled: "HOUSE CONCURRENT

RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO REQUIRE THE INCLUSION OF DISASTER MITIGATION MEASURES IN THE PLANNING, DESIGN, AND CONSTRUCTION PHASES OF ALL STATE-FUNDED BUILDINGS DESIGNATED AS HURRICANE SHELTERS," was referred to the Committee on Ways and Means.

Senators Levin and Metcalf, for the Committee on Health and Environment, presented a report (Stand. Com. Rep. No. 1740) recommending that H.C.R. No. 18, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 18, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A STUDY ASSESSING THE COSTS OF MENTAL HEALTH SERVICES IN HAWAII AND THE SOCIAL AND FINANCIAL EFFECTS OF MANDATING COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE ABUSE IN HEALTH CARE INSURANCE PLANS EQUIVALENT TO THE COVERAGE FOR ANY OTHER MEDICAL ILLNESSES," was adopted.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1741) recommending that H.C.R. No. 40 be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 40, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO WORK WITH LOCAL INDUSTRIES, THE HAWAII VISITORS AND CONVENTION BUREAU, THE DEPARTMENT OF AGRICULTURE AND OTHER APPROPRIATE AGENCIES TO SHOWCASE HAWAII-MADE PRODUCTS," was adopted.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1742) recommending that H.C.R. No. 72, as amended in S.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 72, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE RURAL TRANSITION PLAN THAT PROMOTES NEW AND DIVERSIFIED AGRICULTURE AND INCREASES RURAL EMPLOYMENT AND DEVELOPMENT IN THE STATE," was adopted.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1743) recommending that H.C.R. No. 76, H.D. 2, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 76, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING IMPLEMENTATION OF EXPEDITED AUTOMATIC BORDER CLEARANCE; EXTENSION OF THE VISA WAIVER PROGRAM; AND ELIMINATION OF VISA REQUIREMENTS WHERE POSSIBLE," was adopted.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1744) recommending that H.C.R. No. 153, H.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and

H.C.R. No. 153, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE OFFICE OF THE AUDITOR TO CONDUCT AN AUDIT OF THE REVENUES, COSTS, AND SERVICES OF ALL STATE-RUN SMALL BOAT HARBORS AND BOAT RAMPS," was adopted.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1745) recommending that H.C.R. No. 239, H.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 239, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING RECOGNITION AND DESIGNATION OF SURFING AND OUTRIGGER CANOE RACING AS OLYMPIC SPORTS," was adopted.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1746) recommending that H.C.R. No. 257, H.D. 2, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 257, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK WITH OTHER AGENCIES AND BIG ISLAND COMMUNITY ORGANIZATIONS TO DETERMINE HOW THE COMMERCIAL FOREST INDUSTRY AND THE HILO-HAMAKUA COMMUNITY CAN WORK TOGETHER TO HELP DETERMINE FUTURE OPTIONS FOR THE COMMUNITY," was adopted.

Senators Chun Oakland and Kanno, for the Committee on Human Resources, presented a report (Stand. Com. Rep. No. 1747) recommending that H.C.R. No. 95, H.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 95, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE GOVERNOR TO CAREFULLY ASSESS THE IMPACT OF NEW FEDERAL LAWS AFFECTING IMMIGRANTS TO PROTECT THEIR RIGHTS TO RECEIVE ADEQUATE HEALTH AND HUMAN SERVICES," was referred to the Committee on Ways and Means.

Senators Kawamoto and Sakamoto, for the majority of the Committee on Transportation and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 1748) recommending that H.C.R. No. 119, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the majority of the Committee was adopted and H.C.R. No. 119, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE HAWAII STATE LEGISLATURE TO SUPPORT SENATOR JOHN MCCAIN'S FEDERAL LEGISLATION TO PROVIDE FOR THE MANAGEMENT OF THE AIRSPACE OVER UNITS OF THE NATIONAL PARK SYSTEM," was adopted.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1749) recommending that H.C.R. No. 66, H.D. 1, as amended in S.D. 1, be referred to the Committee on Ways and Means.

Senator Fernandes Salling, for the Committee on Ways and Means, requested that the referral of H.C.R. No. 66, H.D. 1, S.D. 1, to the Committee on Ways and Means be waived, and the Chair granted the waiver.

Senator Tam then moved that Stand. Com. Rep. No. 1749 be received and placed on file, seconded by Senator Aki and carried.

At 12:18 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:19 o'clock p.m.

On motion by Senator Tam, seconded by Senator Aki and carried, H.C.R. No. 66, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING A MANAGEMENT AND FINANCIAL AUDIT OF THE HAWAII PUBLIC LIBRARY SYSTEM," was adopted.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1750) recommending that H.C.R. No. 93, H.D. 1, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 93, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A VALUES AND ETHICS PROGRAM AS DETERMINED BY EACH SCHOOL COMMUNITY," was referred to the Committee on Ways and Means.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1751) recommending that H.C.R. No. 152, H.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 152, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO DETERMINE STATE AND DISTRICT LEVEL MANAGEMENT AUTHORITY FOR THE HAWAIIAN STUDIES PROGRAM," was adopted.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1752) recommending that H.C.R. No. 241 be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 241, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE DIRECTOR OF THE DEPARTMENT OF BUDGET AND FINANCE CONSIDER THE NEED FOR FUNDING FOR COACHES' SALARIES, ATHLETIC EQUIPMENT AND SUPPLIES AS WELL AS TRANSPORTATION FOR ATHLETIC TEAMS AS STANDARD WORKLOAD INCREASE WHEN DESIGNING AND BUDGETING NEW SCHOOLS," was referred to the Committee on Ways and Means.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1753) recommending that H.C.R. No. 251, H.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 251, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING AN OUTRIGGER CANOE PADDLING PILOT PROJECT FOR HAWAII'S SECONDARY SCHOOLS," was referred to the Committee on Ways and Means.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1754) recommending that H.C.R. No. 262, H.D. 1, as amended in S.D. 1, be referred to the Committee on Ways and Means.

Senator Fernandes Salling, for the Committee on Ways and Means, requested that the referral of H.C.R. No. 262, H.D. 1, S.D. 1, to the Committee on Ways and Means be waived, and the Chair granted the waiver.

Senator Tam then moved that Stand. Com. Rep. No. 1754 be received and placed on file, seconded by Senator Aki and carried.

On motion by Senator Tam, seconded by Senator Aki and carried, H.C.R. No. 262, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO MAKE AVAILABLE A DEFINITION OF EACH GRADE LEVEL'S ROLE IN A CHILD'S EDUCATIONAL PROGRESSION," was adopted.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1755) recommending that H.C.R. No. 278, H.D. 2, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 278, H.D. 2, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RELATING TO HAWAIIAN MEDIUM SCHOOLS ON KAUAI AND HAWAII," was referred to the Committee on Ways and Means.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1756) recommending that H.C.R. No. 279, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 279, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ESTABLISH A STATEWIDE PILOT CARDIOPULMONARY RESUSCITATION TRAINING PROGRAM," was referred to the Committee on Ways and Means.

Senators Aki and Tam, for the Committee on Education, presented a report (Stand. Com. Rep. No. 1757) recommending that H.C.R. No. 281 be referred to the Committee on Ways and Means.

Senator Fernandes Salling, for the Committee on Ways and Means, requested that the referral of H.C.R. No. 281 to the Committee on Ways and Means be waived, and the Chair granted the waiver.

Senator Tam then moved that Stand. Com. Rep. No. 1757 be received and placed on file, seconded by Senator Aki and carried.

On motion by Senator Tam, seconded by Senator Aki and carried, H.C.R. No. 281, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PREPARATION OF A LONG-RANGE FINANCIAL AND OPERATIONAL PLAN TO ENSURE THE DEVELOPMENT OF THE HAWAIIAN LANGUAGE IMMERSION PROGRAM," was adopted.

Senators Levin and Metcalf, for the Committee on Health and Environment, presented a report (Stand. Com. Rep. No. 1758) recommending that H.C.R. No. 16, H.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 16, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF HEALTH TO PROVIDE FOR ADVANCED CARE LIFE SUPPORT AMBULANCE SERVICE TO THE HANA DISTRICT IN THE UPCOMING MAUI COUNTY AMBULANCE



CONTRACT," was referred to the Committee on Ways and Means.

Senators Levin and Metcalf, jointly with Senators Chun Oakland and Kanno, for the Committee on Health and Environment and the Committee on Human Resources, presented a joint report (Stand. Com. Rep. No. 1759) recommending that H.C.R. No. 19, H.D. 2, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the joint report of the Committees was adopted and H.C.R. No. 19, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO ASSESS THE SOCIAL AND FINANCIAL EFFECTS OF REQUIRING HEALTH INSURERS TO OFFER COVERAGE FOR POST-MASTECTOMY BREAST RECONSTRUCTION SURGERY," was referred to the Committee on Ways and Means.

Senators Levin and Metcalf, for the Committee on Health and Environment, presented a report (Stand. Com. Rep. No. 1760) recommending that H.C.R. No. 39, H.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 39, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DIRECTOR OF HEALTH TO APPOINT A TASK FORCE TO ASSESS AIR QUALITY AT CAMPBELL INDUSTRIAL PARK AND THE AIR QUALITY IMPACTS OF EMISSION SOURCES IN THIS LOCATION," was referred to the Committee on Ways and Means.

Senators Levin and Metcalf, for the Committee on Health and Environment, presented a report (Stand. Com. Rep. No. 1761) recommending that H.C.R. No. 125, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 125, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO ESTABLISH A MENTAL HEALTH STATUTES TASK FORCE," was adopted.

