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SENATE OF THE
TWENTY - FIRST LEGISLATURE
of the
STATE OF HAWAII

Second Special Session of 2001

Convened Tuesday, July 10, 2001
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THE
 TWENTY-FIRST LEGISLATURE
 STATE OF HAWAII
 SECOND SPECIAL SESSION OF 2001
 JOURNAL OF THE SENATE

FIRST DAY

Tuesday, July 10, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Second Special Session of 2001, was called to order at 10:40 o'clock a.m., by Senator Robert Bunda, President of the Senate.

The Divine Blessing was invoked by the Honorable Jonathan Chun, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senator Chumbley who was excused.

MOTION TO OVERRIDE VETO

H.B. No. 236:

In accordance with Article III, Section 17, of the Hawaii State Constitution, Senator Chun moved that the Senate override the veto of H.B. No. 236, as contained in Gov. Msg. No. 346, seconded by Senator English.

Senator Menor rose to speak in favor of the motion with reservations and said:

"Mr. President, I am rising to state for the record that I will be casting an 'aye' vote on this measure but with strong reservations.

"Mr. President, my reservations are based on the fact that deep down inside I think many of us feel that there may be significant and serious flaws in the measure that is being considered today. The Governor, of course, has raised concerns in his veto message and has proposed that the bill be amended to modify the penalty provision in the measure to address these concerns. In fact, the Hawaii Family Forum, which as we all know has been a strong proponent of this bill, has indicated that it can accept this kind of an amendment.

"Most significantly, it is not only the Governor who believes that this measure is flawed, but also individuals and organizations who are well-respected in the community and who have been strong advocates for the rights and interests of women who are victims of crime. These organizations and individuals include Peter Carlisle, the Prosecuting Attorney of the City and County of Honolulu; the Hawaii Commission on the Status of Women; the Honolulu Police Department; the Sex Abuse Treatment Center; the Coalition for the Prevention of Sexual Assault; and as already stated earlier, the Honolulu Prosecuting Attorney's Office.

"As we all know, Mr. President, these organizations are not wimps and in fact mean serious business when it comes to getting tough on criminal activities and getting tough on crime, but they still have problems with this measure.

"However, I recognize that this bill is an attempt to respond to an issue of major public concern, so accordingly, with

reluctance, I will be voting in favor of this measure, but with reservations. Thank you."

Senator Fukunaga rose to speak on the motion with reservations and said:

"Mr. President, I'd like the Clerk to record similar reservations for me based on the concerns raised by the prior speaker.

"Thank you."

Senator Ihara rose in opposition to the motion and said:

"Mr. President, in all due respect to my colleagues, I will be voting 'no' to override the Governor's veto on this bill.

"I believe that the punishment does not fit the crime in this case. The penalty in this bill is a class A felony, but if the perpetrator raped his victim, the penalty would be the same or a lesser penalty than the crime of consensual sex. I believe the reverse should be true. I believe that the crime of consensual sex should have a lesser penalty than a crime of rape.

"Thank you, Mr. President."

Senator Hemmings rose to speak in favor of the motion and said:

"Mr. President, I rise to speak in favor of the motion.

"It wouldn't do us all justice if we didn't recognize that this is indeed a historic occasion in that this Legislature is taking a stand that hasn't been taken since 1957 in standing up for its work. The Governor and his veto message sent down his reasons for objecting to the bill and he also sent out a press release yesterday further illuminating his differences with what we did.

"It might be interesting to note that some of our colleagues that have reservations about this bill voted unanimously for it during the Session when it did pass. What's changed I think is the politics of it, and the Governor is exactly right at that.

"Indeed this bill does have substance. If this bill does punish consensual sex more than rape, then maybe what we should do next session is punish rape more, for there are those of us who do believe that crime should be punished and punishment is a deterrent to crime. Our criminal justice system is hemorrhaging with ill-conceived laws and poorly enforced penalties for those who perpetrate crime on innocent victims.

"There are some philosophical differences that the Governor pointed out – yes, there are. We do believe that the Legislature should take a stand on issues of public importance and ones that we uniformly agree upon and that we should not shirk our responsibilities simply because he vetoes the bill. There are

substantive differences with the Governor on this bill and I believe the record will show we're doing the right thing. It's what we got elected to do.

