

**FORTY-EIGHTH DAY**

**Tuesday, April 8, 2003**

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2003, convened at 10:22 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Father Jose Nacu, Our Lady of the Mount Parish, after which the Roll was called showing all Senators present.

The President deferred the approval of the Journal of the Forty-Seventh Day until Thursday, April 10, 2003.

At this time, Senator Ihara rose and said:

“Mr. President, on the approval of the Journal, I would like to request, in future Sessions, a copy of the Journal on our desk before we approve it. I understand that we’ve been approving Journals without seeing it. You don’t have to do it for everyone, but at least I would like to have a Journal before I vote on whether to approve the Journal. Thank you.”

The President so noted.

**MESSAGES FROM THE GOVERNOR**

The following messages from the Governor (Gov. Msg. Nos. 267 to 272) were read by the Clerk and were placed on file:

Gov. Msg. No. 267, dated April 4, 2003, transmitting her statement of objections to Senate Bill No. 460 which she has returned to the Senate without her approval and which reads as follows:

“EXECUTIVE CHAMBERS  
HONOLULU

April 4, 2003

**STATEMENT OF OBJECTIONS TO SENATE BILL NO. 460**

Honorable Members  
Twenty-Second Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith without my approval, Senate Bill No. 460, entitled ‘A Bill for an Act Relating to Dune Buggies.’

The purpose of Senate Bill No. 460 is to include dune buggy replica vehicles within the special interest vehicle registration requirements of section 286-26.5, Hawaii Revised Statutes, thereby removing such vehicles from the reconstructed vehicle registration law and eliminating the perceived disparity under the law between dune buggies and other vehicles currently classified as special interest vehicles.

This bill would allow one more category of vehicles to be used on Hawaii roads without compliance with Federal Motor Vehicle Safety Standards or the State’s reconstructed vehicle law. These vehicles, for example, would not be required to be equipped with important safety equipment such as seat belts. This bill provides that ‘[s]eatbelts, bumpers, hoods, door handles, and fenders shall be optional equipment on dune buggy replica vehicles manufactured before 1969, and on dune buggy replica vehicles manufactured after 1968 to resemble a [sic] dune buggy replica vehicles manufactured before 1969.’

Furthermore, unlike other special interest vehicles in the current statute, the definition of ‘dune buggy replica vehicle’ in the bill does not require that a dune buggy be modified ‘in a manner that does not adversely affect its safe performance as a motor vehicle or render the vehicle unlawful for use on the public highways.’ The public’s safety should not be sacrificed simply for the sake of eliminating a perceived disparity between these different types of vehicles.

Dune buggies generally are less expensive than most special interest vehicles and are more likely to be driven by young people. For the safety of these young people and the public generally, another category of unsafe vehicles on the public roads should not be permitted.

For the foregoing reasons, I am returning Senate Bill No. 460 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii”

Gov. Msg. No. 268, informing the Senate that on April 3, 2003, she signed into law House Bill No. 814 as Act 4, entitled: “RELATING TO TRAFFIC INFRACTIONS.”

Gov. Msg. No. 269, informing the Senate that on April 3, 2003, she signed into law House Bill No. 815 as Act 5, entitled: “RELATING TO THE COURTS.”

Gov. Msg. No. 270, informing the Senate that on April 3, 2003, she signed into law House Bill No. 1022 as Act 6, entitled: “RELATING TO EXPUNGEMENT.”

Gov. Msg. No. 271, informing the Senate that on April 3, 2003, she signed into law House Bill No. 1220 as Act 7, entitled: “RELATING TO THE HAWAII PAROLING AUTHORITY.”

Gov. Msg. No. 272, informing the Senate that on April 3, 2003, she signed into law House Bill No. 1276 as Act 8, entitled: “RELATING TO ELECTIONS.”

**HOUSE COMMUNICATIONS**

The following communications from the House (Hse. Com. Nos. 378 to 405) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 378, informing the Senate that the House has disagreed to the amendments proposed by the Senate to the following House bills:

- H.B. No. 192, H.D. 1 (S.D. 1);
- H.B. No. 285, H.D. 1 (S.D. 2);
- H.B. No. 373, H.D. 2 (S.D. 1);
- H.B. No. 385, H.D. 2 (S.D. 2);
- H.B. No. 651, H.D. 2 (S.D. 1);
- H.B. No. 731, H.D. 1 (S.D. 1);
- H.B. No. 914, H.D. 2 (S.D. 1);
- H.B. No. 1161, H.D. 1 (S.D. 1);
- H.B. No. 1198, H.D. 2 (S.D. 2); and
- H.B. No. 1217, H.D. 1 (S.D. 1),

was placed on file.

Hse. Com. No. 379, transmitting H.C.R. No. 29, which was adopted by the House of Representatives on April 4, 2003, was placed on file.

By unanimous consent, action on H.C.R. No. 29, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO END THE 'GLOBAL GAG RULE' IMPOSED ON INTERNATIONAL FAMILY PLANNING ORGANIZATIONS," was deferred until Thursday, April 10, 2003.

Hse. Com. No. 380, transmitting H.C.R. No. 32, which was adopted by the House of Representatives on April 4, 2003, was placed on file.

By unanimous consent, action on H.C.R. No. 32, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A STUDY OF THE FEASIBILITY OF AUTHORIZING TOLL ROADS FOR MOTOR VEHICLE TRAFFIC IN THE STATE," was referred until Thursday, April 10, 2003.

Hse. Com. No. 381, transmitting H.C.R. No. 63, H.D. 1, which was adopted by the House of Representatives on April 4, 2003, was placed on file.

By unanimous consent, action on H.C.R. No. 63, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE OAHU METROPOLITAN PLANNING ORGANIZATION TO CONSIDER THE WAIANAE SECOND ACCESS ROAD PROJECT IN ITS REGIONAL TRANSPORTATION PLAN OF 2004 AND TO IDENTIFY IMMEDIATE SOURCES OF FUNDING FOR THE PROJECT," was referred until Thursday, April 10, 2003.

Hse. Com. No. 382, transmitting H.C.R. No. 192, H.D. 1, which was adopted by the House of Representatives on April 4, 2003, was placed on file.

By unanimous consent, action on H.C.R. No. 192, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE HAWAII TOURISM AUTHORITY TO COLLABORATE IN PRESERVING AND PROTECTING HAWAII'S BEACHES FOR RESIDENTS AND VISITORS," was referred until Thursday, April 10, 2003.

Hse. Com. No. 383, returning S.B. No. 42, S.D. 1, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 42, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 384, returning S.B. No. 255, S.D. 2, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 255, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 385, returning S.B. No. 402, S.D. 2, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 402, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 386, returning S.B. No. 474, S.D. 2, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 474, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 387, returning S.B. No. 506, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 506, and requested a conference on the subject matter thereof.

Hse. Com. No. 388, returning S.B. No. 773, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 773, and requested a conference on the subject matter thereof.

Hse. Com. No. 389, returning S.B. No. 880, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 880, and requested a conference on the subject matter thereof.

Hse. Com. No. 390, returning S.B. No. 933, S.D. 1, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 933, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 391, returning S.B. No. 1107, S.D. 1, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1107, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 392, returning S.B. No. 1135, S.D. 1, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1135, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 393, returning S.B. No. 1201, S.D. 2, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1201, S.D. 2, and requested a conference on the subject matter thereof.

Hse. Com. No. 394, returning S.B. No. 1312, S.D. 1, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1312, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 395, returning S.B. No. 1324, S.D. 1, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1324, S.D. 1, and requested a conference on the subject matter thereof.

Hse. Com. No. 396, returning S.B. No. 1405, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1405, and requested a conference on the subject matter thereof.

Hse. Com. No. 397, returning S.B. No. 1438, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1438, and requested a conference on the subject matter thereof.

Hse. Com. No. 398, returning S.B. No. 1439, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1439, and requested a conference on the subject matter thereof.

Hse. Com. No. 399, returning S.B. No. 1440, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1440, and requested a conference on the subject matter thereof.

Hse. Com. No. 400, returning S.B. No. 1441, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1441, and requested a conference on the subject matter thereof.

Hse. Com. No. 401, returning S.B. No. 1442, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1442, and requested a conference on the subject matter thereof.

Hse. Com. No. 402, returning S.B. No. 1443, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1443, and requested a conference on the subject matter thereof.

Hse. Com. No. 403, returning S.B. No. 1444, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1444, and requested a conference on the subject matter thereof.

Hse. Com. No. 404, returning S.B. No. 1445, which passed Third Reading in the House of Representatives on April 4, 2003, in an amended form, was placed on file.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate disagreed to the amendments proposed by the House to S.B. No. 1445, and requested a conference on the subject matter thereof.

Hse. Com. No. 405, returning S.B. No. 1407, which passed Third Reading in the House of Representatives on April 4, 2003, was placed on file.

#### SENATE COMMUNICATION

Sen. Com. No. 2, notice to the Governor dated April 8, 2003, transmitting H.B. No. 714, H.D. 1, S.D. 2, which propose amendments to the Hawaii State Constitution, was read by the Clerk and was disposed of as follows:

By unanimous consent, the following notice was sent to the Governor:

“April 8, 2003

The Honorable Linda Lingle  
Governor of the State of Hawaii  
State Capitol  
Honolulu, Hawaii 96813

Dear Governor Lingle:

In accordance with the provisions of Article XVII, Section 3 of the Hawaii State Constitution, written notice is hereby given of the final form to the following bill(s), a copy of which is attached hereto:

H.B. NO. 714, H.D. 1, S.D. 2  
'RELATING TO EDUCATION.'

Respectfully,

/s/ Paul T. Kawaguchi  
PAUL T. KAWAGUCHI  
Clerk of the Senate"

#### STANDING COMMITTEE REPORTS

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1430) recommending that S.C.R. No. 49, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.C.R. No. 49, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY CONCERNING THE ESTABLISHMENT OF AN OFFICE OF INTERNATIONAL AFFAIRS IN STATE GOVERNMENT," was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1431) recommending that S.R. No. 28, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.R. No. 28, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY CONCERNING THE ESTABLISHMENT OF AN OFFICE OF INTERNATIONAL AFFAIRS IN STATE GOVERNMENT," was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1432) recommending that S.C.R. No. 144, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.C.R. No. 144, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE FORMATION OF A WIRELESS ENHANCED 911 INTERIM WORKING GROUP," was referred to the Committee on Ways and Means.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1433) recommending that S.R. No. 96, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.R. No. 96, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE FORMATION OF A WIRELESS ENHANCED 911 INTERIM WORKING GROUP," was referred to the Committee on Ways and Means.

Senators Fukunaga and Kawamoto, for the Committee on Economic Development and the Committee on Transportation, Military Affairs, and Government Operations, presented a joint report (Stand. Com. Rep. No. 1434) recommending that S.C.R.

No. 198, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 198, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY ON THE FEASIBILITY OF IMPLEMENTING AN ELECTRONIC VISA SYSTEM," was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators Fukunaga and Kawamoto, for the Committee on Economic Development and the Committee on Transportation, Military Affairs, and Government Operations, presented a joint report (Stand. Com. Rep. No. 1435) recommending that S.R. No. 138, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.R. No. 138, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A STUDY ON THE FEASIBILITY OF IMPLEMENTING AN ELECTRONIC VISA SYSTEM," was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators Baker and Chun Oakland, for the Committee on Health and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 1436) recommending that S.C.R. No. 116, as amended in S.D. 1, be referred to the Committee on Commerce, Consumer Protection and Housing.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 116, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN ACTUARIAL STUDY ON HEALTH INSURANCE PARITY FOR THE TREATMENT OF ALCOHOL DEPENDENCY AND DRUG DEPENDENCY," was referred to the Committee on Commerce, Consumer Protection and Housing.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1437) recommending that S.R. No. 63, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and S.R. No. 63, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A STUDY ON REAL PROPERTY LEASES," was referred to the Committee on Ways and Means.

Senators Chun Oakland, Baker and Sakamoto, for the Committee on Human Services, the Committee on Health and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 1438) recommending that S.C.R. No. 56, as amended in S.D. 1, be referred to the Committee on Transportation, Military Affairs, and Government Operations.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 56, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO INTRODUCE LEGISLATION IN CONGRESS CALLING FOR FURTHER REVIEW OF THE MIGRATION ISSUE AND FOR INCREASED FINANCIAL IMPACT ASSISTANCE FOR PROVIDING SERVICES TO CITIZENS OF THE FREELY ASSOCIATED STATES WHO RESIDE IN THE STATE OF HAWAII UNDER THE COMPACT OF FREE ASSOCIATION AND ANY NEWLY RENEGOTIATED

COMPACT," was referred to the Committee on Transportation, Military Affairs, and Government Operations.

Senators Chun Oakland, Baker and Sakamoto, for the Committee on Human Services, the Committee on Health and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 1439) recommending that S.R. No. 36, as amended in S.D. 1, be referred to the Committee on Transportation, Military Affairs, and Government Operations.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.R. No. 36, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO INTRODUCE LEGISLATION IN CONGRESS CALLING FOR FURTHER REVIEW OF THE MIGRATION ISSUE AND FOR INCREASED FINANCIAL IMPACT ASSISTANCE FOR PROVIDING SERVICES TO CITIZENS OF THE FREELY ASSOCIATED STATES WHO RESIDE IN THE STATE OF HAWAII UNDER THE COMPACT OF FREE ASSOCIATION AND ANY NEWLY RENEGOTIATED COMPACT," was referred to the Committee on Transportation, Military Affairs, and Government Operations.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1440) recommending that S.C.R. No. 35 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1440 and S.C.R. No. 35, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION, IN CONJUNCTION WITH THE COUNTY OF HAWAII, TO REVIEW THE CAUSES OF MOTOR VEHICLE COLLISIONS AT THE INTERSECTION OF HIGHWAY 11 AND THE ENTRY ROAD TO THE TOWN OF PAHALA AND MAKE ANY NECESSARY IMPROVEMENTS TO LESSEN THE RISK OF ACCIDENTS," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1441) recommending that S.R. No. 22 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1441 and S.R. No. 22, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION, IN CONJUNCTION WITH THE COUNTY OF HAWAII, TO REVIEW THE CAUSES OF MOTOR VEHICLE COLLISIONS AT THE INTERSECTION OF HIGHWAY 11 AND THE ENTRY ROAD TO THE TOWN OF PAHALA AND MAKE ANY NECESSARY IMPROVEMENTS TO LESSEN THE RISK OF ACCIDENTS," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1442) recommending that S.C.R. No. 66 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1442 and S.C.R. No. 66, entitled: "SENATE CONCURRENT RESOLUTION ESTABLISHING A SISTER STATE-PREFECTURE RELATIONSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES OF AMERICA AND THE EHIME PREFECTURE OF JAPAN," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1443) recommending that S.C.R. No. 99 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1443 and S.C.R. No. 99, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONVENE A TRAFFIC ADVISORY TASK FORCE TO STUDY OAHU TRAFFIC CONGESTION ISSUES AND RECOMMEND SOLUTIONS," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1444) recommending that S.R. No. 68 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1444 and S.R. No. 68, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONVENE A TRAFFIC ADVISORY TASK FORCE TO STUDY OAHU TRAFFIC CONGESTION ISSUES AND RECOMMEND SOLUTIONS," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1445) recommending that S.C.R. No. 110, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1445 and S.C.R. No. 110, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY TO DETERMINE THE ECONOMIC FEASIBILITY OF CONSTRUCTING A FIXED RAIL SYSTEM AROUND THE ISLANDS OF HAWAII AND OAHU," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1446) recommending that S.R. No. 77, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1446 and S.R. No. 77, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A STUDY TO DETERMINE THE ECONOMIC FEASIBILITY OF CONSTRUCTING A FIXED RAIL SYSTEM AROUND THE ISLANDS OF HAWAII AND OAHU," was deferred until Thursday, April 10, 2003.

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1447) recommending that S.C.R. No. 132, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1447 and S.C.R. No. 132, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO LAUNCH A RENEWED PUBLIC EDUCATIONAL CAMPAIGN ON THE DANGERS OF CRYSTAL METHAMPHETAMINE," was deferred until Thursday, April 10, 2003.

Senator Baker, for the Committee on Health, presented a report (Stand. Com. Rep. No. 1448) recommending that S.R. No. 86, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1448 and S.R. No. 86, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO LAUNCH A RENEWED PUBLIC EDUCATIONAL

CAMPAIGN ON THE DANGERS OF CRYSTAL METHAMPHETAMINE," was deferred until Thursday, April 10, 2003.

Senators Baker and Kawamoto, for the Committee on Health and the Committee on Transportation, Military Affairs, and Government Operations, presented a joint report (Stand. Com. Rep. No. 1449) recommending that S.C.R. No. 143, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1449 and S.C.R. No. 143, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION EXPRESSING SUPPORT FOR THE PACIFIC HEALTH CENTER MASTER PLAN," was deferred until Thursday, April 10, 2003.

Senators Baker and Kawamoto, for the Committee on Health and the Committee on Transportation, Military Affairs, and Government Operations, presented a joint report (Stand. Com. Rep. No. 1450) recommending that S.R. No. 95, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1450 and S.R. No. 95, S.D. 1, entitled: "SENATE RESOLUTION EXPRESSING SUPPORT FOR THE PACIFIC HEALTH CENTER MASTER PLAN," was deferred until Thursday, April 10, 2003.

Senators Baker and Chun Oakland, for the Committee on Health and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 1451) recommending that S.C.R. No. 172 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1451 and S.C.R. No. 172, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING THE DEVELOPMENT OF A SELF-DETERMINATION DEMONSTRATION PROJECT USING CONSUMER-DIRECTED APPROACHES," was deferred until Thursday, April 10, 2003.

Senators Baker and Chun Oakland, for the Committee on Health and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 1452) recommending that S.R. No. 120 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1452 and S.R. No. 120, entitled: "SENATE RESOLUTION SUPPORTING THE DEVELOPMENT OF A SELF-DETERMINATION DEMONSTRATION PROJECT USING CONSUMER-DIRECTED APPROACHES," was deferred until Thursday, April 10, 2003.

Senators Baker and Menor, for the Committee on Health and the Committee on Commerce, Consumer Protection and Housing, presented a joint report (Stand. Com. Rep. No. 1453) recommending that S.C.R. No. 175 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1453 and S.C.R. No. 175, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A REPORT BY THE PATIENT SAFETY TASK FORCE OF THE HEALTHCARE ASSOCIATION OF HAWAII," was deferred until Thursday, April 10, 2003.

Senators Baker and Menor, for the Committee on Health and the Committee on Commerce, Consumer Protection and Housing, presented a joint report (Stand. Com. Rep. No. 1454) recommending that S.R. No. 123 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1454 and S.R. No. 123, entitled: "SENATE RESOLUTION

REQUESTING A REPORT BY THE PATIENT SAFETY TASK FORCE OF THE HEALTHCARE ASSOCIATION OF HAWAII," was deferred until Thursday, April 10, 2003.

Senators Sakamoto, Fukunaga and Kanno, for the Committee on Education, the Committee on Economic Development and the Committee on Labor, presented a joint report (Stand. Com. Rep. No. 1455) recommending that S.C.R. No. 90 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1455 and S.C.R. No. 90, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING REVIEW OF AND RECOMMENDATIONS ON POLICIES TO ALIGN WORKFORCE DEVELOPMENT EDUCATION TO RESPOND TO ECONOMIC AND WORKFORCE NEEDS," was deferred until Thursday, April 10, 2003.

Senators Sakamoto and Chun Oakland, for the Committee on Education and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 1456) recommending that S.C.R. No. 78 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1456 and S.C.R. No. 78, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII SYSTEM TO IMPLEMENT A SYSTEMWIDE SENIOR CITIZEN VISITOR PROGRAM," was deferred until Thursday, April 10, 2003.

Senators Sakamoto and Chun Oakland, for the Committee on Education and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 1457) recommending that S.R. No. 53 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1457 and S.R. No. 53, entitled: "SENATE RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII SYSTEM TO IMPLEMENT A SYSTEMWIDE SENIOR CITIZEN VISITOR PROGRAM," was deferred until Thursday, April 10, 2003.

Senators Chun Oakland and Sakamoto, for the Committee on Human Services and the Committee on Education, presented a joint report (Stand. Com. Rep. No. 1458) recommending that S.C.R. No. 45, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1458 and S.C.R. No. 45, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION ENDORSING THE GOOD BEGINNINGS INTERDEPARTMENTAL COUNCIL'S SCHOOL READINESS TASK FORCE'S HAWAII STATE PRESCHOOL CONTENT STANDARDS," was deferred until Thursday, April 10, 2003.

Senators Chun Oakland and Kawamoto, for the Committee on Human Services and the Committee on Transportation, Military Affairs, and Government Operations, presented a joint report (Stand. Com. Rep. No. 1459) recommending that S.C.R. No. 113 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1459 and S.C.R. No. 113, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING THE ALLOCATION OF RESOURCES TO ENSURE MEANINGFUL LANGUAGE ACCESS FOR INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY TO FEDERALLY-ASSISTED PROGRAMS AND SERVICES, AS REQUIRED BY FEDERAL LAW," was deferred until Thursday, April 10, 2003.

Senators Fukunaga and Inouye, for the Committee on Economic Development and the Committee on Water, Land,

and Agriculture, presented a joint report (Stand. Com. Rep. No. 1460) recommending that S.C.R. No. 199 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1460 and S.C.R. No. 199, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONSIDERATION OF STRATEGIC PARTNERSHIPS WITH NON-PROFIT ENTITIES TO ENHANCE SELECTED PARK PROPERTIES WHILE APPLYING A COMMUNITY-BASED CULTURAL TOURISM MODEL," was deferred until Thursday, April 10, 2003.

Senators Fukunaga and Inouye, for the Committee on Economic Development and the Committee on Water, Land, and Agriculture, presented a joint report (Stand. Com. Rep. No. 1461) recommending that S.R. No. 139 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1461 and S.R. No. 139, entitled: "SENATE RESOLUTION REQUESTING THE CONSIDERATION OF STRATEGIC PARTNERSHIPS WITH NON-PROFIT ENTITIES TO ENHANCE SELECTED PARK PROPERTIES WHILE APPLYING A COMMUNITY-BASED CULTURAL TOURISM MODEL," was deferred until Thursday, April 10, 2003.

Senator Fukunaga, for the Committee on Economic Development, presented a report (Stand. Com. Rep. No. 1462) recommending that S.C.R. No. 46, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1462 and S.C.R. No. 46, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM TO CONDUCT AN EDUCATIONAL BRIEFING ON HAWAII'S MARKETS FOR WOOD WASTE," was deferred until Thursday, April 10, 2003.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1463) recommending that S.C.R. No. 54 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1463 and S.C.R. No. 54, entitled: "SENATE CONCURRENT RESOLUTION CREATING A WORKING GROUP OF REPRESENTATIVES FROM HAWAIIAN ORGANIZATIONS, THE DEPARTMENT OF HAWAIIAN HOME LANDS, AND THE DEPARTMENT OF HEALTH TO FORM A COALITION TO PROVIDE BETTER ACCESS TO STATE VITAL STATISTICS RECORDS," was deferred until Thursday, April 10, 2003.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1464) recommending that S.R. No. 34 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1464 and S.R. No. 34, entitled: "SENATE RESOLUTION CREATING A WORKING GROUP OF REPRESENTATIVES FROM HAWAIIAN ORGANIZATIONS, THE DEPARTMENT OF HAWAIIAN HOME LANDS, AND THE DEPARTMENT OF HEALTH TO FORM A COALITION TO PROVIDE BETTER ACCESS TO STATE VITAL STATISTICS RECORDS," was deferred until Thursday, April 10, 2003.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1465) recommending that S.C.R. No. 85 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1465 and S.C.R. No. 85, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING THE EFFORTS OF THE ANAHOLA HOMESTEADERS COUNCIL IN DEVELOPING THE PROJECT FAITH MULTI-PURPOSE COMMUNITY CENTER IN ANAHOLA, KAUA'I," was deferred until Thursday, April 10, 2003.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1466) recommending that S.R. No. 59 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1466 and S.R. No. 59, entitled: "SENATE RESOLUTION SUPPORTING THE EFFORTS OF THE ANAHOLA HOMESTEADERS COUNCIL IN DEVELOPING THE PROJECT FAITH MULTI-PURPOSE COMMUNITY CENTER IN ANAHOLA, KAUA'I," was deferred until Thursday, April 10, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1467) recommending that S.C.R. No. 89, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1467 and S.C.R. No. 89, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY ON REAL PROPERTY LEASES," was deferred until Thursday, April 10, 2003.

**ORDER OF THE DAY**

**HOUSE COMMUNICATION**

**MATTER DEFERRED FROM FRIDAY, APRIL 4, 2003**

H.C.R. No. 216 (Hse. Com. No. 344):

By unanimous consent, action on H.C.R. No. 216, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE MANY BENEFITS OF HAWAII GROWN CHOCOLATE TO OUR STATE AND DIVERSIFIED AGRICULTURE," was deferred until later on the calendar.

**REFERRAL OF HOUSE CONCURRENT RESOLUTIONS**

**MATTERS DEFERRED FROM FRIDAY, APRIL 4, 2003**

The President made the following committee assignments of House concurrent resolutions that were received on Wednesday, April 2, 2003; Thursday, April 3, 2003; and Friday, April 4, 2003:

House Concurrent Resolution	Referred to:
No. 31	Committee on Education
No. 60	Committee on Education
No. 81, H.D. 1	Jointly to the Committee on Economic Development and the Committee on Science, Arts, and Technology
No. 90	Committee on Economic Development

No. 96 Committee on Judiciary and Hawaiian Affairs

No. 119, H.D. 1 Committee on Judiciary and Hawaiian Affairs

No. 141, H.D. 1 Jointly to the Committee on Water, Land, and Agriculture, the Committee on Economic Development and the Committee on Transportation, Military Affairs, and Government Operations

No. 146 Committee on Education

No. 160, H.D. 1 Committee on Education

No. 198, H.D. 1 Jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Education

No. 203 Jointly to the Committee on Human Services and the Committee on Health

No. 208 Committee on Human Services

No. 211, H.D. 1 Committee on Transportation, Military Affairs, and Government Operations

MOTOR VEHICLES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1272 (H.B. No. 1453, H.D. 1):

On motion by Senator Menor, seconded by Senator Baker and carried, Stand. Com. Rep. No. 1272 was adopted and H.B. No. 1453, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RESIDENTIAL LEASEHOLDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1594, H.D. 1, S.D. 1:

On motion by Senator Menor, seconded by Senator Baker and carried, H.B. No. 1594, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NONPROFIT CORPORATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**THIRD READING**

H.B. No. 1328, H.D. 1, S.D. 1:

On motion by Senator Menor, seconded by Senator English and carried, H.B. No. 1328, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CONSUMER ADVOCATE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1253, H.D. 1, S.D. 1:

On motion by Senator Kawamoto, seconded by Senator Espero and carried, H.B. No. 1253, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1318 (H.B. No. 75, H.D. 2, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1318 was adopted and H.B. No. 75, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1319 (H.B. No. 473, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1319 was adopted and H.B. No. 473, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1321 (H.B. No. 1163, S.D. 1):

**THIRD READING**

**MATTERS DEFERRED FROM FRIDAY, APRIL 4, 2003**

Stand. Com. Rep. No. 1266 (H.B. No. 287, H.D. 3, S.D. 2):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Stand. Com. Rep. No. 1266 was adopted and H.B. No. 287, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1268 (H.B. No. 807, H.D. 2, S.D. 2):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Stand. Com. Rep. No. 1268 was adopted and H.B. No. 807, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 291E," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1270 (H.B. No. 1572, H.D. 3):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Stand. Com. Rep. No. 1270 was adopted and H.B. No. 1572, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO PARKING FOR DISABLED PERSONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1271 (H.B. No. 58):

On motion by Senator Menor, seconded by Senator Baker and carried, Stand. Com. Rep. No. 1271 was adopted and H.B. No. 58, entitled: "A BILL FOR AN ACT RELATING TO



On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1321 was adopted and H.B. No. 1163, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DENTAL INSURANCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1322 (H.B. No. 1361, H.D. 2, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1322 was adopted and H.B. No. 1361, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MEDICAID PRESCRIPTION DRUG EXPANSION PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1324 (H.B. No. 1465, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1324 was adopted and H.B. No. 1465, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1325 (H.B. No. 1652, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1325 was adopted and H.B. No. 1652, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE MEDICAID PRESCRIPTION DRUG REBATE SPECIAL FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1331 (H.B. No. 292, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1331 be adopted and H.B. No. 292, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Sakamoto rose and said:

"I'd like to insert remarks on Stand. Com. Rep. No. 1331."

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

"Mr. President, I stand in support of H.B. No. 292, H.D. 2, S.D. 1.

"This measure will give the schools and complexes the much needed flexibility to obtain educational supplies, such as textbooks and instructional equipment based on priority of needs rather than on availability of funds. Mr. President, I have heard on numerous occasions while visiting the schools and I am sure many of my colleagues have heard the same thing that public school teachers have been using their own money to buy school supplies because funds were not available. The providing of discretionary funding to the schools and the

complexes is not only fair to the teachers, but will also facilitate quality education.

"The effective date of the measure has been defected to facilitate further discussions."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1331 was adopted and H.B. No. 292, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE SCHOOL PRIORITY FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1336 (H.B. No. 1176, H.D. 1, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1336 was adopted and H.B. No. 1176, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1212, H.D. 1, S.D. 1:

On motion by Senator Inouye, seconded by Senator Espero and carried, H.B. No. 1212, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND EXCHANGES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1342 (H.B. No. 281, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1342 be adopted and H.B. No. 281, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Sakamoto rose and said:

"I'd like to insert remarks on Stand. Com. Rep. No. 1342."

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

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

"In pursuit of greater efficiency and accountability, H.B. No. 281 purposes to streamline the manner in which the sizable repair and maintenance backlog of our schools is managed. Currently, the DOE and DAGS are responsible for school facilities management under a memorandum agreement. However, it is clear that communications between the departments is in great need of improvement. No one seems to know exactly what the repair and maintenance backlog is. The original estimate provided to the legislature was \$240 million. That grew to over \$640 million in less than one year. After investing millions in repairs, we expected to be told that the backlog had been significantly reduced. We have asked for an accounting of expenditures, savings created by promised efficiencies, savings created by the 3 Rs program, and of course the specific projects on the backlog that have been completed, what they cost, and how many projects remain to be worked on and what they will cost. It has caused great concern that the answers we receive are not consistent and change frequently. We were told that the backlog had been reduced to about \$400 million but have been unable to substantiate that number. In

order for us to effectively eliminate the backlog and maintain schools properly the DOE and DAGS must communicate clearly and effectively.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1342 was adopted and H.B. No. 281, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO STATE EDUCATIONAL FACILITIES REPAIR AND MAINTENANCE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1345 (H.B. No. 808, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1345 was adopted and H.B. No. 808, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE JUDICIARY,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1346 (H.B. No. 1300, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1346 was adopted and H.B. No. 1300, H.D. 2, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1164, H.D. 1, S.D. 1:

On motion by Senator Menor, seconded by Senator Baker and carried, H.B. No. 1164, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INSURANCE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1356 (H.B. No. 735, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1356 was adopted and H.B. No. 735, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SEXUAL ASSAULT SERVICES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1357 (H.B. No. 1181, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1357 was adopted and H.B. No. 1181, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE HAWAII HEALTH SYSTEMS CORPORATION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1358 (H.B. No. 1430, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1358 was adopted and H.B. No. 1430, H.D. 2, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO COMMUNITY ORAL HEALTH,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1361 (H.B. No. 127, H.D. 1, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1361 was adopted and H.B. No. 127, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GENERAL ASSISTANCE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1362 (H.B. No. 129, H.D. 1, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1362 was adopted and H.B. No. 129, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO BRIDGE TO HOPE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1363 (H.B. No. 1342, H.D. 1, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1363 was adopted and H.B. No. 1342, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR YOUTH SERVICES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1366 (H.B. No. 851, H.D. 1, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1366 was adopted and H.B. No. 851, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION APPEALS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1369 (H.B. No. 295, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1369 was adopted and H.B. No. 295, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1371 (H.B. No. 857, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1371 was adopted and H.B. No. 857, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES,” having

been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1372 (H.B. No. 1003, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1372 was adopted and H.B. No. 1003, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CRIME VICTIM COMPENSATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1376 (H.B. No. 1255, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1376 was adopted and H.B. No. 1255, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE OFFICE OF ELECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1377 (H.B. No. 1303, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1377 was adopted and H.B. No. 1303, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1383 (H.B. No. 317, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1383 was adopted and H.B. No. 317, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1384 (H.B. No. 507, H.D. 3, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1384 was adopted and H.B. No. 507, H.D. 3, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL TECHNICIANS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1395 (H.B. No. 1047, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1395 was adopted and H.B. No. 1047, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1396 (H.B. No. 1157, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1396 was adopted and H.B. No. 1157, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1397 (H.B. No. 10, H.D. 2, S.D. 1):

On motion by Senator Menor, seconded by Senator Baker and carried, Stand. Com. Rep. No. 1397 was adopted and H.B. No. 10, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 1160, H.D. 1, S.D. 1:

On motion by Senator Menor, seconded by Senator Baker and carried, H.B. No. 1160, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EXAMINATION FOR LICENSURE AS A CERTIFIED PUBLIC ACCOUNTANT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1404 (H.B. No. 662, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1404 was adopted and H.B. No. 662, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII SPORTS HALL OF FAME," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1411 (H.B. No. 83, H.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1411 was adopted and H.B. No. 83, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A LAND EXCHANGE BETWEEN THE STATE OF HAWAII AND THE ALOHA COUNCIL BOY SCOUTS OF AMERICA," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1412 (H.B. No. 155, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1412 was adopted and H.B. No. 155, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR PINEAPPLE RESEARCH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1415 (H.B. No. 1509, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1415 was adopted and H.B. No. 1509, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

H.B. No. 433, S.D. 1:

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, H.B. No. 433, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1423 (H.B. No. 297, H.D. 2, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1423 was adopted and H.B. No. 297, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DRUGS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**THIRD READING**

**MATTERS DEFERRED FROM  
FRIDAY, APRIL 4, 2003**

Stand. Com. Rep. No. 1264 (H.B. No. 133, H.D. 1, S.D. 2):

Senator Hanabusa moved that Stand. Com. Rep. No. 1264 be adopted and H.B. No. 133, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Chun Oakland then offered the following amendment (Floor Amendment No. 7) to H.B. No. 133, H.D. 1, S.D. 2:

SECTION 1. H.B. No. 133, H.D. 1, S.D. 2, is amended by designating Sections 1, 2, and 3 of the measure as Part I.