Senators Levin and Metcalf, for the Committee on Health and Environment, presented a report (Stand. Com. Rep. No. 1762) recommending that H.C.R. No. 178 be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 178, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING SUPPORT FOR NATIVE HAWAIIAN NUTRITION EDUCATION," was adopted.

Senators Levin and Metcalf, for the Committee on Health and Environment, presented a report (Stand. Com. Rep. No. 1763) recommending that H.C.R. No. 205 be referred to the Committee on Water, Land, and Hawaiian Affairs.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 205, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE OFFICE OF HAWAIIAN AFFAIRS TO URGE NATIVE HAWAIIANS TO PARTICIPATE IN AN EARLY CANCER DETECTION PROGRAM," was referred to the Committee on Water, Land, and Hawaiian Affairs.

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1764) recommending that H.C.R. No. 186, H.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 186, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A COMMUNITY-BASED, COOPERATIVE HAWAIIAN FISHPOND RESTORATION PROJECT FOR PEARL HARBOR," was referred to the Committee on Ways and Means.

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1765) recommending that H.C.R. No. 147 be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 147, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE CITY AND COUNTY OF HONOLULU TO EXPEDITE THE CONVEYANCE OF KALIHI VALLEY STATE PARK TO THE STATE," was adopted.

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1766) recommending that H.C.R. No. 215, H.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 215, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION ESTABLISHING A JOINT LEGISLATIVE COMMITTEE ON LAND USE PLANNING," was adopted.

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1767) recommending that H.C.R. No. 258 be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 258, entitled: "HOUSE CONCURRENT RESOLUTION ENDORSING THE DESIGNATION OF THE WAILOA STATE PARK AS THE PERMANENT SITE OF THE ANNUAL HAARI BOAT RACE," was adopted.

Senators Iwase and Solomon, for the Committee on Water, Land, and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1768) recommending that H.C.R. No. 259, H.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 259, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO WORK WITH HUNTING ORGANIZATIONS TO DISCUSS THE FEASIBILITY OF ESTABLISHING A HUNTING AREA RESERVES COUNCIL," was adopted.

Senators Tanaka and Taniguchi, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1769) recommending that H.C.R. No. 252, H.D. 1, as amended in S.D. 1, be adopted.

On motion by Senator McCartney, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 252, H.D. 1, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE RECRUITMENT OF THE 'AMERICA'S SMITHSONIAN' EXHIBITION TO HAWAII," was adopted.

At 12:21 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:23 o'clock p.m.

**RECONSIDERATION OF ACTIONS TAKEN**

S.B. No. 818, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate reconsider its action taken on April 10, 1997, in disagreeing to the amendments proposed by the House to S.B. No. 818, S.D. 1, seconded by Senator D. Ige and carried.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.B. No. 818, S.D. 1, seconded by Senator D. Ige.

Senator Baker then noted:

"Mr. President, S.B. No. 818 relates to trademark counterfeiting. The House made only minor clarifying and technical, nonsubstantive amendments. After conferring in conference we have decided to agree to those amendments."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 818, S.D. 1, and S.B. No. 818, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRADEMARK COUNTERFEITING," was placed on the calendar for Final Reading on Tuesday, April 22, 1997.

S.B. No. 952, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate reconsider its action taken on April 10, 1997, in disagreeing to the amendments proposed by the House to S.B. No. 952, S.D. 1, seconded by Senator D. Ige and carried.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.B. No. 952, S.D. 1, seconded by Senator D. Ige.

Senator Baker noted:

"Senate Bill 952 is a consumer protection measure relating to warranties for assistive devices for persons with disabilities. The House, again, made only clarifying and nonsubstantive amendments. Having discussed these in conference, we recommend agreement."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 952, S.D. 1, and S.B. No. 952, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION," was placed on the calendar for Final Reading on Tuesday, April 22, 1997.

S.B. No. 1560, S.D. 1 (H.D. 2):

Senator Baker moved that the Senate reconsider its action taken on April 10, 1997, in disagreeing to the amendments proposed by the House to S.B. No. 1560, S.D. 1, seconded by Senator D. Ige and carried.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.B. No. 1560, S.D. 1, seconded by Senator D. Ige.

Senator Baker explained:

"Senate Bill 1560 relates to electronic transmission of prescriptions. The only difference between the House and Senate versions was the House bill allowed prescriptions to be transmitted electronically to out of state pharmacies. This position is consistent with the federal amendments in the Health Insurance Portability and Accountability Act (HIPAA). Therefore, the Senate recommends agreement."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No.

1560, S.D. 1, and S.B. No. 1560, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC PRESCRIPTIONS," was placed on the calendar for Final Reading on Tuesday, April 22, 1997.

S.B. No. 1714 (H.D. 1):

Senator Baker moved that the Senate reconsider its action taken on April 10, 1997, in disagreeing to the amendments proposed by the House to S.B. No. 1714, seconded by Senator D. Ige and carried.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.B. No. 1714, seconded by Senator D. Ige.

Senator Baker then noted:

"Senate Bill No. 1714 relates to motor vehicle industry licensing. This measure conformed our laws to recently enacted amendments to federal law. Again the House made only some clarifying amendments, which after meeting in conference we have agreed to accept."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1714 and S.B. No. 1714, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING," was placed on the calendar for Final Reading on Tuesday, April 22, 1997.

S.B. No. 969 (H.D. 2):

Senator Aki moved that the Senate reconsider its action taken on April 10, 1997, in disagreeing to the amendments proposed by the House to S.B. No. 969, seconded by Senator Tam and carried.

Senator Aki moved that the Senate agree to the amendments proposed by the House to S.B. No. 969, seconded by Senator Tam.

Senator Aki then explained:

"Mr. President, the amendments were technical in nature and also, this deals with the fines that the University is allowed to charge for parking violations. The House amended the bill to make the fines up to \$100 that the University can charge and this is in keeping with the city and county fines found in violation of parking violations. Therefore we agree with the amendments."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 969 and S.B. No. 969, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," was placed on the calendar for Final Reading on Tuesday, April 22, 1997.

Senator M. Ige rose on a point of personal privilege and said:

"Mr. President, I rise on a point of personal privilege.

"Mr. President, on Friday I asked you, regarding S.B. No. 1472, privatization, if the conferees had been named. And you said that it would be done soon. My problem is, since then, we've gotten a flyer from one of the labor unions and over the radio station there's another group that's asking people to call their legislators regarding this issue. And I guess what concerned me the most was that either on Saturday or Sunday at one of the conferences on one of our conference bills, the House threw language regarding privatization on the table. I think they gave the public the impression that the Senate was doing nothing so they're going to take the initiative. And I'm concerned about that because I think this bill affects everybody in the state, not just certain communities.

"So Mr. President, when do you feel you will allow the conferees to prepare ourselves so that we can come to a consensus on language early, rather than waiting to the very last minute and possibly we might just lose this measure?"

The Chair answered:

"Conferees will be named today."

Senator M. Ige further inquired:

"Do you know around what time?"

The President replied:

"They will be placed on the status sheets later today."

Senator M. Ige then asked:

"Later this afternoon?"

The Chair responded: "Yes."

Senator M. Ige continued:

"Mr. President, in that instance, when the conferees are named and the chairmen are like co-chairmen, if one of the chairmen disagrees, does that kill the measure?"

The President answered:

"There will be collaboration, but I don't think it will kill the measure."

Senator M. Ige then said: "Thank you."

At 12:30 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:33 o'clock p.m.

Senator Bunda rose on a point of personal privilege as follows:

"Mr. President, I rise on a point of personal privilege.

"Mr. President, following up with what the Senator from Kaneohe was talking about in reference to the privatization issue, I'd like to know if, before naming the conferees, the people you are considering naming could we somehow conference together before you actually come out with the list? Would that be possible?"

The Chair responded:

"That is possible."

Senator Bunda then said:

"Thank you, Mr. President."

#### APPOINTMENT OF CONFEREES

S.B. No. 944, S.D. 2 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 944, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Kanno, Chun Oakland, Levin, Baker, Fernandes Salling, Fukunaga, co-chairmen, Anderson as managers on the part of the Senate at such conference.

S.B. No. 1472, S.D. 2 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1472, S.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Fernandes Salling, Fukunaga, co-chairmen, Bunda, Chun Oakland, Ige, M., Kanno as managers on the part of the Senate at such conference.

S.B. No. 1919, S.D. 1 (H.D. 2):

In accordance with the disagreement of the Senate to the amendments proposed by the House to S.B. No. 1919, S.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Fukunaga, Fernandes Salling, co-chairmen, Ihara, Taniguchi as managers on the part of the Senate at such conference.

H.B. No. 108, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 108, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Chumbley, Matsunaga, Fernandes Salling, Fukunaga, co-chairmen, McCartney, Metcalf, Anderson as managers on the part of the Senate at such conference.

H.B. No. 417, H.D. 3 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 417, H.D. 3, and the request for a conference on the subject matter thereof, the President appointed Senators Sakamoto, Taniguchi, Kawamoto, Tanaka, co-chairmen, Aki as managers on the part of the Senate at such conference.

H.B. No. 1012 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1012 and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Aki, Chumbley, Matsunaga, co-chairmen, Sakamoto as managers on the part of the Senate at such conference.

H.B. No. 1023 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1023 and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Aki, Fernandes Salling, co-chairmen, Ige, M., Slom as managers on the part of the Senate at such conference.

H.B. No. 1105, H.D. 2 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1105, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Levin, Aki, Fernandes Salling, co-chairmen, Metcalf, Slom as managers on the part of the Senate at such conference.

H.B. No. 1132, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1132, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Aki, co-chairmen, Metcalf, Slom as managers on the part of the Senate at such conference.

H.B. No. 1138, H.D. 1 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1138, H.D. 1, and the request for a conference on the subject matter thereof,

the President appointed Senators Tam, Aki, Fernandes Salling, co-chairmen, Ige, M., Slom as managers on the part of the Senate at such conference.