"So I do want to say that deep down inside of me, Mr. President, I feel that this law does have substance. It addresses a very critical issue that most other states have addressed. And more importantly, it sends a message to this community that the Majority Party and the Minority Party are willing to work together in a very constructive bipartisan manner to do things when they need to be done. And for that, I congratulate you, Mr. President, and the Majority Party leadership in both Chambers for this historic occasion.

"Thank you."

Senator Chun rose in support of the motion and said:

"Mr. President, I stand in support of the veto override.

"Mr. President, some of the discussion today has been focusing on the flaws of this bill. I'm not going to stand up and say this is a perfect bill. However, we are missing the point – the current law is flawed. The current law allows older adults to prey – yes, Mr. President – prey upon our younger children with no penalty at all, with no sanction, with no regard for the impact that such actions have on their young lives.

"Mr. President, maybe this bill is flawed and maybe we could do a better job. But, Mr. President, when faced with the choice of this bill and the flaws that are inherent in the current system of no penalty at all, Mr. President, I vote to override and to support this bill.

"Thank you, Mr. President."

Senator Slom rose to support the motion and stated:

"Mr. President, I rise in strong support of this bill and for the override.

"The Co-Majority Leader in his prayer this morning talked about leadership, and that's what this is about – taking a position on a strong, controversial issue. Leadership is not, should not be partisan.

"This is an issue some people would have us believe just came about this year, that we first started talking about it. But that's not true. We've been discussing this issue for many years. We've had many hearings; we've had many drafts of bills. This year during this bill, we've had several different modifications. Compromises – that's what politics is all about. No one has gotten everything that they want from this bill.

"But the biggest flaw would be to do nothing or to allow a veto to override a unanimous 76 to 0 vote where all of us said that with the warts we still see the reason for doing this because this is what the community wants. This is more important than some of the other bills that we say we pass to protect children – bills that protect them in some of their recreational activities, some of the other activities, some of the things that they can see or do. This goes really to the heart of our community and to real protection.

"Yes, we can make further changes next year, but it is time for us to step up and make a statement, a bold and true statement, that this is what we believe. Otherwise, we should not have voted for it in the first place . . . but we did.

"If there is any victory in this, it's not a battle between the Legislature and the Governor. It is a victory for the public, for

the voters, for the taxpayers, for the families, for the parents, and for the young women and young men particularly in our community. It demonstrates, in a community and a nation that has become very cynical about politics and about their political leaders, that if in fact you do get involved, if in fact you stay the course and let people know how committed and passionate you are about something, that in the end you can hope for and expect that your elected officials will do the right thing. That is what the Governor said in his message. He said that's what it's all about – doing the right thing.

"Supporting this bill today, reaffirming our faith and our confidence in what the real message of this bill is, is doing the right thing. And that too, Mr. President, is a nonpartisan issue. Thank you.

"Mr. President, can I request a Roll Call vote?"

The Chair so ordered.

The motion was put by the Chair and, Roll Call vote having been requested, the veto of H.B. No. 236, entitled: "A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Ihara). Excused, 1 (Chumbley).

S.B. No. 204:

In accordance with Article III, Section 17, of the Hawaii State Constitution, Senator Kawamoto moved that the Senate override the veto of S.B. No. 204, as contained in Gov. Msg. No. 351, seconded by Senator Sakamoto.

Senator Kawamoto rose to support the motion as follows:

"Mr. President, unfortunately, the Governor, when deciding whether to veto this message or not, was given some wrong information. In his governor's message he indicated that the reason why he vetoed the bill was that it was only for active military members.

"Mr. President, a year ago, we passed a quarantine bill and we allocated \$500,000 from the general fund. Like that bill, we used a percentage of military versus civilian and the percentage was 35 percent military and 65 percent civilian. That is the way we came up with the credits for the military and the civilians. We had 35 percent of the funds allocated to this bill.

"This year, because of our economic structure and our concern for the amount of monies that we are spending, we asked in this bill to waive the money that was borrowed a few years ago to start up the quarantine bill to be self-sufficient. The amount of money we got was \$270,000 to be waived to not have to pay back the general fund that the quarantine had borrowed to start it up a few years ago.

"The \$270,000 would also be divided up like we had – 35 percent for the military and 65 percent for the civilians. Unfortunately, we could not quantify, as we have been able to quantify the military, because we know what the pay scale is from airman basic to E-6. The people with hardships in civilian life are different because they come in all scales of salaries. But they did get the credit and they would have gotten the credit and they will get the credit if we override the bill.