SECTION 2. H.B. No. 133, H.D. 1, S.D. 2, is amended by amending Section 1 to read as follows:

**"PART I**

SECTION 1. Current law allows for the prosecution of parents who abandon their newborn infants. These parents are often young mothers who are unable to deal with the harsh reality of parenthood. Their solution is leaving the newborn in a populated area with the hope that someone will find and care for the child. Although the possibility of prosecution was intended to deter mothers from taking such a careless approach, newborn infants have suffered and died as the result of abandonment in life-threatening situations.

"Baby drop-off" laws take a different approach by placing the immediate concern on the child's needs rather than focusing on the mother's liability. The goal is to create a system where parents can safely leave their newborns without fear of being prosecuted for child abandonment. Anonymity, confidentiality, and freedom from prosecution for parents may encourage them to leave a newborn infant safely, and thus save the newborn infant's life.

The purpose of this [Aet] part is to:

- (1) Provide immunity from prosecution for leaving an unharmed newborn at a hospital; and
- (2) Provide immunity from liability for hospitals and their personnel for receiving a newborn."

SECTION 3. H.B. No. 133, H.D. 1, S.D. 2, is amended by adding a Part II, to read as follows:

**"PART II**

SECTION 4. The legislature finds that public safety officers, sheriffs, and deputy sheriffs have occasion to witness child abuse on a daily basis in the course of their work in serving arrest warrants or providing security at the State's airports. Under current law, public safety officers, sheriffs, and deputy sheriffs are not mandated to report child abuse to the department of human services or the police, and lack authority to assume protective custody of the child. The legislature further finds that the safety and welfare of the child would be protected if public safety officers, sheriffs, and deputy sheriffs were conferred with the same statutory authority as exists for law enforcement agencies and police officers in child abuse cases.

The purpose of this part is to clarify that public safety officers, sheriffs, and deputy sheriffs shall report child abuse cases and be conferred with the authority to take the child victim into protective custody."

SECTION 5. Section 350-1.1, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Notwithstanding any other state law concerning confidentiality to the contrary, the following persons who, in their professional or official capacity, have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, shall immediately report the matter orally to the department or to the police department:

- (1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, attends, treats, or provides other professional or specialized services, including but not limited to physicians, including physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;
- (2) Employees or officers of any public or private school;
- (3) Employees or officers of any public or private agency or institution, or other individuals, providing social, medical, hospital, or mental health services, including financial assistance;
- (4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, public safety officers appointed under section 353C-4, including sheriffs and deputy sheriffs, correctional institutions, and parole or probation offices;
- (5) Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution;
- (6) Medical examiners or coroners; and
- (7) Employees of any public or private agency providing recreational or sports activities.

2. By amending subsection (c) to read:

"(c) The initial oral report shall be followed as soon as possible by a report in writing to the department. If a police department or the department of public safety is the initiating

agency, a written report shall be filed with the department for cases that the police or the department of public safety take further action on or for active cases in the department under this chapter. All written reports shall contain the name and address of the child and the child's parents or other persons responsible for the child's care, if known, the child's age, the nature and extent of the child's injuries, and any other information that the reporter believes might be helpful or relevant to the investigation of the child abuse or neglect. This subsection shall not be construed to serve as a cause of action against the department [ø], the police[-], or department of public safety."

SECTION 6. Section 587-2, Hawaii Revised Statutes, is amended by amending the definition of "police officer" to read as follows:

"“Police officer” means a person employed by any county in this State, or public safety officer appointed under section 353C-4, including sheriffs and deputy sheriffs, to enforce the laws and ordinances for preserving the peace, safety, and good order of the community.”

SECTION 7. Section 587-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A police officer who witnesses child abuse or neglect while in the course of duty, shall assume protective custody of the child without a court order and without the consent of the child's family regardless of whether the child's family is absent, if in the discretion of the police officer, the child is in such circumstance or condition that the child's continuing in the custody or care of the child's family presents a situation of imminent harm to the child.

A police officer may assume protective custody of the child without a court order and without the consent of the child's family regardless of whether the child's family is absent, if in the discretion of the police officer:

- (1) The child has no legal custodian who is willing and able to provide a safe family home for the child; or
- (2) There is evidence that the parent or legal guardian of the child has subjected the child to harm or threatened harm and that the parent or legal guardian is likely to flee the jurisdiction of the court with the child.”

SECTION 3. H.B. No. 133, H.D. 1, S.D. 2, is amended by renumbering Sections 4 and 5 of the measure to Sections 8 and 9, and designating those sections as part III.

Senator Chun Oakland moved that Floor Amendment No. 7 be adopted, seconded by Senator Hanabusa.

Senator Chun Oakland noted:

“Mr. President, the floor amendment before you adds the content of S.B. No. 881, S.D. 1, which makes clear that state law enforcement officers are authorized to take protective custody of a child abuse victim, and to report incidents of suspected child abuse. The Senate bill was previously unanimously supported by this Senate.”

The motion to adopt Floor Amendment No. 7 was put by the Chair and carried.

Senator Chun Oakland moved that Stand. Com. Rep. No. 1264 be received and placed on file, seconded by Senator Hanabusa and carried.

By unanimous consent, H.B. No. 133, H.D. 1, S.D. 3, entitled: “A BILL FOR AN ACT RELATING TO CHILD

PROTECTION,” was placed on the calendar for Third Reading on Thursday, April 10, 2003.

At 10:34 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:57 o'clock a.m.

Stand. Com. Rep. No. 1267 (H.B. No. 736, H.D. 1, S.D. 2):

Senator Hanabusa moved that Stand. Com. Rep. No. 1267 be adopted and H.B. No. 736, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Trimble then offered the following amendment (Floor Amendment No. 8) to H.B. No. 736, H.D. 1, S.D. 2:

SECTION 1. House Bill No. 736, HD 1, SD2, is amended by amending Section 1 to read as follows:

“SECTION 1. During the regular session of 2002, the legislature passed H.B. No. 2752, H.D. 1, S.D. 1, C.D. 1, and subsequently signed into law by the governor as Act 226, Session Laws of Hawaii 2002 (Act 226), effectively providing for the denial, suspension, or revocation of a state professional or vocational license upon default by the borrower. This law puts the state in the position of being an collection enforcement agency for loans extended by private lending institutions and should be repealed.”

SECTION 2. House Bill No. 736, HD 1, SD2, is amended by amending Section 2 to read as follows:

“SECTION 2. Chapter 436C, Hawaii Revised Statutes, is repealed.”

SECTION 3. House Bill No. 736, HD 1, SD2, is amended by amending Section 3 to read as follows:

“SECTION 3. Section 436B-19.6, Hawaii Revised Statutes, is repealed.

“~~“§436B-19.6 Denial, suspension, or revocation of license for default of student loan or scholarship contract. In addition to any other acts or conditions provided by law, the licensing authority shall not renew or reinstate, or shall deny, suspend, or revoke, any license or application, if the department has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract, or has failed to comply with a repayment plan. Unless otherwise provided by law, the licensing authority shall renew, reinstate, or grant the license only upon receipt of an authorization from the administering entity. Chapter 91 and sections 92-17, 436B-18, 436B-20, 436B-21, 436B-24, and 436B-25 shall not apply to a license suspension or denial under this section.”~~”

SECTION 4. House Bill No. 736, HD 1, SD2, is amended by amending Section 4 to read as follows:

“SECTION 4. Section 302A-807, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-807 Refusal, suspension, revocation, and reinstatement of licenses.** (a) The board shall serve as the final adjudicator for appeals relating to licensing, including the issuance or nonissuance of licenses, and the suspension, nonrenewal, and revocation of licenses.

(b) The board shall establish procedures for the conduct of proceedings for the consideration of requests filed with the board. In every case to revoke or suspend a license, the board shall give the person concerned written notice that a request has been filed with the board. The board shall conduct a hearing in conformity with chapter 91, and shall provide for confidentiality of the proceedings to protect the parties. In all proceedings before it, the board may administer oaths, compel the attendance of witnesses and production of documentary evidence, and examine witnesses. In case of disobedience by any person to any order of the board or to any subpoena issued by the board, or the refusal of any witness to testify to any matter that the person may be questioned lawfully, any circuit judge, on application of the board or a member thereof, shall compel obedience in the case of disobedience of the requirements of a subpoena issued by a circuit court or a refusal to testify.

(c) Any applicant who has been refused a license, or any licensee whose license has been suspended or revoked, shall have the right to appeal the board's decision to the circuit court of the circuit in which the applicant or licensee resides in the manner provided in chapter 91; provided that out-of-state resident applicants shall file their appeals in the first circuit court.

(d) Upon revocation of a license, the board may disclose the name, birthdate, social security number, and any other pertinent information about the former holder of the license:

- (1) To the department; and
- (2) For the purpose of exchanging information under chapter 315 with other national or state teacher certification agencies about school personnel who have had licenses revoked.

~~[(e) The board shall not renew or reinstate, or shall deny, suspend, or revoke, any license, credential, or application, if the board has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract, or has failed to comply with a repayment plan. Unless otherwise provided by law, the board shall renew, reinstate, or grant the license or credential only upon receipt of an authorization from the administering entity.]”~~

SECTION 5. House Bill No. 736, HD 1, SD2, is amended by amending Section 5 to read as follows:

“SECTION 5. Section 321-15, Hawaii Revised Statutes, is amended to read as follows:

**“§321-15 Biennial registration; fees, failure to register[; denial, suspension, or revocation of a license].** (a) Every person holding a license to practice any occupation specified in section 321-13(a)(1) shall reregister with the department of health every other year in accordance with the rules of the department, before February 1 except where superseded by federal law, and shall pay a reregistration fee. The failure, neglect, or refusal of any person holding such a license to reregister or pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of the person's license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and an additional late reregistration fee that may be established by the director of health. All fees collected pursuant to this section shall be deposited into the environmental health education fund established under section 321-27.

(b) The department shall suspend, refuse to renew, reinstate, or restore, or deny any license or application if the department has received certification from the child support enforcement agency pursuant to the terms of section 576D-13 that the licensee or applicant is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child

support proceeding. Unless otherwise provided by law, the department shall grant, renew, restore, or reinstate a license only upon receipt of an authorization from the child support enforcement agency, office of child support hearings, or family court.

~~[(c) The department shall not renew or reinstate, or shall deny, suspend, or revoke, any license or application, if the department has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract, or has failed to comply with a repayment plan. Unless otherwise provided by law, the department shall grant, renew, or reinstate a license only upon receipt of an authorization from the administering entity.]”~~

SECTION 6. House Bill No. 736, HD 1, SD2, is amended by amending Section 6 to read as follows:

“SECTION 6. Section 431:9-235, Hawaii Revised Statutes, is amended to read as follows:

**“§431:9-235 Denial, suspension, revocation of licenses.**

(a) The commissioner may suspend, revoke, or refuse to extend any license issued under this article for any cause specified in any other provision of this article, or for any of the following causes:

- (1) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;
- (2) If the licensee wilfully violates or knowingly participates in the violation of any provision of this code;
- (3) If the licensee has obtained or attempted to obtain any such license through wilful misrepresentation or fraud, or has failed to pass any examination required by section 431:9-206;
- (4) If the licensee has misappropriated, or converted to the licensee's own use, or has illegally withheld moneys required to be held in a fiduciary capacity;
- (5) If the licensee has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract; or has engaged or is about to engage in any fraudulent transaction;
- (6) If the licensee has been guilty of any unfair practice or fraud as defined in article 13;
- (7) If in the conduct of the licensee's affairs under the license, the licensee has shown oneself to be a source of injury and loss to the public;
- (8) If the licensee issues or purports to issue any binder as to any insurer named therein as to which the licensee is not then authorized so to bind; or
- (9) If the licensee has dealt with, or attempted to deal with, insurance or to exercise powers relative to insurance outside the scope of the licensee's licenses.

(b) The license of any partnership or corporation may be so suspended, revoked, or refused for any of such causes as relate to any individual designated in the license to exercise its powers.

(c) The holder of any license which has been revoked or suspended shall surrender the license certificate to the commissioner at the commissioner's request.

~~[(d) The commissioner shall not renew or reinstate, or shall deny, suspend, or revoke, any license or application, if the commissioner has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract, or has failed to comply with a repayment plan. Unless otherwise provided by law, the commissioner shall renew, reinstate, or grant a license only upon receipt of an authorization from the administering entity.]”~~

SECTION 7. House Bill No. 736, HD 1, SD2, is amended by amending Section 7 to read as follows:

“SECTION 7. Section 457-9, Hawaii Revised Statutes, is amended to read as follows:

~~“§457-9 Renewal of license; denial, suspension, or revocation of license for default of student loan or scholarship contract].~~ (a) The license of every person licensed under this chapter shall expire on June 30 of every odd-numbered year and shall be renewed biennially, except as provided in this section. Biennially in each odd-numbered year, the board shall make available an application for renewal of license before the deadline set forth by the board to every person to whom a license was issued or renewed during the biennium. The applicant shall complete the application and submit it to the board with a renewal fee and any required documents on or before the deadline set forth by the board. The applicant shall provide documents from proper agencies or parties relating to any disciplinary action taken or pending in this State or any other state in the United States or any territory or possession under the jurisdiction of the United States within the two years prior to application for renewal of license. Upon receipt of the application and fee the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the biennium expiring two years hence on the deadline set forth by the board. The renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form.

(b) Any licensee who fails to renew a license as provided in subsection (a) but continues to practice shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter; provided that the person’s license may be restored by the board on satisfactory explanation of the failure to renew and on payment of the renewal fee and a penalty fee.

A nurse who fails to renew a license as provided in subsection (a) and does not engage in nursing in the State for one year after the license has been forfeited shall not be required to pay the renewal or penalty fee; provided that the nurse remains inactive during that year. Should the nurse wish to resume nursing at some future time, the nurse shall notify the board and remit the renewal fee and application form as provided in subsection (a).

~~[(c) Notwithstanding any provision in this chapter to the contrary, the board shall not renew or reinstate, or shall deny, suspend, or revoke, any license or application, if the board has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract, or has failed to comply with a repayment plan. Unless otherwise provided by law, the board shall renew, reinstate, or grant the license only upon receipt of an authorization from the administering entity.]”~~

SECTION 8. House Bill No. 736, HD 1, SD2, is amended by amending Section 8 to read as follows:

“SECTION 8. Section 466J-8, Hawaii Revised Statutes, is amended to read as follows:

**“§466J-8 Denial, revocation, or suspension of license.** (a) The board shall have the power to deny, revoke, or suspend any license issued or applied for in accordance with this chapter, upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice as a radiographer or as a radiation therapy technologist;
- (2) Is mentally incompetent;
- (3) Is guilty of unprofessional conduct; or
- (4) Has knowingly or repeatedly violated this chapter.

(b) Before denying, suspending, or revoking any license pursuant to subsection (a), the board shall furnish the licensee a notice in writing as prescribed by section 91-9 and shall afford the licensee an opportunity to be heard in person and by or with counsel. Any order denying a license, or suspending or revoking a license shall be rendered not later than fifteen days after the hearing, and any aggrieved person may appeal the order as provided in chapter 91.

(c) The board shall suspend, refuse to renew, reinstate, or restore, or deny any license or application if the board has received certification from the child support enforcement agency pursuant to the terms of section 576D-13 that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Unless otherwise provided by law, the board shall issue, renew, restore, or reinstate the license only upon receipt of an authorization from the child support enforcement agency, office of child support hearings, or family court. Subsection (b) shall not apply to a license suspension pursuant to this subsection.

~~[(d) The board shall not renew or reinstate, or shall deny, suspend, or revoke, any license or application, if the board has received certification from an administering entity pursuant to chapter 436C that the licensee or applicant is in default or breach of any obligation under any student loan, student loan repayment contract, or scholarship contract, or has failed to comply with a repayment plan. Unless otherwise provided by law, the board shall renew, reinstate, or grant the license only upon receipt of an authorization from the administering entity.]”~~

SECTION 9. House Bill No. 736, HD 1, SD2, is amended by amending Section 9 to read as follows:

“SECTION 9. Section 605-1, Hawaii Revised Statutes, is amended to read as follows:

**“§605-1 Attorneys, qualifications.** (a) The supreme court may examine, admit, and reinstate as practitioners in the courts of the State, such persons as it may find qualified for that purpose, who have taken the prescribed oath of office. The supreme court shall have the sole power to revoke or suspend the license of any such practitioner.

(b) In order to be licensed by the supreme court, a person shall be of good moral character, and shall satisfy such residence and other requirements as the supreme court may prescribe.

(c) In addition to other qualifications for licensure and conditions for continuing eligibility to hold a license, applicants for licensure, licensees renewing their licenses, and existing licensees shall be in compliance with an order of support as defined in section 576D-1 and has not failed to comply with a subpoena or warrant relating to a paternity or child support hearing.

~~[(d) In addition to other qualifications for licensure and conditions for continuing eligibility to hold a license, applicants for licensure, licensees renewing their licenses, and existing licensees shall be in compliance with any obligation under any student loan, student loan repayment contract, or scholarship contract, or shall be in compliance with a repayment plan as provided in chapter 436C.]”~~

SECTION 10. House Bill No. 736, HD 1, SD2, is amended by deleting Sections 10 through 13 and renumbering the remaining sections accordingly.

Senator Trimble moved that Floor Amendment No. 8 be adopted, seconded by Senator Slom.

Senator Trimble rose and said:

“Mr. President, if we look at debtors and debtor rights, over history we will find that it is a mixed bag. If we go back a few

hundred years to jolly old England, which probably wasn't all that jolly, you could be thrown into prison, your children and wife could be thrown into prison, until you repaid your debt. When our country was established, we looked at the rights of individuals and we were mindful of excessive exercise of power by a central government.

"A few short years ago, we liberalized the reasons why people could file for bankruptcy, and after that was done, we noticed that many people did indeed exercise their right and filed for bankruptcy and discharged debts. However, more recently, bankruptcy laws have been amended. You can no longer discharge debt for a college loan by filing for bankruptcy, but the last step that the state took last year was uncalled-for. You cannot excuse your actions by merely saying that the federal government would like that we do it.

"Education is a worthwhile objective, and when people borrow money to go to school, we as a society have suggested that that is a good purpose. But when we got the state into the collection business and only one step away from the repo business, saying that a person's source of livelihood could be denied by pulling his license merely for the fact that they did not pay their college loan without a full and complete understanding of the circumstance, we as a body, we as a government extended what in an earlier time would have been considered just a dispute between two individual people.

"Why have we inserted the power of government on the side of the lender? There are sufficient remedies that exist without having passed that bill last year. So I ask my colleagues to look deep into your heart and consider that perhaps last year you made a mistake. That is why I've offered this floor amendment, which would repeal last year's action.

"Thank you."

The motion to adopt Floor Amendment No. 8 was put by the Chair and, Roll Call vote having been requested, failed on the following showing of Ayes and Noes:

Ayes, 5. Noes, 20 (Aduja, Baker, Bunda, Chun Oakland, English, Espero, Fukunaga, Hanabusa, Hooser, Ige, Ihara, Inouye, Kanno, Kawamoto, Kim, Kokubun, Menor, Sakamoto, Taniguchi, Tsutsui).

Senator Trimble rose and said:

"Mr. President, I would wish that my vote be recorded as a 'No.'"

The Chair so ordered.

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 1267 was adopted and H.B. No. 736, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

### THIRD READING

H.B. No. 1225, S.D. 1:

Senator Taniguchi then moved that H.B. No. 1225, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Hanabusa then offered the following amendment (Floor Amendment No. 9) to H.B. No. 1225, S.D. 1:

SECTION 1. H.B. No. 1225, S.D. 1, is amended by designating part III as part IV, and renumbering sections 4 and 5, to sections 9 and 10, respectively.

SECTION 2. H.B. No. 1225, S.D. 1, is amended by adding a part III to the measure to read as follows:

"PART III.

SECTION 4. Section 235-110.91, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

"**§235-110.91 Tax credit for increasing research activities.** (a) Section 41 (with respect to the credit for increasing research activities) and section 280C(c) (with respect to certain expenses for which the credit for increasing research activities are allowable) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this section[~~— except that references to the base amount shall not apply and credit for all qualified research expenses may be taken without regard to the amount of expenses for previous years~~]. If section 41 of the Internal Revenue Code is repealed or terminated prior to January 1, 2006, its provisions shall remain in effect for purposes of the income tax law of the State [~~as modified by this section,~~] as provided for in subsection (h)."

2. By amending subsection (c) to read:

"(c) There shall be allowed to each taxpayer, subject to the tax imposed by this chapter, an income tax credit for qualified research activities equal to the credit for research activities provided by section 41 of the Internal Revenue Code [~~and as modified by this section~~]. The credit shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed."

3. By amending subsection (e) to read:

"(e) If the tax credit for qualified research activities claimed by a taxpayer exceeds the amount of income tax payment due from the taxpayer, the excess of the tax credit over payments due [~~shall be refunded to the taxpayer; provided that no refund on account of the tax credit allowed by this section shall be made for amounts less than \$1-~~] may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted."

4. By amending subsection (h) to read:

"(h) This section shall apply to taxable years beginning after December 31, 2000, but not to taxable years beginning after December 31, 2005[~~;~~]; provided that research conducted after June 30, 2003, shall be subject to the amendments made by Act , Session Laws of Hawaii 2003."

SECTION 5. Act 221, Session Laws of Hawaii 2001, is amended by amending section 13 to read as follows:

"SECTION 13. It is the intention of the legislature that the amendments in this Act [~~be liberally construed;~~] encourage increased expenditures in Hawaii, promote long-term benefits to Hawaii and its economy, raise new capital, increase spending to accelerate research projects, create new jobs in Hawaii, and encourage the continued growth and development of high technology and certain performing arts ventures. The



department of taxation is [further] given latitude to interpret these amendments in light of industry developments. The legislature does not intend by the amendments in this Act to opine on the interpretation taken by any taxpayer or the department of taxation on any issue arising under prior law.”

SECTION 6. Act 297, Session Laws of Hawaii 2000, is amended by amending section 10 to read as follows:

“SECTION 10. It is the intention of the legislature in making amendments in this [Part] part to sections 235-7.3, 235-9.5, 235-110.9, and 235-110.91, Hawaii Revised Statutes, that the amendments ~~[be liberally construed, and in this regard, the]~~ encourage increased expenditures in Hawaii, promote long-term benefits to Hawaii and its economy, raise new capital, increase spending to accelerate research projects, create new jobs in Hawaii, and encourage the continued growth and development of high technology and certain performing arts ventures. The department of taxation is given latitude to interpret those amendments in light of current industry standards. The amendments made in this [Part] part to sections 235-7.3, 235-9.5, 235-110.9, and 235-110.91, Hawaii Revised Statutes, shall not be construed to disqualify any taxpayer who has received a favorable written determination from the department of taxation under the original provisions of those sections as enacted by Act 178, Session Laws of Hawaii, 1999.”

SECTION 7. To prevent abuse and promote efficient administration of taxes, the department of taxation is authorized to prescribe rules, as may be necessary or appropriate, to carry out the purposes of sections 235-7.3, 235-9.5, 235-110.9, and 235-110.91, Hawaii Revised Statutes. The department of taxation may also provide guidance through various publications regarding the types of transactions that do not qualify for the high technology business investment tax credit, including:

- (1) Investments that lack economic substance or a business purpose;
- (2) Related party transactions that minimize the amount of actual investment or “new money”;
- (3) Certain restructuring and reorganizations that lack economic substance or a business purpose; and
- (4) Investments in commercial television and film products and businesses that lack the long-term potential that this Act is intended to promote.

SECTION 8. Upon enactment, the revisor of statutes shall insert the number of this Act into section 235-110.91, Hawaii Revised Statutes, where indicated in section 4 of this Act.”

Senator Hanabusa moved that Floor Amendment No. 9 be adopted, seconded by Senator Tsutsui.

Senator Hanabusa noted:

“Mr. President, this amendment addresses Act 221.

“There is no question, Mr. President, that Act 221 has had a significant and beneficial impact on the state, especially the state’s high-tech industry. Companies have used Act 221 as a tax incentive to attract outside investment, expand their operations, hire new employees, and to contribute to the growth of the technology industry. Companies will continue to reap benefits under Act 221 even with the amendments proposed. However, what has become evident, Mr. President, is the fact that Act 221 needs to be amended.

“We all recall that the Governor of this State voiced her complete support for Act 221 and has now, upon review, said that Act 221 has loopholes that need to be closed. Before the Ways and Means Committee on April 2, 2003, the tax director, Kurt Kawafuchi . . . I can’t remember, Mr. President, if he was already confirmed by that day, but anyway, the tax director or acting tax director testified and asked for, basically, the similar amendments that we are proposing in Floor Amendment No. 9. Basically, we are saying that the term ‘liberally construed’ will be stricken from the law and instead be clarified to the point the tax incentives are to encourage long-term business growth.

“Mr. President, we are all aware of the fact that whether you call it the surfer girl movie or Blue Crush came into town, about \$14 million of tax credits were given to the particular movie itself. And no one believes that that was the intent of Act 221.

“Tax credits for research will conform to the federal tax code and be restricted to investments that increase research activities. And the Department of Taxation will be given the latitude to interpret these amendments and ensure that credits are granted only to those investments that demonstrate economic substance.

“Now Mr. President, we’re not hiding anything by this amendment. A lot of it is driven by the fact that we do have a difficult budget situation. The closing of these loopholes, as we refer to it in Act 221, will result with about \$55 million in savings – \$55 million that is very necessary, \$55 million, Mr. President, that the education budget really, really needs. That is why I ask that the members of the Senate please support us in Floor Amendment No. 9 to H.B. No. 1225, S.D. 1.

“Thank you, Mr. President.”

Senator Fukunaga rose to speak in opposition to the amendment and said:

“Mr. President, I rise to speak in opposition to Floor Amendment No. 9 to H.B. No. 1225, S.D. 1.

“This amendment proposes to eliminate the refundable research and development credit in Act 221 as well as remove the legislative purpose clause calling for liberal interpretation of the high-tech tax incentives which were adopted between 1999 and 2001.

“I can well appreciate the gravity of the state’s fiscal condition and the need to correct abuses of Act 221 that have occurred up through 2002. However, this route is not the way to achieve it. Even the Advertiser’s John Duchemin, who has often been among the most vocal of Act 221 critics, has said:

‘Lingle administration officials claim that curtailing the section of Act 221 that lets companies take a 20 percent refundable credit on high-tech research expenses will add \$68 million to tax revenues over the next three fiscal years, wiping out a sizable part of the projected shortfalls.

‘This argument, however, is not only ironic — six months ago, Lingle vowed to protect Act 221 from changes — but also based on questionable math.

‘Administration officials project that high-tech companies would claim at least \$26 million in research tax credits in fiscal year 2004 and \$20 million the next year.

‘Officials base this projection on 2001, when companies claimed \$9.8 million of the credits. Since that was the act’s first year, the administration assumes the amount of tax credits would increase in subsequent years. By 2004, Lingle officials predict, the amount of research tax credits claimed

under Act 221 will be almost triple the amount claimed that first year.

'If that's the case, then Hawai'i has a far larger research community than anyone realizes. To walk through the math: Lingle expects Act 221 will generate at least \$26 million in research tax credits in fiscal 2004. Because those are 20 percent tax credits, at least \$130 million of research will have to be done in 2004 to generate that much money (\$130 million times 20 percent = \$26 million).

'Where is this money going to come from? The Hawai'i high-tech community would be hard-pressed to find five companies whose total revenues add up to \$130 million, let alone produce \$130 million in R&D.

'What's more, the Act 221 research tax credits can only be claimed on "qualified" research expenses, a strictly demarcated definition that even excludes many types of scientific expenses. Hawai'i Biotech president David Watumull asserts that if the Hawai'i economy is producing \$130 million in qualified research per year, the actual amount of research could be nearly double that — about \$250 million per year.

'If the high-tech community in Hawai'i was investing \$250 million in research and development per year, we wouldn't be having this discussion. There would be no need for Act 221.'

"For these reasons, colleagues, I strongly urge you to vote against Floor Amendment No. 9 to this measure. Thank you."

Senator Hooser rose for a conflict ruling as follows:

"Mr. President, I wish to disclose a possible conflict of interest. My business, H&S Publishing, Best Places.com, is a qualified high-technology company and we're in receipt of a comfort letter from the tax office and may be possible beneficiaries of this legislation."

The Chair ruled that Senator Hooser was not in conflict.

Senator Trimble rose to speak against the floor amendment and stated:

"Mr. President, in the spirit of bipartisanship, which is not always showing in this body, I wish to rise and speak in opposition to this amendment.

"If we had really been interested in addressing the fundamental problems of economic development, we could have, several years ago, done several things — one of them would have been to look at our tax structure and its recessive impact on businesses when we repeatedly tax business to business transaction. We have not done that. We could have looked at our transportation infrastructure that is a severe impediment to the shipment of goods for small businesses between the neighbor islands. We chose not to do that. This body, instead, looked at another approach, and that was an approach that did not rely upon the physical movement of goods, but instead had as its basis, brain power, creativity, finding jobs, creating jobs here in Hawaii for a significant sector of our economy that left Hawaii to get jobs elsewhere.

"I did not support Act 221 when I ran for office, but now that I'm in office, I would like to suggest that when it has fulfilled its purpose as a five-year experiment, we take a second look and see what it has done.

"So number one, it is too soon to piddle with it. Number two, the credibility of this body is at stake. You cannot, one year, pass a law and then when it demonstrates that it is doing exactly what you wanted it to do, can you step back and say, 'oh, I didn't intend that.' And to change Act 221, with respect to the 20 percent credit for research, would be doing exactly that.

"With that minor exception, I do support the Governor in her efforts to correct what she properly classified as abuse. And in these areas, the tax department has already issued a ruling that will make major steps in minimizing the abuse that has been brought to public light. So let us not assume that there is abuse for the research tax credit. That has not been demonstrated.

"So, in summary: (1) Act 221 is doing exactly what this body intended it to do; (2) to change it now would be to send a signal to the world that they indeed cannot trust Hawaii lawmakers because they certainly are a fickle body — on Mondays they vote yes and on Tuesdays they vote no.

"Thank you."