H.B. No. 1433, H.D. 2 (S.D. 3):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1433, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Aki, Fernandes Salling, co-chairmen, Ige, M., Slom as managers on the part of the Senate at such conference.

H.B. No. 1731, H.D. 1 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1731, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Aki, Fernandes Salling, co-chairmen, Ige, M., Slom as managers on the part of the Senate at such conference.

H.B. No. 1798 (S.D. 1):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1798 and the request for a conference on the subject matter thereof, the President appointed Senators Fernandes Salling, Fukunaga, co-chairmen, Bunda, Chun Oakland, Ige, M., Kanno as managers on the part of the Senate at such conference.

H.B. No. 1831, H.D. 1 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 1831, H.D. 1, and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Aki, Levin, co-chairmen, Metcalf, Slom as managers on the part of the Senate at such conference.

H.B. No. 2032, H.D. 2 (S.D. 2):

In accordance with the disagreement of the House to the amendments proposed by the Senate to H.B. No. 2032, H.D. 2, and the request for a conference on the subject matter thereof, the President appointed Senators Tam, Aki, Fernandes Salling, Kanno, Chun Oakland, co-chairmen, Kawamoto, Slom as managers on the part of the Senate at such conference.

#### ADJOURNMENT

At 12:34 o'clock p.m., on motion by Senator McCartney, seconded by Senator Slom and carried, the Senate adjourned until 3:00 o'clock p.m., Tuesday, April 22, 1997.

## EXHIBIT "A"

STATEMENT OF  
SENATOR AVERY B. CHUMBLEY  
REGARDING H.B. NO. 118 CD1  
RELATING TO UNMARRIED COUPLES

Mr. President,

I rise to speak in favor of this bill. This bill has been subject to a great deal of misrepresentation and unfair criticism. I would like to take this opportunity to address some of the expressed concerns.

1. Effective Date. The measure will take effect on July 1, 1997. Earlier versions of the measure would have made it effective upon ratification of the Constitutional Amendment proposed in H.B. No. 117 C.D. 1. Critics of the July 1 date argue that waiting would have been preferable because the rights contained in this bill would be unnecessary and potentially conflicting if same gender marriage is approved by the court or the electorate.

This does not establish a reason for delay. First, the Attorney General has advised that a conditioned effective date may raise Constitutional questions. Since such concerns may

serve as grounds for a Governor's veto, a date certain is preferable.

Second, H.B. No. 118 extends rights to more than same gender couples. All adult couples who are prohibited by law from marriage can become reciprocal beneficiaries under the bill. The rights of these citizens should not be held hostage to the Constitutional Amendment, and even if same gender marriage is legalized the bill would not be redundant since RB status would remain available to these couples.

And Third, to delay for eighteen months may hasten a ruling by the Supreme Court. The Court has not issued a final judgement on Baehr v. Miike and by the passage of this bill we will mitigate most of the actual damages suffered by the plaintiffs in that case. By providing timely access to actual relief we make it less necessary for the Court to rule and send a message that conflict and confrontation can be avoided. To delay access to these benefits will only encourage immediate judicial action.

Finally, delay would be unfair. If we agree, as we should, that at least these rights should be extended to nontraditional couples, we should do so now. It should offend our sense of justice to defer equal access to governmental benefits for no

good reason -- It should offend our understanding of fairness to condition this, or any, rights package.

2. Private Sector Costs. The largest red herring attack on the bill is that it will impose costs upon the private sector. Simply there is no evidence to support any such concern.

The bulk of the so-called debate centers around prepaid health insurance. The bill indeed requires that reciprocal beneficiary coverage be made available on an equal basis with family coverage. But nowhere in our law is it required that employers provide family coverage. This bill does not do so. So no private employer will be required to provide reciprocal beneficiary coverage.

Some employers voluntarily pay for family coverage. This bill would permit them to do so for reciprocal beneficiaries. But this will be a matter of employer choice. And if they do provide such coverage, evidence from the 100 private employers, 49 colleges, 62 state or local governments, and 22 unions that provide some form domestic partner benefit have yet to report a single case of significant adverse impact.

In fact, according to a recent study by the International Foundation of Employee Benefit Plans, provided to us by HMSA,

concludes that while a concern with increased costs have been raised, "What experience has borne out, does not support these fears. ... In general, there is no evidence to indicate that the average health care cost of domestic partner (same sex and/or opposite sex) will be significantly higher than that of a spouse." I have attached to my remarks a copy of the study for inclusion in the record..

3. Public Sector Costs. The only cost element that has been identified has been public sector health insurance participation. The State and County governments are required by law to pay sixty percent of family coverage. They will be similarly required to contribute to reciprocal beneficiary plans.

Cost figures as high as \$13,000,000 have been bandied about. We have met with the Executive Director of the State Health Fund to determine the foundation for such estimates. In fact, they are based upon someone's arbitrary guesses as to participation rates.

Participation by 10% of eligible single-coverage employees and retirees could yield such a cost. But available evidence indicates that such a figure is probably between ten and 100 times too high. In response to an inquiry initiated by our Committee, the Spectrum Institute examined participation rates in



various programs with a total of 35,000 employees (There are 48,000 government employees are covered in Hawaii.). The programs included Apple Computer, MCA/Universal, Viacom International, the Boston Globe and the Seattle Times. Participation rate was **one-third of one percent**. Even the City of San Francisco, the boogey man for homophobes, had a participation rate of .9% from among its 33,000 employees. I will include in the record the referenced communication and will be more than happy to make it available to any of my colleagues.

In fact, we can anticipate the participation may be even lower in Hawaii because we have almost achieved our State's goal of universal Health Insurance. Since employed single individuals are already covered by their employer, there is no reason to join the government program. So we are in all likelihood only talking about potential participation from among Reciprocal Beneficiary couples if one partner is unemployed or self-employed while the other is a government employee. Since approximately 90 percent of our citizens are covered by health insurance this should substantially reduce the pool.

Finally, though some costs may be incurred by government, the principle behind this bill requires that it be borne. Our State has a made a promise to pursue universal health insurance; our State has made a promise to participate in the funding of

insurance for the loved ones of its government employees; and our State has promised not to discriminate on the basis of sex or invade the privacy of its citizens. We have not put a price on keeping these promises. Exaggeration and fear should not let us do so.

I urge my colleagues to vote in favor of this bill.

## EXHIBIT "B"

HAWAII INS. DIV.

ID:808-586-2806

MAR 12 '97

10:30 No.007 P.01

BENJAMIN J. CAYETANO  
GOVERNORKATHRYN S. MATAYOSHI  
DIRECTORREYNALDO D. GRAULTY  
INSURANCE COMMISSIONER

STATE OF HAWAII  
INSURANCE DIVISION  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
P. O. BOX 3614  
HONOLULU, HAWAII 96811-3614  
250 S. KING ST., 5TH FLOOR  
HONOLULU, HAWAII 96813

March 12, 1997

The Honorable Wayne Metcalf  
The Senate  
State Capitol, Room 222  
Honolulu, HI 96813

Dear Senator Metcalf:

You inquired whether the Insurance Division anticipated any impact on mandated health benefits in the event the legislature passes a domestic partnership bill.

While a domestic partnership bill may result in two individuals being afforded the right to purchase family coverage (individual plus dependents), appropriate premiums will be charged for the family coverage. As such, the cost for services on mandated health benefits should not be impacted by redistribution of health premiums from individual only coverage to family coverage, if family coverage is afforded to domestic partners.

We hope this letter is responsive to your inquiry.

Very truly yours,

A handwritten signature in cursive script that reads "Shelley Santo".

Shelley Santo  
Rate and Policy Analysis Manager

APPROVED

 A handwritten signature in cursive script that reads "Rey Graulty".
 

Rey Graulty  
Insurance Commissioner

## EXHIBIT "C"

BENJAMIN J. CAYETANO  
GOVERNOR

MAZIE HIRONO  
LT GOVERNOR



RAY K. KAMIKAWA  
DIRECTOR OF TAXATION

SUSAN K. INOUE  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF TAXATION  
P. O. BOX 259  
HONOLULU, HAWAII 96809

March 4, 1997

The Honorable Avery Chumbley, Co-Chair  
The Honorable Matt Matsunaga, Co-Chair  
Conference Committee  
State Capitol  
Honolulu, Hawaii 96813

RE: H.B. No. 118, H.D. 1, S.D. 1 (Relating to Unmarried Couples)

Dear Senators,

I am writing to you regarding the impact of the above referenced bill, on revenue and the Department of Taxation's (Department) operations. Under this proposal, a new status of reciprocal beneficiaries is created for people who are not eligible for marriage under chapter 572, Hawaii Revised Statutes. Certain requirements must be met before a reciprocal beneficiary relationship can be established, including a minimum age of 18 years of age and a minimum one year residency in Hawaii by each party. Enumerated benefits such as health care and tax benefits are extended to reciprocal beneficiaries.

To measure the impact on individual income tax revenue, we assumed the following hypothetical facts:

- 1% of the resident single and head-of-household returns, or 3,390, filed for tax year 1994 may be eligible to claim the new status.
- Using the 1993 and 1994 median adjusted gross income (AGI) for the single/head-of-household taxpayer, each eligible person claimed:
  - one personal exemption,
  - the standard deduction of \$1,500,
  - the low-income renter's tax credit,
  - the excise tax credit, and
  - the food tax credit.

Under this hypothetical, if all individuals representing that 1% group established a reciprocal beneficiary relationship *and filed income tax jointly*, additional revenue to the state may approximate

The Honorable Avery Chumbley  
The Honorable Matt Matsunaga  
March 4, 1997  
Page 2

\$400,000. In addition, if the taxpayers did not individually claim the renter's tax credit, an estimated \$200,000 in revenues may accrue to the state general fund.