"Thirty-five percent of \$270,000 is \$95,000. You divide \$95,000 into a population of 1 million and it's 9½ cents – less than a dime . . . less than a dime to say 'military, thank you very

much for what you do here.' I'm sure the neighbor islands and the Waianae coast and the different areas where we've had natural disasters would appreciate the military because they're here. I'm sure the construction industry, which went from a negative 10 percent to a positive 10 percent, would appreciate the military being here. I'm sure the education department in the schools, with all the volunteers that we have from the military, would appreciate that and would give 9½ cents.

"So what we're saying is that we're trying to push together and trying to override a bill to send a message, not the cost of it, but to send a message that we in Hawaii love the military and appreciate their presence here in Hawaii. That's what we're saying.

"We're not certain, but our congressional people are working to pay for the entire bill. But they needed this help this year to carry them over for the next fiscal year.

"So, I rise again to ask my colleagues to show the military and tell them that we appreciate what they have done for us, what they are doing for us, and what they will do for us, regardless of whether we pass the bill or not.

"Admiral Blair, the chief military officer in the Pacific, called me personally and called the Governor personally and was disappointed that the veto was there. The Star Bulletin had a very good article on what this bill is all about and what it means to the military families, the airmen, the E-3, the E-5, or E-6. It means leaving one's family member back in the mainland and not bringing them along. It's a traumatic experience for the young kids in the families.

"That is what 9½ cents would do for us – to tell the military thank you. So I urge my colleagues to vote 'aye' on this bill."

Senator Sakamoto rose to support the motion and said:

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

"Mr. President, as we look at why the Legislature or why the Senate should look at an issue to override, one can look at different ways of saying it. Is it the philosophy, is it the cost, or is it misinformation? As our Senator from Waipahu has made clear, in this particular case, there seems to be misinformation.

"In this particular case, Mr. President, any amount of money is important, but this small amount of money in this measure makes a tremendous amount of difference.

"Many of you have pets, and indeed, as the Senator has said, people feel that they are part of the family. Just think if we charged \$375, \$600, \$840 for every child that military members had to bring to our state, and for that matter, if we had to give them a microchip and maybe for 30 days coup them up somewhere.

"So, for people, this is a personal issue. As the Senator said, I think if the information was correct, this probably would not have been vetoed. Unfortunately, our Governor was not able to discuss the matter to clear up the issues, but certainly we shouldn't let this go for another year.

"Mr. President, I hope our current Governor and all future governors don't let misinformation be the cause of a veto and a veto message. My hope, Mr. President, is that each future governor would commit to talk to the legislators on each measure that they intend to veto. It shouldn't be a secret. It should be a partnership whether they're on the same party or opposing parties.

"We should pass legislation based on correct information, and misinformation shouldn't be allowed to stand. We should change this measure, Mr. President. Thank you."

At 11:03 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:08 o'clock a.m.

Senator Kawamoto then rose and said:

"I request a Roll Call vote."

The Chair so ordered.

The motion was put by the Chair and, Roll Call vote having been requested, the veto of S.B. No. 204, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL QUARANTINE," failed to be overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 16. Noes, 7 (Bunda, Chun, Hanabusa, Inouye, Kokubun, Menor, Nakata). Excused, 2 (Chumbley, Taniguchi).

At 11:10 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

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

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 1 and 2) were read by the Clerk and were disposed of as follows:

Senate Resolution

No. 1 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE FIRST DAY OF THE SECOND SPECIAL SESSION OF 2001."

Offered by: Senators Chun, Kawamoto, Slom.

On motion by Senator English, seconded by Senator Hemmings and carried, S.R. No. 1 was adopted.

No. 2 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Chun, Kawamoto, Slom.

On motion by Senator English, seconded by Senator Hemmings and carried, S.R. No. 2 was adopted.

At 11:13 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:27 o'clock a.m.

ADJOURNMENT

Senator English moved that the Senate of the Twenty-First Legislature of the State of Hawaii, Second Special Session of 2001, adjourn Sine Die, seconded by Senator Hemmings and carried.

At 11:28 o'clock a.m., the President rapped his gavel and declared the Senate of the Twenty-First Legislature of the State of Hawaii, Second Special Session of 2001, adjourned Sine Die.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. 204 RELATING TO ANIMAL QUARANTINE									2		

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
S.R. 1 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE FIRST DAY OF THE SECOND SPECIAL SESSION OF 2001	3			3
S.R. 2 INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE	3			3

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. 236 RELATING TO SEXUAL ASSAULT									1		