Senator Fukunaga rose and said:

"Mr. President, I'd like to request a Roll Call vote."

The Chair so ordered.

Senator Taniguchi rose in opposition and said:

"Mr. President, I rise to oppose this amendment.

"Mr. President, I appreciate the fact that this amendment provides much needed revenue to our financial plan. However, after hearing the testimony regarding the Governor's amendment and weighing the pros and cons, I made a personal commitment — Mr. President, a promise — not to support any changes to Act 221. Mr. President, I need to keep that promise, and therefore ask that the members join me in voting against this amendment.

"Thank you."

Senator Baker rose to speak in opposition and stated:

"Mr. President, I, too, rise in opposition to Floor Amendment No. 9.

"I have the Maui Research and Technology Park in my district. I've worked with a lot of high-tech companies over the past several years trying to educate them on the value of Act 221 and it has been very valuable in bringing businesses to Maui and having businesses on Maui expand and grow.

"There are at least a dozen companies on Maui that would not be in the development and research industry that they are — providing good jobs, jobs for kamaaina to come back to — if it were not for Act 221. It is a big deal. It's been a big deal for Hawaii's economy. It's the only significant incentive that the state provides to attract businesses to our state.

"The effect of these amendments, if they are finally adopted, would be, in effect, to gut this Act. The Act has created jobs; it's allowed kamaaina to come home to Hawaii to live here; it's allowed businesses to flourish, and for the companies that I'm familiar with, they've reinvested here in Hawaii. I think the Act that the 1999 and subsequent Legislatures had the foresight to enact should remain on our books unamended.

"Thank you, Mr. President."

Senator Ige rose to speak in opposition to the amendment and said:

“Mr. President, I also rise in opposition to this floor amendment.

“I would like to request that the words of the Senator from Manoa be inserted into the Journal as if they were my own.

“I just wanted to offer a couple of other observations. I do believe that this action really circumvents the legislative process. And another reason to vote against this floor amendment is that it really, really circumvents the legislative process.

“These amendments will be offered and voted upon without a public hearing. As you are aware, the administration, in testimony on various unrelated bills – totally unrelated bills – had proposed that the Legislature accept these amendments and we have not had the benefit of taking it to public hearing and really hearing what the people have to say. In addition, your Committees on Economic Development and Science, Arts, and Technology scheduled and heard and had public hearings on every single bill introduced in this body to amend Act 221 and there never was any testimony in support of making any amendments to Act 221. And therefore, I really believe that this floor amendment circumvents the public process and further enhances the public perception that the Legislature is a game and that rules are made to be broken and that we don’t follow our own rules.

“Thank you.”

Senator Hooser rose to speak against the floor amendment and said:

“Mr. President, I rise to speak in opposition.

“I’d like the good words of the Senator from Pearl City to be entered into the Journal as if they were my own. (The Chair so ordered.)

“I would also like to say, briefly, that in my district, one of the centers of economic activity is the Pacific Missile Range facility and the West Kauai Technology Center, and we’ve spent much, much money and much energy to build the technology industry on Kauai. This supports the diversification of our economy. It supports the creation of good jobs.

“I believe the abuses of the past can be handled in an administrative function, and I say, let the bill run its course. For these reasons, I will not be able to support the amendment.

“Thank you.”

Senator Menor rose with reservations and said:

“Mr. President, I just wanted the Clerk to note my vote with reservations.”

The motion to adopt Floor Amendment No. 9 was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Ayes, 17. Noes, 8 (Baker, Chun Oakland, Fukunaga, Hooser, Ige, Ihara, Taniguchi, Trimble).

By unanimous consent, H.B. No. 1225, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE

ADMINISTRATION OF TAXES.” was placed on the calendar for Third Reading on Thursday, April 10, 2003.

### THIRD READING

#### MATTER DEFERRED FROM THURSDAY, APRIL 3, 2003

Stand. Com. Rep. No. 1231 (H.B. No. 1214, H.D. 2, S.D. 2):

Senator Hanabusa moved that Stand. Com. Rep. No. 1231 be adopted and H.B. No. 1214, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Kanno rose in opposition to the measure and stated:

“Mr. President, I rise to speak in opposition.

“Mr. President, the bill provides to the state and counties a blanket waiver of liability on public lands. I have a number of concerns about the bill language.

“The bill states on page 2, lines 8 and 9, that it’s to provide protection from liability on improved public lands. Yet, on page 4, lines 13 and 14, it states that the state and counties shall not have a duty to warn for dangerous natural conditions on unimproved public lands.

“The bill states that it shall be conclusively presumed that the public is warned if signs are placed and the signs are approved by the Board of Land and Natural Resources. The bill establishes a risk assessment working group that is to be consulted to approve the warning signs. The Risk Assessment Working Group is required to have a person knowledgeable in warning sign design. I believe the group should also include independent experts in recreational hazards, parks, hiking and geology, and a representative from the visitor industry.

“If the sign is stolen, vandalized or illegible, this conclusive presumption extends 30 days from the date the vandalism or removal is discovered, or 7 days if the sign is at the entrance. This could mean the sign could be down for 6 months to a year or longer, and if it is not ‘discovered’ by the state and county, the state and county is still not liable. If we’re talking about a blanket waiver of liability, the state and counties should be required to periodically check the warning signs. To protect against liability from slips and falls, stores like WalMart are required to conduct periodic inspections for possible spills in the store.

“The purpose section states that an equitable balance is needed. I couldn’t agree more. Unfortunately, the blanket waiver of liability for the state and counties go too far.

“The bill implies that what we’re addressing are individuals who participate in hazardous recreational activities who choose to ignore warning signs. Unfortunately, the bill affects all people and on all public lands, improved and unimproved.

“What if there was a boulder on unimproved state land and the state received a report that the boulder was at risk of dislodging and falling down a hillside and had a high probability of doing so. The bill states that the state or county shall not have a duty to warn for dangerous natural conditions on unimproved public lands.

“I am not speaking for individuals who ignore warning signs, whose behavior contributes substantially to injuries. I am speaking out for all others who I believe deserve to hold someone responsible for injuries that may have happened

through no fault of their own. I'm not talking about a blank check. I am speaking about someone having their day in court to make a case that is to be decided by an independent party.

"I urge my colleagues to vote 'no.' Thank you."

Senator Inouye rose to speak in support of the measure as follows:

"Mr. President and fellow colleagues, I wish to rise in support on H.B. No. 1214, Relating to Public Land Liability.

"Mr. President, H.B. No. 1214 establishes a process to provide the state and counties with protection from the liability that arises from dangerous natural conditions on improved and unimproved lands under their jurisdiction.

"If this was a perfect world, we would all be free to enjoy nature without fear of injury. However, this is not a perfect world and dangerous conditions do exist. It's an unfortunate fact that people have been injured in the past and more will be injured in the future while trying to enjoy our beautiful natural environment. The question we have to ask ourselves as Legislators is, How much liability belongs to government and how much liability belongs to individuals when injury occurs from recreational use of state lands?

"I believe, Mr. President, this measure strikes an equitable balance between the personal responsibility of people engaged in recreational pursuits and the duty of government to adequately warn of potential dangers. If we leave the system as it is now, the ambiguity of how much legal care needed to prevent costly lawsuits may result in public recreational assets being closed.

"I urge my colleagues' support for H.B. No. 1214. Thank you, Mr. President."

Senator English rose in support of the measure and stated:

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

"Mr. President, when I was on the Maui County Council, we dealt with many liability issues from recreational activities. And if you looked at it, one of the key elements in it was personal responsibility. The assumption that often ran with many of these claims was that government was supposed to be responsible for acts of what's termed an 'act of God' or 'an act of nature.'

"I think this bill is good and I urge my colleagues to support it because it returns an element of common sense into our system; that if something looks dangerous, it probably is. If something feels dangerous, it probably is. And the idea that someone else is responsible for your personal safety when on public lands has created some really outrageous situations.

"So I ask my colleagues to support this measure. It's good for the long-term benefit of Hawaii and it's also good for the individuals to realize that common sense may prevail.

"Thank you, Mr. President."

Senator Menor requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1231 was adopted and H.B. No. 1214, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND LIABILITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Kanno).

### THIRD READING

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

H.B. No. 200, H.D. 1, S.D. 1:

Senator Taniguchi moved that H.B. No. 200, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Taniguchi rose to speak in favor of the measure as follows:

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

"I would like to start today by acknowledging a few people who have helped me meet the many challenges of this Session. I first want to thank my hardworking staff. They remained committed to producing a quality product in the work of your Ways and Means Committee. I'm always impressed by their comprehension of issues and am proud of their dedication to the Senate. I would also like to thank the members of the Ways and Means Committee and you, Mr. President, for your support and leadership.

"With the magnitude of challenges facing us, I have come to rely on the members for their input, insight, and flexibility. I have tried to be open to their ideas, which has been very instructive for me, Mr. President. I guess that even after 23 years in the Legislature, I still have much to learn.

"I also want to thank my Vice Chairman, the Senator from the Big Island, for taking on the traditional responsibility of taking the blame for all the bad parts of the bill. His predecessor, the Senator from Waianae, has gone on to bigger and better things, but as the Ways and Means Vice Chair emeritus, we still call on her to take the blame for many other things. (Laughter.)

"Last, but not least, I again want to take this opportunity to acknowledge the support and guidance of my family, especially my wife Jan. My son Daniel and my daughter Karli are both public school products of whom I'm very proud. Much of why I support public education so much is with them in mind.

"I kind of wanted to talk today a little bit about the budget and really impress upon the members that this budget is only part of the Senate's financial plan. If you only look at this budget bill, you will see increased funding only for our fixed or mandated costs, and you will see many, many cuts. This is not the whole picture as to how the Senate intends on restoring the devastating cuts to education as proposed by the Governor and to the community health and human service needs that are not even addressed at all by her ever changing budget proposals.

"We cannot proceed with this bill without passing three other bills, Mr. President – H.B. No. 510, which increases our general excise tax by a half percent, provides our public schools with critically needed resources; H.B. No. 512, which provides crucially needed assistance to our community health centers throughout the state with rainy day money; and H.B. No. 668 provides badly needed resources to our human services safety net, also with rainy day money.

"Mr. President, I pledge to you that I am committed to seeing these three areas funded in some way, or we will not go home.

The bottom line is that a large number of people in this state have told us that we must provide adequate resources for our public schools and that they are willing to pay a little more for it. This budget bill only goes part of the way in fulfilling this request. We need to do more if we want to claim that education is our top priority.

“By now, it should be apparent that the Governor does not believe that education is her priority. She is turning her back on our children. She has made an outright across-the-board cut of \$3 million per year, starting in the current fiscal year. She has retracted and \$8 million request destined for charter schools and school security. She’s moving \$9 million in general funds out of food services, hoping to supplant it with special and federal funds that may not be there. She has also slashed general funds of \$2.7 million per year for adult education, hoping to supplant that through a fee increase. This sounds like a tax increase to me and a tax increase on those struggling to get their GEDs and citizenship.

“Lastly, she has asked the DOE to give up \$8 million per year in anticipation of the state receiving more federal impact aid. This is a terrible time to base your budget on increased federal impact aid to the states.

“Mr. President, while I sincerely believe the Governor is trying her best, I cannot agree with her approach to the budget. She needs to stop trying to legislate through the media. Let’s sit down and work on a long-term plan that recognizes the needs of our people and provides adequate resources for them.

“I urge my colleagues to support this bill, as well as those that provide for our most pressing needs. Thank you, Mr. President.”

Senator Baker rose to speak in favor of the measure and stated:

“Mr. President, I rise to speak in support of H.B. No. 200, S.D. 1.

“I want to thank the Chair and Vice Chair of the Ways and Means Committee for all their efforts to craft a budget bill that we can support. Perhaps it’s not exactly a silk purse out of a sow’s ear, but pretty close.

“During this period of budget shortfalls, theirs is an extremely difficult job – many competing and worthy projects, few resources, mostly unpleasant alternatives – and I commend the Chair and Vice Chair for the time and effort they put together in this measure. I also want to extend my appreciation to the members of the Ways and Means Committee and to the hard-working staff who spent many long hours trying to find ways to balance this year’s budget.

“The Department of Health took a huge hit in the executive biennium budget request, and I appreciate the willingness of Ways and Means to restore some of those cuts and to work with your Committee on Health to pursue other funding strategies for additional baseline services. Preserving and protecting our citizenry’s health, safety and welfare are government’s core functions. By putting needed resources into the community mental health plan and Hawaii State Hospital remedial plan, Ways and Means has helped the adult mental health division move forward a prudent, cost-effective plan to improve services and comply with court decrees.

“The restoration of funding of positions for developmental disabilities service branch is equally as important. This Legislature, several years ago, made a commitment to the well being of our developmentally disabled citizens in a client

centered community setting. These funds and positions will help fulfill that commitment.

“Additionally, I applaud the Committee’s decision to restore the general practice dental residency program for disabled patients to access care and provide much needed equipment for the emergency medical services division. Insuring that our primary and secondary responders are prepared to deliver critical, necessary care while on duty will only serve the interest of the state in the long run. And as everyone knows, adequate dental care still remains a concern in our state and, unfortunately, will not be fully addressed in this resource challenged environment.

“H.B. No. 200, S.D. 1, along with H.B. No. 512, S.D. 2, H.B. No. 1182, S.D. 2, and previously passed related Senate measures, provide the minimum resources necessary to ensure the viability and vitality of our healthcare safety net here in Hawaii.

“I appreciate the work of the Committee on Ways and Means to address the vital services needed by our state, and I urge my colleagues to join me in supporting this important measure and the others mentioned by the Chair of Ways and Means.

“Thank you.”

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

“Mr. President, I rise to speak in favor of this budget and this legislation.

“This bill does represent a change of attitude on the part of the Majority Party in certain areas. Your Minority Party introduced legislation to eliminate many of the vacant positions that seem to plague honesty in the budget process. We also called out for eliminating many special funds that oftentimes have a margin or float in it. And recognizing the accuracy of this position, the Chairman of the Senate Ways and Means Committee and his Committee members have indeed incorporated into this budget eliminating vacant positions and eliminating some special funds through this and other legislation.

“I have to stand up and challenge the Majority Party on their position on education, and most especially the broadside levied against the Governor by the Chairman of the Ways and Means Committee. We know, beyond a doubt, that business as usual has failed the children of Hawaii. I find it almost incredible that certain members of certain union’s leadership come to the Ways and Means Committee and chastise those who challenge the performance of our public education system. Their logic is – how dare you criticize us; how dare you advocate change; how dare you advocate reform; we’re doing a good job. And after they’re finished saying that, they turn around and ask us for more money. If they’re doing a good job, why do we need more programs, more money?

“I’ve gone over this before. Since 1990, the education budget has gone up to include Felix consent decree almost a billion dollars, far exceeding the growth of any other department in state government. For the record, the enrollment of public schools has pretty much remained static, and for the incredible amount of money the good taxpayers have put into the system, we’re not getting what we’re paying for. The problem is not money; it is indeed governance, and I applaud the Governor for saying, enough already, we cannot throw more money at a broken program – we have to fix it. I’m hoping that the Majority Party will see the wisdom in doing that.

"I find it quite ironic that the Governor is trying to do what the previous administrations failed to do – collect adequate funding for mandated programs from the federal government for the State of Hawaii. It's no secret that the prior administrations failed to collect adequate money for Felix mandated programs and cost overruns. And speaking about the Department of Health and other programs, it's no secret that the prior administrations did a miserable job on collecting Medicaid funding for assistance with QUEST eligible patients and others. So I find the duplicity on this issue somewhat disingenuous.

"I also find that we just had a floor debate about the positive effects of tax credits, which are tantamount to tax reduction to increase economic activity in Hawaii. And I think it's been proved out to be true and you all have pretty much endorsed the concept, first by those who voted against amending Act 221 by saying these tax credits have been wonderful in bringing new business and more economic activity to Hawaii. Everyone is unanimous on that idea, but to then turn around and say, in order to support this budget, we're going to need some increased taxes, is once again disingenuous and contradictory.

"Adam Smith, in The Wealth of Nations, said over 200 years ago that oftentimes, tax increases result in less revenue to government because they stifle the very economic development and activity that creates taxes in the first place. So I'd say to the Majority Party, you can't have it both ways – you cannot stand up and say tax reduction in the form of tax credits is an economic stimulus but in turn we have to increase taxes other ways to support this budget.

"This budget is headed in the right direction. It does reduce spending by approximately 2 percent from the proposed executive budget that originated in the Cayetano administration. And I would suggest to the Majority Party that we continue to find ways to make government more efficient, more accountable so that we can balance this budget without putting more hardship on the poor taxpayers of Hawaii.

"Thank you, Mr. President."

Senator Sakamoto rose in support of the measure and stated:

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

"In part, I agree with some of the points made by the previous speaker. Certainly, I agree with the Chair of Ways and Means that this budget, in addition to other measures, in particular in education, are needed. I think for too long some people have claimed our education system has failed and paints every school, every teacher, every principal, and every student with the same brush.

"Mr. President, there are different colors on this chart that represent some schools in blue that are indeed doing well, some schools that are in green that are indeed doing okay, some schools in yellow that certainly are in need of improvement, but certainly there are schools in red that really need to be improved. I think it's unfair to our school administrators, to our teachers, to our students, to our community to claim that system has failed, to say everybody's red and we ought to go somewhere else. It's unfair to say that it's not just a problem of money. Certainly, money isn't the only problem, perhaps decentralization and getting money to the school complexes is part of the solution. An expert came to town a few weeks ago and made that plea.

"I think that this measure, as far as getting money to the schools, is an initiative that your Senator from Pearl City and previous education people have looked at, and perhaps its time has come again.

"It's unfair to say that we haven't tried to get more money from the federal government for Felix, more than the 11 or 12 percent that we're getting, but in spite of the scarce resources, our school complexes, our teachers, our administrators, our parents, our students have pulled together to move us a long way with the money they have. But certainly, more resources would help that effort.

"On one hand, I agree. I think I was standing here speaking to the Senator from Lanikai saying you can't have it both ways, and I agree it's difficult to have it both ways. With education, though, or with tax incentives, if you picture a vehicle, Mr. President, an automobile, on one hand you can say let's inflate the tires a few more PSI. Let's give some incentives by inflating tires so the vehicle can have balance and actually if you inflate your tires, you save mileage – assuming you inflate it a few pounds, Mr. President. On the other hand, perhaps you also need fuel. So, perhaps taxes, and additional resources to put in the fuel tank, will help that measure as well.

"So, in both cases, inflating the tires of the education system to have it move more efficiently, the tax incentive is for businesses so they can move more efficiently, as well as fuel for the much needed things in schools can help our educators and our students move forward better.

"Thank you, Mr. President."

Senator Slom rose in support and said:

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

"While not perfect and just beginning a journey, it's something that I will support. But I take great umbrage at some of the statements and misinformation that's been shared on the Senate Floor in the last several minutes.

"First of all, to the good Senator from Moanalua who always gives us many anecdotes and many examples – bridges and cars and ex-lax and things like that – what I got out of this last anecdote about the automobile was the inflation. And I think that expectations have been inflated, and I think that numbers have been inflated, and I think that demands have been inflated by those who are in the educational bureaucracy.

"And I like the Chairman of the Ways and Means Committee, especially when he wears a baseball cap and he provides snacks for us on those lonely Saturday closed-door sessions all day. And I'm going to give him the benefit of the doubt, because when he says that education is not the Governor's priority, he knows better than that. And when he says that the Governor has turned her back on Hawaii's children, he knows better than that. Funny things happen, though, when we get down in this Chamber and we look at the numbers of people and the bipartisanship that we've all talked about seems to disappear. Maybe that was inflated as well.

"Let's talk about the reality – the reality is that the Governor's budget for education was larger than what is included in this budget right now. Let's talk fact – the Governor's original proposals for education increased the educational budget by more than 8 percent, and that is without any tax increases or more burdens on Hawaii's families. And we'll get into that in just a little while.

"The point is that the budget is a process, as we keep hearing over, and over, and over again, and we've got a long journey to go. But to make these kinds of statements about the Governor's intent, when it really is our responsibility to make the hard decisions, are unfair, unwarranted, and untrue. If, for example,

the House did not like the budget as modified, they would have refused to pass it over. If in fact the Majority did not like the budget and wanted to do something entirely differently, they would not have proposed it for adoption today.

"I think that it is important to realize that this budget is something that we're all going to have to deal with, as the Senator from Kailua said earlier, in a different manner. We have been use to spending without regard to the future. We have been use to increasing taxes without regard to the present. And like a parent, I, like the good Senator from Manoa, have public school aged children, and the problem is that you are the bad guy whenever you say no. As long as you say yes to whatever the children want or whatever special interests want, hey, nobody can fault you, at least from those communities. But leadership and parenthood exerts an awesome responsibility, and sometimes, Mr. President, you have to say no to excesses because you know that in the long term, what that's going to do is going to destroy opportunities for everyone.

"So it is a careful balancing act, an act that puts the highest regard for children and for real education, but at the same time, to keep us cognizant that we don't have unlimited resources and also to remember where those resources come from. They come from the people that are targeted as the fourth highest taxed people in the United States. And we're going to debate in just a little while to try to add to that tax burden.

"So, to say that the Governor doesn't care about children, to say that the Governor has turned her back on education is unfair. I will be supporting this budget today. I will be participating in whatever way I can in the Conference process, and we'll take a look at the final document that we have.

"Thank you, Mr. President."

Senator Kanno rose to speak in support as follows:

"Mr. President, I rise to speak in support.

"The Ways and Means Committee had the near impossible task of determining a balanced budget. Under the Chairs' leadership and through the hard work of the Ways and Means staff, Ways and Means has supported key priorities that are important to our community. At the same time, Ways and Means has also supported important priorities for Hawaii's retirees.

"I urge my colleagues to vote aye."

The motion was put by the Chair and carried, H.B. No. 200, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

### THIRD READING

#### MATTERS DEFERRED FROM FRIDAY, APRIL 4, 2003

Stand. Com. Rep. No. 1265 (H.B. No. 135, H.D. 1, S.D. 1):

Senator Hanabusa moved that Stand. Com. Rep. No. 1265 be adopted and H.B. No. 135, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Hogue rose to speak in favor of the measure with reservations and said:

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

"Colleagues, I want you to know that I firmly support this measure's intent. Women who use international matchmaking organizations do need to be protected from blindly entering into abusive relationships, and this bill in, its present form, stands to protect women in potentially abusive relationships.

"However, as drafted here with S.D. 1 to this particular bill, the attorney general has noted a couple of points and I think they are of concern and potentially could be vetoed by the Governor unless these points are addressed in Conference Committed. And that is, this bill excludes organizations of a religious or traditional nature. And what it means is that inappropriately it will force the government into defining what is of a religious nature based on other countries' laws, and possibly create a loophole for matchmaking organizations that portray themselves as traditional or religious. Hopefully, these matters can be corrected in Conference Committee.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1265 was adopted and H.B. No. 135, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERNATIONAL MATCHMAKING ORGANIZATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1269 (H.B. No. 1010, H.D. 1, S.D. 2):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Stand. Com. Rep. No. 1269 was adopted and H.B. No. 1010, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF INTOXICANTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

### THIRD READING

H.B. No. 123, H.D. 1, S.D. 1:

Senator Menor moved that H.B. No. 123, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator Whalen rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition.

"I won't repeat everything I said before, but I'm still greatly concerned over our lack of care or concern about the significant impacts giving this powerful drug to a woman without any sort of medical examination. Like I said before, doctors will refuse to do it because of their liability and concern over the patient, but we're going to allow pharmacists to do it. I just cannot understand why we are allowing pharmacists to hand out powerful drugs that not only endanger the life of the woman, but if taken too late, it often causes severe deformities in the child which is later born.

"I just cannot understand why we're doing this, so I will be voting 'no.'"

Senator Baker rose to speak in support of the measure as follows:

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

"I have some prepared remarks that I'd like submitted but I need to address the concerns raised by the previous speaker from the Big Island.

"This measure allows appropriately trained pharmacists to dispense emergency contraception in accordance with approved collaborative agreements with the physician. In the intensive hearings we've had twice now, before both the Health and Consumer Protection and Housing Committees, we've had overwhelming testimony in support from pharmacists, from the folks that license pharmacists, from physicians and the folks that license physicians, the board of medical examiners. Everyone has been in support of this measure because it provides some additional access to woman who may not have a regular physician.

"Emergency contraception is approved by the U.S. Food and Drug Administration as a safe and effective way to prevent unwanted pregnancy. It is not without its safeguards and it's not without its restrictions.

"In 2001, Hawaii had more than 17,000 births and 53 percent of those were unintended. Women do not have appropriate access to the kind of services and medications that are contemplated under this measure that are so needed to help prevent unwanted pregnancies. It does not harm a fetus that is already formed. It will not abort one that has already started to take shape. It prevents the implantation.

"This measure is something that's very needed in our community. It's been endorsed by the very medical professionals that the Senator from the Big Island was concerned about. It's been endorsed by women's groups. It's been endorsed by the U.S. Food and Drug Administration. I urge my colleagues to support this measure.

"Thank you."

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

"Mr. President, I rise to speak in support of H.B. No. 123, H.D. 1, S.D. 1, which allows appropriately trained pharmacists to dispense of emergency contraceptives, in accordance with an approved collaborative agreement with a physician. To be effective, emergency contraceptives must be taken during the critical seventy-two hours after unprotected sex. In order for the contraceptives to work properly it is vital that a woman be able to access this medical option in a timely manner to prevent an unwanted pregnancy.

"Emergency contraception is approved by the U.S. Food and Drug Administration (FDA) as a safe and effective way to prevent unwanted pregnancies. Emergency contraceptives will work only if dispensed within the limited time frame after sexual intercourse. Under the current system emergency contraceptives must be administered by a physician, which can limit accessibility for women who do not have an established provider whom they may call upon. In addition, some facilities are unwilling to see or 'squeeze-in' a client if she is not an established patient, due to their limited schedules or number of physicians. And, if emergency contraceptives are needed during the evening, weekend or on a holiday it can be equally

difficult for a woman to reach her doctor, and secure prescription within the critical seventy-two hours.

"In 2001, Hawaii had more than 17,000 births and 53 percent of those pregnancies were unintended. Of those 8,500 unintended pregnancies 78 percent were to girls aged 15-19 years old. Health Mothers, Healthy Babies Coalition of Hawaii concluded, in 2002, in a survey on the accessibility of emergency contraception in Hawaii, that there were significant barriers in obtaining emergency contraception. The survey concluded that fifty-six per cent of family planning clinics and none of the fourteen private pregnancy/counseling organizations were able to provide EC within the seventy-two hour time frame. In addition, only ten per cent of emergency rooms were able provide access to EC within that time frame.

"Expanding the practice of pharmacy under the pharmacist licensing law, to include the dispensing of emergency contraceptives, will allow women to have adequate, and timely access to the medical treatment they need, especially on nights and weekends when a physician may not be available. By permitting appropriately trained pharmacists to dispense emergency contraceptives women will have the medical options they need to make decisions that effect themselves and the lives of others. Additionally, it will reduce health care costs, reduce unwanted pregnancy and provide options to women who may have been abused or assaulted.

"I urge my colleagues to join me in supporting this important measure which is a part of the women's coalition legislative package. Mahalo."

Senator Kawamoto requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Sakamoto rose with reservations and said:

"Mr. President, I'd like to note my W/R as well as request comments be inserted in the Journal."

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

"Mr. President, I rise with reservations on this bill.

"My concern is that women who would opt to use emergency contraception should be fully informed that this drug is effective by preventing an already fertilized egg from embedding in the womb. I feel that women who may believe that life begins at conception should have the knowledge that this course of action could run contrary to their beliefs.

"I also have concerns about the health risks of repeated use of emergency contraception."

Senator Whalen rose in rebuttal as follows:

"Mr. President, just a brief rebuttal.

"I won't go through it point by point, but all the testimony has not been in support of this. I went through numerous hearings of this, as well, over the time that we've been examining this issue, and yes, it can cause deformities for a child that's already been implanted. It is dangerous to a woman who takes it too late once the baby is there. There are dangers with this drug. That's why doctors will not prescribe it without examining a woman first.

"The government had approved lead in paint for years, until we found out that it was dangerous. So, just because a government agency says this is a good idea, doesn't necessarily



mean that it is. We are a government agency or a body and we make all kinds of decisions that later on we figure out that maybe we shouldn't have done that. So, just because there's a stamp of approval from a government, it doesn't mean it's the right thing to do.

"I said I won't go on, so I won't. My concerns have not been dealt with, and I think we're going down the wrong road when we're allowing people to prescribe medicine who don't even examine the patient first to make sure whatever being claimed is the situation.

"Thank you."

Senator Kim requested her vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 123, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PRACTICE OF PHARMACY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Aduja, Hemmings, Slom, Whalen).

H.B. No. 1165, H.D. 2, S.D. 1:

On motion by Senator Menor, seconded by Senator Baker and carried, H.B. No. 1165, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Hogue). Excused, 1 (Taniguchi).

Stand. Com. Rep. No. 1314 (H.B. No. 714, H.D. 1, S.D. 2):

Senator Hanabusa moved that Stand. Com. Rep. No. 1314 be adopted and H.B. No. 714, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this bill.

"We had a lively discussion in Ways and Means and there was, I think, an honest attempt to make this bill better, but the bottom line is this – those of us that believe in educational reform and educational decentralization also believe in the individuals in our community, particularly the parents of school-age children. The very simple idea was to put a question on the ballot and let the people decide whether or not they want to make changes to the present system of a state bureaucratic board of education that makes all decisions from about 200 yards away from this building here for all places around the state. That was really the question – will the public get to decide whether or not they want decentralization? And it was a very specific proposal made for seven decentralized regional elected boards of education.

"The discussion that ensued, as I said, was I think a good faith attempt to try to reach a compromise. But unfortunately, it has fallen short, because this bill, the way it's written right now, amounts to no more than an advisory referendum by the public. In other words, the public can vote 'yes, we want to have decentralization; yes, we want to do away with the state school board at a bureaucratic centralized position.' But all this bill does then, with that question, is to advise the legislature of what that opinion is. The legislature then may or may not authorize

the decentralization. So, the question is only half complete. It doesn't do the job and does not allow for choice.

"What it also does is provide for additional bureaucracy if the legislature, in ignoring the people, assuming that the people say they want that decentralization, decides to continue on with what we have or to add to more bureaucracy as we'll see in additional bills.

"So therefore, I urge a 'no' vote on this bill, Mr. President. Thank you."

Senator Sakamoto rose to speak in support of the measure as follows:

"Mr. President, members, I rise in support of this bill.

"This bill does propose a constitutional amendment authorizing the Legislature to establish regional boards of education and administration. It also establishes a committee to design and implement a smooth transition for all stakeholders and outlines the process and timeline to reach that goal. This measure, along with the Senate draft of H.B. No. 289 represents our efforts to make our educational system more responsive and responsible to the distinct communities that they serve.

"The intent of the Legislature is that thoughtful planning be a prerequisite to restructuring the public school system, to minimize disruptions to the educational process and the delivery of educational services, and to facilitate an informed, timely, and good transition for all educational personnel, parents, and students.

"Mr. President, following up on the speaker from Hawaii Kai, let us not equate decentralization to elected or some form of school board organization. Decentralization is a broader word – school governance, per pupil waiting. There are other ways, including school/community-based management, which is already in place in most schools. There are many ways to decentralize. I think people want decentralization. They want schools, school principals, local communities to have more involvement.

"This measure does say we need to work on this, and I think my hope would be that the administration, the House and Senate would agree that question is possible this Session, a question is possible next Session prior to the voters voting. But certainly, all parties should agree that we need to really determine if indeed we can have a specific question and work to get the best question, Mr. President.

"Thank you."

Senator Trimble rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this measure.

"Three points: (1) the committee that is appointed appears to represent those that would tend to keep the status quo in effect; (2) the measure that would be put on the ballot does not specifically call for elected local school boards; and (3) it's still not giving the people the choice. It boils down to what the Senator to my right said – the voters get to say yes, they want something, but then the Legislature decides whether they in fact wanted it or not.

"Thank you."

Senator Hogue rose to speak in support of the measure with reservations and said:

“Mr. President, I rise to speak in support of this measure with reservations.

“I applaud the Senator from Moanalua for bringing forward this question. I do believe that it has to be brought forward to the people. Unfortunately, we’ve not gone far enough with this particular question, and this question has taken many forms along the way.