As single-status taxpayers, each is eligible for the standard deduction of \$1,500 and the food, excise, and renter's tax credits. As joint filers, the allowable standard deduction declines from \$3,000 ( $\$1,500 \times 2$ ) to \$1,900, a decrease of \$1,100 per reciprocal beneficiary couple. Also, when taxpayers combine incomes resulting in AGI above \$29,999, they are no longer eligible for the low-income renter's tax credit. Their average tax liability, as a result, would exceed the amounts they would have paid as single taxpayers.

The Department expects that there will be no negative impact on the administration of the tax laws as each reciprocal beneficiary couple will file either jointly or separately as married couples currently do.

Thank you for this opportunity to comment on this bill. For your convenience, we have attached a list of all tax provisions mentioned in this proposal. If you have any questions, please call me at 587-1510 or your staff may call Johnson Lau at 587-1562. Thank you.

Very truly yours,



RAY K. KAMIKAWA  
Director of Taxation

c: The Honorable Mike McCartney  
The Honorable Wayne Metcalf

Enclosure

h0118a.mju

HB. No. 118, H.D. 1, S.D. 1  
RELATING TO UNMARRIED COUPLES  
TAX HRS SECTIONS REFERENCED IN BILL

SECTION 15 OF BILL	Substitute the words "spouse or reciprocal beneficiary" wherever the term "spouse" or like term appears.
HRS Sections 231-57	Apportionment of joint refunds according to gross income.
235-2.4	Operation of certain Internal Revenue Code provisions.
235-4	Income taxes by the State; residents, nonresidents, corporations, estates, and trusts.
235-7	Other provisions as to gross income, adjusted gross income, and taxable income.
235-12	Energy conservation; income tax credit.
235-51	Tax impose on individuals; rates.
235-52	Tax in case of joint return or return of surviving spouse.
235-54	Exemptions.
235-55.6	Expenses for household and dependent care services necessary for gainful employment.
235-55.9	Medical services excise tax credit.
235-61	Withholding of tax on wages.
235-102.5	Income check-off authorized.
236A-5	Allowance for exemptions, deductions, and credits.
SECTION 16 OF BILL	Substitute the term "family, including reciprocal beneficiary" wherever the words "family" or "families" or the like appear.
HRS Sections 231-25	Payment, enforcement of by assumpsit action or by levy and distraint upon all property and rights to property.
235-55.7	Income tax credit for low-income household renters.
SECTION 17 OF BILL	Substitute the term "reciprocal beneficiary" wherever the words "husband and wife" or the like appear.
HRS Sections 231-57	Apportionment of joint refunds according to gross income.
235-1	Definitions (net income tax)
235-16	County surcharge excise tax credit.
235-55.6	Expenses for household and dependent care services necessary for gainful employment.
235-55.9	Medical services excise tax credit.
235-61	Withholding of tax on wages.
235-93	Joint returns.
235-97	Estimates; tax payments; returns.
247-3	Exemptions (conveyance tax)
247-5	Imprinting of seal.
SECTION 19 OF BILL	Substitute the term "marriage or reciprocal beneficiary relationship" wherever the word "marriage" or like term appears.
235-5.5	Individual housing account
235-55.6	Expenses for household and dependent care services

EXHIBIT "D"

# SPECTRUM INSTITUTE

*A Non-Profit Corporation Promoting Respect For Human Diversity*

March 7, 1997

Matt Matsunaga and Avery Chumbley  
Co-chairs, Senate Judiciary Committee

---

Thomas F. Coleman  
Executive Director  
Family Diversity Project

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Re: Expected Costs to Employer in Offering  
Health Coverage to Same-Sex Couples

Dear Senators:

You asked my opinion regarding any increase in costs to employers if they were required to offer health coverage to same-sex partners of employees.

Based on several studies, excerpts of which I have faxed to you, such employers could expect a negligible increase in health care costs.

Spectrum Institute's recent analysis of employers providing domestic partner health coverage to same-sex *and* opposite-sex couples shows that even with such broad coverage only about 1% of the workforce signs up. Costs are the same as or less than for spouses. Since employers have reported that less than 30% of these domestic partners are same-sex couples, it would appear that employers offering such coverage only to same-sex couples should expect an increase in health benefits premiums of about .3% -- that is, **one-third of one percent**.

Another barometer is the sign-up rate at employers offering domestic partnership health benefits to same-sex couples only. Taking the average of the 35,810 workers at the following employers offering only same-sex coverage, about .3% signed up. Again, the result is the same, costs increase by only **one-third of one percent**.

Apple Computer:	4,700 employees, 42 signed up = .9%
Montefiore Medical Center:	9,000 employees, 36 signed up = .4%
MCA/Universal:	15,000 employees, 15 signed up = .1%
Viacom International:	5,000 employees, 18 signed up = .4%
Boston Globe:	260 employees, 1 signed up = .4%
Seattle Times:	1,850 employees, 5 signed up = .3%

Obviously, there will be some price associated with adding same-sex partners onto a group health plan. No health care provider adds people without charging the employer any fee whatsoever. However, from all available data, the increase in cost -- one-third of one percent -- is negligible.

Furthermore, from the various studies I have reviewed, and from interviews with benefits managers at many employers, there have been no adverse financial consequences from adding domestic partnership health or dental benefits. Claims experiences have been very good, with the claims of same-sex partners being significantly *less than* the claims filed by married couples, mostly due to the fact that married couples sometimes have high costs associated with complicated pregnancies (a premature baby can cost hundreds of thousands of dollars).

*SPECTRUM INSTITUTE*

*Senators Chumbley  
and Matsunaga  
March 7, 1997*

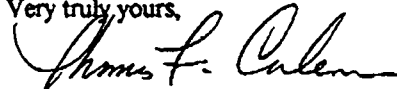
Hewitt Associates, one of the world's most prestigious employee benefits consulting firms, has reported: "Experience thus far indicates employers are at no more risk when adding domestic partners than when adding spouses. In fact, experience indicates the cost of domestic partner benefits is lower than was anticipated."

The International Foundation of Employee Benefit Plans has reported: "A related cost concern frequently expressed by employers is that an employee will falsely portray a domestic partnership to obtain health insurance coverage for a sick friend. This type of abuse, however, has not been reported among employers providing the benefit." The Foundation also has reported that employers have found that "domestic partnership coverage is the same as or less than spousal or other dependent coverage" when it comes to cost.

Your request for information was quite timely. This week I have been busy preparing a presentation about domestic partnership employment benefits for two business groups that are meeting in Indianapolis later this month. I will also be speaking to a large group of employers, insurers, and risk managers in Atlanta on the same subject this September.

If there is any other information that we can provide to the Legislature as it attempts to reach a decision on benefits for "reciprocal beneficiaries," please do not hesitate to call on us.

Very truly yours,



THOMAS F. COLEMAN





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\* also serve as a Director

January 29, 1997

Thomas F. Coleman  
President  
Spectrum Institute  
P.O. Box 65756  
Los Angeles, CA 90065

Dear Mr. Coleman:

On behalf of the Self-Insurance Institute of America, Inc., we would like to express our appreciation for your agreeing to participate in our Eighth Annual MGU/Excess Insurers Executive Forum and Seventh Annual Third Party Administrator Executive Forum. The forums will be held March 18-20, 1997, at the Omni Severin Hotel, Indianapolis, Indiana. We are very fortunate to be able to draw on your professional expertise for the benefit of our attendees.

We have scheduled you to address the group on the following day and subject matter:

MGU Forum - General Session #5

**Domestic Partnering - A Risk Question**

Date/Time: Wednesday, March 19, 1997 9:45 a.m. - 10:45 a.m.

TPA Forum - General Session #4

**Are Domestic Partner Benefits in Your Clients' Future?**

Date/Time: Wednesday, March 19, 1997 2:00 p.m. - 3:15 p.m.

A copy of the Forum draft has been enclosed for your review. The final program and actual brochures are being printed and should be out in the mail soon.

**EIGHTH ANNUAL MGU/EXCESS INSURER EXECUTIVE FORUM**  
**Self Insurance Institute of America, Inc.**  
**Indianapolis / March 18, 1997**

**Domestic Partnering -- A Risk Question**  
**Presenter: Thomas F. Coleman, Esq.**

**OUTLINE OF PRESENTATION:**

1. From the weekly paycheck as the only form of compensation to a wide diversity of benefits: How did we get to this point and where do domestic partnership benefits fit in?
2. Which public and private employers are currently offering domestic partnership benefits?
3. How do these employers define eligibility criteria?
4. What are the risks associated with adding or not adding domestic partnership benefits?
5. What are the costs associated with domestic partnership benefits?
6. Are domestic partnership benefits taxable to the employee?
7. How is public opinion running on the issue of domestic partnership benefits?
8. Does the Defense of Marriage Act passed by Congress effect such benefits plans?
9. If gay marriage is legalized in Hawaii, how will that effect businesses on the mainland?
10. Are there any political developments indicating future trends for domestic partnership benefits?

**HANDOUTS: (Attached)**

- A. "Domestic Partner Benefits: Meeting the Needs of Unmarried Workers," *The Self-Insurer*, Sept. 1996.
- B. "One in 10 firms extend benefits to life partners," *USA Today*, January 24, 1997.
- C. "Employers Providing Domestic Partner Benefits: Cost Analysis," *Spectrum Institute*, March 1997.
- D. Sample information sheet and eligibility affidavit used by the City of Los Angeles
- E. Tax, ERISA, and COBRA Aspects of Domestic Partnership Benefits
- F. "Domestic Partners and Employee Benefits, excerpts from Hewitt Associates report, 1994
- G. Memo from Administrative Office of US Courts on Impact of Defense of Marriage Act on 'family' benefits
- H. Results of a 1997 Field Poll on public opinion in California regarding domestic partnership benefits
- I. "Working domestic partner health plans win praise," *Newsday*, March 26, 1995
- J. San Francisco's Mandate to Private Companies Doing Business with the City / newspaper articles
- K. Philadelphia's proposal to mandate domestic partner benefits by private businesses / newspaper article
- L. Chicago's Domestic Partnership Plan: One Step Forward, Two Steps Back / article
- M. International Developments: Canada, Spain, Netherlands, Brazil / articles
- N. Information about Spectrum Institute and its executive director Thomas F. Coleman

EMPLOYERS PROVIDING DOMESTIC PARTNER BENEFITS TO BOTH OPPOSITE-SEX AND SAME-SEX PARTNERS: COST ANALYSIS

Employer	Year DP Plan was Instituted	Total Eligible Employees in Workforce	Number Signed Up as DP's	Percent Signed Up as DP's	Information Reported Regarding Costs
Ben & Jerry's (VT)	1989	492	24	5.0%	No significant increase in costs
Berkeley City (CA)	1984	1,475	116	7.9%	DP's constitute only 2.8% of total health costs
Blue Cross of Massachusetts (MA)	1994	6,000	78	1.3%	Cost information not reported by research source
Bordland International (CA)	1992	1,200	49	4.1%	Cost information not reported by research source
Cambridge City (MA)	1993	500	4	.8%	Cost information not reported by research source
International Data Group (MA)	1993	1,600	14	.9%	Cost information not reported by research source
Levi Strauss & Co. (CA)	1992	23,000	690	3.0%	Costs are the same as or less than for spouses
Laguna Beach City (CA)	1990	226	6	2.7%	Costs are the same as for spouses
Los Angeles City (CA)**	1994	34,500	448	1.3%	Costs are the same as for spouses; no adverse experience
National Public Radio (Wash. DC)	1993	450	5	1.1%	Cost information not reported by research source
New York State**	1995	320,000*	2,000	.6%	State pays 25% of cost / no adverse experience / * includes retirees
Sacramento City (CA)**	1995	4,000	15	.4%	City doesn't pay for dpts; worker pays but gets benefit of group rate
San Diego City (CA)**	1993	9,300	50	.5%	City doesn't pay for dpts; worker pays but gets benefit of group rate
San Francisco City (CA)	1991	32,900	296	.9%	City doesn't pay for dpts; worker pays but gets benefit of group rate
San Mateo County (CA)**	1992	4,200	138	3.3%	Cost information not reported by research source
Santa Cruz City (CA)**	1986	800	23	2.9%	Costs are the same as for spouses / non-union not eligible
Santa Cruz County (CA)	1990	2,100	33	1.6%	Costs are the same as for spouses
Seattle City (WA)**	1990	10,000	500	5.3%	2.5% of total health costs / less than spouses; no adverse experience
Vermont State**	1994	9,000	280	3.1%	State pays 80% of cost for spouses and dpts; no adverse experience
Ziff Communications (NY)	1993	3,500	75	2.1%	Cost information not reported by research source
<b>Total</b>		<b>465,203</b>	<b>4,844</b>	<b>1.0%</b>	<b>Costs are same or less than for spouses / no adverse consequences</b>

\*\* Employee benefits managers at these employers were personally interviewed by Spectrum Institute during March 5-7, 1997. (Revised 3-7-97)

Other sources: "Domestic Partner Benefits: Employer Considerations," Employee Benefits Fourth Quarter 1994, International Foundation of Employee Benefit Plans, "Domestic Partners and Employee Benefits," Research Paper, November 1994, Hewitt Associates, "Domestic Partner Health Care Eligibility," Report to the American Federation of Nurses, January 1993, John M. Fickelwitz and Associates, "Domestic Partner Benefits on the Upswing," Employee Benefits Management, Report No. 44, October 27, 1992, Commerce Clearing House, "Understanding the Domestic Partner Dilemma: Perspectives of Employer and Insurer," Report, October 1993, City of West Hollywood, "Other Employers with Domestic Partnership Benefits," National Lesbian and Gay Journalists Assn., March 1997, www.journalists.sbu.edu/www/ligiv/dp-ompo.html, "Recognizing Non-Traditional Families," Special Report #38, February 1991, Bureau of National Affairs.

## OCTOBER 1993

This study is a project of the City of West Hollywood, California, in furtherance of its policy of non-discrimination on the basis of marital status or sexual orientation. The research was performed, and the report written by Ms. Elizabeth Murphy, a highly talented and exceptionally capable person whom it was the City's good fortune to be able to hire as an intern during the summers of 1992 and 1993. We all look forward with happy anticipation to the day when Ms. Murphy will begin her practice of law, and we wish her well in her remaining studies toward that goal.

## THE CITY OF WEST HOLLYWOOD, CALIFORNIA

Sal Guarriello, Mayor  
Abbe Land, Mayor Pro Tem  
John Heilman, Councilmember  
Paul Koretz, Councilmember  
Babette Lang, Councilmember

City Manager: Paul D. Brotzman  
Assistant City Manager: Bob Edgerly  
Human Resources Officer: Kevin Fridlington

Personnel Assistant, and Coordinator of Domestic Partnership Meetings at the 1992 and 1993 League of California Cities Conferences, Los Angeles (Oct. 1992), and San Francisco (Oct. 1993): B.J. Sultan

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**IV. Employers' Experience With Benefits For Domestic Partners**A. Government Employers<sup>1</sup>

## 1. California:

Berkeley

The City of Berkeley offers health and dental insurance, leave benefits (sick and bereavement), and hospitalization for domestic partners of city employees. These benefits were added various employee unions, in an effort to eliminate discrimination. The city hoped to achieve this goal by equalizing employee benefits between married and unmarried employees, treating employees fairly and with respect, and providing security with employees' choice of lifestyle. Overall, Berkeley's impression of health benefits for domestic partners is that it is, ". . . absolutely doable, absolutely fair . . . it DOES work."<sup>2</sup> In order to enroll a partner in the city's benefits plan, the employee and his or her partner must sign and file a standard affidavit of domestic partnership.<sup>3</sup> Although the couple must have lived together for at least six months prior to obtaining benefits, the city does not require proof of cohabitation, since it is not required of married couples.

<sup>1</sup>Unless otherwise specified, all of the following information was obtained directly from officials in the organizations named.

<sup>2</sup>Loni Hancock, Mayor, stated during presentation at American Society for Public Administration Annual Conference, July 1993.

<sup>3</sup>See Appendix C.

Oakland

The City of Oakland extended its vision and dental benefits plans, as well as sick and bereavement leave to domestic partners of non-sworn city employees on February 1, 1993.<sup>4</sup> Benefits are available to partners regardless of gender, and enrollment requires a standard Declaration of Domestic Partnership form.<sup>5</sup> The waiting period between successive partnerships is one year.

As of August 1993, 49 couples have enrolled, 70 percent of which are opposite-sex. The city has encountered no opposition, fraud or other problems associated with domestic partnership benefits.<sup>6</sup>

Santa Cruz

Santa Cruz offers medical, dental, vision and hospitalization insurance, and sick and bereavement leave to all city, county, and transit district employees who have domestic partners. These benefits were first offered on May 1, 1986, as the result of bargaining between the city and the Service Employees International Union (SEIU).<sup>7</sup> By 1988 two other unions had negotiated these benefits in their contracts.

<sup>4</sup>City of Oakland, "Administrative Instruction, Domestic Partners Relationship," February 1, 1993.

<sup>5</sup>See Appendix "C."

<sup>6</sup>Letter from Denise Monroe, Benefits Representative, dated August 11, 1993.

<sup>7</sup>City of Santa Cruz Council, Resolution No. NS-17, 185, "Resolution of the council of the City of Santa Cruz ratifying the 1986-1988 memoranda of understanding with the City of Santa Cruz Service and Supervisory Employees and adopting a revised compensation plan," September 23, 1986.

The city employs 675 people, 23 of whom have enrolled their domestic partners in the benefits plan. Of these, 3 are same-sex and 20 are opposite sex couples. While there have been up to 30 partners enrolled in the past, the drop is attributed to the IRS letter ruling to Seattle declaring that domestic partner health benefits are taxable income.<sup>8</sup>

Santa Cruz is primarily self-insured, but is re-insured by Lexington Insurance of Boston. Lexington agreed to add domestic partners to the group plan without requiring a surcharge.

The premiums for health insurance benefits for domestic partners are paid entirely by the city, for employees represented by SEIU. Employees represented by either of the other two unions must pay a portion of the premium for spousal and domestic partner coverage. As of September 1993, there have been no AIDS or other fraudulent claims filed by domestic partners, and there has been no additional cost associated with extended health benefits.<sup>9</sup> In order to enroll, the employee and his or her partner must file an affidavit, and provide proof that they have lived together for at least one year.

<sup>8</sup>See "Tax Implications," *Supra*.

<sup>9</sup>Letter from Erwin Young, Director of Personnel, dated August 6, 1993.

West Hollywood

West Hollywood offers, health, dental and vision insurance, sick, bereavement and unpaid leave for city employees' domestic partners.<sup>10</sup> After being turned down by 16 carriers, the city decided to self-insure health coverage for domestic partners in 1989. For the first half of 1989, costs to the city for health coverage dropped to \$35,000, from the estimated \$100,000 the city would have had to pay a commercial carrier.<sup>11</sup> There is a \$20,000 cap per year on domestic partner claims. Although West Hollywood has tried repeatedly to get its HMO, Kaiser South, to recognize domestic partners, the city has had no success.