“Mr. President, I believe strongly in the people, and I believe that the people should make a decision with this particular matter. I ask that the question be: Shall there be established multiple school districts with executive authority of those districts governed, as provided by law, by locally-elected school boards? This would mean that it would be established by purview of the vote of the people that we have locally elected school boards with executive authority. As the question now stands, that is not the case.

“As noted by the good Senator from the Waikiki area, if this particular advisory board or transition board goes forward, the status quo could in fact determine whether or not the Legislature would follow the will of the people.

“Mr. President, I believe in the people. I believe that the people should make this decision and the Legislature should just get out of the way. Thank you.”

Senator Hooser rose to speak in support of the measure as follows:

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

“I’d like to briefly speak in support of this measure. I think it’s an important measure, and I think it does offer the people the opportunity to choose.

“While there’s much debate over the quality of the question or the words of the question, it is clear that if this question goes forward, the people of this state will be able to say whether or not they want this Legislature to establish additional school boards. If the people vote no, that will be very clear and the Legislature will not be able to establish additional school boards. If the people vote yes that they want to give the Legislature this power, then that will be a clear and unequivocal message that the people in fact would like to have more school boards.

“Now, the question as to how many school boards, whether we have a main school board, whether we have seven school boards – there are many, many questions left unresolved. And even amongst this body, there are many people that can’t agree on that issue. There are people here who feel that we should have seven school boards without a state school board as a central school board. The Governor’s own original proposal in fact included a state school board with seven underlying school boards.

“There are many, many options and this will allow the people to choose if this measure goes forward. Equally, if not more important, the bill also sets up a process. There are many, many unanswered questions, not just how many boards, but how the funding will happen and what powers those boards would have, if in fact we do set up boards. This commission will not direct or control that decision. This commission, which is proposed to be made up of a wide cross section of members in the educational community, will merely make suggestions to this body, to the Governor, and to the board of education for their action, because that action will ultimately lie with this body.

“So, for those reasons, I encourage my colleagues to vote in support of this measure. Thank you.”

Senator Menor rose and said:

“Mr. President, please note that I’m voting with reservations.”

Senators Hanabusa, Taniguchi, Kokubun, Aduja, English and Ige requested their votes be cast “aye, with reservations,” and the Chair so ordered.

At 12:07 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:08 o’clock p.m.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1314 was adopted and H.B. No. 714, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Slom, Trimble).

At 12:09 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:52 o’clock p.m.

Stand. Com. Rep. No. 1315 (H.B. No. 1285, H.D. 1, S.D. 1):

Senator Hanabusa moved that Stand. Com. Rep. No. 1315 be adopted and H.B. No. 1285, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Trimble rose to speak in opposition to the measure as follows:

“Mr. President, I rise in opposition to this measure.

“Today we’ll be reviewing four types of law. Probably the most important and of which there’s been the least amount of discussion is the law of unintended consequence. But in addition to that, there’s bad law, unnecessary law, and, occasionally, good law.

“This measure was supported in Committee and in the committee report in that it closed a loophole. I had a hard time believing that because it’s been my impression that it has been against the law for a great number of years to disturb or otherwise cover over or construct over burial sites. I can understand why there maybe have been a case where somebody lost a case and in his own defense, couldn’t have been his own incompetence, it must have been a loophole in the law. And the loophole that was decided was that somehow private property was exempted. So I went back to the original copy of the Hawaii Revised Statutes and I looked at Section 6E-11(b): ‘It shall be unlawful for any person, natural or corporate, to knowingly take, appropriate, excavate, injure, destroy, or alter any burial site or the contents thereof, located on private lands or lands owned or controlled by the State.’ Get to penalties – any person who violates this section shall be fined not more than \$10,000 per day for every separate offense.

“It is already in the law, so why are we trying to make it illegal a second time? I urge my colleagues to vote against this unnecessary law.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1315 was adopted and H.B. No. 1285, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HISTORIC SITES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Trimble). Excused, 4 (Menor, Sakamoto, Taniguchi, Whalen).

Stand. Com. Rep. No. 1316 (H.B. No. 993, S.D. 1):

Senator Kawamoto moved that Stand. Com. Rep. No. 1316 be adopted and H.B. No. 993, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Espero.

Senator Hooser rose to speak in opposition to the measure as follows:

“Mr. President, I rise in opposition to this bill.

“The purpose of this measure is to apply the state reconstructed vehicle laws to counties with populations of less than 500,000. I’m very concerned of this bill’s impact on my district, the rural district of Kauai. My district is a rural community – we have no freeways; we don’t have that many roads, period, and the speed limits certainly aren’t very fast. We have many, many off-road vehicles, pickup trucks and other reconstructed type vehicles, and I’m afraid unless this bill is radically altered in Conference Committee, that it’s going to instantly cause most of those vehicles to become illegal and be subject to fines and penalties.

“I think this is more of a home rule issue, and for those reasons, I’ll be voting in opposition. Thank you.”

Senator Kawamoto rose to speak in favor of the measure as follows:

“Mr. President, I rise to speak in favor of the bill.

“Mr. President, we defected the date on this bill to go to Conference. I also talked to the House introducer of the bill and expressed our concerns about incident violations, and we’re going to look at that.

“Basically, the basis of this law is to have the neighboring counties and the emergency people that brought out the bill, they’re concerned about the vehicles and not only the fact that they run their highways, but different roadways with big trucks, big wheels, and those kinds of things that they’re concerned about.

“So, the emergency people on the neighbor islands supported the bill and wanted the bill. So I ask all my colleagues to vote ‘aye’ on this bill.

“Thank you.”

Senator Tsutsui rose and said:

“Mr. President, I’d like the Clerk to reflect my ‘no’ vote on this measure. Thank you.”

The Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1316 was adopted and H.B. No. 993, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO RECONSTRUCTED

VEHICLES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 13. Noes, 9 (English, Fukunaga, Hemmings, Hogue, Hooser, Ige, Ihara, Trimble, Tsutsui). Excused, 3 (Sakamoto, Taniguchi, Whalen).

Stand. Com. Rep. No. 1320 (H.B. No. 640, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1320 be adopted and H.B. No. 640, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

“Mr. President, I rise in opposition to the bill.

“While I certainly support efforts for a loss mitigation, we’ve discussed this issue many times before. The only problem is, with this bill now, the conference report, I think, is incorrect. It refers to taking the \$6 million for this out of the interest of the hurricane relief fund. But the bill itself is very clear – it takes it from the corpus or the body of the hurricane relief fund, further, I think, minimizing the impact that the fund can have and the purposes for which it was created.

“So I think that a ‘no’ vote is in store. Thank you.”

Senator Chun Oakland rose to speak in support of the measure as follows:

“Mr. President, I stand in support of this measure.

“This makes an appropriation for loss mitigation grant program. The bill before you today allows the use of up to 3 percent of the Hawaii Hurricane Relief Fund, \$3.5 million in fiscal year 2003-2004 and \$2.5 million in fiscal year 2004-2005, to be used for this important program. Under the loss mitigation grant program, the State would match 50 percent of the single- or multi-family homeowner’s cost to install wind-resistive devices, up to a maximum of \$2,100 per dwelling.

“Last year, the Legislature passed Act 179, which established the loss mitigation grant program as a 3-year pilot project. The intent of the Legislature was to use a portion of the interest generated by the inactive Hawaii Hurricane Relief Fund to give matching grants to Hawaii homeowners to make their homes less vulnerable to hurricane-strength winds. Strengthening single-family or multi-family homes against hurricane-strength winds now, will ultimately reduce the potential damage from a hurricane, and the resulting losses to homeowners and the insurance industry, in the future.

“This bill appropriates \$6 million over the next two fiscal years. According to the State Civil Defense Director, that \$6 million, together with homeowners’ investments in hurricane mitigation devices for their homes, could be used to obtain pre-disaster mitigation funds from the Federal Emergency Management Agency (FEMA), on a 75 percent federal to 25 percent state match basis. That means that by expending \$6 million, the State could obtain up to \$33 million in new federal funding for mitigation efforts by homeowners and the State and counties.

“A 2000 study by the Hawaii Hurricane Relief Fund showed that tens of thousands of Hawaii homeowners are interested in taking advantage of this program. But, the loss mitigation grant program is not a handout or entitlement. Rather, it is a contingent expenditure, where funds are spent only when matched. And because single family, condo, and townhouse

owners must match the State's share, dollar-for-dollar, it motivates consumers to invest during uncertain times and keeps that money circulating in our State.

"The loss mitigation grant program can generate up to six times its funding in reduced hurricane damage losses and could potentially cut the State's post-disaster costs in half. It can help an estimated 4,000 families a year to strengthen their investment in their homes, reduce their insurance premiums, and help hold the line on hurricane deductibles. Moreover, this program can help create up to 100 small business jobs throughout the State, and help generate between \$480,000 and \$2 million in new tax revenues, depending on the actual level of federal grants awarded.

"In today's difficult economic climate, we need to make the best possible use of all available resources, including the Hawaii Hurricane Relief Fund interest. Looking at the facts, this bill makes good economic sense. I urge your support for H.B. No. 640, H.D. 1, S.D. 2.

"Thank you, Mr. President."

Senator Hogue rose in opposition to the measure and stated:

"Mr. President, I rise to speak in opposition to this bill.

"I think whether or not this actually makes good economic sense is a dubious argument. It certainly makes bad policy sense.

"I think everyone knows the history of the hurricane relief fund and it would certainly seem that those who paid into it should be the beneficiaries. And one of the obvious drawbacks to this besides the fact that we're going into the corpus rather than the interest is that those who will benefit from this fund are not those who paid into it, or at least may not be.

"For these reasons and the fact that certainly the number one thing that we should do is to give the people their money back, I'll be voting 'no.' Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1320 was adopted and H.B. No. 640, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE LOSS MITIGATION GRANT PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 2 (Sakamoto, Whalen).

Stand. Com. Rep. No. 1323 (H.B. No. 1412, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1323 be adopted and H.B. No. 1412, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this measure.

"What we have here, and I want to address a little bit larger issues, is yet another group that seeks to establish their credibility by being able to say that they are licensed and that is tantamount to being approved by the State of Hawaii. It is the wrong direction. I think that we need to ask DCCA or the legislative auditor to look at all such license groups and make recommendations so that we can go toward a society which gets the state out of the licensing business.

"Thank you."

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I, too, rise in opposition to this bill.

"In addition to the comments made by the good Senator from Waikiki, I think it's important to know that this bill also adds new fees, new charges, exempts government employees from the provisions of the bill, and uses the Felix consent decree as an excuse for more bureaucracy.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1323 was adopted and H.B. No. 1412, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL COUNSELORS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 2 (Sakamoto, Whalen).

Stand. Com. Rep. No. 1326 (H.B. No. 21, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1326 be adopted and H.B. No. 21, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this measure.

"The intent is good, but I don't think that anyone has stopped to think and look at the bureaucracy that this unfunded mandate will necessarily result in. And because of this increased bureaucracy and perhaps the chilling effect that it may have when people seek to apply for tax credits, I oppose and I urge my colleagues to oppose this measure.

"Thank you."

Senator Fukunaga rose to speak in favor of the measure as follows:

"Mr. President, I rise to speak in favor of H.B. No. 21, S.D. 2.

"This bill authorizes the Department of Taxation to report on tax benefits for development assistance programs, disclose development assistance, and recapture of assistance from recipients who fail to achieve jobs, wage and benefit gains. It also would appropriate funds for the Department of Taxation to fulfill the objectives of this measure.

"I agree with the prior speaker that this bill is currently a work in progress. During the past eight years, tax incentives for businesses have increased dramatically. Yet, we have not determined whether businesses that use these tax credits have actually been successful in creating more jobs.

"When businesses receive tax breaks to grow the economy, the Legislature should require Department of Taxation to compile and collect data to show whether or not the benefits that we achieve are consistent with the credits being utilized. At the same time, it is not practical to ask the Department of Taxation to collect all of the requested information immediately.

“By giving the proponents of this measure an opportunity to focus on the more critical areas of reporting first, and by providing the tax department with staff and resources to do a credible job, we as policy-makers can accurately weigh the cost benefits of tax breaks to stimulate Hawaii’s economy.

“For these reasons, I urge my colleagues to vote ‘yes.’”

Senator Ihara rose and said:

“Mr. President, please not my reservations on this bill.”

The Chair so ordered.

Senator Espero rose and said:

“Mr. President, please note my support with reservations.”

The Chair so ordered.

Senators Ige, Hanabusa, Hooser and Aduja requested their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1326 was adopted and H.B. No. 21, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO CORPORATE DISCLOSURE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 2 (Sakamoto, Whalen).

Stand. Com. Rep. No. 1327 (H.B. No. 1579, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1327 be adopted and H.B. No. 1579, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

“Mr. President, I rise in opposition to this measure.

“If we choose to look at the Hawaii Revised Statutes and see how many pages DBEDT goes on, and on, and on, and on, one might wonder why we have a need to add this particular piece of legislation. The definition of economic development is the broadening of human options. A subset of that is economic diversification. It is in Chapter 201 in the beginning, in the middle, and in the end.

“This is yet another example of unnecessary legislation. Thank you.”

Senator Fukunaga rose to speak in favor of the measure as follows:

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

“This bill requires DBEDT to develop and implement plans, programs, and initiatives to diversify Hawaii’s economy and it spells out specific performance targets to measure our progress. DBEDT’s mission to oversee the growth and development of Hawaii’s economy has been unchanged under Chapter 201 for the past 30 years. With the current administration, we have an opportunity to chart a new course of action and to pursue it aggressively.

“Your Economic Development Committee therefore directed DBEDT to specifically identify and implement actions to in fact

achieve the diversification of Hawaii’s economy that we seek. This includes creating a vision and a long-range plan for diversification, a permanent strong focus on the marketing and promotion of Hawaii as a competitive business climate, coordinating whatever agencies are necessary to achieve specific targeted results, and utilizing other educational training and marketing tools to create high quality jobs.

“Hawaii can no longer be content with business as usual. DBEDT must take the lead in stimulating our economy with vigor and specific actions. Therefore, S.B. No. 1579, S.D. 2, will help us get there.

“Thank you.”

Senator Trimble then responded.

“Mr. President, I think that all DBEDT needs is to have some of their attached agencies removed so that they can focus on the job at hand, and perhaps an appropriation so that they can begin the work that is already in the Hawaii Revised Statutes.

“Thank you.”

Senator Ihara rose with reservations and said:

“Mr. President, please note my support of this bill with reservations. I believe it’s too little too late.”

The Chair so ordered.

Senator Kim requested her vote be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1327 was adopted and H.B. No. 1579, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE ECONOMIC DIVERSIFICATION AUTHORITY,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Sakamoto).

At 1:11 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:13 o’clock p.m., with the Vice President in the Chair.

Stand. Com. Rep. No. 1328 (H.B. No. 1628, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1328 be adopted and H.B. No. 1628, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

“Madame Chair, I rise in opposition to this measure.

“This is an interesting piece if we can couple it back to a bill that we talked about earlier today. First, this appears to be encouraging people to go out to rural areas in the State of Hawaii, and if they do that, then we will give them a deduction for the interest on their student loans. But they should be ever mindful that if they fail to repay those loans, we’ll pull their license.

“Now, my opposition to this bill is a little bit simpler. We are creating a privileged class narrowly defined, and for that, I must oppose the measure.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1328 was adopted and H.B. No. 1628, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO EDUCATIONAL LOANS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Trimble). Excused, 2 (Bunda, Sakamoto).

Stand. Com. Rep. No. 1329 (H.B. No. 32, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1329 be adopted and H.B. No. 32, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

“Madame President, I rise in opposition to this bill.

“There are several good features to this bill, but there is still the troubling question of the kindergarten age and the march, I think, to universal kindergarten, and now we’re adding a new idea of junior kindergarten.

“I certainly support the idea of collecting fees for those that misuse or misabuse property, including textbooks, but do not support the idea of a \$20 textbook fee, so I’ll be voting ‘no.’ Thank you.”

Senator Kanno rose to speak in support of the measure with reservations and said:

“Madame President, I rise to speak with reservations in support of the measure.

“I’d like to acknowledge the work that the Chair of the Education Committee has done to make improvements on the bill. There are two particular items. One is on page 5, line 4, the bill now requires the department to provide pre-kindergarten programs for those children who are affected by the bill. Secondly, on page 4, line 5, it requires the department to establish procedures and criteria to determine the psychological and physiological readiness of children for public school kindergarten.

“I have some concerns about the measure still. I think it’s very important for us to look at the words ‘shall’ and ‘may,’ and in this sentence, it’s the ‘may’ that really creates a problem. The sentence continues – and may grant an exception in the case of a child who is found to be ready for kindergarten. My concern that even though the department does go through the process of setting up procedures and criteria, they could in effect put them on the shelf and not grant any child an exception. So, I wanted the Chair to be aware of that, that the language may need to be reworked to assure that the department is implementing these procedures on the criteria.

“My other concern comes on page 5 where it reads: ‘The department may offer pre-kindergarten services to families at public schools not within the school district in which a family resides, provided that the public school pre-kindergarten services are not available or not offered within the school district in which a family resides, and provided further that the family provides transportation of the child to and from the public school pre-kindergarten that the child attends.’ My concern is on an island like Oahu, if the department were to

designate only one school to offer pre-kindergarten services, let’s say it were in Honolulu, children out in the Waianae Coast, on the North Shore, and for Windward Oahu it probably would not be feasible for them to attend that one school. So we asked the Chair to look at this issue.

“I know some have requested that at every school there be provided pre-kindergarten programs because I know access is going to be a difficult issue. We’ve struggled with that in the past with the immersion schools.

“So I really do want to extend my appreciation to the Chair of the Education Committee for the improvements on the bill and ask that he look at these items as the measure goes to Conference.

“Thank you.”

Senator Hogue rose to speak in support of the measure with reservations and said:

“Madame President, I want to speak in support of this bill with reservations.

“I, too, want to applaud the Chair for some of the work that has gone on with regards to the kindergarten age. I strongly believe that children should be ready before they actually enter kindergarten. So I think that the age is appropriate here and I know that we have done that with our own family.

“I also think that junior kindergarten, or whatever you call it, is really a good idea and I know that it’s been very beneficial to a couple of the children in my own family. So, those areas of the bill I applaud.

“I don’t like, however, what has happened here on page 14 of the bill in which it says, beginning with the 2005-2006 school year, the department, at the beginning of each school year shall assess and collect from each student or the student’s parent or guardian, a textbook and instructions material fee not to exceed \$20 per student. We need to provide free and appropriate education, and a \$20 fee, or whatever you call it, is not.

“So I’ll be supporting it and hoping that that part can get nixed along the process. Thank you.”

Senator Sakamoto rose and said:

“Madame President, I’d like some comments inserted in the Journal so I don’t have to go over some ground that we have gone over before. We hope to continue to improve this bill. I appreciate the awareness and the concerns brought forth.

“I’d like to address the concern about the free and appropriate education. We did ask the attorney general because constitutionality is a concern that we wouldn’t want to tread on and that we shouldn’t tread on. Their response in a letter dated April 7 in response to our letter requesting an opinion on whether the \$20 book fee and \$20 book deposit would violate the obligation of the State of Hawaii to provide a free education to public school students, and they wrote that ‘the proposed amendments in sections,’ and they listed some section, ‘permit the Department of Education to charge students for equipment and material. In as much as textbooks can be considered equipment or material, there appears to be no legal objection to the assessment of deposits or fees for books.’ But certainly, it is a concern that we recognize.

“Thank you.”

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

"Madame, President, I rise today to enthusiastically support of H.B. No. 32, which does two things. It will raise the entrance age for Kindergarten from 4½ to 5 years of age, and assist schools in procuring and retaining textbooks.

"First I will address the need to raise the Kindergarten age. Advancing the kindergarten cutoff date is the only way for Hawaii's public school students to come to the academic starting line at or ahead of mainland students when it comes to competing on nationally normed tests such as the Stanford Achievement Test (which is used for our Statewide testing), the Scholastic Aptitude Test (which is used for college entrance) and for those tests used to assess progress in the Federally mandated 'No Child Left Behind program.'

"Results from our own Statewide testing for all grades in school years 1994, 1995, 1999, and 2001 show younger students, those born during the latter half of the year, July through December, scored significantly lower than older students in both reading and math.

"Other evidence of a needed change is the disproportionate number of Specific Learning Disability (SLD) students born during the latter half of the year. The SLD criteria is not supposed to be based on age, yet there is a weighted count of 24 percent more students born between July and December. That means there are about 1,200 more children in the SLD program than would be reasonable to expect. They are simply too young when they start school and because they can't do the work they are misidentified as learning disabled. At conservatively \$10,000 per student, that's about \$12 million a year that can be better spent on other needs in education.

"The Test Development Section and Special Education Branch of the DOE affirms that changing the cutoff date will bring about higher test scores and significantly decrease the number of SLD students. Such a change will minimize the costs that will continue to be incurred complying with the 'No Child Left Behind' mandate. Once our students are on par with those in most other states, we can more effectively address other problems afflicting our schools.

"Most mainland schools have a September 1 cutoff date. Hawaii public school students as a group are currently four months behind in social, emotional and intellectual maturity as they start their academic careers. Advancing the cutoff date to August 1 puts us out in front of the majority of mainland schools but not outside the window of others. Why August 1? August 1 splits the difference between the private schools cutoff date for boys, June 30 and the cutoff date for girls, September 1. These private school students are the main competition for our public school students. In addition, for school year 2003-2004, over 60 percent of our public schools in Hawaii will begin on or before July 31.

"The National Education Association, in a resolution regarding early childhood education said, 'The Association supports regulations requiring children starting kindergarten to have reached age five at the beginning of a kindergarten program.'

"Before you cast your vote ask yourself what else could account for the statistical differences between the older and younger groups? And why are there 24 percent more SLD students born during the latter half of the year? And why is Hawaii the only state in which girls outscore boys in math? If starting school earlier is supposed to benefit our children, why are these very children who are younger lagging behind

throughout their school career? Test results show that the great majority of younger students never catch up when they start too early. We must stop handicapping our students.

"Advancing the kindergarten cutoff date will bring about higher test scores but more importantly many more Hawaii public school students will become successful adults.

"This bill also provides a solution to our school's textbook crisis. H.B. No. 32 implements measures to assure that we are getting the greatest value for our textbook dollar, by consolidating purchases or conducting purchasing in partnership with entities such as the DOD; allows parents to purchase textbooks for home use; and provides for a system of Textbook deposits and fees to ensure that DOE can provide current textbooks.

"Many other jurisdictions use textbook fees and deposits to support textbook purchasing and replacement. The bill asks for a very small contribution – \$20 – for every child in the DOE system, with a waiver for the 59,999 students that are eligible for free lunch and the 19,292 students that are eligible for reduced fee lunch. This translates into a small contribution from families that can afford it, but a big infusion of resources for essential materials in the schools, estimated at just over \$2 million.

"Many may ask how implementing a textbook fee interferes with Free and Appropriate Education. My response is that because we exempt those who cannot afford the fee are not required to make it, but still get the benefit of up to date textbooks, a fee can certainly be required for "Free and Appropriate" education, just as lunch fees are.

"Providing and retaining up to date textbooks has been a long term struggle for our schools, this measure will go a long way towards remedying the problem."

Senator Trimble rose and said:

"Madame President, interesting comment – I don't think that anyone here is questioning whether schools or the board of education can levy fees. We're not questioning the legality of that, but we are talking about the moral obligation of the state to provide free public education. And the way that we are starting on today is going in the direction of a fee public educational system.

"Thank you."

Senator Espero requested his vote be cast "aye, with reservations," and the Chair so ordered.

Senator Inouye rose and said:

"Madame President, please note my reservations, and I'd like to ask the Clerk that the comments of the Senator from Kapolei be submitted into the Journal as if it were my own. Thank you."

The Chair so ordered.

Senator Ihara rose with reservations and said:

"Madame President, I have reservations on the contents, the substance of this bill. Also, I have concerns about this bill. This is, I think, one of the first major gut and replace bills. And my concern is that this gut and replace action was not necessary because the Senate's position on this matter is assured, or virtually assured, because the House is poised to adopt S.B. No. 17, which contains the Senate's position.

“And so, my concern is that if Chairs are going to gut and replace, that they think it through and do it when necessary. I believe there are times when it may be necessary, and in this case, the casualty is the House draft contents which are separate and completely different from the subject matter.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1329 was adopted and H.B. No. 32, H.D. 2, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Slom, Trimble, Whalen). Excused, 1 (Bunda).

Stand. Com. Rep. No. 1330 (H.B. No. 289, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1330 be adopted and H.B. No. 289, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

“Madame Chair, I rise in opposition to this bill.

“This is another one of those bills about automobiles and inflated tires, I think . . . oh no, I’m sorry, this is about education.

“If there was any question in H.B. No. 714 as to what would happen if we didn’t allow people the choice for decentralization and allowed it up to the Legislature, then this bill removes all doubt. Because what the Legislature would do here is absolutely make sure that the bureaucratic and bungling state board of education remains in tact, the State Department of Education with its accountability problems remains in tact, and then we’ll have some additional appointed boards and regional boards and then maybe we’ll have some elected boards down below.

“But it was interesting to me and I raised this question several times in Ways and Means, when the Governor made the proposal for decentralization and seven regional boards, there was a figure that came up immediately as to added cost, a figure of \$6 million. It was traced back to the Department of Education but nobody could verify where that figure actually came from and what the justification was. Now what we’re seeing is an over duplication, over bureaucracy, and nobody seems to have any clue as to what the additional cost would be. Independent estimates that my office made indicates that the estimates for additional cost would be anywhere from \$20 million or more.

“So, it’s bad in terms of fiscal responsibility; it’s bad in terms of not allowing people the choice for decentralization; and it’s bad because it parades as something that’s going to make a change when in fact it absolutely protects the status quo.

“Thank you.”

Senator Sakamoto rose to speak in support of the measure as follows:

“Madame President, I rise in support of the measure.

“H.B. No. 289, S.D. 2, establishes seven education agencies and regional superintendents within the public school system.

This bill will give communities input into their school systems immediately by establishing regional boards as governing bodies of the regional education agencies and provides authorities and responsibilities of the state superintendent and regional superintendents. In addition, it establishes principal advisory committees and school complex-based management.

“Studies of successful schools and high student achievement reveal that schools in control of their own decision-making and resources attain higher outcomes in student achievement. This measure seeks to quickly move these authorities closer to the communities that they serve and to empower individual schools and complexes. It also establishes appointed councils that will begin to train and give experience to those community members who may wish to one day run for a local school board office, should those opportunities become available.

“This measure maintains the Superintendent of Education to ensure that implementation of statewide policy as adopted by the Board of Education is in compliance with state and federal laws, and the preparation and execution of the statewide budget and financial management system.

“The Responsibility of daily management of the schools, including the personnel, procurement of goods and services, and management of state and federal resources allocated to each region are assigned to the regional superintendents, who are appointed and evaluated by the regional boards proposed in this measure.

“So Madame President, I’m not sure where our Hawaii Kai speaker got \$20 million. I believe the boards guesstimate for elected school boards and the electoral system was in the neighborhood of \$6 million. This is an appointed system and certainly if the Senator from Hawaii Kai is willing to wait for the people to vote, perhaps in 2004, perhaps for elected school boards which they will not be able to vote for until 2006, I wonder why the urgency to have the question now. This mechanism would propose immediate relief now and would mimic the elected boards and, in fact, to me, bring governance closer to the people.

“So I’m a little curious about some of their agendas.”

Senator Slom then responded.

“Madame President, let me answer the good Senator’s plea.

“I’ve been patient for a long time cause I have a 46-year-old son and a grandson, as well as my current crop of children. I think a lot of people here have been very patient too. They’ve been waiting for 40, 50 years to see changes in our public education system. And as the good Senator said, what we’re doing here is having agencies, as he refers to them, and more advisory groups.

“If you really want to do something now, then you would let people vote now to make the changes now – that’s what we can do – and to give the people the guarantee that this Legislature will abide by what they want to do. But what we’re doing is we’re playing a shell game and we’re trying to fool the people into thinking that they can make a decision when really the Legislature continues to have the decision making power and continues to support a statewide, single bureaucratic, autocratic Department of Education and board of education.

“Thank you, Madame President.”

Senators Menor and Aduja requested their votes be cast “aye, with reservations,” and the Chair so ordered.



The motion was put by the Chair and carried, Stand. Com. Rep. No. 1330 was adopted and H.B. No. 289, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1332 (H.B. No. 314, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1332 be adopted and H.B. No. 314, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

"Madame President, I rise in opposition to this measure.

"The Department of Education has an obligation to see that all people that it employs are adequately trained. There's not question about that. Why is it the responsibility of the Legislature to pass a bill? Why not hold the Department of Education accountable for performance? By micromanagement measures such as these, we are keeping them from accepting their obligation to ensure that everyone in their employ is adequately trained for the task they are to perform.

"Thank you, Madame President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1332 was adopted and H.B. No. 314, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR SCHOOL SECURITY GUARDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Hemmings, Trimble).

Stand. Com. Rep. No. 1333 (H.B. No. 320, H.D. 2, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1333 be adopted and H.B. No. 320, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

"Madame President, I rise in opposition to the bill.

"While I absolutely support more autonomy for the University of Hawaii, this bill creates yet another new special fund – the university risk management special fund. And we don't know whether it's going to guarantee additional annual appropriations or not, so it does not go along with fiscal accountability.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1333 was adopted and H.B. No. 320, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RISK MANAGEMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1334 (H.B. No. 418, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1334 be adopted and H.B. No. 418, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak against the measure and said:

"Madame President, if we look at this measure, what it does is provide a special appropriation for the University of Hawaii. I wonder why the University of Hawaii did not provide in its own budget adequate personnel and funding to ensure that they educate the proper number of people to supply our public schools with teachers. Why is it our responsibility to tell them what they need to do?

"On one hand, they ask for autonomy. They say they're going to create a world-class university. We give them \$150 million for a new medical school in Kaka'ako, but when will they be responsible for figuring out what the needs are for the greater community in terms of educating students to become teachers.

"For those reasons, I'm voting against this measure."

Senator Sakamoto rose to speak in support of the measure as follows:

"Madame Chair, I rise in support and would like to insert some comments.

"A brief response that I believe the Legislature and issues of statewide concern such as teachers need action."

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

"Senate President and members of the Senate, I rise to support H.B. No. 418, H.D. 1, S.D. 1.

"This measure is critical for providing teacher trainers at the University of Hawaii, College of Education to address the increasing number of teacher vacancies in the public schools of Hawaii. The Department of Education's office of Human Resources (personnel), indicates that 2,453 teachers in the age group 50-54, and 1,996 in the age group 55-59, are eligible to retire. That is roughly 4,449 teachers who could leave the system in the next 2-5 years. Large numbers have already retired or terminated, which is why there is a critical need for teachers. This crisis is not only a problem for Hawaii, but throughout the nation's schools. Therefore, competition for teachers is another factor to consider.

"Plans for recruitment and retention are already in progress by the DOE, which includes instituting programs like Teacher Cadets in the high schools for encouraging seniors to consider Teaching as a Career. Another exciting program is focused on recruiting retiring military personnel into education careers. Colonel William Kinoshita is the newly-hired liaison between the military and DOE to recruit and train potential retired military personnel into education. So far that initiative is progressing.

"On March 14, 2003 in his testimony to the Senate Committee on Education, Dean Randy Hitz of the University of Hawaii College of Education stated that they have turned away up to 40 secondary and special education teacher candidates a year, because of their faculty shortage.

"Appropriating funds to hire 34.5 instructional faculty for the UH College of Education will provide the critical component for teacher training and certification, and allow the University

of Hawaii to accept more teacher candidates than they are now able to accommodate.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1334 was adopted and H.B. No. 418, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE UNIVERSITY OF HAWAII,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1335 (H.B. No. 620, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1335 be adopted and H.B. No. 620, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator English requested his vote be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1335 was adopted and H.B. No. 620, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE JUNIOR RESERVE OFFICERS’ TRAINING CORPS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1337 (H.B. No. 1362, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1337 be adopted and H.B. No. 1362, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak with reservations on the measure and said:

“Madame President, I’m going to be voting for this and all subsequent special purpose revenue bonds with reservations for the following reasons.

“We have been told that it will not affect the state in any way. It will not affect collection of revenue. It will not affect our tax base. I disagree. It will cost the state revenue because the bonds that will be issued are tax exempt.