From July 1991 to July 1992, domestic partners filed a total of \$7,112.72 in health claims, none of which were AIDS related. This figure represents less than two percent of the total health claims of \$450,000 filed during that period. Currently there are five enrolled partners out of 135 benefits-eligible employees. Of these, two are same-sex male, one is same-sex female, and two are opposite sex couples.

The City has also offered general registration for domestic partners since 1985. As of October 1993, 395 partnerships have been filed, and 70 have been terminated. At least 15 of the

<sup>10</sup>City of West Hollywood, West Hollywood Municipal Code, Chapter 4, Part B, "Domestic Partnerships;" Ordinances #21 and #22.

<sup>11</sup>William Celis III, "Benefits for Live-In Mates of Domestic Partners face Obstacles," Wall Street Journal, July 1989.



terminations were due to the death or one of the partners. 336 of these have been same-sex male, 82 same-sex female, and 77 have been opposite sex couples. Many of these registered partnerships have lasted over ten years, and some twenty years or more. Landlord-tenant rights, jail and hospital visitation rights are afforded to those who register their partnerships with city hall. Unlike many cities, West Hollywood does not require that partners be romantically involved in order to register as a domestic partnership. Thus, senior citizens or others who have budget constraints may use domestic partnership to ease the cost of living.

#### Laguna Beach

Laguna Beach has offered medical, dental and sick leave to domestic partners of city employees since October 1990,<sup>12</sup> and general registration to city residents since April 1992.<sup>13</sup> Currently 6 of 226 employees have enrolled domestic partners in the health plan. One of these is homosexual, and the remaining five are heterosexual partnerships. Domestic partner health insurance is self-funded by Laguna Beach up to \$50,000 per person per year, and reinsured by Hartford Life. Premiums are the same for domestic partners and spouses.

12 "Health Plan Coverage for Domestic Partners of City Employees," memorandum by Robert Gentry, Council Member.

13 City Council of the city of Laguna Beach, Ordinance No. 1230, "An Ordinance of the city council of the City of Laguna Beach adding Chapter 1.12 to the Laguna Beach Municipal Code relating to domestic partnerships," April 21, 1992.

The city reports that costs for domestic partner coverage are no higher than spousal coverage. Claims filed by domestic partners have been negligible, and there have been no fraudulent or AIDS-related claims.

General registration was also made available in July 1992. So far, 42 couples have registered, 95 percent of which are homosexual. General registration affords partners visitation rights in jails and hospitals, as well as durable power of attorney health care and other authorized purposes.

Santa Cruz County

Santa Cruz offer medical, dental and hospital insurance, and visitation, sick and bereavement leave to county employees.<sup>14</sup> The premiums for domestic partner medical coverage must be paid entirely by employees. The health plan is self-funded, with 35 partners out of two thousand employees currently enrolled. Santa Cruz has had no AIDS claims filed by domestic partners, and has experienced no other unusual costs associated with the extended coverage.<sup>15</sup>

<sup>14</sup>County of Santa Cruz, "Affidavit of Domestic Partnership."

<sup>15</sup>Letter from Leticia Luna, Employee Insurance Clerk dated August 20, 1993.

San Matteo County

In 1990, San Matteo added two new groups of dependents to its self-funded dental and Employee Assistance Programs by replacing the term "traditional family" with "extended family. The first group is "Young Adult Dependents" (YAD's), employees up to age 30, and the second is domestic partners. A domestic partner is defined as an unrelated adult who resides in the household of the employee, and who meets all of the criteria listed in the "Affidavit of Domestic Partnership."<sup>16</sup>

With the addition of these new categories of dependents, the county began offering sick and bereavement leave for partnere4d employees. As of September 1993, 65 employees have enrolled domestic partners for purposes of these leave benefits. Eighty percent (80 percent) of these relationships are heterosexual.

In August 1992, all medical, dental and vision insurance was made available to domestic partners and "YAD's." As of September 1993, 139 domestic partners have enrolled in the county's various health coverages (103 medical, 123 dental, 123 vision).<sup>17</sup>

<sup>16</sup>See Appendix "C", infra.

<sup>17</sup>Letter from Paul Hackleman, Benefits Manager, dated September 2, 1993.

Health coverage for domestic partners is provided by Kaiser and Bay Pacific, the county's two HMO's. Kaiser added a surcharge of less than one dollar per month per partner, to be in effect for three years, in spite of opposition from county officials.

Conversely, Bay Pacific, now AETNA, decided to add a surcharge only if a year's experience proved unusually high utilization. Since the first year proved no such additional utilization, AETNA has renewed its contract with the county with no added charge for domestic partner coverage.

The county has encountered no fraudulent or AIDS related claims among domestic partners of its employees.

2. Connecticut:

Hartford

As of July 1, 1993, gay or unmarried couples from anywhere in Connecticut will be able to register their relationships with City Hall.<sup>18</sup> On the first day that registration was available, five couples (three female, two male) obtained the official recognition of their relationships.

<sup>18</sup>"A Sort-of-Out-of-Wedlock Marriage," The Hartford Courant.

### 3. Ben & Jerry's Homemade

Ben & Jerry's Homemade, Inc. has recognized domestic partnerships since October 1989. Employees may enroll their domestic partners in the company's health and dental plans. Neither Ben & Jerry's nor its carrier, Consumers United, has experienced any increase in cost as the result of offering coverage to domestic partners.

Ben & Jerry's pays the entire premium for salaried employees, and part of the premium for domestic partners. Of a total employee pool of 498, approximately 25 have signed up for coverage.<sup>19</sup> Stanford University reports that "most" of the enrolled partnerships are heterosexual.<sup>20</sup> Ben & Jerry's has encountered no arguments against domestic partnership recognition.

In order to qualify for benefits, the couple must fill out a declaration of domestic partnership which states that they have lived together for at least three months, and that neither has had another domestic partner during that time.

Children of the domestic partner may also be covered, as long as they have lived with the employee for at least 3 months, are not related, and rely on the employee for their general care and welfare.

<sup>19</sup>Conversation with Cathy Chaplin, Employee Benefits, October 7, 1993.

<sup>20</sup>Stanford.

#### 4. Levi Strauss

Levi Strauss began offering medical coverage to domestic partners on June 1, 1992, in response to employee suggestion.<sup>21</sup> Although this coverage is generally the same as that which is offered to spouses, there are some medical underwriting provisions for the first year, which limit the benefits available to domestic partners during that time.

Levi's is largely self-insured, and pays 88% of the health premiums for domestic partners. Employees who elect domestic partner coverage must pay the remaining 12% of the cost, and the value of the benefit is considered taxable income to the employee.<sup>22</sup>

During Levi's open enrollment period for its "front office" employees (located in the Bay Area or in managerial positions in other locations), only 5% of 3,300 employees requested information, and only 1% actually signed up for health coverage. Levi Strauss employs more than 23,000 people. Approximately 60% of enrollees are opposite-sex, another 35% are same-sex male, and a trace are same-sex female.

Levi's has had a, ". . .very favorable experience (with domestic partner benefits). We were expecting to see a cost, and we were all surprised that 15% of employee contribution has exceeded claims, representing a profit."<sup>23</sup> In addition, support

21Remarks by Reese Smith, Director of Employee Benefits, "Extending Our Benefits," October 19, 1992.

22Levi Strauss & Co., Inter-Office Correspondence, "Benefits for Domestic Partners" April 19, 1993.

23Conversation with Reese Smith, Director of Employee Benefits August 5, 1993.

for the added benefits among employees has been "huge," and the company has experienced no fraudulent or AIDS-related claims among insured partnerships.

5. Lilienthal & Fowler, San Francisco, California

Lilienthal offers health benefits, as well as sick and bereavement leave for domestic partners of employees.<sup>24</sup>

<sup>24</sup>Partners Task Force, at p. 57.





# Employee Benefits Management

# Directions

Report No. 44

Part 1 of 2 Parts ■ October 27, 1992

## Domestic partner benefits on the upswing

*The number of employers extending health benefits to domestic partners is on the rise as fears of increased AIDS claims begin to dissipate*

AT A TIME WHEN MOST EMPLOYERS are trying to cut health care costs wherever possible, a small but growing number of employers are extending medical benefits to employees' domestic partners.

The latest to join the fold is Silicon Graphics, Inc., the nation's leading maker of visual computing systems, which on October 1 extended employee benefits to same-sex partners. Silicon Graphics, of Mountain View, Cal., joins Lotus Development Corp., Levi Strauss & Co., Ben & Jerry's Homemade, the American Psychological Association, Greenpeace, the American Civil Liberties Union, and the cities of Berkeley and Santa Cruz, Calif., Madison, Wis., and Seattle, as entities that have extended benefits to domestic partners.

**Fear of AIDS claims.** The employers that have adopted domestic partners' benefits so far have done so largely as a result of strong employee demand, a desire to gain an advantage in the competition for employees, or a belief that it is the right thing to do. A critical concern of many of these employers, almost all of whom are self-insured, was the possibility that such benefits would raise the number of AIDS-related

cases and thus the cost of providing health care. But what little information is currently available suggests that the fear may be unfounded.

Seattle, for example, reports that its claims experience for domestic partners has been the same as for married or single employees. Berkeley has found essentially the same thing, and dropped the 1.5% surcharge it initially charged on medical premiums for domestic partners. And for insurers, the cost of AIDS claims is not as severe as originally thought, according to a survey by the St. Louis office of Milliman & Robertson, Inc. More than 72% of the insurers said that AIDS claims made up less than 1% of total claims paid.

**Legal problems raised.** The decision to extend partners' benefits, however, raises other problems that employers need to consider before they follow suit, according to Thomas Coleman, executive director of the Family Diversity Project in Los Angeles, a nonprofit group that fights marital status discrimination.

For example, in extending the benefit to domestic partners, some companies only extend the benefit to same-sex partners on the theory that they are the only ones who are for-

bidden by law to marry. If the employer is in a state or a locality with a law prohibiting sexual orientation discrimination, the decision may engender lawsuits from heterosexual unmarried employees on the basis that the company is guilty of a type of reverse sexual orientation discrimination, he says.

Employers also need to consider the ramifications of their decision to ask same-sex employees to sign a "spousal equivalency" affidavit that has not been common among employers that have extended the benefit to domestic partners. Coleman warns that the affidavit could create property or status rights in some states. If so, employers may subject themselves to charges that they failed to adequately advise employees of the implications of signing the affidavit, he says. □

**Most insurers say AIDS claims make up less than 1% of total claims paid.**

### Spotlight

**401(K) PLANS**  
More employers jump on the 401(k) bandwagon

**HEALTH CARE REFORM**  
Unions might lose out if pay or pay system is adopted

## Employer Experience and Costs

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"What will it cost"? This question tops the list of employer concerns when discussion turns to offering domestic partner benefits. With health costs rising, employers tread lightly when expanding coverage and exposing themselves to additional risks. Generally speaking, and contrary to warnings and predictions by insurers and others, extending coverage to domestic partners has not resulted in statistically significant differences in cost. Adverse selection has not been a problem.

Experience thus far indicates employers are at no more risk when adding domestic partners than when adding spouses. In fact, experience indicates the cost of domestic partner benefits is lower than was anticipated. Part of the lower cost can be attributed to the fact that eligible employees tend to be younger and, as a result, healthier. Enrollment rates among domestic partners have been lower than predicted, probably because many domestic partners are already covered by their own employers' plans. Also, any increased risk of AIDS among male same-sex couples appears to be offset by a decreased risk among female same-sex partners. And same-sex domestic partners have a near-zero risk of pregnancy.

Typically, only up to 2% to 3% or less of all employees elect domestic partner coverage at organizations offering the benefit. In planning for domestic partner coverage, many employers had assumed or anticipated enrollment rates of around 10%. For example, fourteen Lotus employees initially signed up for domestic partner coverage, for a 0.45% sign-up rate. Montefiore Medical Center in the Bronx, NY reported a 0.29% enrollment rate (20 out of 7,000 employees). Apple Computer reported a 0.9% initial enrollment figure, or 42 employees out of approximately 4,700 eligible employees. Levi Strauss had 230 out of 25,000 employees enroll their domestic partners for a 1.0% sign-up rate. Public sector employers experienced somewhat higher enrollment rates: 5.6% for West Hollywood, CA; 2.3% for Seattle, WA; and 1.4% for Berkeley, CA. However, it should be noted that all three public employers extend coverage to both same-sex and opposite-sex domestic partners. Only Levi Strauss does so among the private employers mentioned above.

Overall, approximately 67% of the couples electing domestic partner coverage are opposite-sex couples. In Berkeley, CA, 80% of the couples were opposite-sex couples; in Seattle, WA, 70% were opposite-sex; and at Levi Strauss, 60% were opposite-sex couples. This enrollment pattern lowers the risk of catastrophic claims from AIDS victims. Proponents of domestic partner coverage also point out that, according to the most recent Federal AIDS Cost and Utilization Survey, the average lifetime medical cost of HIV treatment is

\$119,000 per patient. By way of comparison, the cost of a kidney transplant can be as high as \$200,000 and the cost of premature infant care can run anywhere from \$50,000 to \$1,000,000.

Insurance company attitudes have not changed much over the last few years as some experience data becomes available. Many of the large, well-known insurers still refuse to cover domestic partners, although some (including Aetna Life & Casualty, CIGNA, and Prudential) have now started offering the coverage in at least some parts of the country.

Self-insured employers have an advantage when it comes to covering domestic partner health benefits. A self-insured employer can generally expand coverage without regard to any limitations that may be imposed by an insurance company, HMO, etc.

## EXHIBIT "E"

## Appendix

Those entities marked with an asterisk (\*) offer bereavement and/or family illness leave only. Unless otherwise noted, other listed employers offer benefits that include some form of health insurance coverage for domestic partners of employees.

## Private Employers

Most of the plans noted below define *domestic partners* to include same-sex couples as well as unmarried heterosexual partners. Benefits vary widely.

- ▶ Adobe Systems, Mountain View, Calif.
- ▶ American Civil Liberties Union, San Francisco and national offices
- ▶ American Cyanamid\*
- ▶ American Friends Service Committee, Philadelphia, Pa.
- ▶ American Psychological Association, Washington, D.C.
- ▶ Apple Computer, Cupertino, Calif.
- ▶ Bank America, San Francisco, Calif.\*
- ▶ Ben & Jerry's Homemade, Waterbury, VT
- ▶ Blue Cross and Blue Shield of Massachusetts
- ▶ Borland International Inc., Scotts Valley, Calif.
- ▶ Boston Globe, Boston, Mass.
- ▶ Bureau of National Affairs (BNA), Washington, D.C.
- ▶ Canadian Press (wire service), Canada
- ▶ Capital Cities/ABC
- ▶ Colgate-Palmolive
- ▶ Consumers United Insurance Company, Washington, D.C.
- ▶ Cray Research\*
- ▶ Dayton Hudson
- ▶ Dow Chemical\*
- ▶ Eastman Kodak, Rochester, N.Y.\*
- ▶ Episcopal Diocese of Newark, New Jersey\*
- ▶ Fannie Mae (Federal National Mortgage Association), Washington, D.C.
- ▶ Federal National Mortgage Association
- ▶ Field Museum of Natural History, Chicago, Ill.
- ▶ First Bank System\*
- ▶ First Chicago Corporation\*
- ▶ Fred Hutchinson Cancer Research, Seattle, Wash.
- ▶ Gardener's Supply, Burlington, VT
- ▶ Genentech, San Francisco, Calif.
- ▶ Greenpeace International, Washington, D.C.
- ▶ Group Health Cooperative of Puget Sound (HMO), Seattle, Wash. (implemented later in 1994)
- ▶ Harley-Davidson (use of onsite facilities)
- ▶ Home Box Office (HBO) (Time Warner, Inc.), New York, N.Y.
- ▶ Howard, Rice, Nemerovski, Canady, Robertson & Falk, San Francisco, Calif.
- ▶ Human Rights Campaign Fund, Washington, D.C.
- ▶ IBM (nonhealth coverage benefits)
- ▶ InterMedia Partners, cable operators
- ▶ Irell & Manella
- ▶ Krum & Forster Commercial Insurance (for unmarried heterosexual couples in common-law states)
- ▶ KQED, San Francisco, Calif.
- ▶ Lambda Legal Defense & Education Fund, New York, N.Y.
- ▶ Levi Strauss & Co., San Francisco, Calif.
- ▶ Lilienthal & Fowler, San Francisco, Calif.
- ▶ Los Angeles Philharmonic, Calif.
- ▶ Lotus Development Corp., Cambridge, Mass.
- ▶ Mattel\*
- ▶ MCA/Universal, Universal City, Calif.
- ▶ Microsoft Corporation, Redmond, Wash.
- ▶ Milbank, Tweed, Hadley & McCloy, New York, N.Y.
- ▶ Millennium Global Inc., Clearwater, Fla.
- ▶ Minnesota Communications Group (Minnesota public radio), Minneapolis, Minn.
- ▶ Montefiore Medical Center, Bronx, N.Y.
- ▶ Morrison & Forster (nationwide, all offices)
- ▶ National Center for Lesbian Rights, San Francisco, Calif.
- ▶ National Gay & Lesbian Task Force Policy Institute, Washington, D.C.
- ▶ National Organization for Women, Washington, D.C.
- ▶ National Public Radio, Washington, D.C.
- ▶ New York Life & Annuity\*
- ▶ New York Times, New York, N.Y.
- ▶ NEXT Computer, Redwood City, Calif. (type unknown)
- ▶ Northern Telecom, N.C.
- ▶ Northwest Airlines (nonhealth coverage benefits)
- ▶ Ontario, Canada (all private companies must provide dental, prescription and health care plans)
- ▶ Oracle Systems Corp.
- ▶ Orrick, Herrington & Sutcliffe, San Francisco, Calif.
- ▶ Pacific Gas & Electric, San Francisco, Calif.\*
- ▶ Pacific Mutual Life\*
- ▶ Pacific Telesis Group\*
- ▶ Para Transit, Inc., Sacramento, Calif.
- ▶ Polaroid, Cambridge, Mass.\*
- ▶ Principle Mutual Life
- ▶ Research Triangle Park, N.C.
- ▶ Riggs National Corporation\*
- ▶ RJR Nabisco Holdings (nonhealth coverage benefits)
- ▶ Schiff, Harden & Waite, Chicago, Ill.
- ▶ Seattle Mental Health Institute, Seattle, Wash.
- ▶ Seattle Times, Seattle, Wash.
- ▶ Silicon Graphics, Mountain View, Calif. (nonhealth coverage benefits)
- ▶ Sony Music Co.\*
- ▶ Sony Pictures Entertainment
- ▶ Sprint, Dallas, Texas (relocation aid only)
- ▶ Starbucks Coffee Company, Seattle, Wash.
- ▶ Sun Microsystems
- ▶ Teachers Insurance & Annuity\*
- ▶ Time Magazine Co., New York, N.Y.\*
- ▶ Time Warner\* (corporate staff)
- ▶ Trans America\*
- ▶ Trans America Occidental Life\*
- ▶ United Church Board for Homeland Ministries (United Church of Christ)
- ▶ University Students Cooperative Association, Berkeley, Calif.
- ▶ US Bancorp\*
- ▶ US West\*
- ▶ Vermont Girl Scouts Council, Vt.
- ▶ Viacom International (MTV, Showtime), New York, N.Y.
- ▶ Walker Art Center, Minneapolis, Minn.\*
- ▶ Warner Brothers (Time Warner, Inc.), Burbank, Calif.
- ▶ Wells Fargo & Company\*
- ▶ WGBH, Boston, Mass.
- ▶ Woodward and Lothrop, Inc., Washington, D.C. (merchandise discounts only)
- ▶ Wyatt Company

## Appendix

### Colleges

Numerous colleges provide health and other benefits for domestic partners of faculty and staff. In some cases, partners of students also receive consideration, including eligibility for married student housing and the use of college facilities. Conditions and benefits vary widely among the campuses listed below.