“Number two, we have been told that the state has no legal liability. This may be true, but so was the case when Manoa Finance failed. And what did the Legislature do in response? So I think that if one of these investments or one of these bond issuances turn sour, I will notice my colleagues suddenly rising and saying we need to make the investors whole.

“The third thing is, and I just want to note in passing, is that the interest the people will receive from the special purpose revenue bonds is probably going to be quite a bit different than the amount of money that the bond issuers pay. And I don’t think that we, as a body, have ever looked and examined how this system will actually work in practice.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1337 was adopted and H.B. No. 1362, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR ST. PATRICK SCHOOL,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Baker, English, Hooser, Tsutsui).

Stand. Com. Rep. No. 1338 (H.B. No. 1506, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1338 be adopted and H.B. No. 1506, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

“Madame President, I rise in opposition to the bill.

“The bill continues to move along. The appropriation now is only \$2, but the basis for the bill is still the same – it would add 313 new personnel to the Department of Education. And while it is true that some of the teachers absolutely need additional help because of Felix and other related matters, we cannot justify the addition of 313 ISPED technicians, database people.

“Aloha.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1338 was adopted and H.B. No. 1506, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR ISPED CLERK TYPISTS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1339 (H.B. No. 73, S.D. 1):

Senator Hanabusa moved that Stand. Com. Rep. No. 1339 be adopted and H.B. No. 73, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Chun Oakland.

Senator Trimble rose to speak in opposition to the measure as follows:

“Madame President, I rise in opposition to this measure.

“Earlier I talked about good law, bad law, unnecessary law, law of unintended consequences. I don’t know how to categorize this one. On one hand, it may be unnecessary. Public employees, and I was one for many years, are free to act without fear of criminal or civil penalties as long as they follow their ministerial duties. So in that regard, if that’s all that this bill is talking about, it is unnecessary.

“If it seeks to provide immunity from criminal or civil matters or persecution when they go beyond their ministerial duties, then it is bad law. And I can’t figure out which one it is, but I’ll be voting ‘no.’”

Senator Ihara rose to speak in favor of the measure with reservations and said:

“Madame President, I rise to speak in favor of H.B. No. 73, S.D. 1, with reservations.

“My first reservation is that this is a gut and replace bill. It did have a hearing and so the public did have an opportunity to testify on the S.D. 1. The concern I have is that the House draft contained language that would have extended the core government functions advisory commission and additional year. And because that’s not before us, I don’t really know whether that’s a good idea or not. Offhand, it sounds like it may be; I don’t know.

“But the scene in Conference will be that on one side of the table you will have House members seeking to extend the core government functions advisory commission, and on the other side of the table you’ll have Senators wanting to exempt law enforcement officers from criminal acts. And I’m not sure what kind of conversation will occur, and I’m not sure how that Conference Committee will decide which of those . . . it’s more than an apples and oranges difference here.

“The other concern I have . . . so that concern is I’m not sure how you’re going to decide which of the two very, very different pieces of legislation to proceed in a conference draft, if there is a conference draft.

“The other concern I have is that this draft would allow Hawaii law enforcement officers who are assigned to civil defense duties to have immunity from Hawaii criminal laws. And I’m not sure if that was intended. I understand that may not have been intended and that’s why I am in favor with reservations because I hope that this bill will be fixed in Conference Committee, otherwise I’ll be voting ‘no.’

“The other persons that are already covered by the criminal immunity section of this law – members of the United States army, air force, navy, and other state national guards – I understand that they are currently . . . without this amendment they are currently immune from civil and criminal liability. But I understand that they are subject, however, to the uniform code of military justice, which in many cases has more severe punishment for criminal acts. And for our law enforcement officers who are subject only to the Hawaii laws, by exempting them from Hawaii laws, they could theoretically, under this bill which I hope will be fixed, rape and pillage and rob and steal and so forth and be immune while wearing their uniform.

“I don’t believe that was the intent and I have received some assurance that this bill will be improved in Conference Committee and that’s why I vote in support with reservations on this bill.

“Thank you.”

Senator English rose to speak in support of the measure with reservations and said:

“Madame Chair, I rise in . . . well, after what I just heard, I rise in support with extreme reservations.

“Madame Chair, the previous speaker outlined a lot of my objections to this. I’d like to insert into the record a letter from Professor Richard Miller, outlining some of the objections.

“I’m hoping that we can fix this because I think it is an unintended outcome of the bill. But to grant immunity from civil and criminal conduct to military personnel and to other personnel while they’re engaged in civil defense functions is way out of line with the basic concept of rule of law. I think that if we go down this path, we’re creating a very, very dangerous precedent.

“But with the assurances that it will be fixed in Committee, I’ll vote yes with extreme reservations. Thank you.”

The Chair having so ordered, Senator English’s letter from Professor Miller reads as follows:

“Richard S. Miller  
Professor of Law, Emeritus

April 7, 2003

Dear Senator:

This is an urgent matter: HB73 SD1, a bill which would grant state and local law enforcement agencies and personnel immunity from all civil and criminal conduct under Hawai’i law in the event the unlawful acts were committed while engaging in civil defense functions, is a very reckless and dangerous bill which must not be passed!

HB73 started out as an innocent bill about protecting ‘Core Government Functions.’ However, the original bill has been ‘gutted and replaced,’ evidently by the Senate Committee covering Military Affairs, into an entirely different and dangerous animal.

Existing law, § 128-18(a), HRS, gives immunity from only *civil liability* to the States, counties, public utilities, private agencies and persons, including state and local law enforcement officers, engaged in civil defense functions except in cases of willful misconduct. This law leaves those officers and agencies subject to liability for violations of criminal law and to civil liability for intentional wrongdoing. It relieves the officers and agencies of civil liability for negligent misconduct or other wrongs that are not intentional.

Members of the United States armed services on duty and members of the National Guard *from other states* who have been ordered into service in Hawai’i ‘to assist civil authorities engaged in civil defense functions’ are also granted immunity by § 128-18(c). They are entirely immunized, both civilly and criminally, but only *under Hawai’i law*, for any act done or caused by them in pursuance of duty involving civil defense functions.

Unlike state and local law enforcement officers, they are subject to punishment – indeed very serious punishment in some cases up to and including the death penalty – under the Uniform Code of Military Justice (UCMJ) for wrongful acts done in the line of duty. Among many other crimes, the UCMJ covers such common crimes as murder, manslaughter, rape, larceny, robbery, forgery, arson, assault and battery, housebreaking, and even unlawful detention or arrest. Thus, members of the armed services cannot get away scot-free with these crimes committed while they are engaged in civil defense functions. For them, therefore, there is a strong set of laws designed to deter wrongful conduct.

By contrast, in the case of state and local law enforcement personnel, if HB73 becomes law then aside from the limited application of federal laws which prohibit violation of civil rights under color of state law, there is no external code of justice to deal with them if they engage in willful wrongdoing, such as use of excessive force, even killing innocent people, or wrongfully destroying property, in the course of their civil defense duties.

The Senate Judiciary Committee, in approving this bill, said: ‘Because law enforcement officers’ duties during civil emergencies are comparable to that of other organizations such as the militia or National Guard, your Committee agrees that law enforcement officers should receive the same immunity from liability while engaged in civil defense functions that are enjoyed by other civil defense organizations.’

*But the plain fact is that this bill gives Hawai’i law enforcement officials far greater immunity and protection for their wrongful acts than that available to members of the armed services engaged in the same activities. There is no*

*justification whatsoever for granting this huge chunk of immunity.*

While law enforcement officers deserve the strong support of the public, there is no group or individual in our democratic society, not even the President of the United States, who should be left free to commit serious crimes without fear of liability or punishment. The risk of harm to citizens is just too great.

The Legislature by passing this ill-advised bill will expose the people of this state to an unnecessary and excessive risk of unregulated lawless conduct during a civil defense emergency, and take away any redress that citizens who suffer harm may have against the offending law officers.

This bill is unnecessary, it is dangerous, and it must not be passed. It has the potential to create a police state in Hawai'i where the traditional rights of the people to be protected from wrongs and crimes of law enforcement officers at times of civil emergency – when the public is often most vulnerable – can be trampled.”

Senator Baker rose with reservations and said:

“Madame President, please note my reservations as well.”

The Chair so ordered.

Senators Hooser, Tsutsui, Menor and Aduja requested their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1339 was adopted and H.B. No. 73, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE GOVERNMENT,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 1 (Ige).

H.B. No. 248, H.D. 1, S.D. 1:

Senator Kanno moved that H.B. No. 248, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Sakamoto.

Senator Sakamoto rose to speak in support of the measure as follows:

“Madame President, I rise in support of this measure.

“I’m sure you all understand the numerous reasons why. Simply put, if there is a place that should be smoke free, it is our schools.”

The motion was put by the Chair and carried, H.B. No. 248, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SMOKING IN PUBLIC SCHOOLS BY PUBLIC EMPLOYEES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 1343 (H.B. No. 638, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1343 be adopted and H.B. No. 638, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak on the measure as follows:

“Madame President, I don’t think anybody here opposes having money given to the libraries. It’s a worthwhile . . . oh, I’m sorry, there may be a little bit. What we are doing, I think, is setting a bad precedent and following a wrong process. There are many reasons and many organizations which perhaps . . .”

Senator Baker interjected:

“Point of order. Is the speaker for or against the measure?”

The Chair posed the question and Senator Trimble replied as follows:

“I oppose this measure and I’m sorry I took so long to get to the point.

“There are many worthwhile projects. I think, as a body, we should consider all those that are potentially worth including, including the fund for the widow of the Unknown Soldier. Once we have a list, we can decide which we want to put on income taxes. But until we go through that process, I would hate to go through one issue at a time each year to add to the necessary burden of reprinting tax forms and changing it one at a time.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1343 was adopted and H.B. No. 638, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 2 (Aduja, Ihara).

Stand. Com. Rep. No. 1344 (H.B. No. 1021, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1344 was adopted and H.B. No. 1021, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Trimble). Excused, 2 (Aduja, Ihara).

H.B. No. 140, H.D. 1, S.D. 1:

Senator Menor moved that H.B. No. 140, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator English rose in opposition to the measure and stated:

“Madame Chair, I rise in opposition.

“The bill is presumptive in that it is presuming another bill will pass allowing county sales taxes to go on. And if it does go, then it will allow motor vehicle rental industries to pass this on to customers.

“I thought about this quite a bit, Madame President, and it sets a bad precedent for us, because if we’re assuming that other bills will pass and we have other bills moving to anticipate other bills, it just becomes unwieldy for the legislative process. So, I will oppose this on principle because we have not passed a bill dealing with county sales tax as of yet and has not become law and it’s premature to be dealing with this right now.

“Thank you.”

Senator Baker rose to speak with reservations and said:

“Madame President, I rise to speak on this measure with reservations.

“I believe that the measure is premature. It belongs in another bill and should not be considered at this time.

“Thank you.”

Senators Tsutsui, Bunda, Ige, Fukunaga, Hanabusa, Hooser, Kokubun and Kawamoto requested their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 140, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (English). Excused, 3 (Aduja, Ihara, Taniguchi).

H.B. No. 1294, S.D. 1:

Senator English moved that H.B. No. 1294, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Hooser requested his vote be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 1294, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Aduja, Ihara).

Stand. Com. Rep. No. 1350 (H.B. No. 1405, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1350 be adopted and H.B. No. 1405, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in support of the measure with reservations and said:

“Madame President, I rise in support of the measure with reservations.

“I think we’re all in support of incentives for alternative fuels. This bill, however, very narrowly construes the incentive only for government contracts and only where biofuel is used and then the biofuel is very narrowly determined.

“The bill, of course, is another one of the famous Majority Party ‘works in progress’ because there is a blank amount for preference to be given to the low bidder. There’s also a 3003 defective date. And I think the other part about this is that we’re leaving ourselves wide open because while we say we want the lowest bidder and the preference will be given to the people with the biofuels, as defined in this bill, that low bid for that particular type of fuel may be extremely high and extremely costly to the state.

“So, we’re asked to buy this bill and to support it without having 90 percent of the basic ingredients in it. Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1350 was adopted and H.B. No. 1405, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO BIOFUEL,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Aduja, Ihara).

Stand. Com. Rep. No. 1351 (H.B. No. 1456, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1351 be adopted and H.B. No. 1456, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

“Madame President, I rise in opposition to a portion of this measure.

“Part of the problem is our transportation or lack thereof, and in particular, back haul rates to the U.S. mainland and the Far East. If we had competition in ocean freight we would notice that some of our manufacturers of water and beverage products would be exporting to the Far East and the U.S. mainland in much greater quantities than they do today. In fact, it could have been one of our leading exports.

“I oppose that portion of this bill which seeks to tax or place a beverage container tax on manufacturers of these products. Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1351 was adopted and H.B. No. 1456, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Slom, Trimble). Excused, 1 (Ihara).

Stand. Com. Rep. No. 1352 (H.B. No. 377, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1352 be adopted and H.B. No. 377, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble requested his vote be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1352 was adopted and H.B. No. 377, H.D. 1, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 1353 (H.B. No. 384, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1353 be adopted and H.B. No. 384, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1353 was adopted and H.B. No. 384, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 1354 (H.B. No. 422, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1354 be adopted and H.B. No. 422, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

"Madame President, I rise in opposition to this bill.

"I think we all agree there's a nursing shortage. We all agree that we want to help recruit and educate nurses, but this is not the way to do it.

"This bill here, interestingly enough, creates a new \$40 fee for the center for nursing. I don't know how that's going to encourage new nurses. In addition to that, it creates another special fund for the state, so I'll be voting 'no.'

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1354 was adopted and H.B. No. 422, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO A CENTER FOR NURSING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Ihara).

Stand. Com. Rep. No. 1355 (H.B. No. 548, H.D. 2, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1355 was adopted and H.B. No. 548, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANATOMICAL GIFTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Ihara).

Stand. Com. Rep. No. 1359 (H.B. No. 1616, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1359 be adopted and H.B. No. 1616, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

"Madame President, I would advise my colleagues, perhaps what we really should do is rename this bill the lifetime tax for one year of care bill, because that's what it accurately depicts.

"The only good thing about this bill is the long-term care income tax credit which was a separate bill before, which is still a better idea, and which is an incentive and doesn't create a tax

which would provide a \$100 million raid on individuals' income.

"This bill does a lot of things but it doesn't do what the supporters want it to do. It does not provide for long-term care. It does not provide for people to have choices. It does not provide for people to be responsible for their own health and welfare.

"What it does do is institute a tax, institute the state in the middle of this tax. It starts at what everybody talks about, \$10, but already in the bill it goes up to \$23 in a very short period of time. And we know by past experience and looking at other fees and taxes and other government programs that that is a very conservative estimate.

"In addition to that, it takes a 10-year period in which to vest to yield \$70 per day for long-term care for a period of up to one year. There are so many fallacies with this bill. There was an analysis that was done last year, which I believe is still current. It shows that it is not economically viable and it's not honest because it is a tax; it is not long-term care.

"Thank you."

Senator Baker rose to speak in favor of the measure and stated:

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

"Had the good Senator from Hawaii Kai kept his remarks brief, I would have just inserted mine in the Journal. But since he has made some erroneous statements, I feel that as one of the proponents of this measure, it's my duty to correct the record.

"The long-term care plan before us this Session is indeed sound fiscal and social policy. It's simple, effective, market-oriented, and consumer driven. It is a defined benefit program that simply uses the mechanism of the income tax to collect the premiums for this benefit.

"It provides affordable long-term care and is cost efficient. It is the beginning of a move towards privatization of long-term care, while reducing our reliance on the state Medicaid program to pay for this care. It provides a stimulus to the private insurance market to develop new and more affordable supplemental plans.

"It will put money into the hands of those who need the care, providing the frail elderly and their families with some degree of control and choice in caring for their loved ones. It will allow people to stay at home longer than might otherwise be possible, simply because they are not able to purchase services or products that will enable them to stay at home. Most long-term care programs, even the limited option that Medicare provides after a hospital stay, do not provide for in-home services.

"This proposal will provide some efficiency in that lower cost care will be delivered in the lowest cost setting at home. The plan's actuaries estimate that a one-year program will address 75 percent of all home and community care requirements. Overall, that is a tremendous cost avoidance for our Medicaid system and our taxpayers.

"Just a note, three out of four people over the age of 65 will need some type of long-term care services during our lifetime. Currently, only about 6 percent of the nation's population has long-term care. In Hawaii, with the tremendous reliance that our frail elderly have on Medicaid, we're only paying for about

2½ percent of the elderly who need care. And yet, people complain about this being a tax and a tremendous burden.

“Let me add this to the record, each taxpayer in Hawaii contributes more than \$400 per year towards the Medicaid program that only 2.5 percent of our frail elderly population who need care will ever benefit from it. Hawaii’s elderly population is growing faster than most other states. In just a matter of a few years, one out of every five people in Hawaii will be over age 60. As their needs for long-term care services grow, the pressure on the Medicaid budget will increase dramatically. And if we note some of what we had to do this year, we had to pass an emergency appropriation for \$90 million just to keep our Medicaid programs solvent.

“With the wave of additional elderly those of us baby-boomers will create in a few short years, the demands on Medicaid are going to be tremendous if we don’t stem the tide now. That’s why it is important that we act on this measure, we act on it this Session, and we provide a program that is a public/private partnership that is universal, consumer driven, portable, low cost, simple, effective, and efficient.

“Thank you, Madame President.”

Senator Trimble rose in opposition to the measure and stated:

“Madame President, I’m rising in opposition to this measure.

“When it was before Ways and Means, I voted with reservations simply because I wanted to have a chance to read what had been done to the bill. Having read it, I wish to offer the following comments.

“If you strip away the title, if you look at what’s actually there, it is a mandated savings account. And I chose to see how it would work, compare it to the social security system. With the social security system, if you have a parent that dies and you’re a child, you get something, or when you get to be 65, you qualify, you get something. The social security system has, for most of what it pays out, some very clear dividing lines. Once you cross that line, you qualify.

“Where there is greater cost of administration, where there is less certainty is when you get into the area of disability. And I learned on the Committee on Human Services and I would hope after I’m finished, she would get up and confirm my remarks . . . in the spirit of cooperation and collaboration.

“This is a bill where essentially whenever you feel you need to dip into this forced savings account, you will find a reason why you need the money and you’ll be able to find a doctor, an osteopath, or a nurse who will agree that you are indeed in need. The problem is twofold – it probably isn’t going to be around when they really need it because they want to use it up, because there is no clear cut criteria – it’s not whether you’re 65; it’s not if you died – it’s when you feel that you want it. Second, there is going to be a lot of unanticipated administrative costs.

“When you factor these two things in, you will discover that again we are talking about not the healthcare bill, but the law of unintended consequences. Thank you.”

Senator Hemmings rose to speak against the measure and said:

“Madame President, I rise to speak against this legislation.

“This bill, as it was last year, is a tremendously cruel hoax on the people of Hawaii, most especially our elderly and those who need care. We heard some nice rhetorical support for this,

number one, that it’s sound fiscal policy. Well, those who are not socialists amongst us, like Lowell Kalapa from the Tax Foundation, clearly pointed out that this is a huge tax increase that is going to have a tremendously detrimental effect on the economy of Hawaii.

“We heard that this is going to be market driven. Nothing could be further from the truth. In spite of what the Honolulu Advertiser reported last week, the insurance companies that are the market currently for affordable long-term health care, oppose this measure. We were told that this is going to lead to privatization – just the opposite. This is, by every definition of the word, a monopoly. Most people, especially those who least can afford it, are going to pay twice for health care. They’re not going to pay the \$10 a month as it will start and then pay for private sector coverage additionally.

“We heard the word choice – just the opposite. This does not allow choice in the marketplace. This mandates you pay the money to a government agency and then turn around and spend the money under the terms by which the agency dictates. We don’t even know those terms. We heard talk about Medicaid, Medicare costs. That is the very reason to vote against this legislation. As well intended as Medicaid and Medicare have been, they resulted in tremendous problems at the national level and tremendous problems at the local level where their inability to provide adequate coverage so much so, that many doctors are refusing to take those cases.

“But where it’s the cruelest hoax is what it does to the elderly people, some of whom have been calling my office thinking they’re going to get coverage as soon as this passes. And I have to explain to them that they won’t get full coverage for 10 years. I have to explain to them that they only get coverage for \$70 a day. I have to explain to them that it will only last a year. I’ll have to explain to them that as old as they are, if this thing goes into effect, they may not be around to collect the benefits of it.

“This is indeed a hoax. This Legislature was wise enough not to pass it last year. In this bill, though, is a tax credit that we had discussed earlier this morning when we so wisely voted in favor of a tax credit for economic development. Why can’t the same principle apply to medical assistance development and encourage the private sector, through credits, to provide a broad range of medical services that are so desperately needed, and then people indeed will have sound fiscal policy, market driven initiatives, privatization, and choice.

“I urge my colleagues to do the sensible thing. Do not vote for this cruel hoax. Vote ‘no.’”

Senator Sakamoto rose and said:

“Madame President, please note my vote with reservations.

The Chair so ordered.

Senator Hogue rose in opposition to the measure and stated:

“Madame President, I rise to speak in opposition to this bill.

“One thing that has not been talked about is this essentially is a Ponzi scheme. There’s no doubt it’s a Ponzi scheme and I think that should be noted.

“We’ve also, as this bill has progressed, added two new classes of people who can choose whether or not to participate in this Ponzi scheme, including:

1. People who receive insufficient income to be required to file income taxes; and
2. People who have no income subject to state taxes because their income is strictly from pensions.

This, colleagues, in insurance circles is called adverse selection, because it means you take on most of the risk of that class of people, but only get revenue from the handful of people who know good and well that they'll use the benefits. Not only that, we've exempted very low-income workers from participating. Low-income workers tend to be young workers, so this change strips away revenue while not greatly reducing our risk. The net result of all these changes is that the original actuarial projections of needed premiums is no longer valid. In other words, the Ponzi scheme won't work. This program would be grossly underfunded and be a huge drain on the general fund unless the stated premiums were greatly increased.

"Of course, all this, frankly, could be moot because who really believes that the Legislature can keep their mitts off such what is essentially a huge special fund for ten years, for ten years as it is building up hundreds of millions of dollars and taking it right out of the taxpayers' pockets. We're voting on bills today proposing raids on the hurricane fund, the rainy day fund – why on earth would this one be any different?"

"Finally, the biggest reason why this is a bad idea is because it is a disincentive to go out and purchase your own private long-term care insurance. This gives the illusion that the state is going to handle your long-term care for you, and that is not the case. We should have a long-term care tax credit. That part of the bill, I can endorse, but the other one – the Ponzi scheme – and all the bad side effects are many of the reasons to vote 'no.'"

"Thank you, Madame President."

Senator Espero rose and said:

"Madame President, please note my support with reservations. Thank you."

The Chair so ordered.

Senators Aduja, Menor and Kim requested their votes be cast "aye, with reservations," and the Chair so ordered.

Senator Chun Oakland rose to speak in support of the measure as follows:

"Madame President, I stand in support of this measure. I wasn't going to say anything, but I think I will speak on this matter because I believe a number of us have worked for many years on this issue of long-term care and we would like to share our findings with you.

"In 2002, the Legislature enacted Act 245, to establish the long-term care financing program, which created a temporary board of trustees to design a tax-based plan. H.B. No. 1616, S.D. 2, is an outgrowth of the board's work.

"Madame President, we all know that an increasing number of Hawaii residents will need long-term care services. According to the University of Hawaii's Department of Political Science, nearly a quarter of Hawaii residents will be 65 years of age or older by the year 2020, with the first wave of baby boomers turning 65 years old in 2011. Hawaii's elderly population is growing faster than most states. In just a matter of a few years, one out of five people in Hawaii will be over the age of 60. It has been estimated that three out of four people over age 65 will need some type of long-term care service during their lifetime. But, the cost of long-term care is out of

reach for most people as the Executive Office on Aging estimates that only 6 percent of Hawaii residents have long-term care private insurance. Private day health care costs \$65 a day. Expanded care adult residential care homes charge up to \$3,000 or more per month for private pay residents. Nursing home costs average between \$5,000 and \$7,000 per month, while skilled home care visits cost on average about \$85 per visit.

"Medicaid, the state program for the poor, now pays for three out of four people in Hawaii who receive long-term residential care. Medicaid is supported about equally by state and federal dollars. It is estimated that each taxpayer in Hawaii, as noted by the Chair of the Health Committee, contributes more than \$400 every year towards this Medicaid program.

"This Session is a glimpse of what is to come. The state Medicaid program has asked the Legislature to approve \$90,125,084 in emergency appropriations for increases in health care costs and increased number of people served by the Medicaid program to make up for an anticipated shortfall just for this period until June 30 of this year. The State's Medicaid budget totals each year more than \$800 million. The State cannot keep pace with paying these huge, quickly increasing Medicaid budget costs. Hawaii needs to develop a permanent and dedicated revenue stream to finance basic long-term care services and slow down the number of people who are entering the Medicaid system due to the anticipated growth in demand for long-term care services by the 'baby boom' generation.

"Let's put these statistics into perspective using the Senate as an example. If the estimates are accurate, Madame President, we all hopefully will live beyond 65 years of age, 18 out of 25 of us will need some sort of long-term care. Now, if only 6 percent of us have long-term care insurance, that means less than two of us will not rely on either Medicaid or our financial resources to pay for these costs. Less than two of us, Madame President, and we're supposed to be examples for our constituents.

"I'd like to insert the additional remarks into the Journal, Madame President.

"I would like to close by saying that this measure, as well as Act 245, has been carefully and meticulously crafted in collaboration with experts in long-term care actuarial science and long-term care plan administrators and providers. All other states are struggling with the same problem of financing long-term care, so we are not alone, but we are now taking the lead in the nation, as Hawaii has a proud tradition of so doing, in this matter of national importance. It is NOT a piece of flighty and frivolous legislation. It IS serious and sound legislation that we as Legislators should be proud to support because it is the right thing to do.

"I urge my colleagues to support this measure. Thank you, Madame President."

The Chair having so ordered, Senator Chun Oakland's additional remarks read as follows:

"Madame President, the State's existing long-term care system is not consumer friendly. It lacks choice of individualized service that fits the individual, and it is very expensive. It is not a vibrant sector of the health care marketplace, and there are few incentives in place to attract providers who would develop new and innovative programs.

"H.B. No. 1616, S.D. 2, is the latest and best effort of the Hawaii State Legislature to design a long-term care plan that is simple, effective, market-oriented, affordable, cost-efficient,



consumer driven, and fair. It is the beginning of a move towards privatization of long-term care while reducing our reliance on the state Medicaid program to provide that care. It also acts as a stimulus for the private insurance market to sell more policies and to develop new and affordable supplemental plans.

“This measure establishes a long-term care income tax of \$10 per month, collected through withholding and estimated tax filings, beginning after December 31, 2004. There will be a process by which pensioners, low income, and the unemployed can participate in the program. Vesting occurs after ten years of contributions and the benefits are portable for persons who leave the State.

“Defined benefits of \$70 per day up to a cumulative period of 365 days are paid to the taxpayer before insurance and Medicaid benefits are paid. A person becomes eligible for defined benefits if the person needs assistance with two or more activities of daily living or is afflicted with Alzheimer’s disease or dementia.

“The defined benefit can be used for any long-term care services, whether at home or in a facility. The services could even be provided by a family member in the home. Any balance of charges would be paid out-of-pocket by the person unless the person has private long-term care insurance. For Medicaid eligible persons, although the state Medicaid program has not committed to paying the balance because this is a new program, the Department of Human Services has not ruled it out. If Medicaid does pay the balance, the State would still save money as this program would encourage in-home care instead of at a costly facility.

“This measure also provides for a ten-year long-term care tax credit for persons who have purchased long-term care insurance and paid the long-term care income tax. The amount of credit is \$10 per month up to \$120 for each of the first five years, and increasing to \$15 per month up to \$180 per month for each of the remaining five years. This is intended to provide an incentive to purchase long-term care insurance, as well as to offset the effect of the tax. The tax would hold down the cost of long-term care, making the tax plan cost-effective over a period of time.

“The tax proposed by this measure is a necessary solution to a problem that has been growing over time with no end in sight. Although the tax could be considered regressive, the tax is extremely modest and is in the best interest of the State. Think about it, Madame President: For the cost of a movie and popcorn, or two plate lunches per month, we could have a long-term care plan.

“This measure would also facilitate the growth of the home care industry in Hawaii. It is anticipated that the demand for home care services would be stimulated. People would have cash to pay for a variety of home care services. In effect, the industry would become market driven.

“The insurance industry naysayers should realize that this measure calls attention to the problem of paying for long-term care, and the importance of having more than the defined benefit to pay for it such as long-term care insurance. This measure is intended to supplement, not supplant, the coverage provided by long-term care insurance. Coverage under this measure is very basic yet it would meet 75 percent of people’s needs.

“Although this measure will not solve all of the State’s long-term care issues, it will add another prong to work alongside Medicaid to facilitate the State’s strategy of implementing a

fully functional and flexible multi-pronged approach that ensures that citizens of our State receive the long-term care they need without inordinately placing the cost burden on one particular financing mechanism.”

Senator Hemmings rose again to speak against the measure as follows:

“For the record, Madame President, I’m rising to speak against this.

“There’s nothing in this bill that preempts anyone in the future for collecting Medicaid. Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1359 was adopted and H.B. No. 1616, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO LONG-TERM CARE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Hemmings, Hogue, Ige, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1360 (H.B. No. 122, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1360 be adopted and H.B. No. 122, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

“Madame President, I rise in opposition to this measure.

“There used to be a problem, and there seems to be a lag in the length of time it takes for the perception to disappear and reality to appear. In the testimony in the Human Services Committee, Lillian Koller, the Director of Human Services said that on the form, pregnant women are given priority. They are given expedited processing and that in most cases, they can be told in one week and no more than two weeks whether they qualify for QUEST. Given the change in the length of processing that it now takes, this measure is no longer necessary.

“Thank you.”

Senator Baker rose to speak in support of the measure and said:

“Madame President, I rise to speak in support of H.B. No. 122, S.D. 2.

“Unfortunately, the reality simply is that this bill is still needed. There is still a huge wait for people to be determined to be eligible for QUEST. And it’s very important that women get very early and continuous prenatal care. It lowers the cost of births; it lowers the costs of care down the road. And since Medicaid now pays one quarter of the cost of all births, the lower we can keep the cost of those births, the less costly it is to the system.

“Providing early and continuous care for pregnant women is the sensible way to ensure better outcomes during childbirth. It makes sound economic sense for the state to provide these early services without delay, rather than footing the bill later for complications during pregnancy and birth. It’s a measure that does make sense. It is still needed despite the preliminary testimony of the Director of Human Services. When we’ve done a check out in the field with the providers, we find that

there is a tremendous lag and people are not getting services, they're not being qualified.

"We need to move this measure forward. Thank you."

Senator Kanno rose to speak in support of the measure as follows:

"Madame President, I rise to speak in support.

"Delays in Medicaid eligibility determination mean that women may delay seeking care until approved, or providers may delay or deny some prenatal services until the woman is insured. These delays in women seeking prenatal care translates to an increase in low birth weight babies.

"Infants born to mothers with late or no prenatal care are two times more likely to be born low birth weight. For every low birth weight delivery prevented, there is an estimated savings of \$14,000-\$30,000 per child in health care costs.

"With presumptive eligibility, federal Medicaid will pay their share of all prenatal ambulatory costs, even if the woman is ultimately found to be ineligible for QUEST. At least 28 states plus Washington, D.C., and the Commonwealth of the Northern Mariana Islands already offer presumptive eligibility for pregnant women.

"To quote from the testimony of the March of Dimes Hawaii Chapter:

'The State of Hawaii needs to send pregnant women a clear and consistent message that early and continuous prenatal care is in the best health interests of mother and baby.

Eliminating barriers created by the need for predetermination of Medicaid eligibility will go a long way in reinforcing this message to our entire population.'

"In December of 2002, Healthy Mothers Healthy Babies conducted a survey of all Department of Health perinatal providers serving at-risk pregnant women statewide. The purpose of the survey was to determine if the new simplified Department of Human Services application (DHS form 1100), which was implemented in September 2002, has reduced Medicaid eligibility processing time for pregnant women or not.

"Of 12 DOH perinatal providers who were sent the survey, a total of nine responded. That represents 75 percent. Geographical responses included Lanai, Maui, Big Island, and on Oahu there were two providers in Kalihi, a provider in Kahuku, Waianae, Honolulu, and Mililani.