- ▶ Bowdoin College, Brunswick, Maine
- ▶ Brown University, Providence, R.I.
- ▶ Carnegie Mellon, Pittsburgh, Pa.\*
- ▶ Clark University, Worcester, Mass.
- ▶ Columbia University, New York, N.Y.
- ▶ Dartmouth College, Hanover, N.H. (same-sex partners only)
- ▶ Florida International University, Miami, Fla.
- ▶ General Theological Seminary (Episcopal—housing for same-sex committed couples who are students)
- ▶ Georgia State University, Atlanta, Ga.
- ▶ Grinnell College, Grinnell, Iowa
- ▶ Harvard University, Cambridge, Mass. (must register domestic partner in Cambridge or other city)
- ▶ Hiram College, Hiram, Ohio (unofficial)
- ▶ Ithaca College, Ithaca, N.Y. (Human Rights Commission found housing restrictions unfair to unmarrieds)
- ▶ Massachusetts Institute of Technology, Cambridge, Mass.
- ▶ Middlebury College, Middlebury, Vt.
- ▶ Mission College, Santa Clara, Calif.
- ▶ Moorehead State University, Moorhead, Minn. (unofficial)
- ▶ New York University Law School, New York, N.Y.
- ▶ New York University, New York, N.Y. (same-sex partners only)
- ▶ North Dakota University, Grand Forks, N.D.
- ▶ Northeastern University, Boston, Mass.
- ▶ Occidental College, Los Angeles, Calif.
- ▶ Pitzer College, Claremont, Calif.
- ▶ Princeton University, Princeton, N.J.
- ▶ Rutgers University, New Brunswick, N.J. (benefits stalled by administration, now in litigation)
- ▶ Smith College, Northampton, Mass. (same-sex partners only)
- ▶ Stanford University, Palo Alto, Calif.
- ▶ SUNY Stony Brook, Stony Brook, N.Y.
- ▶ Swathmore College, Swathmore, Pa.
- ▶ Teachers College, Columbia University, New York, N.Y.
- ▶ Tufts University, Boston, Mass. (same-sex faculty, staff, students only. If legal marriage becomes available, partners must marry to retain benefits.)
- ▶ Union Theological Seminary, New York, N.Y.
- ▶ University of British Columbia, Vancouver, B.C., Canada
- ▶ University of California, Los Angeles, Calif.
- ▶ University of Chicago, Chicago, Ill. (same-sex partners only)
- ▶ University of Colorado, Boulder, Colo.
- ▶ University of Iowa, Iowa City, Iowa
- ▶ University of Michigan, Ann Arbor, Mich.
- ▶ University of Minnesota, Minneapolis, Minn.
- ▶ University of New Mexico, Albuquerque, N.M.
- ▶ University of Oregon, Eugene, Oreg. (student housing)
- ▶ University of Pennsylvania, Philadelphia, Pa. (same-sex partners only)
- ▶ University of Pittsburgh, Pittsburgh, Pa. (tuition remission, facility access only for same-sex partners; no insurance)
- ▶ University of Tampa, Tampa, Fla.
- ▶ University of Vermont, Burlington, Vt.
- ▶ University of Washington, Seattle, Wash. (bereavement; other benefits are pending)
- ▶ University of Wisconsin, Madison, Wis.
- ▶ Washington State University, Pullman, Wash.
- ▶ Yale University, New Haven, Conn. (health coverage for same-sex students, faculty, admin. and staff)

### Governments

As with private employers, most of these governmental plans define *domestic partners* to include same-sex couples as well as unmarried heterosexual partners. Partners qualify for benefits under conditions that vary widely.

- ▶ Alameda County, Calif.\*
- ▶ Ann Arbor, Mich.
- ▶ Atlanta, Ga. (court declared unconstitutional, under appeal)
- ▶ Austin, Texas (citizens voted city charter benefits law restricted to heterosexuals only)
- ▶ Baltimore, Md. (same-sex partners only, health plan coverage starts Jan. 1995)
- ▶ Berkeley, Calif.
- ▶ Berkeley Unified School District, Calif.
- ▶ Boston, Mass. (unpaid health insurance coverage)
- ▶ Burlington, Vt.
- ▶ Cambridge, Mass.
- ▶ Canada (federal employees)
- ▶ Chicago, Ill. (paid bereavement leave only)
- ▶ Dane County, Wis.\*
- ▶ Dane Regional Planning Commission\*
- ▶ Delaware, N.J.\*
- ▶ Denmark (similar benefits as marriage for same-sex citizens who are "registered partners")
- ▶ East Lansing, Mich. (nonunion employees only)
- ▶ France (medical benefits for nonworking partner if citizens are French, three-year residents who have lived together at least one year)
- ▶ Greenland (similar benefits as marriage for same-sex citizens who are "registered partners")
- ▶ Hartford, Conn.
- ▶ Hennepin County, Minn.\*
- ▶ Ithaca, N.Y.\*
- ▶ King County, Wash.
- ▶ Laguna Beach, Calif.
- ▶ Los Angeles, Calif.
- ▶ Madison, Wis.\*
- ▶ Massachusetts\* (management level only)
- ▶ Metro Toronto Council, Canada
- ▶ Minneapolis, Minn. (court declared invalid, to be appealed) (was to give cash payments until insurance could be arranged; excludes unmarried heterosexuals)
- ▶ Minneapolis Public Library, Minn.
- ▶ Minneapolis School District, Minn.
- ▶ Multnomah County, Oreg. (medical coverage for nonunion)

### Appendix

- ▶ Municipality of Metropolitan Seattle (Metro), Seattle, Wash.
- ▶ New South Wales, Australia (all citizens: same-sex couples spousal rights to each other's property)
- ▶ New York
- ▶ New York, N.Y.
- ▶ Norway (similar benefits as marriage for same-sex citizens who are "registered partners")
- ▶ Oakland, Calif.
- ▶ Oak Park, Ill.
- ▶ Ontario, Canada
- ▶ Ottawa, Ont., Canada
- ▶ Portland, Oreg.
- ▶ Rochester, N.Y.
- ▶ Sacramento, Calif.
- ▶ San Diego, Calif.
- ▶ San Francisco, Calif.
- ▶ San Jose School District, Calif. (certain unionized employees)\*
- ▶ San Mateo County, Calif.
- ▶ Santa Cruz, Calif.
- ▶ Santa Cruz County, Calif.
- ▶ Santa Cruz Metropolitan Transit System, Calif.
- ▶ Seattle, Wash.
- ▶ Sherwood Hills Village, Wis.\*
- ▶ Sweden (similar benefits as marriage for same-sex citizens who are "registered partners")
- ▶ Takoma Park, Md.
- ▶ Toronto, Ont., Canada
- ▶ Travis County, Texas\*
- ▶ United States Civil Service\*
- ▶ United States Department of Housing (HUD)\*
- ▶ Vancouver, B.C., Canada
- ▶ Vermont (all state workers)
- ▶ Wayne County, Mich.
- ▶ West Hollywood, Calif.
- ▶ West Palm Beach, Fla.\*
- ▶ Yukon Territory, Canada

### Unions

The unions listed have negotiated benefits for same-sex partners, although some may provide benefits only in selected localities.

- ▶ AFSCE, Local 146, Sacramento, Calif.\*
- ▶ Amalgamated Workers Union, Local 88 (RWDSU)\*
- ▶ American Federation of Government Employees, Local 476/HUD\*
- ▶ Canadian Union of Public Employees Local 932, Ontario, Canada
- ▶ Columbia University clerical workers, New York, N.Y.\*
- ▶ Committee of Interns and Residents Staff Union, New York, N.Y.
- ▶ Council 82 (prison guards—N.Y. State benefits)
- ▶ DC Nurses' Association\*
- ▶ International Brotherhood of Electrical Workers, Local 18, Los Angeles, Calif.
- ▶ Legal Aid Society, New York, N.Y.
- ▶ Legal Services Corporation, Des Moines, Iowa\*
- ▶ Mt. Sinai Hospital, New York, N.Y.\* (nurses)
- ▶ Museum of Modern Art, New York, N.Y.\*
- ▶ National Treasury Employees Union\*
- ▶ New York/New Jersey (NYNEX), telephone company workers, New York, N.Y.
- ▶ Oil Chemical and Atomic Workers (several locals in N.Y. and elsewhere)
- ▶ Pacific Gas & Electric, San Francisco, Calif.\*
- ▶ Public Employees Federation (N.Y. State, SEIU/AFT)
- ▶ Retail Store Employees Union Local 410R-8FCS, San Francisco, Calif.\*
- ▶ Seattle Public Library, Wash.\*
- ▶ United University Professors (professors, doctors and some nurses in teaching hospitals—N.Y. State)
- ▶ Village Voice newspaper, New York, N.Y.

*This list of employers and other organizations offering domestic partner benefits, current as of October 1994, was compiled by the Partners Task Force for Gay and Lesbian Couples, Box 9685, Seattle, WA 98109-0685; (206) 935-1206.*