"Clinics responding indicated that they had served a total of 1,107 pregnant women between September 2002 and January 2003. The average response estimated by providers for Medicaid eligibility determination processing for pregnant women during this time was 20-39 days, roughly 3-6 weeks.

"I urge my colleagues to vote 'aye.' Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1360 was adopted and H.B. No. 122, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PRESUMPTIVE MEDICAID ELIGIBILITY FOR PREGNANT WOMEN," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 1 (Inouye).

Stand. Com. Rep. No. 1364 (H.B. No. 668, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1364 be adopted and H.B. No. 668, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

"Madame President, I rise in opposition to the bill.

"I rise in opposition because what this bill does is to take money directly from the so-called rainy day or emergency fund to appropriate various and sundry human service projects. I don't think that's proper use of that fund.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1364 was adopted and H.B. No. 668, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Slom, Trimble). Excused, 1 (Inouye).

Stand. Com. Rep. No. 1365 (H.B. No. 500, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1365 be adopted and H.B. No. 500, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senators Hooser and Ihara requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1365 was adopted and H.B. No. 500, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY COURTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Sakamoto).

At 2:22 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:31 o'clock p.m., with the President in the Chair.

Stand. Com. Rep. No. 1367 (H.B. No. 1155, H.D. 1, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1367 was adopted and H.B. No. 1155, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Espero, Ihara).

Stand. Com. Rep. No. 1368 (H.B. No. 176, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1368 be adopted and H.B. No. 176, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Kanno requested his vote be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1368 was adopted and H.B. No. 176, H.D. 1, S.D. 2,

entitled: "A BILL FOR AN ACT RELATING TO THE WEED AND SEED PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1370 (H.B. No. 756, H.D. 2, S.D. 2):

By unanimous consent, Stand. Com. Rep. No. 1370 and H.B. No. 756, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," were recommitted to the Committee on Ways and Means.

Stand. Com. Rep. No. 1373 (H.B. No. 1111, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1373 be adopted and H.B. No. 1111, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senators Slom, Trimble and Hogue requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1373 was adopted and H.B. No. 1111, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1374 (H.B. No. 1116, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1374 be adopted and H.B. No. 1116, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak against the measure and said:

"Mr. President, I'm speaking against this measure.

"The only basis that makes sense to me that I can support is waiving fees if there is a needs test, and what I mean by a needs test is whether it's based on income or assets or a combination of the two. To do otherwise, I think, is fiscally irresponsible.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1374 was adopted and H.B. No. 1116, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO COURTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1375 (H.B. No. 1154, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1375 be adopted and H.B. No. 1154, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this measure.

"What we are doing in effect is essentially creating a special fund. We are saying that the administrative costs used for the disposal of property will be deducted. That is sort of like

saying that the cost involved is like that of the Department of Taxation, the administrative costs of the Department of Taxation will be subtracted from the amount of revenue they collect.

"I do not accept the principle on which the argument is based and therefore urge my colleagues not to support this measure. Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1375 was adopted and H.B. No. 1154, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1378 (H.B. No. 29, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1378 be adopted and H.B. No. 29, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this bill.

"It's a seemingly innocuous bill – provide meal breaks for employees – but what it really does is show the heavy hand of government involved in the workplace, even greater than it is right now, requiring employers to do certain things regardless of what the requirements are for work and what flexibility is allowed between employer and employee.

"We haven't had any testimony that show that there's any abuses or that people are denied breaks. We have had testimony, however, how difficult it is because of certain kinds of occupations and certain kinds of businesses. The answer to that was to create certain exemptions for individuals, but what we're saying is that it's really bad for them but it's all right for the rest of businesses and employers. And in fact, Mr. President, it is not.

"I'm opposed to the bill. Thank you."

Senator Sakamoto rose to speak with reservations and said:

"Mr. President, I rise with reservations on this bill.

"I don't believe that state government should be imposing this level of regulation on our employers. Certainly, while I appreciate that, exceptions to that rule have been granted to the common carriers of passengers to continuously operated facilities that are regulated by environmental permits. But I feel that certain other classes of employers also have special needs and circumstances that will adversely be affected by this measure.

"So, I believe that freeing our employers of unnecessary regulation will free them to create more jobs and better working conditions for their employees."

Senators Kim, Aduja, Ihara and Fukunaga requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1378 was adopted and H.B. No. 29, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEAL BREAKS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Hemmings, Hogue, Ige, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1379 (H.B. No. 50, H.D. 2, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1379 was adopted and H.B. No. 50, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC EMPLOYEES HEALTH FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Slom, Trimble).

Stand. Com. Rep. No. 1380 (H.B. No. 130, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1380 was adopted and H.B. No. 130, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Stand. Com. Rep. No. 1381 (H.B. No. 290, H.D. 2, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1381 be adopted and H.B. No. 290, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this bill.

"Employers across the state within the last two weeks all received notices of increased unemployment compensation taxes. It's interesting because the unemployment rate, at least by the figures published, seems to continue to go down. Part of that is because people have moved away or people have given up on trying to get employment in some cases.

"In any event, the unemployment compensation tax has increased. This bill would extend benefits and would increase that tax further, and I reiterate to my colleagues and to the public again – no employee pays any part of unemployment compensation tax. It is a tax on employers only.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1381 was adopted and H.B. No. 290, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1382 (H.B. No. 294, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1382 be adopted and H.B. No. 294, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to the bill.

"We're talking about additional costs that are going to be paid by both employers and by the taxpayers as a whole, and we're providing a solution for a problem that in fact does not exist at this time.

"Thank you."

Senator Sakamoto rose with reservations and said:

"Mr. President, I rise with reservations on this measure.

"It needs more thought and refining. For example, Section 2, part 3, of the measure indicates that the uninsured would be given insurance once they 'agree to pay for the costs of the person's coverage premium.' I'm concerned that this promise to pay is not money in the hand, and ask that the measure provide coverage only once the individual has provided payment for it."

Senators Aduja and Ihara requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1382 was adopted and H.B. No. 294, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1385 (H.B. No. 531, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1385 was adopted and H.B. No. 531, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1386 (H.B. No. 968, H.D. 1, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1386 be adopted and H.B. No. 968, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senators Sakamoto and Aduja requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1386 was adopted and H.B. No. 968, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT BENEFITS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1387 (H.B. No. 986, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1387 be adopted and H.B. No. 986, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this measure.

"Our needs are great. Our resources are few. We can always find reasons why we should give a little bit more, but it is fiscally irresponsible at a time when the employee retirement system is significantly underfunded to expand the pay out, the burn rate, the benefits that are paid out.

"I urge my colleagues to vote against this measure. Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1387 was adopted and H.B. No. 986, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO DEATH BENEFITS OF SURVIVING CHILDREN OF PUBLIC EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Hemmings, Slom, Trimble).

Stand. Com. Rep. No. 1388 (H.B. No. 1013, H.D. 3, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1388 be adopted and H.B. No. 1013, H.D. 3, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this bill.

"This bill would add additional cost to the workers' compensation system, which again is born entirely by the employer. Workers' compensation costs and premiums have continued to escalate, and it is a situation where the employer makes the choice today, pays for all of the costs, and therefore, in terms of selecting a physician, if the employee wants to select an additional physician on his or her own, he or she should be allowed to do that. But as long as the employer is paying for it, it should not be part of the overall decision.

"Thank you."

Senator Sakamoto rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this measure.

"H.B. No. 1013 proposes to add unnecessary steps to the worker's compensation process. These additions will delay treatment and services to the employee, increase costs to the system, and most importantly, creates imbalance and unfairness in the system. The existing system is already fair and balanced for the most part and allows the injured employees to choose their physician of choice in the determination process.

"Very rarely do disagreements occur between employees and their employer. However, when they do, the current system has proven to be self-corrective by allowing the employer to choose the physician for the second referral.

"This bill attempts to correct a working and balanced system that does not require correction. It is no wonder that the Department of Labor, Hawaii Medical Association, Chamber of Commerce and many other organizations testified in opposition. Passage of this bill would result in further complicating and further prolonging the worker's compensation process. In short, this bill attempts to fix an entity that is not broken; therefore I will be voting 'no.'"

Senators Aduja, Inouye and Ihara requested their votes be cast "aye, with reservations," and the Chair so ordered.

At 2:44 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:45 o'clock p.m.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1388 was adopted and H.B. No. 1013, H.D. 3, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EXAMINATIONS FOR THE DETERMINATION OF PERMANENT IMPAIRMENT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 7 (Hemmings, Hogue, Ige, Sakamoto, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1389 (H.B. No. 1041, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1389 be adopted and H.B. No. 1041, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Hemmings rose to speak against the measure and said:

"Mr. President, I rise to speak against H.B. No. 1041, S.D. 1.

"Mr. President, to make a long story short, the State of Hawaii cannot afford to give a pay raise to anybody."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1389 was adopted and H.B. No. 1041, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES EXCLUDED FROM COLLECTIVE BARGAINING AND MAKING APPROPRIATIONS AND OTHER ADJUSTMENTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1390 (H.B. No. 1042, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1390 be adopted and H.B. No. 1042, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Hemmings rose to speak against the measure as follows:

"Mr. President, I rise to speak against this proposal to make appropriations for collective bargaining costs and I will be entering remarks similar for the remainder of collective bargaining authorization.

"Number one, the State of Hawaii is not in the position to give a pay raise to anybody, as I previously announced.

"Secondly, the State of Hawaii has more public employees on a per capita basis than most any other state in the nation. That is one of the problems with paying for state government with excessive taxes.

"Number three, the fringe benefits for our public employees is by far and away the most generous in the nation. We are paying for, on the average, three or four more days off every year than any other state pays for. Our other fringe benefit packages including health care and retirement health care for those employees who stay in the system over ten years is incredible alongside what other states do and it costs so much money that the State of Hawaii even circumvents its own laws

and hires people through temporary hires and hides the funding of it oftentimes in funded vacant positions in the state budget. That's how disingenuous this system is.

"And lastly, this is incredibly unfair to the employees in the private sector who are struggling paying high taxes and look at their counterparts in the public sector getting pay raises year in and year out no matter what the state of the economy is.

"Now, I know many people in this august body owe quite a lot to organized labor, politically, but now is the time to do what's best for them and for the entire State of Hawaii. We cannot afford pay raises and I'm very proud to stand and speak against appropriations for collective bargaining pay raises. And we can all do our best to curb the cost of government by voting 'no' on this and similar legislation.

"Thank you, Mr. President."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1390 was adopted and H.B. No. 1042, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1391 (H.B. No. 1043, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1391 was adopted and H.B. No. 1043, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR SALARY INCREASES FOR PUBLIC EMPLOYEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1392 (H.B. No. 1044, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1392 was adopted and H.B. No. 1044, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1393 (H.B. No. 1045, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1393 was adopted and H.B. No. 1045, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1394 (H.B. No. 1046, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1394 was adopted and H.B. No. 1046, S.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout,

passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

H.B. No. 96, H.D. 1, S.D. 1:

Senator Menor moved that H.B. No. 96, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator Trimble rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this measure.

"I noticed that the consumer advocate and the public utilities commission testified against this measure. It's my sense that if we continue forward and pass this measure, it will mean higher telephone rates. I stand opposed to this measure and I ask my colleagues to join me.

"Thank you."

The motion was put by the Chair and carried, H.B. No. 96, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

H.B. No. 139, H.D. 1, S.D. 1:

Senator Menor moved that H.B. No. 139, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senators Baker, Sakamoto, Ige, Ihara, Kokubun, Taniguchi and Aduja requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, H.B. No. 139, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (English, Hanabusa, Kim, Trimble).

H.B. No. 595, H.D. 1, S.D. 1:

Senator Menor moved that H.B. No. 595, H.D. 1, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator Sakamoto rose to speak with reservations on the measure and said:

"Mr. President, I rise with reservations on this bill.

"By raising the limits of the check amount and maximum fee, individuals would end up paying and being charged a lot more. The existing law is \$300 at 15 percent, which is \$45. This measure would almost triple that to charging \$120 for a \$600 check.

"So I feel this is certainly getting usurious and unconscionable. I urge more reasonable limits be set."

Senator Ihara rose to speak in support of the measure with reservations and said:

"Mr. President, I have reservations in support.

"I support this bill with reservations because the percentage that a check cashier may charge went up from 15 percent to 20 percent for a 32-day period and did not have the opportunity to have anyone testify on this provision. I hope the Conference Committee will solicit and allow at least written testimony on this section that increases the percentage that can be charged. It's getting into the slightly loan shark kind of concern.

"Thank you."

The motion was put by the Chair and carried, H.B. No. 595, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHECK CASHING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Chun Oakland, Hemmings, Hogue, Hooser, Inouye, Trimble).

H.B. No. 730, S.D. 1:

Senator Menor moved that H.B. No. 730, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator Trimble rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this measure.

"Just to be consistent, it's time to get the state out of the licensing business and I think it is time that we reviewed and made the markets more competitive by reducing the number of professions that are licensed by us.

"Thank you."

The motion was put by the Chair and carried, H.B. No. 730, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OCCUPATIONAL THERAPISTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1403 (H.B. No. 1532, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1403 be adopted and H.B. No. 1532, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Kim requested her vote be cast "aye, with reservations," and the Chair so ordered.

Senator Trimble rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this measure.

"We have a process . . . we have a process when people want to receive money such as this, and I believe they have, in the past, approached the Hawaii Tourism Authority. I think that we would certainly continue a bad precedent if we today were to approve this, and every other organization like the 'Aloha Week' would then come directly to the Legislature for an appropriation.

"Thank you."

Senator Hogue rose and said:

"Please note my reservations, Mr. President. Thank you."

Senators English and Tsutsui requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1403 was adopted and H.B. No. 1532, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE CELEBRATION OF MARTIN LUTHER KING, JR. DAY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1405 (H.B. No. 1400, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1405 be adopted and H.B. No. 1400, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this measure.

"There are three points I'd like to bring to your attention. First, this extends the credit one year. If you look at the planning horizon for construction projects, they are much longer than one year. So, the tax credit, in and of itself, is not going to generate more activity than would occur in its absence.

"Second, if you look at the 10 percent of retail space devoted for the promotion and sale of Hawaii products, certainly a laudable objective, but in terms of enforcement, it is a bureaucratic nightmare and we'll be rift with lining the pockets of attorneys that will argue on both sides.

"Third, given the world's current outlook, I do not think that a tax credit in this area is going to be as an important factor as other considerations, so I don't think that it, in and of itself, will generate more economic activity, and thus will just serve to reduce our already short tax supply.

"Thank you."

Senator Sakamoto rose to speak in support as follows:

"Mr. President, I rise in support, not to address the previous speaker, but to please insert comments into the Journal."

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

"Mr. President I rise in support of H.B. No. 1400, H.D. 1, S.D. 2, Relating to Hotel Construction and Remodeling Tax Credit. I feel it is very important that during these difficult economic times, we focus on and support the building and tourism industries.

"Providing these tax credits helps us maintain and restore our tourism infrastructure to ensure that we continue to occupy our status as a premier resort location in the world.

"This bill will also extend the tax credit to hotels that dedicate 10 percent of their occupied space to promotion and sale of Hawaii products, which extends the local economic multiplier effect even further."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1405 was adopted and H.B. No. 1400, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HOTEL

CONSTRUCTION AND REMODELING TAX CREDIT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1406 (H.B. No. 704, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1406 be adopted and H.B. No. 704, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Ihara rose to speak in support of the measure with reservations and said:

"Mr. President, I rise in support of this bill with reservations.

"While there are many positive sections in this bill, H.B. No. 704, S.D. 1, I am opposed to Section 4, part of Section 4, which is on page 4, lines 12-14. These three lines would eliminate the use of request for proposals, RFPs, in the procurement of professional services contracts. Currently, contracts for architects and engineers are now procured by non-bid and RFP processes, although there are just a minority of contracts that use the RFP process.

"This bill would require only nonbid contracts for professional services. I understand that there may be some concerns about RFPs but the state procurement officer says that even after asking, no one has come forward with any example of the concern about RFP abuse.

"There was testimony on this bill in opposition by all of the various procurement officers because they want to retain the option to use RFPs. For example, an agency may want to install, let's say, a community kitchen for use to train nonprofit organizations to train chefs. And instead of selecting an architect based only on qualifications, they may want to seek an RFP so that they can get ideas from an architect on the various types of kitchens, or a proposal on a kitchen design. And this would help them to develop and integrate their chef training program, for example, to integrate with the kitchen. It would also give them ideas about pricing.

"Also, with an RFP and a proposal, the agency would have a better idea about, rather than just on qualifications, they would have a better idea if the architect kind of fits in with their philosophy and what they intend to accomplish in their project. An RFP would also provide pricing information to help the agencies scale the kitchen to their program needs and also pricing needs.

"I believe we should not restrict agencies from seeking RFPs, otherwise, the example I gave where you have a community kitchen agency, they would have to select a kitchen architect or planner only on qualifications, and after selection, then at that point, they could start discussions and negotiations on the kind of kitchen designs and the needs, as well as pricing.

"In certain situations, Mr. President, I believe it may be a better practice to use RFP, like the example I gave, and therefore I ask that this RFP ban be deleted in Conference Committee. That's why I support this bill with these reservations."

Senator Slom rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to the bill.

"The good Senator from Kaimuki did point out that there are a number of good things in this bill, but a number of questionable items as well. He talked about the RFP process, which is very troubling, but in addition to that, there is another part in Section 3, item no. 6, page 3, which establishes and maintains a Hawaii Procurement Institute in cooperation with the Richardson School of Law. It also creates a procurement library. It gives various tasks, employment and training, but there's no appropriation and there's no idea as to what the cost will be for this, how long it will be, or actually how it will be governed, and I don't think that it's necessary.

"Thank you."

Senator Trimble rose in opposition to the measure and stated:

"Mr. President, I also rise in opposition to this measure.

"As a former administrator for a division for the State of Hawaii, I always held pre-bid conferences. I found it effective, and I held it when it was appropriate. And one observation is that when I held pre-bid conferences, I suddenly observed that it was an opportunity for potential bidders to find out who was going to bid and it did raise levels of concern that they might have at the back of their mind the potential for collusion.

"There are situations where a pre-bid conference may not be a good situation. I will vote 'no' for the reasons mentioned by the Senator from Hawaii Kai, the Senator from Kaimuki, and also because I think it gets the Legislature deeper into the realm of micromanagement.

"Thank you."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1406 was adopted and H.B. No. 704, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1407 (H.B. No. 1230, H.D. 1, S.D. 2):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1407 was adopted and H.B. No. 1230, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1408 (H.B. No. 1247, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1408 was adopted and H.B. No. 1247, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE ESTABLISHMENT OF A CONTRAFLOW LANE ON FARRINGTON HIGHWAY ALONG THE WAIANAE COAST FROM MOHIHI STREET TO PILIOKAHI AVENUE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1409 (H.B. No. 1363, H.D. 1, S.D. 2):



Senator Taniguchi moved that Stand. Com. Rep. No. 1409 be adopted and H.B. No. 1363, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

“Mr. President, I rise in opposition to this measure.

“We have Enchanted Lake waterway. We have Salt Lake waterway. We could generalize and include all waterways on the island of Oahu. I just feel that it’s inappropriate to identify one specific example for which to make a grant-in-aid.

“Thank you.”

Senator Sakamoto rose to speak in support of the measure as follows:

“Mr. President, I rise in support of the measure.

“I have comments to insert in the Journal, but just briefly, this is an effort where the neighborhood has already worked with the federal government, the state government, the city and county to move thing forward. In fact, things are moving forward and this is an effort to have the state participate in really helping the residents of that whole community.”

The Chair having so ordered, Senator Sakamoto’s remarks read as follows:

“Mr. President, I rise in support of H.B. No. 1363, H.D. 1, S.D. 2, to appropriate funds as a grant-in-aid to the City and County of Honolulu to clean up Salt Lake Waterway.

“The Salt Lake is filthy and stagnant and releases noxious odors that are both bothersome and could be harmful to the health of my constituents.

“The Salt Lake Waterway cleanup has been going on for mote than 5 years now through efforts made by the City and County of Honolulu, the Department of Health, and numerous community-based projects. While the Honolulu Country Club owns all the land under the waterways the waters that are stagnant in the lake belong to the State. This measure demonstrates a commitment from the State, in partnership with the City and County of Honolulu and private landowners to do our part in cleaning up the Salt Lake Waterway.”

Senator Hogue rose to speak in support of the measure with reservations and said:

“Mr. President, I rise to support this measure with reservations.

“I want to note that similar to what is going on in the Salt Lake community, we’ve had similar efforts on the Windward side in Kailua with regards to Enchanted Lake and the Kailua waterway system. And what I find to be very distressing, and this the reason why I have the reservations, is that similar to Salt Lake, the community has gotten together and tried to work with the city and county, and the federal government and the state, etc., etc. And year in and year out, since I’ve been here, I’ve submitted a grant-in-aid bill to try to help clean up the Kailua waterways and my bill goes nowhere. I’m assuming that it has to do with the fact that I have an R next to my name instead of a D.

“So, I find that very, very distressing and I think that if we were really, really genuine and we wanted to clean up the waterways, and I think that we all support the environment, we

would not look to see who is in command of that district and would just go and clean up the waterway.

“Thank you.”

Senator Kim rose to speak in favor of the measure as follows:

“Mr. President, I rise to speak in favor of the measure.

“Mr. President, when I was on the city council, we started the initiation, the measures to clean up the waterway, to work with the Salt Lake Elementary school to teach the students about all the runoff and residents throwing things into the waterway. And for years we’ve been trying to get this grant-in-aid, and for years we haven’t been getting it. And so, I urge our colleague across the way to keep trying and perhaps one day you too may see your grant-in-aid sitting before you.

“Thank you.”

Senator Hogue rose and said:

“Mr. President, I will keep trying. You can count on me.”

Senator Chun Oakland rose to speak in support of the measure and said:

“Mr. President, I also speak in support of this measure.

“I’m happy to see that something is moving in this area. Similarly, the Senator from Waikiki and I share Kapalama Canal and I know that the Senator from Moanalua is very aware of this as well. It would be very good if we had a combination of waterway grant-in-aid projects, and the Senator from Kaneohe, maybe we can do that together.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1409 was adopted and H.B. No. 1363, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR A GRANT-IN-AID TO THE CITY AND COUNTY OF HONOLULU TO CLEAN SALT LAKE WATERWAY,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1410 (H.B. No. 1554, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1410 be adopted and H.B. No. 1554, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

“Mr. President, I rise in strong opposition to this bill.

“Some people have incorrectly classified this bill as a home rule bill, but in fact, it is not a home rule bill. What it is it’s a tax bill, an additional \$120 million potentially, or more, on the taxpayers, primarily the city and county of Honolulu.

“It started out to give an option to the counties. It was narrowed down to the county with more than 200,000 population, and then it was set to set the rate at 1 percent, then it set the dates, then it takes away and changes the formula for the transient accommodations tax for the neighbor islands. And there is some residue from that TAT under this proposal and that surplus amount would go back to the state.

“So, one could argue, I think, very accurately that this is a backdoor tax increase for this state as well. But here we would be imposing a retail sales tax on top of the general excise tax, on top of the general excise tax which you intend to try to increase in a few minutes. And all these crocodile tears earlier about our consumers and about the families and about how much money we’re going to save, we’re not going to save anything if we’re continually increasing taxes.

“So if we want home rule, then let’s in fact truly have home rule and let each of the counties decide what they want to do in terms of their taxes and also in terms of providing services and all of that. Then we’ll have home rule, and we’ll have autonomy, and accountability, but we’re not doing that in this bill. This is, again, a naked tax increase.

“Thank you.”

Senators Ihara, Hooser, Chun Oakland, Fukunaga, Ige and Espero requested their votes be cast “aye, with reservations,” and the Chair so ordered.

Senator Menor rose and said:

“Strong reservations.”

The Chair so ordered.

Senator Hogue rose and said:

“Mr. President, I want the record to note that this tax increase is fully clothed, and I’ll be voting ‘no.’ Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1410 was adopted and H.B. No. 1554, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO COUNTY TAXES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Aduja, Hemmings, Hogue, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1413 (H.B. No. 293, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1413 be adopted and H.B. No. 293, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

“Mr. President, I rise in opposition to the bill.

“It’s back again. It’s been here before. It would create a world-class farmers’ market, whatever that is. Of course, we never create anything here at the state level that’s not world class – we have world-class education, world-class transportation, world-class ethics in government – every thing is world class.

“The point is we don’t need this bill. We don’t need an appropriation which is blanked out here, or a defective date. The farmers have been doing a very good job. The farmers’ markets have been doing an excellent job. We have them in all sectors of the state. In fact, in my areas of Hawaii Kai, we’re increasing the number of days an hours for farmers’ markets.

“So, the farmers seem to be doing just fine without government intervention. Thank you.”

Senator Inouye having requested her remarks be inserted into the Journal and the Chair having so ordered, her remarks read as follows:

“Mr. President and fellow Senators, I rise to speak in support of H.B. No. 293, H.D. 1, S.D. 2, Relating to the Farmers’ Market.

“The purpose of this measure is to appropriate funds for the Department of Agriculture to assess the economic feasibility of establishing a world-class farmers’ market in Hawaii.

“As our state’s economic and cultural history is deeply rooted in agriculture, the perpetuation and continued growth of this industry is essential in ensuring prosperity for the people of Hawaii. The establishment of a farmers’ market would thus prove to be a great multi-faceted enhancement to our state. Local agricultural producers would be afforded with a centralized outlet to market and promote their produce and value-added products to both commercial and private consumers. Furthermore, this venue holds the promise of promoting economic growth as an attraction to tourists and residents alike, while simultaneously fostering a rise in employment and business opportunities for Hawaii residents working at the market.

“Seattle’s Pike Place Market is a prime example of a farmers’ market that is world renown not only for the quality and diversity of its produce, but also for its local distinctiveness. Hence, while the market is a strong contributor to the Washington economy, it is also a cherished historical landmark and boasts strong cultural ties to the state. A world-class farmers’ market of our own, one that showcases Hawaii’s strong and proud agricultural industry, holds such potential for our own state for many years to come.

“I therefore ask you all to support this measure.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1413 was adopted and H.B. No. 293, H.D. 1, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE FARMERS’ MARKET,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1414 (H.B. No. 426, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1414 be adopted and H.B. No. 426, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Hemmings rose to speak against the measure and said:

“Mr. President, I rise to speak against H.B. No. 426.

“Mr. President, this is a bad precedent for the state to set where the Legislature intervenes on contracts by the DLNR. I really want to point out, the most important thing is if you look over the list of the leases in Kokee, the beneficiaries of this special treatment are among the wealthiest people of Kauai, including many of the wealthiest people in Hawaii who have seemed to have gotten, for a number of years, some of Hawaii’s most pristine land at a favorable rate. And now they’re asking for lease extensions.

“There’s another problem with this bill coming over from the House that shows a tremendous conflict of interest – the Kawakami family is one of the beneficiaries of this special treatment. I don’t think anybody should get treatment like this,

and it sets a bad precedence. I'm asking that we all vote 'no' or send this bill back to Committee so the ethical thing can be done."

Senators Ihara and Ige requested their votes be cast "aye, with reservations," and the Chair so ordered.

Senator Inouye having requested her remarks be inserted into the Journal and the Chair having so ordered, her remarks read as follows:

"Mr. President and fellow colleagues, I wish to rise in support of H.B. No. 426, Relating to Public Lands.

"This measure is to direct the Department of Land and Natural Resources to issue new long-term leases for certain parcels of the public lands on Kauai.

"The state is currently experiencing an economic downturn caused by some recent and not so recent events and as a result we must do what we can to encourage and support measures to stimulate the economy. Certain lessees of public lands used for hotels on Kauai have never fully recovered from the devastating results of Hurricane Iniki and the September 11<sup>th</sup> tragedy and now face the current economic downturn. In the face of all this those lessees are still surviving, however they need our help. Many of them struggling along find that they need to reinvest in their properties to help stimulate economic growth to save their businesses but to their dismay they find that they are unable to find financing. They are stuck between a rock and a hard place, they need to reinvest into their properties, but are unable to because they are having difficulties finding financing for capital improvements when their leases are for fewer than thirty years. This measure will allow them to receive new leases and help them finance much needed capital improvements to their businesses, while providing an economic benefit to the state.

"I urge you all to support this measure, by helping them we will also be helping ourselves."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1414 was adopted and H.B. No. 426, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Stand. Com. Rep. No. 1416 (H.B. No. 1613, H.D. 2, S.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1416 be adopted and H.B. No. 1613, H.D. 2, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose to speak in opposition to the measure as follows:

"Mr. President, I stand in opposition to this measure.

"I think that there are costs associated with implementation. It is an unfunded mandate. We say that we have no money. A worthwhile project it is, but I think we can delay it by one year.

"Thank you."

Senator Inouye having requested her remarks be inserted into the Journal and the Chair having so ordered, her remarks read as follows:

"Mr. President and fellow colleagues I wish to rise in support of H.B. No. 1613, H.D. 2, S.D. 1, Relating to North Kohala.

"This measure authorizes the Department of Land and Natural Resources to preserve historical sites in North Kohala by condemning the land adjacent to the Kohala Historical Sites State Monument and to allow the Mo'okini Luakini Corporation to protect and care for the Mo'okini Heiau.

"The land when acquired will be used as a buffer and to provide access for the Kohala Historic Monument that includes the Kamehameha birth site, Kukuipahu Heiau, and the Mo'okini Luakini.

"Act 166, Session Laws of Hawaii 1992, codified as Section 6E-38.5, HRS, sought to preserve and protect the Kohala Historical Sites State Monument and mandated that certain lands be acquired to preserve and protect the monument by adding buffers and to provide additional public access. The property was to be acquired by gifts and land exchanges, however attempts to acquire the lands via land exchange or purchase has been unsuccessful.

"To complete the intent of Act 166 and protect the Kohala Historical Sites State Monument I urge you to support of H.B. No. 1613."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1416 was adopted and H.B. No. 1613, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NORTH KOHALA," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

Stand. Com. Rep. No. 1417 (H.B. No. 1175, H.D. 2, S.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1417 was adopted and H.B. No. 1175, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 1418 (H.B. No. 512, H.D. 1, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1418 be adopted and H.B. No. 512, H.D. 1, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to the bill.

"Among other flaws in the bill, again it is a raid on the rainy day fund for specific appropriations.

"Thank you."

Senator Baker rose to speak in support of the measure and said:

"Mr. President, I have remarks in support of this measure I'd like inserted in the Journal."

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

"Mr. President, I rise to speak in support of H.B. No. 512, H.D. 1, S.D. 2, which would mitigate unintended problems when federal requirements under the Health Insurance

Portability and Accountability Act of 1996 (HIPAA) go into effect this year. H.B. No. 512, H.D. 1, S.D. 2, also makes appropriations from the rainy day fund for programs and services which are essential to the public's health, safety, and welfare and repeals the sunset date for Act 121 regarding mental health parity.

"It was brought to the Health Committee's attention that due to implementation of the privacy provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) the State must make appropriate changes to State law in order to avoid future problems in accessing medical records. Originally, a next-of-kin provision was inserted into S.B. No. 1356, Relating to Vital Statistics, but due to a title problem it was taken out. Thus, the provision was inserted into H.B. No. 512 under the more appropriate title of Relating to Health. The provision provides for a patient's next of kin to have access to their medical records if the patient or the patient's attorney is unable to do so. Currently, Hawaii has no next-of-kin law, to allow family members of the deceased to have access to the deceased's medical records, except those who have some form of legal designation. This will pose a severe problem when HIPAA's privacy provisions take effect. Under HIPAA, providers will be prohibited from allowing families to access or authorize the release of the deceased patient's records. Thus, when a surviving spouse requests that their deceased spouses' records be sent to a life insurance company, their request would be denied due to HIPAA regulations.

"H.B. No. 512, H.D. 1, S.D. 2, also contains an amendment to allow the disclosure of a mental health patient's medical records for insurance reimbursement claim purposes. Hospitals are frequently unable to obtain payment for services rendered to mental health patients because they are required to obtain specific consent from the patient prior to the release of the patients mental health records. There is no exception to this rule such as in the HIV law (HRS 325-101), which allow the release of information after the patient has been afforded the opportunity to make the reimbursement but choose not to.

"The bill also repeals the sunset date of Act 121, as amended by Act 243, section 8 paragraph 2, Session Laws of Hawaii 2000, which provides for mental health parity. The repeal protects the mental health patients from having to pay additional rates, terms or conditions on serious mental illness benefits, if similar rates, terms or conditions are not applied to services for other medical or surgical conditions. Patients with serious mental illness deserve to have equal access to medical treatment and should not have to pay additional costs for that treatment.

"This measure also appropriates the funds necessary to maintain the State's healthcare safety-net system and other non-state healthcare providers, which are an indispensable part of our healthcare foundation. Appropriations to Molokai General Hospital, which is the only hospital on the island of Molokai, and to Kahuku and Wahiawa General hospitals, are essential to insure the health and well-being of our rural communities. In addition, appropriations to community health centers such as the Hana Community Health Clinic and the Waianae District Comprehensive Health Center are fundamental in providing a healthcare safety net.

"Many of the programs and facilities, which would be appropriated funds through this measure provide a crucial service to their communities. If these programs do not receive assistance from the State they will be forced to reduce their services and in some cases close completely. Programs such as the poison center and the sex abuse treatment center provide statewide services that are vital to the public's welfare. Without additional funding from the State these programs will be forced

to reduce their services which will immediate and serious consequences which will jeopardize the health and safety of the public.

"H.B. No. 512, H.D. 1, S.D. 2, is an important and necessary measure which provides for a next-of-kin provision would help healthcare providers and the Department of Health avoid problems related to the privacy provisions in the federal HIPAA regulations. The death of a loved one is a very difficult event. Without the provisions of this bill that time of grief may be even more traumatic. Also by allowing for the disclosure of a mental health patient's records for reimbursement purposes the State is permitting hospital to collect fees and continue to provide services. Furthermore, the repeal of the sunset of Act 121 as amended by Act 243, prevents mental health patients from being subject to unnecessary and discriminatory fees for treatment. This bill also provides the much-needed funds to the State's healthcare safety net and other non-state providers that the public depends on. Mr. President, I urge the members of this body to support this measure by voting Aye on H.B. No. 512, H.D. 1, S.D. 2.

"Mahalo."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1418 was adopted and H.B. No. 512, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

H.B. No. 282, H.D. 2, S.D. 1:

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, H.B. No. 282, H.D. 2, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Trimble).

H.B. No. 1152, H.D. 1, S.D. 1:

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, H.B. No. 1152, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Aduja).

Stand. Com. Rep. No. 1424 (H.B. No. 298, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1424 be adopted and H.B. No. 298, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

"Mr. President, I stand in opposition to this measure.

"This measure specifies a solution, dictates a particular solution, and kind of designates how it will be undertaken. For those reasons, I oppose the measure.

"Thank you."

Senator Sakamoto rose and said:

"Mr. President, may I insert comments, please, into the Journal."

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

"Mr. President, I rise in support of this measure. I support the development of the Halawa facility because I believe the time has come to have OCCC become a useful and productive part of our community. My hope is that with the development of this new facility, the site at OCCC can become a useful part of the Kalihi neighborhood. I also expect, Mr. President, that the Kalihi community be consulted and involved in the redevelopment of OCCC."

Senators Kim and Chun Oakland requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1424 was adopted and H.B. No. 298, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hogue, Ige, Slom, Trimble). Excused, 2 (Aduja, Menor).

Stand. Com. Rep. No. 1425 (H.B. No. 391, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1425 be adopted and H.B. No. 391, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Hanabusa requested her vote be cast "aye, with reservations," and the Chair so ordered.

Senator Ihara rose to speak in support of the measure with reservations and said:

"Mr. President, I rise in support of this bill with reservations.

"I'd like to just note that this is another gut and replace bill. The subject matter Committee amended the House draft, which dealt with public employee health benefits, and inserted the contents of the bill now, that has S.D. 2, which is repeal of the privatization law which I note was done without a hearing. Actually, this provision repealing the privatization law was in another bill. Actually it's the following bill, H.B. No. 510, and it was displaced, so I guess this is the new home. So this is the third home of the current language in this bill.

"Thank you."

Senator Slom rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to the bill.

"I'm trying to find where the bills go and where the guts and the intestines are. It's really difficult. It's difficult for the public; it's difficult for some of the Legislators. But this bill is pure and simple, an attempt to roll back the option of privatization, which had still been little used in this State because the people that opposed it are fighting against it.

"Managed competition is not privatization. Managed competition is not an option that the state needs for budgetary and performance standards.

"Thank you."

Senators Kokubun, Kim, Ige and Sakamoto requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1425 was adopted and H.B. No. 391, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Chun Oakland, Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 1 (Menor).

Stand. Com. Rep. No. 1426 (H.B. No. 510, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1426 be adopted and H.B. No. 510, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

"Mr. President, I rise in opposition to this measure.

"This is a tax increase, the worst possible form of tax increase that we could take. It increases hidden tax. It increases indirect taxes. It increases business-to-business taxes. And if we're trying to shrink the economy by what we do here today, then we're on the wrong track.

"I urge my colleagues to oppose the increase to the general excise tax. Thank you."

Senator Taniguchi rose to speak in favor of the measure as follows:

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

"Mr. President, this bill is the 'Invest In Our Children Act' of 2003. This bill is very similar to a Senate bill that we passed earlier in the Session, so I won't repeat the arguments along those lines.

"I do believe that S.B. No. 510 is an improvement over our previous version. It would provide additional funds for education. Mr. President, this is the Senate's only vehicle to provide much needed additional resources to our public schools. I realize that this is a tax increase and it will have an impact. However, I believe that providing adequate resources for public education is so important, that I'm fully prepared to accept whatever criticism of me that may follow.

"Mr. President, there's no good time for a tax increase, but there couldn't be a better or more necessary time to invest in our children. I would ask that members support this bill.

"Thank you."

Senator Hogue rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this bill.

"If we truly want to invest in our children, we should vote against raising taxes. It only makes sense. It's the worst thing that we could do to an economy that is already in danger.

"Here's an analogy, just a few short days ago, there was an article in the sports section - I do have a tendency to read the sports pages, still, these days - and it talked about the University of Hawaii Men's Volleyball program. They, too, felt that they needed to raise money. They had pretty good

attendance there for awhile, so they wanted to raise the revenue. So what'd they do? They increased ticket prices . . . just like increasing taxes. And what was the net benefit? Their revenues went down, their revenues went down. That's essentially what could happen to the State of Hawaii if we raise taxes – the net benefit would be that our revenues could go down because our economy would go down.

“And if we want to actually invest in our children, we are doing just the opposite with this particular measure because we are providing for them a poor economy and not giving them the opportunity to stay here and live here and raise their families here. Instead of raising taxes, we should be doing just the opposite – we should be cutting taxes to invigorate our economy so that revenues increase and then more money will flow to our public schools and our education system can improve.

“This is a very, very bad idea and I encourage all the members to vote ‘no.’ Thank you, Mr. President.”

Senator Sakamoto rose to speak in support of the measure as follows:

“Mr. President, I rise in support of the measure, and I have comments to insert similar to what I've stated earlier on a similar measure.

“I want to add, that to get a broader understanding, not just us talking to each other, I sent a survey to the schools to ask the principals, the staff, the teachers, the parents, and asked the school to get responses from the parents, and let me share some of the results with you now. When asked the question, would they (and this is obviously not the population in general but the people involved with the school) support a ½ percent general excise tax increase for education, from this survey, 89 percent said yes, 11 percent said no. When asked how significant a factor the lack of resources for students' success was, 53 percent said it's the most significant; 44 percent said significant but not the most; and 3 percent said not significant.

“We've asked elementary, middle, and high school students, what should the resources be used for? And the different role groups gave their comments and we did list a whole slew of different things, as well as leaving a blank for other. Some of the things they reported back, at least in this survey, were repair and maintenance, professional development, textbooks, computers, supplemental tutoring, curriculum, consumables, teacher retention, and it goes on and on.

“My point being, Mr. President, certainly our schools need these things and we, I'm sure, here concur that these things that were mentioned by the people in the school system are things that we could fund more. Our hope and our prayers are that we can fund more of these things. Certainly, if we could, through the budget as it existed, that would be a good thing. But at this point the economy and education are so intertwined. We need to do more and we believe the people in the schools, believe people in the community, as they have stated, will support this, provided we target specific supports for education. And we can do that, and we will do that.”

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

“Mr. President, I rise today in support of H.B. No. 510 which would raise the General Excise Tax by ½ a percent to support education and a food tax credit.

“Mr. President, Our schools are struggling.

“We have proposed many solutions and many new programs to assist our schools this session, but none of these changes are free. Most people would agree that in spite of the notion that the BOE and the DOE are not using all of the dollars they currently receive as efficiently as they could, there needs to be more funding directed to education.

“This Session, your Education Committee has seen many problems:

- The repair and maintenance backlog is still at \$400 - \$500 million.
- Each child does not have a textbook solely for his or her own use.
- Teachers continue to take money out of their own pockets to purchase needed supplies for the students.
- The Federal government has not sent enough dollars to Hawaii to cover the costs that will be incurred by the ‘No Child Left Behind’ legislation.
- Money for tutoring and supplemental programs is woefully lacking.
- School complexes do not have their curriculums aligned and even for those that have a plan to do so there is a lack of resources to purchase the textbooks, curriculum and consumables such as workbooks to fully implement what is best for our keiki.
- New communities cry out for new schools for their children before their children graduate with memories of portables and PE class without showers or lockers.

“We have not seen the resources to implement progressive programming to address these problems:

- Where are the resources to assess student progress on an 8-week cycle as opposed to a 24 or 12 month cycle?
- Where are the resources to improve on the personal educational plan for each child? Yes, special needs and the Felix class children as well as the ‘regular education’ kids and the GT – gifted and talented.
- Where are the resources for implementing the best practices envisioned by High Schools that would ‘Break Ranks’ and the move to smaller learning communities and project-based learning?
- Where are the resources to purchase and utilize research based curriculum packages such as Direct Instruction, Core Knowledge, Success for All, or America's Choice?
- Who will train the new principals and new teachers who are scurrying to fill the shoes of retirees?

“We've struggled with these problems and solutions during the Session:

- The Senate has moved many proposals to the House for their consideration.
- The Governor has proposed several reforms including seven or more Local School Boards.
- The House has moved many proposals to the Senate for our consideration.

“Of course more money is not the whole solution, we also must use these resources wisely, and get the resources closer to the classroom.

“Finally, this proposal is not only crucial to the success of our keiki, it is imminently fair to our residents, the food tax credit would return much of the additional expenditure to them in the form of a food tax credit.”

Senator Kawamoto rose to speak in favor of the measure as follows:

“Mr. President, I rise to speak in favor of this bill.

“First of all, I’d like to congratulate the Ways and Means Committee and their efforts to focus on education and try to make a greater percentage of our revenues going to education. We hope that if and when we are in Conference that we can further get more money for education. Basically, we’d like to see some physical structures out there that we could use the monies for, and again, something that’s tangible that we can touch and say this money went to that activity.

“Thank you.”

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

“Mr. President, I just wanted the record to note the fact that I will be voting in favor of this measure, but with strong reservations.

“I am concerned about the potential regressiveness of the excise tax. I’m also concerned about the potential negative impact on consumers and businesses during these difficult economic times. Nevertheless, I will be voting in favor of this measure because it raises important issues and calls for additional funding for our public schools, which is badly needed by our school system.

“All measures that offer the prospect of providing much-needed funds for important programs and services, including public education, should be given the opportunity to be considered in a free and open discussion. It is only to ensure that such discussion continues that I am voting to keep this measure alive and not because I agree with the funding mechanisms House Bill No. 510 proposes. I would also like to emphasize that, in passing this measure at this stage of the session, the Senate is not giving this bill final approval, but only moving out the measure for further consideration and review by the House.

“Thank you, Mr. President.”

Senator Slom rose to speak in opposition to the measure as follows:

“Mr. President, I rise in strong opposition to this bill.

“We’ve heard about a number of polls that have been conducted recently, one of which I talked about earlier when we first discussed this bill, when the Honolulu Advertiser was even forced to say that the way that their poll and the question was being used was out of context.

“The good Senator from Moanalua is telling us that people support an increase in their taxes for targeted projects and specific projects. But we don’t have any targeted projects or specific projects in this bill. We have a tax increase.

“The good Senator from God’s country wants to see something rise into the sunset, something we can touch, something we can feel, something we can allow to become rundown like the other buildings that we’ve allowed around town and around our state.

“The fact of the matter is the people outside this building have gotten the message. They want a change in the way we’ve done things. They want a change in throwing money at the problems. They want a change in the past lack of leadership. They want a change in the fact that we’ve had a few people that dominate the public education system from the top and don’t

include parents, don’t include taxpayers, don’t include a large part of this community, but that all they ask for all the time is more money, more money, more money.

“If this Senate passes this bill, which is likely right now, those members that have supported all of these measures can congratulate themselves because they’ve completed the trifecta today – three major tax bills that have added \$400 million to the consumers and taxpayers and parents of this state, \$400 million, which takes from them the ability to make their own choices.

“We talk all the time about investment. That’s funny, the last time I checked, an investment is something that you voluntarily make and some people choose to invest in one thing and other people choose to invest in something else or not to invest at all. But all of these programs that this Senate is voting on today does not give choice, does not give investment. It says that this state, this state, is better situated to make these choices for individuals – \$400 million worth.

“We’re not talking about the children; we’re not talking about education. We use them as excuses for everything we do – from laptop computers to higher legislative salaries, we use the children in this state. But we’re really not concerned about them because we don’t listen to the parents; we don’t include them; we don’t demand accountability; we don’t demand changes and improvement and leadership. We just say, give us more money, give us more money, give us more money. And that’s what this bill is doing.

“And it’s not a half a percent. I remind you again, it is a 12½ percent increase from 4 to 4½ percent. And it is across the board because in our wisdom, we still remain the only state ever to institute or maintain a general excise gross income tax – the most regressive, the most harmful tax on individuals, poor families, businesses and anyone that we can look at.

“This bill also creates another special fund. This bill also, at one time, was supposed to balance the equities between those people that paid for the high cost of food, because far be it for our colleagues here to exempt food cost from the general excise tax, even though almost everyone campaigns on that issue and everyone says that they’ll do it until it comes time to vote. Instead, we’re going to raise the taxes, raise the taxes, raise the taxes. And initially, we talked about offsetting that with a food tax credit, and the food tax credit started at \$100 and got down to \$80 and is still going down, has more limitations, more exclusions, more restrictions.

“We’re not interested in helping the consumers of this state, because if we were, we would cut the taxes, whether we’re talking about tax on food, on shelter, on clothing, on healthcare services, on gasoline. Instead, we’re raising the taxes, raising the taxes, raising the taxes. That was the old way of doing things, and the public voted against that. They voted for a change, and yet a lot of people in this building still have not gotten that message.

“This will not help improve education, will not help children, will not help their parents, will not help businesses, will not help single moms. It will further penalize them by taxing them, taking away their choices, taking away any discretionary income, and taking away the investment possibilities they might have had.

“Thank you, Mr. President.”

Senator Hemmings rose to speak against the measure and said:

“Mr. President, I rise to speak against this bill.

"In doing so, I wish to say that I'm by no means criticizing or speaking against the Chairman of the Senate Ways and Means Committee and one of the proponents of this tax increase. But I am saying, with all good intentions, the path to economic hell is paved with good intentions. A wise man said in the Federalist Papers, James Madison, 'experience is the oracle of truth.'

"What's very fortunate with us here today in debating these issues, is that we have a long history of experience with tax increases. The truth of the matter is that we're amongst the highest taxed people in the nation. And the experience is, and the truth of the matter is, that Hawaii, for the most part, has been in the economic doldrums since at least 1990. The truth of the matter is that our economic plight is largely due to the policies of state government, not the least of which as we've created one of the most onerous business environments, by excess taxation, in the nation.

"The second truth is that for years, as we've spoken before on this issue, we have poured huge amounts of money into public education. And if the experience was that if more money was going to improve education, we would have improved the education system, but we haven't.

"This is a failed formula for the economy, and it's a failed formula for education. We cannot afford to continue to make these mistakes because Hawaii will continue to suffer as we have economically and educationally. It's time to break the failed formula. Vote 'no' against this tax increase."

Senator Hooser rose to speak in support of the measure as follows:

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

"I'd like to say, as I said earlier, that the polls that are referred to are important in some ways as an indicator of the public's intention, but the poll that matters to me is the poll that elected me to this office just a short time ago. When I ran for office and campaigned door to door in my community, I pledged to support education. I pledged to make education my number one priority, and I'm standing here today to do so.

"When I served on the county council, I learned a couple of things, Mr. President and colleagues. I learned that when government tells you there is no money, when people come to government and ask them for money and ask them for support and government says there's no money, what they are really saying is that it is not a priority. We have money for our priorities. And what some of us are saying now is that we don't have money for education, and education is not a priority. But I'm here to stand today to say that education is my priority and ask my colleagues to vote in support of this.

"Yes, yes, yes, raising the GE tax will raise the cost of living. There's no question about that. The cost of a plate lunch will go up about 2 cents. But no, businesses will not flee our shores and they will not shut their doors and they will not run off to some other place. Business will go on. The economy will improve, just like it always does.

"I wish we were not raising the general excise tax, but however, in my opinion, the long term impacts of not doing so, the alternatives are much, much worse. We cannot and must not allow budget education cuts to continue. We must make a commitment today to invest in the education of our children. We must make a commitment today to invest in the future of our community.

"Raising the GE tax one-half percent will indeed increase the cost of living – 2 cents on a plate lunch, about \$250 on a Lexus, and I have to say, the owners of the Lexuses are the ones that have been complaining the most in my e-mail.

"Our economy in time will recover and will grow, tax increase or no tax increase, but our children only get one shot. Our kids will only go to kindergarten one time. Our young people will only get one chance at a good high school education, and we owe them the very best experience that we can afford.

"Yes, there may be negative impacts of raising this tax by one-half percent, but it is my sincere belief that the long term negative impacts of continuing to under-fund our schools is far greater.

"Right now, as we speak, as I stand here today, we have elementary schools in my district without playground equipment. They haven't had a playground in four years. There are kids there that have been going to school for four years and haven't been able to swing on a swing set. Imagine, young children going to school if it were your children, not even having a swing set or a jungle gym.

"We have high school students who don't have books to take home to do their homework. Many of our high schools are woefully short of school counselors, technology programs and gifted and talented programs. At Kilauea Elementary School on the North Shore of Kauai, we have a cafeteria that's so old and so small, the kids cannot even eat lunch together at the same time or meet together as a group on a rainy day.

"Our libraries, our adult education programs and even the A-Plus program, have been cut so severely that their core missions are at risk. While these programs may not seem important to some, to many of us in our community, these programs fall under the category of essential.

"In my opinion, supporting and improving our public school system from Kindergarten through the University is the single most important thing we can do as a community. The potential long term benefits from building and maintaining a high quality public education system extend to all parts of our daily lives. There is a direct correlation between the quality of our schools, the quality of our lives, and the strength of our economy. We must invest in and aggressively support our public education system and we must do so today.

"The Governor has gone on record stating publicly that she will not spend money from the hurricane fund or the rainy day funds (estimated to exceed \$200 million), nor will she lay off any government workers to achieve savings.

"This legislative body has already voted in support of hundreds of millions of dollars of giveaways in tax credits to a wide variety of interests. We've given money to hotels for reconstruction, to aquariums, to high-tech industry, to biofuel – millions, hundreds of millions of taxpayer dollars – in the hopes that they might stimulate our economy. Yet, we are hesitant to invest in our own children's future.

"There is always talk about cutting fat, lots of talk about cutting fat, lots of talk about increasing efficiency and reforming the government structure to bring decision making closer to the local level. The fact is, colleagues, while fixed costs and federal mandates continue to escalate, we spend less and less on our public education system, and even to stay even, let alone improve or expand the programs offered.



"To my knowledge, no one, including the Governor, has been able to clearly identify any more significant areas of fat that can be cut today, and I emphasize the word today."

"While many are quick to throw rocks at the much ballyhooed 'bloated bureaucracy,' the fact is that Hawaii is ranked 13 in the nation for the percent of the education budget spent on actual instruction. Of the 21,220 total employees working for the Department of Education, 95 percent work directly at the school level, only 507 work in the state office."

"Yes we can, and we must, increase efficiency and improve administrative performance. And yes, with proper management and a solid commitment, significant savings can be achieved over time. Empowering local communities and bringing meaningful decision making closer to the individual school level are laudable goals, and I support these goals 100 percent."

"This effort is extremely beneficial and worthwhile, but again will take years, years, to produce tangible benefits to our schools. Our kids need our help now. They need our help today. Our children and our schools cannot afford to wait another two or ten years. Our community cannot afford another round of budget cuts to our schools."

"We must step up to the plate, make a sincere investment and begin building the quality public education system our children deserve. If not, the long term cost and negative impacts to our community will far exceed those that might result from adding two cents more to the cost of a plate lunch, or even \$250 to that Lexus."

"I ask my colleagues to vote 'yes' on this measure and send a strong message to our children and our community – that education is indeed our most important priority."

"Thank you, Mr. President."

Senator Whalen rose in opposition to the measure and stated:

"Mr. President, I rise in opposition."

"Obviously, today I haven't said much, and I wasn't planning on saying anything on this bill as well, but there are so many misstatements and misunderstandings in the last speech, that I got inspired."

"First of all, this bill is not about education. Any of you who followed the gambling issue across the mainland, etc., when these issues first came up, we were going to do a lottery and all the money goes to education. In every single state, the other funding that used to be there, dries up and it becomes a sole source funding issue."

"I agree with the Senator from Kauai that we do need to make our commitment. We have money right now in the budget that we could not just cut the fat, but cut unessential services that we're involved with and put more money in schools, if that's what we wanted to do. But where is the commitment? Raising taxes to bloat our coffers further is not a commitment to education; it's a commitment just to spend more money."

"And getting to the issue of that, all of us received, or we should have received, something in the mail that California is one of the highest ranked states when it comes to per pupil spending, yet they're one of the lowest when it comes to graduation rates and dropouts and everything else. Their system is very poor. A very extensive study was put on by the Legislature there and they found out that more money is definitely not the solution to the problem to improve education."

It is an important factor, but it is not the thing that gives you a quality education."

"I am a product of a very small private school that spent far less than what the public school was spending on its students. My kids right now receive an excellent education at a private school which is far, far less than what we're spending on public school students right now."

"It's not just money, Mr. President. It's not just about a commitment to spending every dime we have into education because that will make it better – NO! There are other issues we've talked about today. There are other bills that have come and died that would improve education. We talk about accountability, etc."

"But now I'm diverging off the subject, because the subject is a tax hike, period. It's not about education. It's about raising our taxes further."

"The two cents for a plate lunch shows the misunderstanding of just how the general excise tax works, and I know somebody will correct me if I'm wrong, but it's my understanding that the GE tax is our one major source of income into the state. Okay, I'm correct . . . okay, I got it. So, our one major source we're not just pushing up half a percent, we are increasing that one major source by 12.5 percent. And it's not just the guy who walks up to the window and orders a plate lunch. It's every single step along the way the GE tax is tacked on there. So it's not even just a 12.5 on the very end, but I'm not sure this half a percent, as it said, or 12.5 percent will bring in another \$180 million. Multiply that by whatever and you can see what a huge amount of money we're talking about sucking out of our economy right now."

"So, to put it in any other light that it's just two cents on a plate lunch, whatever else, shows very misconceived assumptions about what this tax is going to do to our economy. I won't ramble on, but I would encourage us as we go forward in this discussion to please stick to the issue. The issue is a tax hike. It's not about better education. It's not about our commitment to education, because if you really had that commitment, we could put the whole budget into education if we wanted to, if that was really our commitment. We don't need to raise taxes to give education more money – we just cut areas that we don't want to fund because they're not the priority."

"So again, the question isn't priorities, the question is, Is this really the time or the place in our economy . . . which, by the way, I don't know if it always does bounce back; we've been in a very dire straits for a long time now. It's just creeping and struggling. In fact, the revenue guys who said they had us at 6 and now we're down at 4.1. I don't think we're always going to be able to come back, Mr. President. We can't count on an economy that you just continue to suck all the blood and life out of it, that it will somehow resurrect itself one day."

"For those reasons, and as I stated, there's just no way in the world that I could support a tax hike at this time."

Senator Ihara rose to speak in opposition to the measure as follows:

"Mr. President, I rise in opposition to this bill."

"Mr. President, I'm opposed to this bill because it's the wrong time and wrong tax, and without a real plan to improve education in Hawaii."

"Also, Mr. President, this is the mother of all gut and replace bills. You knew I'd get to that, right? (Laughter.) This is a double gut and replace bill. The subject matter Committees gutted the House draft, which would have established a system of managed competition for state services. And if it stopped there, then that may actually be a good gut and replace. What was put in place of it was a repeal of the privatization law, which was displaced by the next Committee. I'll explain that later on.

"It gets very, very confusing. You have several bills involved here and if the subject matter Committee's gut and replace stayed, actually that might have not been too bad, because you would have had two versions – the House version, which would be a managed competition legislation, and the Senate version, which is no privatization in the state.

"What happened in the last Committee, the Ways and Means Committee, is it gutted what was previously inserted. It gutted the repeal of the privatization law and inserted this general excise tax increase for education legislation. The House has never had a hearing on this legislation, and in Conference, sitting on one side of the table would be the House conferees. I understand they're against this legislation, but they would be arguing for their legislation, which is the managed competition system, and you'd have the Senators on the other side trying to get the House to talk about the GET increase for education legislation. I'm not sure how you'd resolve this.

"I believe it is not appropriate for the Senate to expect the House to pass this legislation, because the House conferees would have to agree to the Senate proposal that they have not previously handled. There was no bill introduced in the House to increase the general excise tax. There was no hearing in any of the Committees on this idea, and they had publicly stated over and over, they're opposed.

"If by chance, and I don't believe there's a chance, but if by chance our conferees convince the House conferees to agree to accept this general excise tax increase for education, these conferees would be asking their colleagues in the House to pass major legislation on Third Reading without passing it on First or Second Reading, because the substance of the GET increase for education legislation was never passed on First Reading or Second Reading in the House. That's part of the problem about gut and replace bills. The Senate did pass a general excise tax increase for education bill over to the House, and they filed it.

"In addition, the House members who would be voting on major legislation without having received much public input, I'm sure they would have a lot of opposition from e-mails and letters. But because there was no public hearing, the House members would have to decide on this major legislation without a hearing.

"I'm not voting against it because of the gut and replace concerns. I just wanted to point out that in addition to my disagreement with the substance of the bill, this is a very good illustration of how we make the bicameral system not work, if this bill passes.

"Thank you."

Senator Fukunaga rose to speak in support of the measure with reservations and said:

"Mr. President, I rise to speak in support of this bill with strong reservations.

"Generally, I do not support tax increases at all. In fact, in this instance, I do not support a tax increase. However, I do

think it would be hypocritical of me to speak in opposition to the amendment this morning and not to stand in support of a bill which actually represents the Ways and Means Committee's best efforts to try and resolve some of the financial difficulties which we face. And although I do not support a tax increase, I do note that the title, Relating to Government, does reflect a vehicle which I hope the Ways and Means Committee will use to reflect the various concerns which have been expressed today, and to find a way to balance the budget to address our financial difficulties without taking the steps outlined in this measure.

"Thank you."

Senator Sakamoto rose to speak in support as follows:

"Mr. President, I rise again in support

"I want to address, at least in part, some of the issues raised. One in particular talked about having enough money, and we can pontificate, we can suggest, we can assume.

"One national publication, Education Week, which publishes nationwide, did a survey called Quality Counts 2003. Hawaii's not first in terms of resources adequacy, and we're not last. Many times people say we're last in everything, but sadly, we're in the middle of the pack, 26. So if people think being in the middle of the pack is fine at this time, in this state, so be that. I don't think because of adequacy of resources we ought to be in the middle of the pack. I think we ought to move forward, and this measure helps to do that.

"And with the money directed to the schools and the school complexes, with input from the constituents, from the parents, I think we can use these resources wisely. In spite of other parts of government having, perhaps, difficulty in using their resources, these resources need to be used wisely for our kids.

"If the Senator from Kauai didn't speak so long, I would like those words added as mine, but I don't say that much and he said it very well." (Laughter.)

Senator Aduja rose to speak in support of the measure with reservations and said:

"Mr. President, I would also like to rise in support, however, with strong reservations.

"The comments of the Senator from Kauai was very, very compelling and I feel very strongly against any tax increase. I don't want to go into a long discussion at this time, so I'm requesting permission to place in the Journal my comments.

"Thank you."

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

"Mr. President, H.B. No. 510, S.D. 2, proposes an increase of one-half percent to the State's general excise tax, with two-thirds of the money raised to go to education-related programs. Though I am generally opposed to increasing taxes, especially in times of fiscal austerity, I have decided to vote 'YES, with strong reservations'. It was a difficult decision to make. Though a newspaper survey indicated that 70 percent of Hawaii's people would pay more in taxes if it were dedicated to improving our schools, a survey that my office conducted in my district indicated an almost 50/50 split regarding the bill. I ultimately let my commitment to improving the education of our children be the deciding factor. I feel very strongly that the fate of our State is directly impacted by the quality of education

we provide our children. For our collective well-being, it is an investment we should and must make.”

Senator Baker rose to speak in support as follows:

“Mr. President, may I have some comments in support of this measure inserted into the Journal?”

The Chair having so ordered, Senator Baker’s remarks read as follows:

“Mr. President, I rise to speak in support of H.B. No. 510, S.D. 2. This measure would provide a mechanism to fund both lower and higher education by raising the General Excise Tax an additional one-half percent.

“Mr. President, none of us want to resort to increasing the General Excise Tax. But without this measure, public education would be severely impacted because of the budget crisis we now face. It is vital that we maintain funding for education, because a well-funded education system contributes to our quality of life.

“Maintaining or improving the education of Hawaii’s school children is an important a factor to ensuring that our State remains viable and attractive to those who seek to do business here. During the past four years, I have spoken with industry representatives, particularly from the technology sector, exploring the possibility of setting up shop in the County of Maui. The availability of an educated workforce was as important to them as the local tax structure.

“The proposed GET increase would restore nearly all of the reductions in education funding made by the Governor this year. In addition, \$45 million would be allocated on a per-student basis directly to our local public schools. We would also be able to restore some of the funds for the school repair and maintenance program, and fund programs to improve teacher training and retention, among others. Finally, the increase is only temporary. The measure imposes a sunset on the one-half percent increase in ten years.

“Some would argue that putting additional money into education will not solve the problems of our educational system, and to some degree they would be right. We do need to improve our efficiency of education service delivery. However, the fact remains that the basic costs of education – salaries, resources and infrastructure – are not fixed costs, but will continue to rise. To ignore that would be a disservice to those who serve us in our State’s education system.

“H.B. No. 510, S.D. 2 will not be a popular measure. But we need this measure to restore core education services and to provide our schools with the resources they deserve. I want to thank the Ways and Means committee for having the vision and courage to pass out this measure, and I urge my colleagues to join me in support.

“Mahalo.”

Senator Hemmings rose and said:

“Mr. President, I’d like to call for a Roll Call. This is such a serious bill with such major implications and we’ve heard so much dialogue on it today.

“I think it’s important, especially when we have so many reservations and so many people off the reservation that we have a Roll Call on this so we see exactly where we stand on this incredible tax increase.”

The Chair so ordered.

Senator Tsutsui rose and said:

“Mr. President, could I also insert some comments into the Journal as well? Thank you.”

The Chair having so ordered, Senator Tsutsui’s remarks read as follows:

“During this Session, we have heard testimony about the deteriorating condition of school infrastructure, the need to construct new classrooms, students who are without textbooks, and other bare essentials. These needs cannot be cured under the current school budget nor can they wait until the economy improves. As citizens, we all share the responsibility for ensuring that our children have a fair and equal opportunity to learn and grow under our educational system.

“In the absence of other sources of revenues, we must make the difficult choice to support education through the current tax proposal contained in H.B. No. 510. The revenues generated will be directed to our public education systems and by its own terms is of limited duration. This measure will afford the Legislature an opportunity to work with the Department of Education in improving the efficiency and effectiveness of the present education system.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1426 was adopted and H.B. No. 510, H.D. 2, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO GOVERNMENT,” having been read throughout, and Roll Call vote having been requested, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 7 (Hemmings, Hogue, Ige, Ihara, Slom, Trimble, Whalen).

Stand. Com. Rep. No. 1427 (H.B. No. 659):

Senator Taniguchi moved that Stand. Com. Rep. No. 1427 be adopted and H.B. No. 659, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator Slom rose to speak in opposition to the measure as follows:

“Mr. President, I rise in opposition to this bill.

“This is a very strange bill. I don’t recall seeing any testimony about the bill. I don’t know why it’s being presented at this time. For the longest period of time, the Lieutenant Governor’s Office has handled the sale of the Journals, the sale of Hawaii Revised Statutes, the sale of census maps, and all other matters. They’ve had prices that were affordable. They gave copies away free. They made them in a timely manner, and I just have not seen anyone show me why, all of a sudden with the change in administration, we need to take it out of the Lieutenant Governor’s Office.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1427 was adopted and H.B. No. 659, entitled: “A BILL FOR AN ACT RELATING TO THE LEGISLATIVE JOURNALS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Slom, Trimble).

Stand. Com. Rep. No. 1428 (H.B. No. 1182, H.D. 2, S.D. 2):

Senator Taniguchi moved that Stand. Com. Rep. No. 1428 be adopted and H.B. No. 1182, H.D. 2, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Kokubun.

Senator English rose to speak in support as follows:

“Mr. President, I’d like to have comments inserted into the Journal in support.”

The Chair having so ordered, Senator English’s remarks read as follows:

“The County of Maui residents and visitors need – and deserve – an emergency air medical services system that assures timely transport of the most seriously ill or injured persons to Maui Memorial Medical Center or to a tertiary hospital in Honolulu.

“This measure is about saving lives. You cannot put a dollar amount on a life.

“The County of Maui has only one full service acute care hospital located on the island of Maui-Maui Memorial Medical Center. Although in many cases persons who are injured can be appropriately treated and stabilized at Maui Memorial Medical Center, others with head trauma or severely injured or ill patients who will need treatment at tertiary hospitals in Honolulu will need rapid transport if the life of a patient is threatened and medical attention is needed within an hour of the incident. We call this the ‘golden hour.’

“This measure is a vehicle for the Department of Health to integrate emergency aeromedical services into statewide emergency medical services. The DOH will have oversight on any aeromedical services in the State.

“The County of Maui is a unique county unlike the other counties. We are made up of four islands, Maui, Moloka`i, Lana`i, and Kaho`olawe. We are separated by water. It is for this reason that the residents and visitors of Maui County are going to need a twin-engine helicopter because it needs to have the capacity to fly over water.

“Hawaii Air Ambulance currently provides air ambulance service on its fixed-wing airplanes. The company services the whole State of Hawaii. There is language in this bill that will assure Hawaii Air Ambulance that this emergency medical helicopter service will not compete with its services.

“Mayor Alan Arakawa from the County of Maui has made this emergency medical helicopter service his top priority and has committed in his budget \$550,000 as the County of Maui’s match for the emergency medical helicopter service. This amount was based on \$1.35M which is 40 percent and asking the State to subsidize 60 percent which the Big Island’s emergency medical helicopter services has set a precedence. The County of Hawaii has an emergency medical helicopter services which they pay 40 percent of the cost and the State subsidizes 60 percent.

“In regards to the Wailea Ground Ambulance and Kula Ground Ambulance, we need to provide 24-hour services in these areas and we intend to utilize their MICT to staff the medical helicopter when its service is needed. Wailea ground ambulance staff will be the first to respond and jump on the helicopter when appropriate. The Kula ground ambulance staff will be used as a back up for Wailea ground ambulance service. We are showing dual usage of staff so we are not just paying for a full-time qualified staff to wait around for the helicopter to respond to emergencies.

“This measure is vital for my district and for the County of Maui.”

Senator Tsutsui rose and said:

“Mr. President, I’d like to have comments inserted into the Journal.”

The Chair having so ordered, Senator Tsutsui’s remarks read as follows:

“For many of us living on the neighbor islands, timely access to medical service remains a major concern. It affects our decision about where we live, where we send our children to school, and how we plan for our growing families. House Bill 1182 offers to address some of our concerns by providing funds for immediate critical care and transportation of a patient requiring specialized medical care to an appropriate facility by rotary-winged aircraft.

“I can speak from personal experience about the need for emergency aeromedical service on Maui. A few years ago, my grandmother suffered a heart attack. After she was stabilized, the attending medical technician evaluated her condition and determined she required immediate medical care that was only available in Honolulu. With a helicopter on standby, my grandmother was immediately transported from her home to the doorsteps of a critical care unit of a Honolulu hospital. I am positive that the timeliness of the medical care she received is why she is still with us today.

“Based on my experience, as well as upon discussions with medical professionals and beneficiaries of emergency aeromedical services, I strongly support passage of H.B. No. 1182.”

Senator Baker rose as follows:

“Mr. President, I’d like to have comments inserted into the Journal.”

The Chair having so ordered, Senator Baker’s remarks read as follows:

“Mr. President, I rise to speak in support of H.B. No. 1182, S.D. 2, which provides a mechanism for funding critically needed emergency medical services. To ensure that these necessary medical transport services are funded, this measure establishes an additional motor vehicle registration fee to help pay for these critical services. Many jurisdictions on the mainland use such fees for their EMS systems as well.

“Ensuring the health, safety and well-being of our citizens should be one of our government’s top priorities. When citizens are in need of emergency medical care, it is our responsibility to ensure that these services exist to save lives. When critical services require funding, we must examine all sensible methods for providing that funding. A significant amount of resources for emergency medical services are spent attending to persons injured on our roads. Thus it is reasonable to utilize the motor vehicle registration fee as a means to help pay for those services. The fees will be collected by the counties and will be used for critical EMS services.

“As I’ve noted previously, Maui County has been without emergency medical helicopter service since 1997. Since then, we on Maui, Molokai and Lanai have been trying to find a way to restore viable emergency medical helicopter service to our county. For the county’s four islands, emergency medical helicopter transport is a key component of an effective medical

rapid response and transport system for our county. Yet Maui County with a clear need for emergency medical helicopter service is without such service. This measure will re-establish that vital service, integrating ground, fixed and rotor transport services with our 911 system.

“In addition to the helicopter and ground ambulance needs we identified for Maui County, Oahu, particularly the Waianae Coast, and Hawaiian Ocean View Estates on the Big Island are in desperate need of additional ground ambulance services. Your Committees are aware that communities which merit an increase in services are growing. Vast distances, increased population, overcrowded roads, and outdated roads all contribute to a greater need for service, throughout the State.

“I want to thank the Ways and Means Committee, especially your Chair and Vice Chair, for assisting your Committee on Health to find a viable and prudent means of funding these crucial emergency services.

“H.B. No. 1182, S.D. 2 will enable us to take steps to address some very serious emergency medical service needs across our State. It carries the hopes of communities on Oahu, the Big Island, and Maui for adequate emergency medical service delivery. I urge my colleagues to join me to support this important measure.

“Mahalo.”

Senator Slom rose to speak in opposition to the measure as follows:

“Mr. President, I have to rise in opposition.

“The reason I have to rise in opposition is this bill establishes a new special fund. If we’re keeping count, this is about the eleventh one today – the emergency medical services special fund.

“I support the purposes of the bill. I support the appropriations, but I will not support the non-accountability of another special fund.

“Thank you.”

The motion was put by the Chair and carried, Stand. Com. Rep. No. 1428 was adopted and H.B. No. 1182, H.D. 2, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen).

**ADOPTION OF RESOLUTIONS**

**MATTERS DEFERRED FROM FRIDAY, APRIL 4, 2003**

Stand. Com. Rep. No. 1312 (S.C.R. No. 176, S.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 176, S.D. 1, entitled: “SENATE CONCURRENT RESOLUTION URGING THE U.S. CONGRESS TO DISCONTINUE MILITARY BASE CLOSURES IN THE STATE OF HAWAII AND ESTABLISHING A BASE REALIGNMENT AND CLOSING COMMITTEE TO PRESERVE LOCAL BASES,” was adopted.

Stand. Com. Rep. No. 1313 (S.R. No. 124, S.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.R. No. 124, S.D. 1, entitled: “SENATE RESOLUTION URGING THE U.S. CONGRESS TO DISCONTINUE MILITARY BASE CLOSURES IN THE STATE OF HAWAII AND ESTABLISHING A BASE REALIGNMENT AND CLOSING COMMITTEE TO PRESERVE LOCAL BASES,” was adopted.

**RE-REFERRAL OF SENATE CONCURRENT RESOLUTION**

The Chair re-referred the following Senate concurrent resolution that was offered:

Senate  
Concurrent  
Resolution                      Referred to:

No. 135                      Jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Water, Land, and Agriculture

**RE-REFERRAL OF SENATE RESOLUTION**

The Chair re-referred the following Senate resolution that was offered:

Senate  
Resolution                      Referred to:

No. 89                      Jointly to the Committee on Judiciary and Hawaiian Affairs and the Committee on Water, Land, and Agriculture

At 3:57 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:36 o’clock p.m.

**MESSAGES FROM THE GOVERNOR**

The following messages from the Governor (Gov. Msg. Nos. 273 to 333) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 273, informing the Senate that on April 3, 2003, she signed into law House Bill No. 1302 as Act 9, entitled: “RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS,” was placed on file.

Gov. Msg. No. 274, submitting for consideration and confirmation to the Board of Regents of the University of Hawai`i, the nomination of BYRON W. BENDER, term to expire June 30, 2007, was referred to the Committee on Education.

Gov. Msg. No. 275, submitting for consideration and confirmation to the Board of Regents of the University of Hawai`i, the nomination of SHELTON G.W. JIM ON, term to expire June 30, 2007, was referred to the Committee on Education.

Gov. Msg. No. 276, submitting for consideration and confirmation to the Board of Regents of the University of Hawai`i, the nomination of TRENT K. KAKUDA, term to

expire June 30, 2005, was referred to the Committee on Education.

Gov. Msg. No. 277, submitting for consideration and confirmation to the Board of Regents of the University of Hawai'i, the nomination of CATHERINE LAGARETA, term to expire June 30, 2007, was referred to the Committee on Education.

Gov. Msg. No. 278, submitting for consideration and confirmation to the Board of Regents of the University of Hawai'i, the nomination of EDWARD D. SULTAN, term to expire June 30, 2007, was referred to the Committee on Education.

Gov. Msg. No. 279, submitting for consideration and confirmation to the Board of Regents of the University of Hawai'i, the nomination of ALVIN TANAKA, term to expire June 30, 2007, was referred to the Committee on Education.

Gov. Msg. No. 280, submitting for consideration and confirmation to the Board of Directors of the Agribusiness Development Corporation, the nomination of ERIC D. WEINERT, term to expire June 30, 2005, was referred to the Committee on Water, Land, and Agriculture.

Gov. Msg. No. 281, submitting for consideration and confirmation to the Board of Directors of the Aloha Tower Development Corporation, the nomination of SIDNEY A. QUINTAL, term to expire June 30, 2007, was referred to the Committee on Water, Land, and Agriculture.

Gov. Msg. No. 282, submitting for consideration and confirmation to the State Board of Barbering and Cosmetology, the nomination of KAU'I ALAPA, term to expire June 30, 2007, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 283, submitting for consideration and confirmation to the State Board of Barbering and Cosmetology, the nomination of CHRISTOBAL J. QUINTANA, term to expire June 30, 2007, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 284, submitting for consideration and confirmation to the State Boxing Commission of Hawai'i, the nomination of WILLES LEE, term to expire June 30, 2004, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 285, submitting for consideration and confirmation to the State Board of Chiropractic Examiners, the nomination of CRAIG R. BENZEL, term to expire June 30, 2007, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 286, submitting for consideration and confirmation to the State Board of Chiropractic Examiners, the nomination of HUBERT MINN, term to expire June 30, 2006, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 287, submitting for consideration and confirmation to the Civil Defense Advisory Council, the nomination of CAPTAIN GERALD L. COFFEE, term to expire June 30, 2007, was referred to the Committee on Transportation, Military Affairs, and Government Operations.

Gov. Msg. No. 288, submitting for consideration and confirmation to the Crime Victim Compensation Commission, the nomination of GARRY SMITH, term to expire June 30,

2007, was referred to the Committee on Judiciary and Hawaiian Affairs.

Gov. Msg. No. 289, submitting for consideration and confirmation to the State Foundation on Culture and the Arts Commission, the nomination of GAE BERGQUIST-TROMMALD, term to expire June 30, 2007, was referred to the Committee on Science, Arts, and Technology.

Gov. Msg. No. 290, submitting for consideration and confirmation to the Board of Trustees of the Deferred Compensation Plan, the nomination of RYAN S. USHIJIMA, term to expire June 30, 2007, was referred to the Committee on Labor.

Gov. Msg. No. 291, submitting for consideration and confirmation to the Board of Dental Examiners, the nomination of JEFFREY K. MIYAZAWA, term to expire June 30, 2007, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 292, submitting for consideration and confirmation to the State Council on Developmental Disabilities, the nomination of DONNA P. BISHAW, term to expire June 30, 2006, was referred to the Committee on Health.

Gov. Msg. No. 293, submitting for consideration and confirmation to the State Council on Developmental Disabilities, the nomination of ELVIRA LEE, term to expire June 30, 2006, was referred to the Committee on Health.

Gov. Msg. No. 294, submitting for consideration and confirmation to the Disability and Communication Access Board, the nomination of ANTHONY S. AKAMINE, term to expire June 30, 2007, was referred to the Committee on Health.

Gov. Msg. No. 295, submitting for consideration and confirmation to the Disability and Communication Access Board, the nomination of RONALD AWA, term to expire June 30, 2007, was referred to the Committee on Health.

Gov. Msg. No. 296, submitting for consideration and confirmation to the Disability and Communication Access Board, the nomination of RICHARD R. CHAVES, term to expire June 30, 2007, was referred to the Committee on Health.

Gov. Msg. No. 297, submitting for consideration and confirmation to the Disability and Communication Access Board, the nomination of SHARON FOUNTAIN, term to expire June 30, 2006, was referred to the Committee on Health.

Gov. Msg. No. 298, submitting for consideration and confirmation to the Disability and Communication Access Board, the nomination of FRANCINE M. KENYON, term to expire June 30, 2007, was referred to the Committee on Health.

Gov. Msg. No. 299, submitting for consideration and confirmation to the Disability and Communication Access Board, the nomination of LUCY MILLER PH.D., term to expire June 30, 2007, was referred to the Committee on Health.

Gov. Msg. No. 300, submitting for consideration and confirmation to the Disability and Communication Access Board, the nomination of PATRICIA NIELSEN, term to expire June 30, 2007, was referred to the Committee on Health.

Gov. Msg. No. 301, submitting for consideration and confirmation to the Environmental Council, the nomination of SHAD S. KANE, term to expire June 30, 2004, was referred to the Committee on Energy and Environment.

Gov. Msg. No. 302, submitting for consideration and confirmation to the Hawaiian Homes Commission, the nomination of COLIN KAALELE, term to expire June 30, 2007, was referred to the Committee on Judiciary and Hawaiian Affairs.

Gov. Msg. No. 303, submitting for consideration and confirmation to the Hawaiian Homes Commission, the nomination of MAHINA MARTIN, term to expire June 30, 2007, was referred to the Committee on Judiciary and Hawaiian Affairs.

Gov. Msg. No. 304, submitting for consideration and confirmation to the Hawaiian Homes Commission, the nomination of TRISH MORIKAWA, term to expire June 30, 2007, was referred to the Committee on Judiciary and Hawaiian Affairs.

Gov. Msg. No. 305, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Hurricane Relief Fund, the nomination of THOMAS SINGLEHURST, term to expire June 30, 2007, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 306, submitting for consideration and confirmation to the Statewide Independent Living Council, the nomination of DIANA C. TIZARD, term to expire June 30, 2005, was referred to the Committee on Human Services.

Gov. Msg. No. 307, submitting for consideration and confirmation to the Island Burial Council, Island of Hawai'i, the nomination of GAIL U. KELIIKOVA-SHERLOCK, term to expire June 30, 2006, was referred to the Committee on Judiciary and Hawaiian Affairs.

Gov. Msg. No. 308, submitting for consideration and confirmation to the Kaneohe Bay Regional Council, the nomination of DAVID A. KRUPP PH.D., term to expire June 30, 2006, was referred to the Committee on Water, Land, and Agriculture.

Gov. Msg. No. 309, submitting for consideration and confirmation to the Kaneohe Bay Regional Council, the nomination of ROBIN GAY MAKAPAGAL, term to expire June 30, 2006, was referred to the Committee on Water, Land, and Agriculture.

Gov. Msg. No. 310, submitting for consideration and confirmation to the King Kamehameha Celebration Commission, the nomination of WILLIAM D. SOUZA, term to expire June 30, 2006, was referred to the Committee on Science, Arts, and Technology.

Gov. Msg. No. 311, submitting for consideration and confirmation to the Land Use Commission, the nomination of RAE MCCORKLE, term to expire June 30, 2007, was referred to the Committee on Water, Land, and Agriculture.

Gov. Msg. No. 312, submitting for consideration and confirmation to the Board of Massage Therapy, the nomination of WILFRED S. PANG, term to expire June 30, 2007, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 313, submitting for consideration and confirmation to the Molokai Irrigation System Water Users Advisory Board, the nomination of GEORGE W. MAIOHO, term to expire June 30, 2007, was referred to the Committee on Water, Land, and Agriculture.

Gov. Msg. No. 314, submitting for consideration and confirmation to the Hawai'i Commission for National and Community Service, the nomination of ROBERT I. CROWELL, term to expire June 30, 2005, was referred to the Committee on Education.

Gov. Msg. No. 315, submitting for consideration and confirmation to the Hawai'i Commission for National and Community Service, the nomination of DENNIS M. DUNN, term to expire June 30, 2005, was referred to the Committee on Education.

Gov. Msg. No. 316, submitting for consideration and confirmation to the Hawai'i Commission for National and Community Service, the nomination of MABEL FERREIRO-FUJUCHI, term to expire June 30, 2004, was referred to the Committee on Education.

Gov. Msg. No. 317, submitting for consideration and confirmation to the Hawai'i Commission for National and Community Service, the nomination of STACY S.K. HIGA, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 318, submitting for consideration and confirmation to the Hawai'i Commission for National and Community Service, the nomination of SCOTT S. MORISHIGE, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 319, submitting for consideration and confirmation to the Hawai'i Commission for National and Community Service, the nomination of LEE A. ROMBAOA, term to expire June 30, 2005, was referred to the Committee on Education.

Gov. Msg. No. 320, submitting for consideration and confirmation to the Hawai'i Commission for National and Community Service, the nomination of RALPH STUEBER, term to expire June 30, 2004, was referred to the Committee on Education.

Gov. Msg. No. 321, submitting for consideration and confirmation to the Board of Directors of the Natural Energy Laboratory of Hawai'i Authority, the nomination of CARL L. SIMONS, term to expire June 30, 2007, was referred to the Committee on Science, Arts, and Technology.

Gov. Msg. No. 322, submitting for consideration and confirmation to the Real Estate Commission, the nomination of MARSHALL D. CHINEN, term to expire June 30, 2004, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 323, submitting for consideration and confirmation to the Board of Registration of the Island of Maui, Molokai, Lanai, and Kaho'olawe, the nomination of STEVE PFISTER, term to expire June 30, 2004, was referred to the Committee on Judiciary and Hawaiian Affairs.

Gov. Msg. No. 324, submitting for consideration and confirmation to the Rental Housing Trust Fund Advisory Commission, the nomination of BECKY L. HAYASHIDA, term to expire June 30, 2004, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 325, submitting for consideration and confirmation to the Board of Directors of the Research Corporation of the University of Hawai'i, the nomination of JOELLE KANE, term to expire June 30, 2007, was referred to the Committee on Education.

Gov. Msg. No. 326, submitting for consideration and confirmation to the Hawai'i School-to-Work Executive Council, the nomination of NOBLEZA E. MAGSANOC, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 327, submitting for consideration and confirmation to the Hawai'i School-to-Work Executive Council, the nomination of ALBERT S. NISHIMURA, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 328, submitting for consideration and confirmation to the Hawai'i School-to-Work Executive Council, the nomination of KEVIN YOSHINO, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 329, submitting for consideration and confirmation to the Small Business Regulatory Review Board, the nomination of DENISE WALKER, term to expire June 30, 2006, was referred to the Committee on Economic Development.

Gov. Msg. No. 330, submitting for consideration and confirmation to the Hawai'i Teacher Standards Board, the nomination of ANNETTE MASUTANI, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 331, submitting for consideration and confirmation to the Hawai'i Teacher Standards Board, the nomination of VICKI L. MORRISON, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 332, submitting for consideration and confirmation to the Hawai'i Teacher Standards Board, the nomination of VAUGHN TOKASHIKI, term to expire June 30, 2006, was referred to the Committee on Education.

Gov. Msg. No. 333, submitting for consideration and confirmation to the Board of Directors of the Hawai'i Tourism Authority, the nomination of KIYOKO Y. KIMURA, term to expire June 30, 2004, was referred to the Committee on Tourism.

#### STANDING COMMITTEE REPORTS

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1468) recommending that S.C.R. No. 20 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1468 and S.C.R. No. 20, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A STUDY TO DETERMINE THE COST-EFFECTIVENESS OF THEBUS AND A BUS RAPID TRANSIT SYSTEM," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1469) recommending that S.C.R. No. 101 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1469 and S.C.R. No. 101, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF H.R. 664, RELATING TO IMPROVING BENEFITS FOR FILIPINO

VETERANS OF WORLD WAR II," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1470) recommending that S.R. No. 70 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1470 and S.R. No. 70, entitled: "SENATE RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF H.R. 664, RELATING TO IMPROVING BENEFITS FOR FILIPINO VETERANS OF WORLD WAR II," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1471) recommending that S.C.R. No. 100 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1471 and S.C.R. No. 100, entitled: "SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF S. 68, RELATING TO IMPROVING BENEFITS FOR FILIPINO VETERANS OF WORLD WAR II," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1472) recommending that S.R. No. 69 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1472 and S.R. No. 69, entitled: "SENATE RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF S. 68, RELATING TO IMPROVING BENEFITS FOR FILIPINO VETERANS OF WORLD WAR II," was deferred until Thursday, April 10, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1473) recommending that S.C.R. No. 44 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1473 and S.C.R. No. 44, entitled: "SENATE CONCURRENT RESOLUTION URGING THE PRESIDENT OF THE UNITED STATES OF AMERICA TO ISSUE AN EXECUTIVE ORDER GRANTING FEDERAL VETERANS EQUITY BENEFITS AND SERVICES TO FILIPINO WORLD WAR II VETERANS, THEIR SPOUSES, AND THEIR CHILDREN," was deferred until Thursday, April 10, 2003.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1474) recommending that S.C.R. No. 195, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1474 and S.C.R. No. 195, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING EXPLORATION OF THE FEASIBILITY OF CREATING PUBLIC-PRIVATE PARTNERSHIPS TO PROVIDE COST-EFFECTIVE HEALTH CARE SERVICES TO LOW INCOME AND MEDICAID-ELIGIBLE INDIVIDUALS AND GOVERNMENT EMPLOYEES," was deferred until Thursday, April 10, 2003.



Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1475) recommending that S.R. No. 135, as amended in S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1475 and S.R. No. 135, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING EXPLORATION OF THE FEASIBILITY OF CREATING PUBLIC-PRIVATE PARTNERSHIPS TO PROVIDE COST-EFFECTIVE HEALTH CARE SERVICES TO LOW INCOME AND MEDICAID-ELIGIBLE INDIVIDUALS AND GOVERNMENT EMPLOYEES," was deferred until Thursday, April 10, 2003.

Senators Chun Oakland and Kanno, for the Committee on Human Services and the Committee on Labor, presented a joint report (Stand. Com. Rep. No. 1476) recommending that S.C.R. No. 130, S.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1476 and S.C.R. No. 130, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION ESTABLISHING AN AWARDS PROGRAM TO RECOGNIZE BUSINESSES WITH PARENT-FRIENDLY POLICIES," was deferred until Thursday, April 10, 2003.

Senators Sakamoto and Baker, for the Committee on Education and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 1477) recommending that S.C.R. No. 124 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1477 and S.C.R. No. 124, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A RURAL HEALTH SCIENCE CENTER AT THE UNIVERSITY OF HAWAII AT HILO," was deferred until Thursday, April 10, 2003.

Senators Sakamoto and Baker, for the Committee on Education and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 1478) recommending that S.R. No. 83 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1478 and S.R. No. 83, entitled: "SENATE RESOLUTION REQUESTING THE ESTABLISHMENT OF A RURAL HEALTH SCIENCE CENTER AT THE UNIVERSITY OF HAWAII AT HILO," was deferred until Thursday, April 10, 2003.

Senators Kawamoto and Chun Oakland, for the Committee on Transportation, Military Affairs, and Government Operations and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 1479) recommending that H.C.R. No. 28 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1479 and H.C.R. No. 28, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO FULLY FUND THE MILLENNIUM CHALLENGE ACCOUNT AND INVOLVE WOMEN AS FULL AND ACTIVE PARTICIPANTS IN ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS IN THEIR NATIONS," was deferred until Thursday, April 10, 2003.

Senators English and Inouye, for the Committee on Energy and Environment and the Committee on Water, Land, and Agriculture, presented a joint report (Stand. Com. Rep. No. 1480) recommending that S.C.R. No. 125, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 125, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE FISH AND WILDLIFE SERVICE TO REPORT TO THE LEGISLATURE THE BASIS FOR THE CURRENT CRITICAL HABITAT DESIGNATIONS," was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators English and Inouye, for the Committee on Energy and Environment and the Committee on Water, Land, and Agriculture, presented a joint report (Stand. Com. Rep. No. 1481) recommending that S.R. No. 84, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.R. No. 84, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE FISH AND WILDLIFE SERVICE TO REPORT TO THE LEGISLATURE THE BASIS FOR THE CURRENT CRITICAL HABITAT DESIGNATIONS," was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators Inouye and English, for the Committee on Water, Land, and Agriculture and the Committee on Energy and Environment, presented a joint report (Stand. Com. Rep. No. 1482) recommending that S.C.R. No. 153, as amended in S.D. 1, be referred to the Committee on Ways and Means.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 153, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING AN INVESTIGATION ON THE STATE AND COUNTIES' LAND USE POLICIES WITH REGARD TO SOLID WASTE MANAGEMENT PROGRAMS," was referred to the Committee on Ways and Means.

Senators Inouye and Ige, for the Committee on Water, Land, and Agriculture and the Committee on Science, Arts, and Technology, presented a joint report (Stand. Com. Rep. No. 1483) recommending that S.C.R. No. 55, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 55, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF A BIOPROSPECTING ADVISORY COMMISSION TO DEVELOP A COMPREHENSIVE PLAN FOR THE PRESERVATION AND USE OF THE BIOLOGICAL DIVERSITY AND BIOLOGICAL RESOURCES OF THE TRUST LANDS," was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators Inouye and Ige, for the Committee on Water, Land, and Agriculture and the Committee on Science, Arts, and Technology, presented a joint report (Stand. Com. Rep. No. 1484) recommending that S.R. No. 35, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.R. No. 35, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE ESTABLISHMENT OF A BIOPROSPECTING ADVISORY COMMISSION TO DEVELOP A COMPREHENSIVE PLAN FOR THE PRESERVATION AND USE OF THE BIOLOGICAL

DIVERSITY AND BIOLOGICAL RESOURCES OF THE TRUST LANDS," was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators Kawamoto and Inouye, for the Committee on Transportation, Military Affairs, and Government Operations and the Committee on Water, Land, and Agriculture, presented a joint report (Stand. Com. Rep. No. 1485) recommending that S.C.R. No. 186, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.C.R. No. 186, S.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THAT THE GOVERNOR ESTABLISH AN ADVISORY COMMISSION TO ADVISE THE KAHO'OLAWA ISLAND RESERVE COMMISSION REGARDING THE TRANSFER OF KAHO'OLAWA FROM THE UNITED STATES NAVY TO THE STATE OF HAWAII AND REQUESTING AN AUDIT OF THE KAHO'OLAWA ISLAND RESERVE COMMISSION," was referred to the Committee on Judiciary and Hawaiian Affairs.

Senators Kawamoto and Inouye, for the Committee on Transportation, Military Affairs, and Government Operations and the Committee on Water, Land, and Agriculture, presented a joint report (Stand. Com. Rep. No. 1486) recommending that S.R. No. 132, as amended in S.D. 1, be referred to the Committee on Judiciary and Hawaiian Affairs.

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and S.R. No. 132, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THAT THE GOVERNOR ESTABLISH AN ADVISORY COMMISSION TO ADVISE THE KAHO'OLAWA ISLAND RESERVE COMMISSION REGARDING THE TRANSFER OF KAHO'OLAWA FROM THE UNITED STATES NAVY TO THE STATE OF HAWAII AND REQUESTING AN AUDIT OF THE KAHO'OLAWA ISLAND RESERVE COMMISSION," was referred to the Committee on Judiciary and Hawaiian Affairs.

#### HOUSE COMMUNICATION

##### MATTER DEFERRED FROM EARLIER ON THE CALENDAR

H.C.R. No. 216 (Hse. Com. No. 344):

By unanimous consent, action on H.C.R. No. 216, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE MANY BENEFITS OF HAWAII GROWN CHOCOLATE TO OUR STATE AND DIVERSIFIED AGRICULTURE," was deferred until Thursday, April 10, 2003.

#### SENATE RESOLUTION

The following resolution (S.R. No. 145) was read by the Clerk and was deferred:

Senate Resolution

No. 145 "SENATE RESOLUTION AMENDING SENATE RULE 24(3) TO REQUIRE A CONFERENCE COMMITTEE TO REPORT ON A MEASURE WHEN A MAJORITY OF COMMITTEE MEMBERS OF BOTH CHAMBERS CONCUR IN THE REPORT."

Offered by: Senators Baker, Hogue, Ihara, Slom, Chun Oakland, Hemmings, Hooser, Trimble, Fukunaga, Ige, Whalen.

#### RECONSIDERATION OF ACTION TAKEN

S.B. No. 1353 (H.D. 1):

Senator Chun Oakland moved that the Senate reconsider its action taken on April 3, 2003, in disagreeing to the amendments proposed by the House to S.B. No. 1353, seconded by Senator Taniguchi.

Senator Ihara rose and said:

"We are considering S.B. No. 1353 and it's not on the Order of the Day. I know I have a miscellaneous communication. Is this considered part of the Order of the Day?"

The President replied:

"It is considered part of the Supplemental Order of the Day."

Senator Ihara continued:

"Then could I request that it be stapled with the Order of the Day then?"

The President answered: "Yes."

The motion was put by the Chair and carried.

Senator Chun Oakland then moved that the Senate agree to the amendments proposed by the House to S.B. No. 1353, seconded by Senator Taniguchi.

Senator Chun Oakland noted:

"Mr. President, S.B. No. 1353, H.D. 1, appropriates emergency funds for the medical assistance program for reimbursement to its health providers and pays for related prescription expenses for the fiscal year 2002-2003.

"The House amendments are technical and non-substantive in scope."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1353, and S.B. No. 1353, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR MEDICAID," was placed on the calendar for Final Reading on Thursday, April 10, 2003.

Senator Kawamoto, Chair of the Committee on Transportation, Military Affairs, and Government Operations, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.C.R. No. 107 and S.R. No. 75.

Senator Kawamoto noted:

"Mr. President, these resolutions request a study to find solutions to the algae growth in the Capitol pools. The waiver is being requested in order to meet the concurrent resolution crossover deadline on Friday."

The Chair then granted the waiver.

Senator Taniguchi, Chair of the Committee on Ways and Means, requested a waiver of the notice requirement pursuant to Senate Rule 21 for the following resolutions:

S.C.R. No. 9;  
S.C.R. No. 36;  
S.C.R. No. 49;  
S.C.R. No. 61;  
S.C.R. No. 81;  
S.C.R. No. 84;  
S.C.R. No. 95;  
S.C.R. No. 103;  
S.C.R. No. 114;  
S.C.R. No. 131;  
S.C.R. No. 144;  
S.C.R. No. 149;  
S.C.R. No. 153;  
S.R. No. 23;  
S.R. No. 28;  
S.R. No. 57;  
S.R. No. 71;  
S.R. No. 96; and  
S.R. No. 101,

and the Chair granted the waiver.

**ADJOURNMENT**

At 4:48 o'clock p.m., on motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate adjourned until 11:30 o'clock a.m., Thursday, April 10, 2003.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate