

FIFTY-NINTH DAY

Tuesday, April 29, 2003

The Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2003, convened at 10:28 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Father Edgar Brillantes, St. John the Baptist, Kalihi, after which the Roll was called showing all Senators present.

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

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 473 and 474) were read by the Clerk and were placed on file:

Gov. Msg. No. 473, letter dated April 22, 2003, transmitting a proposed amendment to H.B. No. 1152, H.D. 1, S.D. 1, Relating to State Funds, to authorize the use of the State Foundation on Culture and the Arts' works of art special fund to finance ancillary improvements for the State Art Museum.

Gov. Msg. No. 474, letter dated April 28, 2003, advising the Senate that an extension to the current 1999-2003 contract has been concluded with Unit 3, White Collar Workers, and an agreement has been reached on the amounts of the employers contribution to the Hawaii Employer-Union Health Benefits Trust Fund, covering fiscal years 2004-2005.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 599 to 610) were read by the Clerk and were placed on file:

Hse. Com. No. 599, informing the Senate that the following bills passed Final Reading in the House of Representatives on April 25, 2003:

H.B. No. 192, H.D. 1, S.D. 1, C.D. 1;
S.B. No. 295, S.D. 1, H.D. 1, C.D. 1;
S.B. No. 933, S.D. 1, H.D. 1, C.D. 1;
S.B. No. 1200, S.D. 1, H.D. 1, C.D. 1;
S.B. No. 1267, H.D. 2, C.D. 1;
S.B. No. 1274, S.D. 1, H.D. 1, C.D. 1;
S.B. No. 1460, S.D. 1, H.D. 2, C.D. 1; and
S.B. No. 1630, H.D. 1, C.D. 1.

Hse. Com. No. 600, informing the Senate that the House has agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House of Representatives on April 25, 2003:

H.B. No. 123, H.D. 1, S.D. 1;
H.B. No. 548, H.D. 2, S.D. 1;
H.B. No. 662, H.D. 2, S.D. 2;
H.B. No. 730, S.D. 1;
H.B. No. 857, S.D. 2;
H.B. No. 1013, H.D. 3, S.D. 2; and
H.B. No. 1116, H.D. 1, S.D. 2.

Hse. Com. No. 601, informing the Senate that the House has agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House of Representatives on April 25, 2003:

H.B. No. 1076, H.D. 1, S.D. 1; and
H.B. No. 1607, H.D. 2, S.D. 1.

Hse. Com. No. 602, informing the Senate that the House has agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House of Representatives on April 25, 2003:

H.B. No. 285, H.D. 1, S.D. 2;
H.B. No. 651, H.D. 2, S.D. 1;
H.B. No. 731, H.D. 1, S.D. 1; and
H.B. No. 1198, H.D. 2, S.D. 2.

Hse. Com. No. 603, informing the Senate that the House reconsidered its action taken on March 28, 2003, in disagreeing to the amendments proposed by the Senate to H.B. No. 401, H.D. 1 (S.D. 1).

Hse. Com. No. 604, informing the Senate that the House reconsidered its action taken on April 4, 2003, in disagreeing to the amendments proposed by the Senate to H.B. No. 1161, H.D. 1 (S.D. 1).

Hse. Com. No. 605, informing the Senate that the House reconsidered its action taken on April 10, 2003, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 75, H.D. 2 (S.D. 1);
H.B. No. 127, H.D. 1 (S.D. 1);
H.B. No. 139, H.D. 1 (S.D. 1);
H.B. No. 377, H.D. 1 (S.D. 1);
H.B. No. 384, H.D. 1 (S.D. 1);
H.B. No. 1155, H.D. 1 (S.D. 1);
H.B. No. 1160, H.D. 1 (S.D. 1);
H.B. No. 1163 (S.D. 1);
H.B. No. 1212, H.D. 1 (S.D. 1);
H.B. No. 1328, H.D. 1 (S.D. 1); and
H.B. No. 1594, H.D. 1 (S.D. 1).

Hse. Com. No. 606, returning S.C.R. No. 18, which was adopted by the House of Representatives on April 25, 2003.

Hse. Com. No. 607, returning S.C.R. No. 23, S.D. 1, which was adopted by the House of Representatives on April 25, 2003.

Hse. Com. No. 608, returning S.C.R. No. 86, S.D. 1, which was adopted by the House of Representatives on April 25, 2003.

Hse. Com. No. 609, returning S.C.R. No. 89, S.D. 1, which was adopted by the House of Representatives on April 25, 2003.

Hse. Com. No. 610, returning S.C.R. No. 130, S.D. 1, which was adopted by the House of Representatives on April 25, 2003.

CONFERENCE COMMITTEE REPORTS

Senator Kanno, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 687, S.D. 1, presented a report (Conf. Com. Rep. No. 145) recommending that S.B. No. 687, S.D. 1, H.D. 1, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 145 and S.B. No. 687, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEAVES OF ABSENCE," was deferred for a period of 48 hours.

Senator Kanno, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.B. No. 768, S.D. 1, presented a report (Conf. Com. Rep. No. 146) recommending that S.B. No. 768, S.D. 1, H.D. 2, as amended in C.D. 1, pass Final Reading.

In accordance with Article III, Section 15, of the Constitution of the State of Hawaii, action on Conf. Com. Rep. No. 146 and S.B. No. 768, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," was deferred for a period of 48 hours.

STANDING COMMITTEE REPORTS

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1680) recommending that H.C.R. No. 17, H.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1680 and H.C.R. No. 17, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION APPROVING AND AUTHORIZING THE ESTABLISHMENT OF STATE-PROVINCE RELATIONS OF FRIENDSHIP BETWEEN THE STATE OF HAWAII OF THE UNITED STATES OF AMERICA AND THE PROVINCE OF ILOCOS NORTE OF THE REPUBLIC OF THE PHILIPPINES," was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1681) recommending that H.C.R. No. 51 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1681 and H.C.R. No. 51, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY ESTABLISH A PACIFIC OCEANIC ADMINISTRATIVE REGION WITHIN THE DEPARTMENT OF HOMELAND SECURITY TO BE HEADQUARTERED IN HONOLULU," was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1682) recommending that H.C.R. No. 54 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1682 and H.C.R. No. 54, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE STATE AND COUNTIES TO SUPPORT THE DEVELOPMENT AND ESTABLISHMENT OF AN OFFICIALLY RECOGNIZED URBAN SEARCH AND RESCUE TEAM IN HAWAII," was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1683) recommending that H.C.R. No. 63, H.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1683 and 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 deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1684) recommending that H.C.R. No. 76 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1684 and H.C.R. No. 76, entitled: "HOUSE 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, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1685) recommending that H.C.R. No. 77 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1685 and H.C.R. No. 77, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO SUPPORT THE PASSAGE OF H.R. 68, RELATING TO IMPROVING BENEFITS FOR FILIPINO VETERANS OF WORLD WAR II," was deferred until Thursday, May 1, 2003.

Senators Kawamoto and Ige, for the Committee on Transportation, Military Affairs, and Government Operations and the Committee on Science, Arts, and Technology, presented a joint report (Stand. Com. Rep. No. 1686) recommending that H.C.R. No. 120 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1686 and H.C.R. No. 120, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE STATE OF HAWAII PURSUE A WIRELESS E911 INTERIM WORKING GROUP," was deferred until Thursday, May 1, 2003.

Senators Kanno and Kawamoto, for the Committee on Labor and the Committee on Transportation, Military Affairs, and Government Operations, presented a joint report (Stand. Com. Rep. No. 1687) recommending that H.C.R. No. 182, H.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1687 and H.C.R. No. 182, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENTS OF LABOR AND INDUSTRIAL RELATIONS AND HEALTH TO CONDUCT A STUDY RELATING TO THE OCCUPATIONAL AND HEALTH RISKS OF COUNTY REFUSE COLLECTION WORKERS," was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1688) recommending that H.C.R. No. 188 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1688 and H.C.R. No. 188, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF ESTABLISHING FLYER STOPS WITHIN THE RIGHT-OF-WAY OF OAHU'S H-2 FREEWAY AND CONNECTING TO PARK-AND-RIDE FACILITIES," was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a

report (Stand. Com. Rep. No. 1689) recommending that H.C.R. No. 197, H.D. 1, be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 1689 and H.C.R. No. 197, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CITY AND COUNTY OF HONOLULU TO DETERMINE THE FEASIBILITY OF CONSTRUCTING A MULTI-USE PATH ALONG THE WAIANAE COAST FROM MAILI BEACH PARK TO MAKAHA SURFING BEACH," was deferred until Thursday, May 1, 2003.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1690) recommending that the Senate advise and consent to the nomination of DIANA C. TIZARD to the Statewide Independent Living Council, in accordance with Gov. Msg. No. 306.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1690 and Gov. Msg. No. 306 was deferred until Thursday, May 1, 2003.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1691) recommending that the Senate advise and consent to the nominations to the Statewide Independent Living Council of the following:

KENNETH TERUYA AKINAKA MRA, in accordance with Gov. Msg. No. 370; and

PATRICIA LOCKWOOD, in accordance with Gov. Msg. No. 371.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1691 and Gov. Msg. Nos. 370 and 371 was deferred until Thursday, May 1, 2003.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 1692) recommending that the Senate advise and consent to the nominations to the State Rehabilitation Council of the following:

RENE BERTHIAUME, in accordance with Gov. Msg. No. 416;

GENE R. DESCALZI, in accordance with Gov. Msg. No. 417;

NANCY G. KINGHORN, in accordance with Gov. Msg. No. 418;

RICHARD W. SMITH, in accordance with Gov. Msg. No. 419;

VIRGINIA G. TOMPKINS, in accordance with Gov. Msg. No. 420; and

BARBARA J. WARD, in accordance with Gov. Msg. No. 421.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1692 and Gov. Msg. Nos. 416, 417, 418, 419, 420 and 421 was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1693) recommending that the Senate advise and consent to the nomination of JEFF

GOLDSMITH to the State Highway Safety Council, in accordance with Gov. Msg. No. 369.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1693 and Gov. Msg. No. 369 was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1694) recommending that the Senate advise and consent to the nomination of JOYCE CASSEN MD to the Medical Advisory Board, in accordance with Gov. Msg. No. 372.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1694 and Gov. Msg. No. 372 was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1695) recommending that the Senate advise and consent to the nomination of FRANK A. CRUZ to the Advisory Board on Veterans Services, in accordance with Gov. Msg. No. 401.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1695 and Gov. Msg. No. 401 was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1696) recommending that the Senate advise and consent to the nomination of CAROL H. MCNAMEE to the State Highway Safety Council, in accordance with Gov. Msg. No. 411.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1696 and Gov. Msg. No. 411 was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1697) recommending that the Senate advise and consent to the nomination of BRYAN S. WAUKE to the State Highway Safety Council, in accordance with Gov. Msg. No. 412.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1697 and Gov. Msg. No. 412 was deferred until Thursday, May 1, 2003.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 1698) recommending that the Senate advise and consent to the nomination of JOHN ROMANOWSKI to the Commission of Transportation, in accordance with Gov. Msg. No. 422.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1698 and Gov. Msg. No. 422 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1699) recommending that the Senate advise and consent to the nomination of WILFRED S. PANG to the Board of Massage Therapy, in accordance with Gov. Msg. No. 312.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1699 and Gov. Msg. No. 312 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1700) recommending that the Senate advise and consent to the nominations to the State Board of Public Accountancy of the following:

LINDA D. HAMILTON, in accordance with Gov. Msg. No. 339; and

REBECCA S. WILLIAMS, in accordance with Gov. Msg. No. 340.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1700 and Gov. Msg. Nos. 339 and 340 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1701) recommending that the Senate advise and consent to the nominations to the Board of Acupuncture of the following

GARY K. SAITO, in accordance with Gov. Msg. No. 341; and

MIKE HASHIMOTO, in accordance with Gov. Msg. No. 342.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1701 and Gov. Msg. Nos. 341 and 342 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1702) recommending that the Senate advise and consent to the nomination of KEVIN H.M. CHONG KEE to the Board of Electricians and Plumbers, in accordance with Gov. Msg. No. 356.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1702 and Gov. Msg. No. 356 was deferred until Thursday, May 1, 2002.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1703) recommending that the Senate advise and consent to the nominations to the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects of the following:

PETER T. DYER, in accordance with Gov. Msg. No. 357;

RANDALL M. HASHIMOTO, in accordance with Gov. Msg. No. 358; and

SHAWN USHIJIMA, in accordance with Gov. Msg. No. 359.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1703 and Gov. Msg. Nos. 357, 358 and 359 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1704) recommending that the Senate advise and consent to the nominations to the Board of Medical Examiners of the following:

WENDELL K.S. FOO MD, in accordance with Gov. Msg. No. 373;

RONALD H. KIENITZ DO, in accordance with Gov. Msg. No. 374;

PETER A. MATSUURA MD, in accordance with Gov. Msg. No. 375;

JOHN T. MCDONNELL MD, in accordance with Gov. Msg. No. 376; and

MARIA BRUSCA PATTEN DO, in accordance with Gov. Msg. No. 377.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1704 and Gov. Msg. Nos. 373, 374, 375, 376 and 377 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1705) recommending that the Senate advise and consent to the nomination of DAVID D.S. CHUN to the Motor Vehicle Industry Licensing Board, in accordance with Gov. Msg. No. 378.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1705 and Gov. Msg. No. 378 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1706) recommending that the Senate advise and consent to the nomination of SHERYL L. THOMPSON to the Board of Examiners in Naturopathy, in accordance with Gov. Msg. No. 379.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1706 and Gov. Msg. No. 379 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1707) recommending that the Senate advise and consent to the nomination of THERESA SAKAI RN to the State Board of Nursing, in accordance with Gov. Msg. No. 380.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1707 and Gov. Msg. No. 380 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1708) recommending that the Senate advise and consent to the nominations to the Board of Pharmacy of the following:

DULCE TOMI ONAGA, in accordance with Gov. Msg. No. 383; and

KARL H. MIYAMOTO, in accordance with Gov. Msg. No. 414.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1708 and Gov. Msg. Nos. 383 and 414 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1709) recommending that the Senate advise and consent to the nominations to the Board of Psychology of the following:

LAURA E. OZAK RN JD, in accordance with Gov. Msg. No. 384; and

WILLIAM C. REZENTES III PH.D., in accordance with Gov. Msg. No. 415.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1709 and Gov. Msg. Nos. 384 and 415 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1710) recommending that the Senate advise and consent to the nomination of TRUDY I. NISHIHARA to the Real Estate Commission, in accordance with Gov. Msg. No. 386.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1710 and Gov. Msg. No. 386 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1711) recommending that the Senate advise and consent to the nomination of ROGER M. KONDO DVM to the Board of Veterinary Examiners, in accordance with Gov. Msg. No. 402.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1711 and Gov. Msg. No. 402 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1712) recommending that the Senate advise and consent to the nomination of DELLA K. MARTIN (YOUNG) to the State Boxing Commission of Hawai'i, in accordance with Gov. Msg. No. 406.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1712 and Gov. Msg. No. 406 was deferred until Thursday, May 1, 2003.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 1713) recommending that the Senate advise and consent to the nomination of JAN N. WIEDMAN to the Motor Vehicle Repair Industry Board, in accordance with Gov. Msg. No. 413.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1713 and Gov. Msg. No. 413 was deferred until Thursday, May 1, 2003.

Senators Inouye and Kawamoto, for the Committee on Water, Land, and Agriculture and the Committee on Transportation, Military Affairs, and Government Operations, presented a joint report (Stand. Com. Rep. No. 1714) recommending that the Senate advise and consent to the nomination of GILBERT COLOMA-AGARAN to the Kaho'olawe Island Reserve Commission, in accordance with Gov. Msg. Nos. 241 and 263.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1714 and Gov. Msg. Nos. 241 and 263 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1715) recommending that the Senate advise and consent to the nomination of ERIC D. WEINERT to the Board of Directors of the Agribusiness Development Corporation, in accordance with Gov. Msg. No. 280.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1715 and Gov. Msg. No. 280 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1716) recommending that the Senate advise and consent to the nomination of SIDNEY A. QUINTAL to the Board of Directors of the Aloha Tower Development Corporation, in accordance with Gov. Msg. No. 281.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1716 and Gov. Msg. No. 281 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1717) recommending that the Senate advise and consent to the nominations to the Kaneohe Bay Regional Council of the following:

DAVID A. KRUPP PH.D., in accordance with Gov. Msg. No. 308; and

ROBIN GAY MAKAPAGAL, in accordance with Gov. Msg. No. 309.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1717 and Gov. Msg. Nos. 308 and 309 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1718) recommending that the Senate advise and consent to the nomination of RAE MCCORKLE to the Land Use Commission, in accordance with Gov. Msg. No. 311.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1718 and Gov. Msg. No. 311 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1719) recommending that the Senate advise and consent to the nomination of GEORGE W. MAIOHO to the Molokai Irrigation System Water Users Advisory Board, in accordance with Gov. Msg. No. 313.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1719 and Gov. Msg. No. 313 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1720) recommending that the Senate advise and consent to the nominations to the Hawai'i Community Development Authority (HCDA) of the following:

WILLIAM J. AILA JR., in accordance with Gov. Msg. No. 344;

PAUL K. KIMURA, in accordance with Gov. Msg. No. 345;

EVELYN E. SOUZA, in accordance with Gov. Msg. No. 346; and

MAEDA C. TIMSON, in accordance with Gov. Msg. No. 424.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1720 and Gov. Msg. Nos. 344, 345, 346 and 424 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1721) recommending that the Senate advise and consent to the nominations to the Advisory Committee on Pesticides of the following:

BARBARA A. BROOKS PH.D., in accordance with Gov. Msg. No. 381; and

RONALD F.L. MAU, in accordance with Gov. Msg. No. 382.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1721 and Gov. Msg. Nos. 381 and 382 was deferred until Thursday, May 1, 2003.

Senator Inouye, for the Committee on Water, Land, and Agriculture, presented a report (Stand. Com. Rep. No. 1722) recommending that the Senate advise and consent to the nomination of STEPHANIE A. WHALEN to the Commission on Water Resource Management, in accordance with Gov. Msg. No. 404.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1722 and Gov. Msg. No. 404 was deferred until Thursday, May 1, 2003.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1723) recommending that the Senate advise and consent to the nomination of MANOJ SAMARANAYAKE CPA to the Board of Taxation Review, 1st Taxation District (Oahu), in accordance with Gov. Msg. No. 399.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1723 and Gov. Msg. No. 399 was deferred until Thursday, May 1, 2003.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1724) recommending that the Senate advise and consent to the nomination of MATT H. TAKATA to the Board of Taxation Review, 4th Taxation District (Kauai), in accordance with Gov. Msg. No. 400.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1724 and Gov. Msg. No. 400 was deferred until Thursday, May 1, 2003.

Senator Hanabusa, for the Committee on Judiciary and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 1725) recommending that the Senate consent to the nomination of LONO J. LEE to the office of Judge, District Court of the First Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and in accordance with Jud. Com. No. 5.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1725 and Jud. Com. No. 5 was deferred until Thursday, May 1, 2003.

ORDER OF THE DAY

FINAL READING

Conf. Com. Rep. No. 88 (S.B. No. 1462, H.D. 2, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 88 be adopted and S.B. No. 1462, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Kim then offered the following amendment (Floor Amendment No. 10) to S.B. No. 1462, H.D. 2, C.D. 1:

SECTION 1, Senate Bill No. 1462, H.D. 2, C.D. 1, is amended by amending Section 9 to read:

“SECTION 9. There is appropriated out of the tourism special fund the sum of \$8,000,000, or so much thereof as may be necessary for fiscal year 2003-2004, for purposes stated in section 8 of this Act and to improve the operational efficiency of the Hawaii tourism authority; provided that the sum appropriated shall be in addition to sums appropriated out of the tourism special fund in the general appropriations Act or any other Act.

The sum appropriated shall be expended by the Hawaii tourism authority for the purposes of this part.”

Senator Kim moved that Floor Amendment No. 10 be adopted, seconded by Senator Taniguchi.

Senator Kim noted:

“Mr. President, the floor amendment corrects the error that was inadvertently made when the conference draft of S.B. No. 1462 was prepared. On page 19, lines 13 to 14 of the C.D. 1, the appropriation to the HTA to respond to the adverse effects of the world conflicts, and etc., the intention was made to come out of the tourism special fund. Inadvertently, the general fund was placed instead.

“Also, on line 16 the reference for the use of the fund to Section 7 is an error. The proper reference is to Section 8.

“Thank you.”

The motion to adopt Floor Amendment No. 10 was put by the Chair and carried.

At 10:35 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:36 o'clock a.m.

Senator Kim then moved that Conf. Com. Rep. No. 88 be received and placed on file, seconded by Senator Taniguchi and carried.

By unanimous consent, S.B. No. 1462, H.D. 2, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY,” was placed on the calendar for Final Reading on Thursday, May 1, 2003.

Conf. Com. Rep. No. 89 (S.B. No. 44, S.D. 2, H.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 89 be adopted and S.B. No. 44, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble then offered the following amendment (Floor Amendment No. 11) to S.B. No. 44, S.D. 2, H.D. 2, C.D. 1:

SECTION 1. The language in Senate Bill No. 44, Senate Draft 2, House Draft 2, Conference Draft 1, is deleted and replaced with the following language to read as follows:

“SECTION 1. The September 11, 2001, terrorist attacks on the United States have severely impacted Hawaii's economy. Business experience catastrophic revenue losses as a result of decreases in the number of visitors to Hawaii. The nation has

been engaged in a war against terrorism on a global scale, including the conflict with Iraq. The war on terrorism is expected to continue for some time. With the increased risk of further terrorist attacks around the world, the economic welfare of the State is further threatened.

Airport concessions depend in large part on passengers and visitors traveling through Hawaii's airports. Precipitous declines in the number of visitors to Hawaii can have immediate and drastic impact on these airport concessions. The purpose of this Act is to confer upon the governor certain powers to provide immediate relief to airport concessionaires during a period of economic emergency.

SECTION 2. Notwithstanding any law to the contrary, the governor may, in the event of an economic emergency, grant rent relief to some or all airport concession lessees in amounts and upon such terms and conditions as determined by the governor, in the governor's sole discretion. As part of the authority granted to the governor hereunder, the governor may, or may permit the department of transportation to: (1) negotiate changes to the airport concession leases with the lessees and modify the airport concession leases to implement the grant of relief and (2) waive, suspend, or defer any contract obligation owed to the State during the economic emergency period, upon such terms and conditions as the governor shall deem necessary to minimize losses that are attributable to the economic emergency.

SECTION 3. If deemed necessary by the governor to implement the grant of rent relief in section 2, the governor may suspend the effect of section 171-13 as it applies to airport concession leases that are terminated during the economic emergency period.

SECTION 4. An economic emergency is an event that satisfies the following conditions:

(1) the airport concession lessees at a state airport, collectively suffer a fifteen per cent reduction in gross receipts for a period of sixty (60) days or more, computed on their collective average monthly gross receipts for the eighteen (18) months just prior to the date from which the initial request for relief is received from an airport concession lessee or lessees at the state airport; and

(2) either of the following two conditions:

(a) the occurrence of an event that is sudden, extraordinary, and generates relatively immediate severe adverse economic impacts for the State of Hawaii such as a natural disaster, civil defense emergency (as determined by the governor pursuant to chapter 128, HRS), or acts of terrorism similar to the events of September 11, 2001; or

(b) the governor finds that from and after the date the initial airport concession lessee or lessees at a state airport request relief, there has been a significant decrease in airline passenger departures (hereinafter 'enplanements') from the state airport of twenty per cent or more for a period of sixty days or more, computed on that state airport's average monthly enplanements for the eighteen (18) months just prior to the date from which initial request for relief is received from an airport concession lessee or lessees at the state airport.

SECTION 5. The period of economic emergency shall remain in effect for only so long as the governor determines, in the governor's sole discretion, to be appropriate to grant the necessary rent relief to some or all of the airport concession leases.

SECTION 6. This Act shall take effect upon its approval."

Senator Trimble then moved that Floor Amendment No. 11 be adopted, seconded by Senator Hogue.

At 10:37 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:02 o'clock a.m.

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

"Mr. President, some of my colleagues think of me as Dr. No. I would like to change my image and become Dr. Yes.

"I think all of us have had a chance to read the floor amendment. I'm not loquacious; I'm not elegant, but what it does is instead of mandating, instead of invalidating contracts, it allows the Governor, and the Governor through her representatives, to negotiate. And this amendment meets the concerns of the attorney general with the previous bill 44.

"Since we've all had a chance to read it and review it, unfortunately most of you didn't do it on the Floor, I will ask for your support and conclude my remarks.

"Thank you."

Senator Kawamoto rose in opposition and said:

"Mr. President, I rise in opposition of the amendment.

"Mr. President, these amendments were received by your Conference Committee on April 24 and we reviewed it and both Conference Committee Chairs and members felt that at this time we would go with the current S.B. No. 44.

"For example, in Section 2(a) there is no assurance that the reasonable levels of relief will be provided. Thus, a concession may not be able to afford the rents demanded. If the concessionaire cannot afford the rent due to the limited relief, it will then be forced to give up its performance bond and be barred from doing business with the State for five years as required under these present laws.

"In section b, Section 171-13 of the HRS, provides that you are barred from doing business with the State for five years if you default on your state contract. Under this proposed section of the bill, the Governor may terminate your contract but only suspend the provisions of the law. Plus, there is no guarantee that you will not be barred from doing business with the State for five years if your contract is terminated.

"Many questions were made about the 15 percent in Caucus. Again, this 15 percent is not something new. It's something that we have established and had precedence when we equated this after the 9/11 tragedy in 2001.

"So therefore, also in paragraph 3, it says that the Governor can provide relief in accordance with her soul discretion. It could be only for a 30-day period. After the bill becomes law, or perhaps not at all, still further it provides that the Governor does not have to grant relief to all concessionaires who may qualify for relief, but only through some airport concession leases. There is no assurance that everyone will be treated fairly since the Governor may only give some relief to some.

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

The motion to adopt Floor Amendment No. 11 was put by the Chair and, Roll Call vote having been requested, failed to carry on the following showing of Ayes and Noes:

Ayes, 11. Noes, 14 (Aduja, Baker, Bunda, Chun Oakland, Espero, Fukunaga, Ige, Inouye, Kanno, Kawamoto, Kokubun, Menor, Sakamoto, Taniguchi).

At 11:07 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

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

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

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

"Mr. President, this bill is all about fairness. This is all about providing the people that have provided the airports and the concessionaires and the airports the opportunity to run the airports as efficient as possible. It provided the opportunity where we can run the airports and receive our visitors in a timely and efficient manner.

"It's time for us to help those that have helped us for a long time, and this is what this bill is about. Thank you."

Senator Hogue rose and said:

"Mr. President, Roll Call vote."

At 11:09 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:12 o'clock a.m.

Senator Kim rose in opposition and said:

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

"Mr. President, while I would like to support the concessionaires and I believe they need to have some help, I have a number of concerns with this bill. There seems to be a lot of pukas in it.

"The bill would allow any airport concessionaire to terminate their contract if there is 15 percent reduction in gross receipts during a 60-day period for a myriad of reasons including strikes, boycotts, labor disputes. I believe this sets a bad precedence for unions the reasons that they do strike is to give the employer economic problems so that they can come to some resolution. And I believe if we set this precedent, then we're saying that unions certainly, one, can terminate their contract should their receipts go below 15 percent.

"It also says they can walk from their contract for hostilities (I don't know what that means), acts of public enemy. So if their receipts drop 15 percent, they can get out of the contract for acts of public enemy. They can get out for actions of superior government authority. I'm not sure what that means, actions of superior government authority. Are we a superior government authority, this body? Also, for whether conditions, so if there happens to be a storm or something and their receipts drop, then they can walk from the contract, and when they walk from the contract, there is no penalty. They can bid again for the very same contract when they terminate the contract.

"I think, Mr. President, this has serious connotations, more than I think what was anticipated when the negotiations began

for the relief for the concessionaires. And for these reasons, Mr. President, I will be voting 'no.'

"Thank you."

Senator English rose in opposition to the measure and stated:

"Mr. President, I rise in opposition.

"Like the previous speaker, Mr. President, I'm having a difficult time with the bill as it is because it does allow for an unfair set of circumstances. We didn't define what a 15 percent drop of revenue is, and what happens if a business, through bad management, loses 15 percent of its business? Under this bill, they can simply walk away and then come back and re-bid without any penalties.

"Now, I really believe that we should be fair to all businesses across the board and this sets up a very unfair business practice for concessionaires only. And if we're going to do this, I can predict that other businesses with contracts with the State of Hawaii will come and ask for the exact same type of consideration and they'll be right to do so because we granted it to one class of business.

"So, without the amendments, Mr. President, I cannot support this measure. It goes against value-based decision making as we talked about earlier, and I just cannot support it.

"Thank you, Mr. President."

Senator Kawamoto rose to speak in favor and said:

"Mr. President, we can 'what if' everything to death if we wanted to – what if this, what if that, what if this, what if that. What has set the precedence? Precedence is that 9/11 came and the business went down. How would you like to have a business where you control the people that come to your market? How would you like to have guards outside controlling that market? That's the reason why we asked for this bill.

"The small business people, you know, think about it. Think, if you had a business and you had guards and people coming out controlling your market and with recourse for yourself or someone else. It wasn't your fault that somebody attacked and the fact that we decided that we need security and we're going to control your market to 50 percent or less. The requirement is there. Yes, we can what if the thing to death, and have we done nothing. We haven't done anything, because of the fact that other forces control over 50 percent of the market. We set the precedent for assistance during 9/11, which continue to be a good precedence for small business.

"Thank you."

Senator Trimble rose in opposition to the measure and stated:

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

"Unfortunately, I will continue to be known as Dr. No. The problem . . . I must . . . Since when is pestilence and war a new occurrence?

"What this bill does is essentially invalidate the meaning of the term contract when it comes to airport concessionaires – pure and simple. The contract no longer has any meaning. The businesses are no longer taking a risk. For this, I must vote 'no.'"

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

“Mr. President, I’d like to rise in support of this measure.

“This bill is not a handout, Mr. President. It’s not a sweetheart deal to help certain individuals. A time happened where one of the greatest tragedies to our country occurred and many people and businesses were impacted. Here at the Legislature, part of our job is to help businesses, to help individuals, to help organizations that need assistance and at times need relief.

“The concessionaires have played a major role at our airports. I’m sure many of them have made money and have prospered, and at that time, our State has also prospered and we have benefited. But right now, they come to us asking for assistance. They’re asking us for some help in these hard difficult times because right now they are having problems. And we can turn our backs on these airport concessionaires who’ve been there for many, many years, decades for some of them.

“This is a bill that’s been negotiated many, many months. We discussed it last Session in many meetings and I’m not certain there is language here that says that they can get out of this for bad management. I don’t think that’s one of the issues that was mentioned earlier, but it is an opportunity for us to help stabilize the airport small businesses, and big business, for that matter. But this is a bill which will help the people. It will help all of the employees that are employed there. It will help get these people on their feet, and that’s what we are here to do.

“Thank you, Mr. President.”

Senator Sakamoto rose to speak in support of the measure and said:

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

“It’s a sad day when we need to be here debating this measure. These businesses, or any others, did not have control of the events that occurred and which could have been resolved and should have been resolved. The ‘Governor may,’ but didn’t. The kind of amendment we voted down was that the ‘Governor may’ but didn’t. The ‘Governor should have’; she could have . . .

“Mr. President, many contracts do have a force majeure. Many contracts do have a provision for fairness by the bigger party, be it the landlord, be it the state, be it the county. Perhaps these contracts didn’t, and perhaps this isn’t the right measure. However, Mr. President, it’s out of frustration that this measure still exists on this Floor today.

“For me, I am in support of those who have been frustrated with trying to deal with an unfair situation thrust upon them. I’m voting in favor because of their frustration that said let this measure go forward in the frustration that we’d like the state to deal with us in a fair and more equitable way.”

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

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

“Mr. President, I agree with my colleague from Moanalua that yes, it is a sad day. It is a sad day when we do have a measure like this before us. It is also a sad day when we fail to look at exactly what this measure provides.

“The amendment, which I had supported, speaks to an emergency situation. We all looked at this in 2001 during the

emergency situation and we passed appropriate legislation at that time. The question now is, what is before us and is this a measure that’s going to address that emergency situation that we want to assist the concessionaires with? And Mr. President, we assisted them in the past.

“Now, however, look at what we have. We have a situation like my good colleague to my left, the Senator from Kalihi Valley, has said that talks about other situations. Look at the reference to strikes, boycotts, and labor disputes. Mr. President, just by analogy, we have in our statutes 383-4, which talks about unemployment benefits in the event of a labor dispute and what is considered to be a substantial curtailment of a business operation. Let’s at least be consistent.

“Under that law and the case law that has developed in the Hawaii Supreme Court, a substantial curtailment does not occur unless there’s a 20 percent drop in a business. Mr. President, this gives it to you for 15 percent – 15 percent. And what is a labor dispute? It doesn’t only mean when you have labor unions, but that’s, of course, the easiest way of looking at it.

“When you look at the national labor relations acts, when you act in a concerted matter, meaning two people getting together and saying, hey, we’ve got some kind of a dispute here, that’s really all that you need. So you can claim a strike; you can claim a boycott; you can claim a labor dispute for a 15 percent reduction for the prior 60 days measured against a one-year period.

“Mr. President, when we look at whether businesses have to pay striking employees, we look to 20 percent and we do not simply say whether it’s 20 percent for the prior 60 days or the prior year. We look at a history because we’re looking at what the trends are. This bill doesn’t do it.

“At the very minimum, if we’re going to do this, understand the consequences. Understand the consequences of what it means. It means a lot of these people can lose their jobs. It means for ulterior motives, things can happen because this bill, as it now stands, is not well written.

“Think about who we’re trying to protect. Yes, we are concerned about the concessionaires, but we are just as much concerned about those employees who work for them. We do not want to have a situation where for 15 percent reduction for indicia that are not clear enough under this bill that we can, in essence, terminate operations, have them re-bid with no consequence. That is not what we want to do and set as a priority for this state.

“We have an obligation to look at the revenues. People enter contracts, and yes, unfortunate situations may arise, but this bill is not going to cure that.

“Thank you, Mr. President.”

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

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

“Mr. President, there are members of your Minority Party that voted in favor of the amendment and will likewise be voting in favor of this legislation, and it bears explanation. It is indeed unfortunate that this particular problem has reached a point in the waning moments of this Legislative Session that we have to consider this relief. It is all our hope that something could have been done earlier to resolve this matter.

“We believe the most important thing that should have been done that could have been done through the amendment, or hopefully through the passage of this bill is that both parties sit down and sincerely negotiate, resolving this dilemma.

“Those speaking against this bill mentioned employees. If these businesses go under, which they’re threatened with, all the employees lose everything, therefore the State of Hawaii loses something.

“There was talk about fairness. All these concessionaires entered into a contract in a situation where not only were passengers going to the gate, but non-passenger family members and others were going to the gate. It is a tremendous occurrence that 9/11 changed that situation and they immediately, because of security reasons and only passengers being allowed past the security point, lost a huge portion of their customer base.

“If you enter into a contract, let’s say Ala Moana Center, to rent retail space, and when you entered into that contract you assumed that 20,000 people walk by your door everyday, you think that’s a pretty good deal because you speculate, through good business and marketing advertising, the customer base is there to make income to pay your rent, pay your employees, and make a profit. If all of a sudden, for reasons beyond your control, Ala Moana Center or whomever you’re leasing the property from says okay, we’re going to stop 30, 40 percent of your customers from going by your front door, that’s unfair. And that’s exactly what happened to these concessionaires.

“There’s another point that’s extremely relevant and I find somewhat befuddling, and that is, when you look at the airport fund, it’s my understanding there’s approximately \$550 million in it – a lot of money. I think it’s enough money to sustain the airport through this difficult time in negotiating a settlement with these people, which this bill will allow to happen.

“But what is really befuddling is the fact that no one has blinked an eye at the fact that the airlines who pay into this fund have gotten tremendous relief both federally and through the state. Federally, they’ve literally gotten billions of dollars in direct financial relief. They’ve also gotten relief in landing fee waivers. When you measure that against the fact that the majority of the money, and I think it was 60 percent, in the airport fund was put in by the concessionaires, not the airlines, I think the least we can do is provide them relief.

“It’s my hope that by passing this bill today, that we’ll bring both parties to the table in earnest – the executive branch of government and the concessionaires – and work out a solution where everybody can win, rather than having a situation where everyone loses, as we have now. So I’m urging my colleagues to please vote in favor of this bill.”

Senators Baker, Ige, and Kokubun requested their votes be cast “aye, with reservations,” and the Chair so ordered

The motion was put by the Chair and carried, Conf. Com. Rep. No. 89 was adopted and S.B. No. 44, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TRANSPORTATION,” having been read throughout, and Roll Call vote having been requested, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 7 (English, Hanabusa, Hooser, Ihara, Kim, Trimble, Tsutsui).

Conf. Com. Rep. No. 133 (H.B. No. 512, H.D. 1, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 133 be adopted and H.B. No. 512, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Baker then offered the following amendment (Floor Amendment No. 12) to H.B. No. 512, H.D. 1, S.D. 2, C.D. 1:

SECTION 1. H.B. No. 512, H.D. 1, S.D. 2, C.D. 1, is amended by replacing the contents of PART II with PART II of H.B. No. 512, H.D. 1, S.D. 2, to read as follows:

“PART II

SECTION 7. The legislature finds that the continued provision of mental health services is vital to the community. It is essential that providers be able to efficiently submit and collect available insurance reimbursements for such services. Insurance reimbursement claims typically require information on the patient treated. Therefore, any statutory authorization for the release of patient medical records must be limited in scope and ensure the privacy of the patient.

Accordingly, the purpose of this part is to permit mental health service providers to release records for billing purposes under limited circumstances while preserving a patient’s right to confidentiality.

SECTION 8. Section 334-5, Hawaii Revised Statutes, is amended to read as follows:

§334-5 Confidentiality of records. All certificates, applications, records, and reports made for the purposes of this chapter and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed by any person except so far (1) as the person identified, or the person’s legal guardian, consents, or (2) as disclosure may be deemed necessary by the director of health or by the administrator of a private psychiatric or special treatment facility to carry out this chapter, or (3) as a court may direct upon its determination that disclosure is necessary for the conduct ~~[of]~~ proceedings before it and that failure to make the disclosure would be contrary to the public interest, or (4) as disclosure may be deemed necessary under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, Public Law 99-319, to protect and advocate the rights of persons with mental illness who reside in facilities providing treatment or care~~[-]~~, or (5) as disclosure is made to the person’s health care insurer to obtain reimbursement for services rendered to the person, except for records subject to Title 42 Code of Federal Regulations Part 2, confidentiality of alcohol and drug abuse patient records; provided that disclosure shall be made only if the insurer informs the person that a reimbursement claim will be made to the person’s insurer, the person is afforded an opportunity to pay the reimbursement claim directly, and the person does not pay. For the purposes of this section, ‘facilities’ shall include, but not be limited to, hospitals, nursing homes, community facilities for mentally ill individuals, boarding homes, and care homes.

Nothing in this section shall preclude disclosure, upon proper inquiry, of any information relating to a particular patient and not clearly adverse to the interests of the patient, to the patient, the patient’s family, legal guardian, or relatives, nor, except as provided above, affect the application of any other rule or statute of confidentiality. The use of the information disclosed shall be limited to the purpose for which the information was furnished.”

SECTION 2. H.B. No. 512, H.D. 1, S.D. 2, C.D. 1, is amended by adding a new section to read as follows:

“SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or

application, and to this end the provisions of this Act are severable.”

SECTION 3. H.B. No. 512, H.D. 1, S.D. 2, C.D. 1, is amended by re-numbering the sections to conform to drafting convention.

Senator Baker then moved that Floor Amendment No. 12 be adopted, seconded by Senator Taniguchi.

Senator Baker noted:

“Mr. President, colleagues, the floor amendment for H.B. No. 512, C.D. 1, inserts language that was agreed to in Conference and deletes language (the next of kin language in Part II of the Conference draft) that was not agreed to.

“The substance of this floor amendment will 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 patient’s mental health records. There is no exception to this rule such as in the HIV law, which is HRS 325-101, which allows for the release of information after the patient has been afforded the opportunity to make the reimbursement but chooses not to.

“It is extremely difficult to obtain consent from certain patients. As a result, hospitals are frequently unable to receive payment for service even though a patient has insurance. Queen’s hospital for example has been unable over the past two year to bill approximately \$500,000 for services rendered because Queen’s was unable to release records containing mental health diagnoses to the patient’s insurance company. Likewise, the Hawaii Health Systems Corporation Hospitals report similar losses.

“The floor amendment to H.B. No. 512, C.D. 1, will again insert the language that was agreed to in Conference but inadvertently omitted and delete language that was inserted that was not agreed to in Conference. This substance of this provision will enable the hospitals to bill for services while protecting the confidentiality of the patient. I ask my colleagues to vote ‘yes’ on this amendment.

“Thank you.”

The motion to adopt Floor Amendment No. 12 was put by the Chair and carried.

Senator Baker moved that Conf. Com. Rep. No. 133 be received and placed on file, seconded by Senator Taniguchi and carried.

By unanimous consent, H.B. No. 512, H.D. 1, S.D. 2, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO HEALTH,” was placed on the calendar for Final Reading on Thursday, May 1, 2003.

Conf. Com. Rep. No. 140 (H.B. No. 1152, H.D. 1, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 140 be adopted and H.B. No. 1152, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kokubun.

Senator Taniguchi then offered the following amendment (Floor Amendment No. 13) to H.B. No. 1152, H.D. 1, S.D. 1, C.D. 1:

SECTION 1. H.B. No. 1152, H.D. 1, S.D. 1, C.D. 1, is amended by amending section 55 to read as follows:

“SECTION 55. The legislature determines that there is in the special land and development fund at least \$3,000,000 in excess of the requirements of the fund. On July 1, 2004, the director of finance is authorized to transfer from the special land and development fund to the general fund the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2004-2005.”

SECTION 2. H.B. No. 1152, H.D. 1, S.D. 1, C.D. 1, is amended by amending section 66 to read as follows:

“SECTION 66. This Act shall take effect on July 1, 2003, provided that:

- (1) Sections 1, 2, 3, 4, 5, and 6 shall take effect on June 29, 2003;
- (2) Sections 9, 10, 11, 12, 13, 14, 15, and 16 shall take effect on June 30, 2003; and
- (3) Sections 7 and 8 shall take effect on July 1, 2004; provided further that any remaining balances in the Hawaii capital loan revolving fund and the Hawaii strategic development corporation revolving fund shall lapse to the general fund.”

Senator Taniguchi then moved that Floor Amendment No. 13 be adopted, seconded by Senator Kokubun.

Senator Taniguchi noted:

“Mr. President, this floor amendment will make two basically technical amendments to the bill. One, we had the wrong fiscal year, and the other was to eliminate a double repeal date.”

The motion to adopt Floor Amendment No. 13 was put by the Chair and carried.

Senator Taniguchi moved that Conf. Com. Rep. No. 140 be received and placed on file, seconded by Senator Kokubun and carried.

By unanimous consent, H.B. No. 1152, H.D. 1, S.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO STATE FUNDS,” was placed on the calendar for Final Reading on Thursday, May 1, 2003.

At 11:34 o’clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:50 o’clock a.m.

RECOMMITTAL OF HOUSE BILL

Conf. Com. Rep. No. 141 (H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 141 and H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1, be recommitted to the Committee on Conference, seconded by Senator Kim.

Senator Taniguchi noted:

“Mr. President, just for the record, we did get the correspondence this morning indicating that the impact of this

tax credit would be very significant and would impact our financial plan. That's why we're asking for this recommittal."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 141 and H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOTEL CONSTRUCTION AND REMODELING TAX CREDIT," were recommitted to the Committee on Conference.

FINAL READING

Conf. Com. Rep. No. 142 (H.B. No. 200, H.D. 1, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 142 be adopted and H.B. No. 200, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kkobun.

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 and colleagues, H.B. No. 200, C.D. 1, is the executive budget. It will be our financial guide for the next two years. Before I begin my comments on the bill, which will be brief, I need to acknowledge a few people who were integral in the making of this bill. My staff deserves my deepest appreciation. They worked extremely hard and in a very professional manner. Mr. President and colleagues, you can be proud of these people and the high quality of the budget bill before you. This is the result of the tremendous job done by the Ways and Means Committee staff.

"I would also like to thank the House, Speaker Say, the members of the Finance Committee, the Finance staff, and especially Chair Dwight Takamine. It was a real honor and pleasure to work with him these past three years. I also want to acknowledge you, Mr. President, the Senate Leadership, the Committee Chairs, and the members of the Ways and Means Committee. You all deserve credit for this bill and our entire financial plan being balanced. I especially want to thank my hardworking Vice Chair for sitting through hours and hours of hearings, briefings, and meetings, and meetings, and meetings. I appreciate his loyalty and work on a number of bills that are up for vote today.

"Finally, I would like to again acknowledge the love and support of my family, especially my wife Jan. She, more than anyone, keeps me balanced, like the budget, and able to do my best.

"Mr. President, I'm glad to report to you that your conferees for this bill have unanimously approved this bill, something that has not happened in my tenure as Ways and Means Chair. I must be slipping, Mr. President.

"In broad terms, because of our economic situation, the Senate adopted many of the cuts recommended by the administration. If anyone says that this budget represents an increase in spending, they would be wrong. Much of what was added to the budget bill are collective bargaining increases that were approved two years ago and are being included in our budget base for the first time this year. This is an accounting update, not an increase in the size of government, or in government spending.

"I'm most proud of the fact that we were successful in convincing our House colleagues to restore cuts recommended by the administration to our public schools. Education has

always been my top priority. It's been a top priority of many of us here, and I'm glad we were able to do that.

"We have done our job, Mr. President. We have a balanced budget, and I ask all members to vote in support. Thank you."

Senator Hemmings rose to speak in favor and said:

"Mr. President, I rise to speak in favor of Conf. Com. Rep. No. 142, H.B. No. 200, the state budget.

"I do want to recognize that the good Chairman of the Senate Ways and Means Committee has slipped, and he's slipped into a good area, an area where good Legislators work with the executive branch of government to try to solve some of our problems. But likewise, in many areas I think your loyal Minority would say we haven't done enough to moderate and cut state spending. But the good news is that we're definitely headed in the right direction, as opposed to the left direction. (Another try at humor that missed the mark.)

"This legislation does balance the state budget without the threat in tax increases. This is a huge victory for the economy, the workers, and businesses, and most importantly, the laborers of Hawaii. This budget does moderate spending. This budget does work with the executive branch of government, the Governor and her staff, in making cuts. This budget does acknowledge and subsequent bills do acknowledge that special funds need to be re-examined. This budget does acknowledge that there are a number of vacant positions and the funding of which has been unaccountable in the past. And when you measure it in its totality, it is going to make a difference.

"I do think it's important that when we recognize that the actual expenditures by state government are going up, and we do acknowledge the good Senator from Manoa's point that this is because of collective bargaining agreements negotiated two years ago that have to be put in the budget, that this sends a message to us, because we'll have additional collective bargaining bills to act on today. And I hope we consider very, very closely the impact of these bargaining increases. Even though they may not be salary increases, they are indeed tremendous increases.

"As we measure the economic impact, we're coming to the point where the state has to make difficult decisions, and under the leadership of the Senate Ways and Means Chairman, we have started to make those decisions. But we cannot pay for everybody all the time and everything they want, and this budget definitely is a step in the right direction of moderation and we support it.

"Thank you, Mr. President."

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

"Mr. President, as the senior member of the Ways and Means Committee, nine years, I rise in favor of the budget bill. I just want to say that I've never seen the Ways and Means process go as smoothly as we have seen it done this year.

"Again, congratulations on the leadership of the Chair. And of course, I echo his comments about his staff – outstanding people. I just want to say that nine years ago we were in this body and I was a member of the Ways and Means, and this year has been the smoothest that I've seen in a long time.

"Thank you, I urge my colleagues to vote 'aye' on this bill."

Senator Kim rose to speak in favor and said:

“Mr. President, I also rise in favor of H.B. No. 200, C.D. 1.

“Mr. President, as a junior member of the Ways and Means Committee, I’d like to add to the sentiments that my esteemed colleague from Waipahu had to say.

“This was not an easy budget, Mr. President. There were many cuts that had to be made. I want to commend the Ways and Means Chair for his sensitivity to the member’s needs in also having to balance the cuts and balance the needs of the members on this Floor.

“He worked with Leadership; he worked with the executive branch, and I certainly take my hat off to him and to the Vice Chair. I had the opportunity to come in on the weekends and see the working of the staff behind the scenes and after hours, and I can attest to the amount of hours that they put into it. So, I really want to thank the Ways and Means staff and our Chairman and Vice Chairman.

“Thank you.”

Senator Kokubun rose in support of the measure and said:

“Mr. President, I stand in support of H.B. No. 200, C.D. 1.

“There have been many accolades delivered this morning, and I also want to add to that by acknowledging the stellar leadership demonstrated by the Chairman of the Ways and Means Committee.

“Serving as Vice-Chair of the Ways and Means Committee has been a tremendous educational experience for me, and I am very grateful for that opportunity and am very appreciative of the many qualities and skills that Chairman Taniguchi demonstrated. The Chairman is generous in terms of sharing his wealth of knowledge gained over many years of service. He is fair in terms of attempting to meet the various needs of all of you and your constituents as well as government services in general in the face of lean economic resources. He is very courageous in terms of proposing measures to generate more resources that obviously were very forward thinking but not necessarily acceptable to all parties. And most of all, I want to thank him for demonstrating his ability to work in a cooperative manner. Chairman Taniguchi did mention in his comments that he worked well with the House Finance Committee Chairman, and I would attest to that having been included in many of their meetings. I think that that cooperative working relationship was really the basis for us having such a relatively smooth time this year in deliberating on some of the more difficult budgetary issues.

“Lastly, I would also like to share my acknowledgment and deep appreciation for the dedication and forthrightness demonstrated by the staff of the Ways and Means Committee. They are very outstanding, excellent and dedicated workers. I also want to thank the Chairman for those good times after our serious meetings, because it is also in those opportunities that we learn more about and appreciate each other’s individual perspectives and philosophies. Those were the real learning experiences for me.

“Mr. President, thank you.”

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

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

“Mr. President, I’d like to commend the Ways and Means Chair, Vice Chair, and Ways and Means staff. During uncertain times, our priorities have not wavered. We can be proud of the support provided for education, human services, and for our retirees.

“I urge my colleagues to vote ‘aye.’ Thank you.”

Senator Baker rose to speak in support as follows:

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

“Mr. President, not having served on Ways and Means this year, I wanted to say how much I appreciate the information, the support, the communication from both the Chair and the Vice Chair, as well as the staff. It’s difficult sometimes when you’re not sitting on the Committee to understand the workings, understand all the nuances that are going in, but because of the openness and commitment to communication that we had from the Chair and Vice Chair, it made being on the outside a lot less frustrating.

“I have some additional written remarks in support of the budget I’d like inserted in the Journal. Thank you.”

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

“Mr. President, I rise to speak in support of H.B. No. 200, C.D. 1, the executive budget bill.

“Although this is one of the smallest budget bills I’ve seen during my extended tenure, I believe that this is a budget bill we can support, and I want to thank the Chair and Vice Chair of the Ways and Means Committee and their staff for all of their efforts.

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

“I appreciate the willingness of WAM to restore some of the cuts made to the Department of Health in the Executive Budget request and to find room in the financial plan for emergency and vital health and human services programs. I also appreciate the collaborative manner in which WAM worked with your Committee on Health to explore other funding strategies for additional baseline services. Theirs was a difficult balancing act, and they did it well, despite the enormous constraints placed upon them.

“This measure continues to preserve and protect our citizenry’s health, safety and welfare, as part of our government’s core functions. By providing needed resources for the Community Mental Health Plan and the Hawai’i State Hospital Remedial Plan, WAM 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 and positions for Developmental Disabilities Services 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 help fulfill that commitment.

"I applaud the Committee's decision to restore the general practice dental residency program for disabled patients to access care, and provide equipment for Emergency Medical Services. Ensuring that our primary and secondary responders are prepared to deliver necessary critical care while on duty will only serve the best interests of the State in the long run. Adequate dental care still remains a concern in our State and, unfortunately, will not be fully addressed in this resource challenged environment, although this appropriation together with the oral health funding in Senate Bill 1305 is a positive start.

"I also want to thank WAM for understanding the importance of the Hawai'i Health Systems Corporation to the neighbor island healthcare system. Without the general fund subsidy provided in this measure, our community hospitals would be hard-pressed to provide adequate health care services to our citizens on the neighbor islands.

"H.B. No. 200, C.D. 1, along with S.B. No. 1305 and related previously passed Senate bills, provide the minimum resources necessary to ensure the viability of our health care safety net in Hawai'i. I appreciate the work of the Committee on Ways and Means to address the vital service needs of our State, and I urge my colleagues to join me to support this important measure and other measures mentioned by the WAM Chair.

"Mahalo."

Senator English rose to speak in support of the measure and said:

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

"I'd like to add my aloha and thanks to the Chairman, the Vice Chairman, and members of the Committee who crafted this budget and point out that besides having to draft this particular bill, the Committee and the Chair, especially, had to take into account all the various other bills that contain money – things like emergency medical services and helicopters for Maui County, things like funding Moloka'i General Hospital, Hana Community Health Center, and a very important one, Mr. President, is the extension of the solar tax credits. And all of these had to be considered in the budget deliberations even though they were not in the budget bill and there were allowances made for these very important items in our community.

"So, in recognition of that, I extend my thanks to the Chair, the Vice Chair, the members of the Committee, as well as the members of the House Finance Committee, and Leadership in both houses.

"Thank you, Mr. President."

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

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

"Mr. President, I also want to give accolades to the Chair and the Vice Chair of Ways and Means. Their easy-going demeanor is a breath of fresh air and they are truly balanced in their personality as well as in the budget. So I appreciate the way that they've worked very hard on this.

"I also want to give accolades, though, and I think we would be remiss if we did not in the fact that the Ways and Means

Chair and the people that worked on it also got some information from our Minority Research and I know that I appreciate that as they looked at ways to tackle issues like special funds and also vacant positions. So, thank you very much for working with the Minority Research. I think it's very important that we can be very helpful in this particular process.

"I also want to follow up on the comments made by the Majority Floor Leader talking about this being one of the easiest sessions as far as the budget is concerned. I think that's a reflection on the executive branch of our government. I think the department heads worked very hard, feverishly to provide the information that in some past sessions has not been provided. I think that we need to give accolades to the Budget and Finance Director as well as these department heads. So I think we would be remiss if we did not give accolades to that as well.

"I encourage all of my colleagues to vote 'yes.' Thank you, Mr. President."

Senator Slom rose to speak in support of the measure and said:

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

"I do offer my apologies to the Chair of Ways and Means, however. When I spoke in favor of his retaining his position eight months ago before the start of this Session, I said he was fair and open, and he would do everything possible. In the past, he's always made it possible for me to either vote 'no' on the budget or to at least vote with very strong reservations, but he failed this year and I am voting straight up. So I know he is very sad about this as well. (Laughter.)

"I, too, offer my congratulations to the Senate Chair of the Committee, the Vice Chair, and both the Majority and Minority staffs who did a yeoman's task.

"And as the Minority Floor Leader just pointed out, I think one of the reasons that things went differently and smoothly this year is because you had a Governor in the executive branch that was cooperative and collaborative. And what a refreshing change that was – someone that was actually involved and someone who set a vision and a course from the very beginning. And that vision was fiscal restraint – the idea that we want to take care of people but we must prioritize and we must live within our means. I think we cooperated better in that Committee and as a bipartisan group than at any other time during the Legislature and on any other issue. And since it's the biggest issue, I think that there's enough praise to go around.

"Just a couple of points, however, good points. I think that the budget picked up on something that a number of us had been arguing for years and that is to do away with the vacant positions that have been there, many of them vacant for eight, nine, ten years while still drawing funds for other purposes unrelated to the positions; dealing with the very knotty and thorny problem of overtime, particularly in the area of public safety. I think the Committee and the leaders of the Committee did an excellent job in dealing with those areas.

"I'm not absolutely sure that this budget is balanced. I know that the numbers seem to indicate that the revenues and the expenditures match, but they depend on a number of other bills, and a number of other measures, and a number of other things happening as well. But I'm secure and I sleep well at night knowing that we have a strong new Governor with a very sharp pen and ability to use the line item veto. So, I'm sure that that will be taken care of.

“Also this question of whether or not this budget is larger or smaller or whatever, our figures indicate that in fact it is 4.8 percent larger for fiscal year '04 and 7.9 percent larger for fiscal year '05. I was amused by the new term ‘accounting update.’ It’s not an increase; it’s an accounting update. I think that came from the Enron book of lexicon. I’m not sure. But any way you look at it, we’re spending a great deal of the people’s money – \$7.5 billion – and that’s just in the budget bill; we have other appropriations as well.

“But I, like other speakers, am proud to have been part of the process. And again, the Chairman gets a great deal of respect and admiration for the openness. I think the best discussions and best debates during this entire Session were held within the confines of the open Ways and Means Committee. However, I am a little disappointed. The Vice Chairman mentioned off-hours social events, and we in the Minority must have missed those memos or e-mails. Maybe Senator Kim has those e-mails. (Laughter.) We can check later.

“So, thank you, Mr. President. I urge all my colleagues to strongly support this budget.”

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

“First of all, Mr. President, I wanted to thank you and the members for the privilege and opportunity to serve on the Ways and Means Committee. As one of a small group of freshman, I found the experience to be a positive one and interesting, and I’d like to offer my kudos and compliments and aloha to the Chair and the Vice Chair and the Ways and Means staff who’ve done an excellent job and have not become impatient with the questions of a freshman and newcomers trying to learn the process. I really appreciate that, the ease of communication and the accessibility of the Chairman and the Vice Chair and the staff.

“I really admire the ability to hang on to the small items. We’re dealing with billions of dollars, and to many people in our community, small items of \$50,000 or \$100,000 or \$20,000 are critical to certain programs. I was afraid that some of these details might get lost with all the big boys, but the Chairman and his staff managed to hold on to those items, and I appreciate that.

“I think, number one, is I appreciate the Chairman’s commitment to education. I think it’s a sincere and committed dedication to education. I appreciate that. I appreciate the fact that through that perseverance and commitment we were able to restore the previous cuts to education, preserve adult education and many other good programs.

“So, I want to thank the Chairman for that and look forward to increasing our support of public education in the State of Hawaii. Thank you, Mr. President.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 142 was adopted and H.B. No. 200, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE STATE BUDGET,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 12:11 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:10 o’clock p.m.

Conf. Com. Rep. No. 9 (H.B. No. 980, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 9 was adopted and H.B. No. 980, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CIVIL SETTLEMENTS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 10 (H.B. No. 1217, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 10 was adopted and H.B. No. 1217, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 13 (H.B. No. 287, H.D. 3, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 13 was adopted and H.B. No. 287, H.D. 3, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 15 (H.B. No. 1165, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Espero and carried, Conf. Com. Rep. No. 15 was adopted and H.B. No. 1165, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO BUSINESS REGISTRATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 16 (H.B. No. 10, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator English, seconded by Senator Menor and carried, Conf. Com. Rep. No. 16 was adopted and H.B. No. 10, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 18 (H.B. No. 807, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 18 was adopted and H.B. No. 807, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CHAPTER 291E,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 23 (H.B. No. 1010, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 23 was adopted and H.B. No. 1010, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE USE OF INTOXICANTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 32 (H.B. No. 1003, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 32 was adopted and H.B. No. 1003, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME VICTIM COMPENSATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 39 (H.B. No. 1509, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 39 was adopted and H.B. No. 1509, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 40 (H.B. No. 1613, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 40 was adopted and H.B. No. 1613, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NORTH KOHALA," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 41 (H.B. No. 507, H.D. 3, S.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 41 was adopted and H.B. No. 507, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL TECHNICIANS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 48 (H.B. No. 1465, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 48 was adopted and H.B. No. 1465, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 49 (H.B. No. 1164, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Espero and carried, Conf. Com. Rep. No. 49 was adopted and H.B. No. 1164, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 58 (S.B. No. 1319, S.D. 1, H.D. 3, C.D. 1):

On motion by Senator Menor, seconded by Senator Espero and carried, Conf. Com. Rep. No. 58 was adopted and S.B. No. 1319, S.D. 1, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM LIMITED PARTNERSHIP ACT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 60 (S.B. No. 837, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 60 was adopted and S.B. No. 837, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKFORCE DEVELOPMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 61 (S.B. No. 41, H.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Kawamoto and carried, Conf. Com. Rep. No. 61 was adopted and S.B. No. 41, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 62 (S.B. No. 665, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Kawamoto and carried, Conf. Com. Rep. No. 62 was adopted and S.B. No. 665, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PREPAID HEALTH CARE PLAN," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 63 (S.B. No. 1395, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 63 was adopted and S.B. No. 1395, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AMENDMENT OR REPEAL OF OBSOLETE TAX LAWS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 64 (S.B. No. 946, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 64 was adopted

and S.B. No. 946, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAREGIVER CONSENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 68 (S.B. No. 830, S.D. 1, H.D. 3, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator English and carried, Conf. Com. Rep. No. 68 was adopted and S.B. No. 830, S.D. 1, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 69 (S.B. No. 1324, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator English and carried, Conf. Com. Rep. No. 69 was adopted and S.B. No. 1324, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONCILIATION PANELS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 71 (S.B. No. 255, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Aduja and carried, Conf. Com. Rep. No. 71 was adopted and S.B. No. 255, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 80 (S.B. No. 1309, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 80 was adopted and S.B. No. 1309, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 82 (S.B. No. 1505, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 82 was adopted and S.B. No. 1505, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INVASIVE SPECIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 91 (S.B. No. 528, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 91 was adopted and S.B. No. 528, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR

AN ACT RELATING TO THE TRANSFER OF COUNTY LANDS AND IMPROVEMENTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 95 (S.B. No. 1258, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 95 was adopted and S.B. No. 1258, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 104 (S.B. No. 614, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 104 was adopted and S.B. No. 614, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 105 (S.B. No. 855, S.D. 1, H.D. 3, C.D. 1):

On motion by Senator English, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 105 was adopted and S.B. No. 855, S.D. 1, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 106 (S.B. No. 1286, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Menor and carried, Conf. Com. Rep. No. 106 was adopted and S.B. No. 1286, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 115 (S.B. No. 1034, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 115 was adopted and S.B. No. 1034, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 116 (S.B. No. 574, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 116 was adopted and S.B. No. 574, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

THIRD READING

Stand. Com. Rep. No. 1674 (H.B. No. 475):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Stand. Com. Rep. No. 1674 was adopted and H.B. No. 475, 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.

FINAL READING

Conf. Com. Rep. No. 3 (H.B. No. 595, H.D. 1, S.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 3 be adopted and H.B. No. 595, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Espero.

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

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

"When you look at the committee report, it says that this measure is necessary to level the playing field. It's kind of difficult to level the playing field when there is only one person in town. The issue here, when they talked about making it equal to other states, the last time I checked, you couldn't cash a check on the Internet. You couldn't get in your car to drive to another state, let alone in Hawaii to another county.

"Voting for this measure will be a vote for increased poverty, increased gambling, increased drug use, more hungry children. By allowing them to issue a check for 32 days, they can then issue a check to pay off the last check that's coming due. And we're raising the amount that they can owe or pay for the service from \$45 to \$90. Ninety dollars for 32 days for a check of \$600, that's 180 percent per year.

"I know it is difficult to protect people from themselves, but on the other hand, I see no reason to line the pockets of those that, can we say, prey on the least fortunate in our society. Thank you."

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

"Mr. President, I rise in support with reservations and just briefly acknowledge that the Chair did retain the 15 percent as opposed to increasing that to 20 percent. That did improve the measure.

"Thank you."

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

"Mr. President, please note my reservations for this in support of this bill."

Senators Inouye, English, 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, Conf. Com. Rep. No. 3 was adopted and H.B. No. 595, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHECK CASHING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 1:14 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:19 o'clock p.m., with the Vice President in the Chair.

Conf. Com. Rep. No. 4 (H.B. No. 29, H.D. 1, S.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 4 be adopted and H.B. No. 29, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition to the measure and stated:

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

"This bill has had a very checkered and storied past. In the past we've had versions of this bill that sought to require when employers must give a meal break or other break. There have been indications of trying to require that the breaks be paid breaks. Now we have breast-feeding included in this bill, although we have breast-feeding as a separate law of public policy. At the present time, this version does not require paid meal breaks.

"I don't know of any small business that does not give meal breaks to its employees. I don't know of any problem that has required additional regulatory legislation by this state. There was no testimony from employees that were attesting to a problem. There was opposition by a number of different employers, employer groups, and the Department of Labor.

"As the bill finally went through the Conference process, Madame President, I noticed that there have been exclusions for common carriers of passengers, power generating utility companies, operators of continuously operational facilities with an environmental permit, and those businesses covered by collective bargaining agreements. However, there is no exemption for retail businesses or for the flexibility of employers.

"So, I would call on my colleagues who earlier today made such wonderful statements about this Legislature's role in supporting small businesses and standing behind small businesses because small businesses do not want, do not need more mandating and more requiring, particularly when a problem does not exist. So, I urge all my colleagues to vote 'no' on this bill.

"Thank you."

Senator Ihara rose and said:

"Please not my reservations in support of this bill."

The Chair so ordered.

Senators Aduja, Fukunaga and English requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 4 was adopted and H.B. No. 29, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEAL BREAKS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 7 (Hemmings, Hogue, Ige, Sakamoto, Slom, Trimble, Whalen). Excused, 1 (Bunda).

Conf. Com. Rep. No. 5 (H.B. No. 1157, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 5 was adopted and H.B. No. 1157, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Bunda).

Conf. Com. Rep. No. 6 (H.B. No. 1285, H.D. 1, S.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 6 be adopted and H.B. No. 1285, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

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

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

"On April 8, I read to this body that portion from the Hawaii Revised Statutes that dealt with the crime of disturbing historic and burial grounds. The penalty at that time still remains \$10,000 a day per occurrence. I see no reason why we should be introducing more law when it is already against the law. And if you read the bill carefully, what we are trying to put into the Hawaii Revised Statutes is that which more properly be considered rules or regulations.

"So, I ask that you vote against this measure."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 6 was adopted and H.B. No. 1285, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC SITES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Trimble). Excused, 1 (Bunda).

Conf. Com. Rep. No. 7 (H.B. No. 426, H.D. 1, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 7 be adopted and H.B. No. 426, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition to the measure and stated:

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

"In this case, we are conveying on three lessees a selected benefit. If it is a worthwhile idea, then we should apply it to all state leases, but to single three out and treat them differently than all others, I feel is inappropriate.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 7 was adopted and H.B. No. 426, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LANDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Trimble). Excused, 1 (Bunda).

Conf. Com. Rep. No. 8 (H.B. No. 564, S.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 8 be adopted and H.B. No. 564, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Hooser rose to speak with reservations and said:

"Madame Chair, I rise with reservations.

"My reservations are concerning the broadness of this bill. I think we all concur that drugs are bad; drugs are very, very bad. They ruin families. They ruin lives. They destroy much in our community. They have the potential.

"I want to say it's better than it was when I last saw it because the focus has narrowed it. It makes possession of any controlled substance of any amount with the intent to distribute in schools, a class C felony and at parks. And I agree 100 percent that drugs have no place in our schools, and anyone foolish enough to bring them in with the intent to sell should be a class C felony.

"However, I do think that expanding it to public parks and keeping it any amount of any substance is too broad. The record shows that 40 percent or more of our young people experiment with marijuana. This bill considers marijuana and heroine in the same breath and we risk a class C felony for young people making foolish mistakes in parks. A class C felony could cost a young person who makes a stupid mistake in a park, a prison term of up to five years.

"For those reasons, I have reservations on the bill."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 8 was adopted and H.B. No. 564, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROMOTION OF CONTROLLED SUBSTANCES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Bunda).

Conf. Com. Rep. No. 11 (H.B. No. 135, H.D. 1, S.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 11 be adopted and H.B. No. 135, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

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

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

"I remember reading about a divorce that was granted in 1913 or thereabouts. I think it was in Wyoming or Montana where mail-order brides were not uncommon. The issue in question related to the age of the bride. The groom had reason to be convinced on statements made by the bride that she was 25. The reason for the divorce was that the day after the wedding, her 20-year-old daughter showed up to move in.

"What specifically bothers me about this piece of legislation is that it's one way. It provides that there be disclosure from the person in the United States, but not disclosure from the person coming from abroad.

"The other thing that bothers me is that if we start going down this path, where does the responsibility of government end? We will need government oversight to ensure that this really is being done, and that will lead to further government involvement and a higher cost of that involvement.

"So, for this reason and the reason stated before that, I oppose this measure."

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

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

"This measure allows persons living abroad who use for-profit matchmaking services to access criminal conviction and marital history information about prospective spouses residing in the United States.

"The Immigration and Naturalization Service estimates that as many as 6000 United States citizens marry persons who were introduced to them through a for-profit international matchmaking organization. Currently, about 2700 international matchmaking organizations operate worldwide, approximately 500 in the United States alone, and at least a dozen operating in Hawaii. Many foreign women from poor economic conditions are recruited by these organizations. The language barrier, isolation from family and friends, and unfamiliarity with the law put these women at an extreme disadvantage if forced to deal with an abusive new spouse.

"Requiring the prospective Hawaii spouse to provide criminal and marital history information, and requiring that the matchmaking organization inform recruits of the availability of this information, will allow a more open matchmaking process and will allow recruits to make informed decisions about a prospective marriage.

"It seems to me that good relationships are based on open communication. This measure promotes that sort of communication. I urge my colleagues to support this important measure.

"Mahalo."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 11 was adopted and H.B. No. 135, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERNATIONAL MATCHMAKING ORGANIZATIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Trimble). Excused, 1 (Bunda).

Conf. Com. Rep. No. 12 (H.B. No. 373, H.D. 2, S.D. 1, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 12 be adopted and H.B. No. 373, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

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

"Madame President, I rise to speak in opposition to this matter.

"Colleagues, this is squarely a freedom of speech versus property rights issue just going head to head. Because I believe in property rights and landowner's rights to set the parameters of what should and should not be on their property, I believe that when it comes to political signs, that goes over the line.

"For those reasons, plus the problems that this will also create with condominium associations with regards to posting of signs in common areas, I will be voting 'no.' Thank you, Madame President."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 12 was adopted and H.B. No. 373, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO POLITICAL SPEECH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Hemmings, Hogue, Slom). Excused, 1 (Bunda).

Conf. Com. Rep. No. 14 (H.B. No. 1214, H.D. 2, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 14 be adopted and H.B. No. 1214, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Kanno rose and said:

"Madame President, I have remarks that I'd like inserted into the Journal. Thank you."

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

"Madame 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 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.

"The bill was amended in conference to require the state and counties to periodically inspect the warning signs. However, if the sign is stolen, vandalized or illegible, this conclusive presumption extends 120 days from the date of the last inspection. This means the sign could be down for as long as

119 days or nearly 4 months, if it is not 'discovered' by the state and county, and the state and county is still not liable. If we're talking about a blanket waiver of liability, the state and counties should be held to a higher standard. 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 goes 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."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 14 was adopted and H.B. No. 1214, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC LAND LIABILITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Kanno). Excused, 1 (Bunda).

Conf. Com. Rep. No. 17 (H.B. No. 324, H.D. 1, S.D. 1, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 17 be adopted and H.B. No. 324, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Aduja.

Senator Aduja rose and said:

"Madame President, please note my reservations."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 17 was adopted and H.B. No. 324, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Bunda).

Conf. Com. Rep. No. 19 (H.B. No. 298, H.D. 2, S.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 19 be adopted and H.B. No. 298, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Hogue rose in opposition to the measure and stated:

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

"Colleagues, obviously there is a pressing need for additional correctional facilities, however, this is not the correct way to go about it. This bill: (1) inappropriately puts a mandate on the executive branch. In its testimony, the administration has already stated that it intends to consider the remaining Halawa property, as well as several other sites; (2) the Department of Public Safety should be able to explore options without being directed to a particular place, which this bill does. They should be able to decide what location will most appropriately meet Hawaii's needs and how to best address the inmate population growth; and (3) the statutes that we currently have, already provide adequate direction for the Department of Public Safety to accomplish this task – in other words, this bill is unnecessary.

"Thank you very much, Madame President. I'll be voting 'no' and I urge all my colleagues to do so as well."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 19 was adopted and H.B. No. 298, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONAL FACILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 7 (Fukunaga, Hemmings, Hogue, Ige, Slom, Trimble, Whalen). Excused, 1 (Bunda).

Conf. Com. Rep. No. 20 (H.B. No. 736, H.D. 1, S.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 20 be adopted and H.B. No. 736, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Trimble rose to speak with reservations and said:

"Madame President, I rise to express reservations.

"The fact that we are considering this measure this year indicates that we did not do a very good job last year. When we consider the process of how it works and how it doesn't work, I would like you to think between now and next year's Session about repealing the bill that this act seeks to amend.

"I think that if we reflect for a moment, perhaps some of the difficulties that the Senator from Waipahu is going through, concentrating power to influence lives and people's profession into increasing numbers of groups, is bad policy. So, in the next 10 months, let's figure out how we can correct these types of problems.

"I will be voting for this bill, but with reservations."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 20 was adopted and H.B. No. 736, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Bunda).

Conf. Com. Rep. No. 21 (H.B. No. 133, H.D. 1, S.D. 3, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 21 be adopted and H.B. No. 133, H.D. 1, S.D. 3, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

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

“Madame President, I rise to make a statement in favor of this bill.

“It’s an interesting bill. It’s, in a sense, creating new law and a new direction because the aim is protection of the child. If I am correct in assuming that anonymity is granted to the person dropping off the child, it does raise questions as we go forward as to the rights of the biological father and whether in the future we should consider that.

“Thank you.”

Senator Slom rose in opposition to the measure and stated:

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

“I was fully intending to support the bill as we had the first drafts and as we discussed it, the idea being that the welfare of the child is more important than liability of the parents. But several things had happened by the time we got to the final conference draft. First of all, there was a very real issue about the power and authority of the sheriffs. And they were involved in child abandonment cases and child custody cases and yet they don’t have authority to handle these and to expedite for the safety of the children. And so, up until the conference draft, they were conferred that authority. The conference draft took that away from them and left the law as it is. I see that as a problem, particularly in incidents that have occurred on state property, notably at the airports.

“Secondly, the idea of putting the child first of course is what we’re all about here in the Legislature, or at least what we espouse, but there’s another issue, and that issue is, whether we call it liability or responsibility, certainly accountability. And if we’re not going to hold anybody accountable, it has many ramifications socially as well as fiscally because we have to take care of these children. Oftentimes they have very serious medical problems and so forth. There may have been abuse, even for newborns. And what we’re doing here is giving a blanket authorization of non-responsibility, non-accountability.

“So, for all the people that say that they always put the keiki first, I think that this sends the wrong message. We certainly can craft a bill that will say that under certain circumstances or under every issue, the child comes first, but there’s got to be some accountability if there is either wrongdoing or there are long-term fiscal implications, and this bill just doesn’t do that.

“Thank you.”

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

“Madame President, I wasn’t planning to speak on this bill, but I did want to respond to the previous speaker.

“I was hopeful that part II of the bill would have also been in, but we could not get agreement with the House. However, to the point that you brought up, this bill only covers unharmed newborns. If there has been harm to the child, this particular law would not apply. I just wanted to let you know.

“I do support this measure. Thank you, Madame President.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 21 was adopted and H.B. No. 133, H.D. 1, S.D. 3, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO

CHILD PROTECTION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Hogue, Slom). Excused, 1 (Bunda).

Conf. Com. Rep. No. 22 (H.B. No. 562, S.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 22 be adopted and H.B. No. 562, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator English.

Senator Slom rose to speak in support to the measure and said:

“Madame President, I rise in strong support of this measure.

“Several years ago in a culmination of more than a decade of public outcry, this Legislature did the right thing and passed an age of consent bill. At the time, Hawaii had the lowest age of consent in all of the United States and it was an outrage for many of us. The Governor subsequently vetoed that bill after we had all of the hearings, after we had all of the public input, after we had conferences, after we made changes. After we did all that, the Governor vetoed the bill, and for the first time in 37 years, this Legislature overrode a governor’s veto. But the act was only made temporary.

“So, for all of the efforts, there were a lot of the public that were cynical and they questioned our real commitment to protecting our young people, in particular, young women in this community. With this bill, I think we’ve finished the job and I’m very happy to support it.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 22 was adopted and H.B. No. 562, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Bunda).

Conf. Com. Rep. No. 28 (H.B. No. 968, H.D. 1, S.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 28 be adopted and H.B. No. 968, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

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

“As I’ve mentioned before, colleagues, earlier this year, every employer in the state got a notice of an increase in their unemployment compensation tax. Even though it says contributions, I’ve never contributed to unemployment taxation in my life. No employee pays for unemployment compensation tax. The State of Hawaii has either the first or the second highest rate of unemployment compensation tax in the nation. It particularly harms the smallest of businesses with one or more employees.

“And what this bill will do is to increase benefits and thus the potential for increasing unemployment compensation tax on small businesses. I urge a ‘no’ vote.

“Thank you.”

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 28 was adopted and H.B. No. 968, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT BENEFITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 7 (Hemmings, Hogue, Ige, Sakamoto, Slom, Trimble, Whalen). Excused, 1 (Bunda).

Conf. Com. Rep. No. 29 (H.B. No. 1303, S.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 29 be adopted and H.B. No. 1303, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator English.

Senator Hemmings rose to speak against the measure as follows:

"Madame President, I rise to speak against this legislation.

"OHA is going to have to come to grips sooner or later with its destiny concerning sovereignty. As recently as the Rice decision, it was argued by some in OHA that OHA indeed was a quasi state agency. It's continued to be argued that the Hawaiians at the national level need protection so that they eventually can become independent and sovereign.

"In contradiction to that whole movement is this bill and others that further tie OHA to the state government and further increase their dependency and also management by state government. Therefore, I think this bill is a step in the wrong direction. The eventual solution for the Hawaiians is to become independent with their own trust, such as the Alii Trust, and this bill represents a step towards dependency, not independence.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 29 was adopted and H.B. No. 1303, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Hemmings). Excused, 2 (Bunda, Taniguchi).

Conf. Com. Rep. No. 37 (H.B. No. 1579, H.D. 1, S.D. 2, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 37 be adopted and H.B. No. 1579, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose to speak in opposition to the measure and stated:

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

"My question is, where's the beef? We talk about economic development. We talk about economic diversification, but from what we have done in the last three months, it has not been a priority. We cannot achieve economic development or diversification with mere words alone.

"So I will be voting against these words not because I dislike them, but there is nothing behind it in terms of dollars, in terms of appropriation so that we can begin the process of furthering economic diversification.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 37 was adopted and H.B. No. 1579, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ECONOMIC DIVERSIFICATION AUTHORITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 3 (Bunda, Hanabusa, Menor).

Conf. Com. Rep. No. 38 (H.B. No. 317, H.D. 2, S.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 38 be adopted and H.B. No. 317, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

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

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

"What we have here is the University of Hawaii making its own law, and then they come to us and ask us to make them whole. I think that before we accept their mere statements, we need to have a good audit of what they've actually been doing. Marion Higa has provided us with the rationale for believing that we should do this. We were told it was not a cost item, but until we check, we don't know it. And I really don't like the University of Hawaii going out on its own and making its own law.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 38 was adopted and H.B. No. 317, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (Trimble). Excused, 3 (Bunda, Hanabusa, Menor).

Conf. Com. Rep. No. 42 (H.B. No. 914, H.D. 2, S.D. 1, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 42 be adopted and H.B. No. 914, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker.

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

"Madame President, I rise to speak in support of H.B. No. 914, C.D. 1.

"This measure mandates the Department of Health to conduct unannounced visits of all adult residential care homes and expanded adult residential care homes. I would like to commend the Chair of your Committee on Human Services for her success in bringing both sides together to support this conference draft. I would also like to acknowledge AARP for

their tireless efforts on behalf of elders, especially the frail and most vulnerable of our seniors.

“According to the State Long-Term Care Ombudsman, there are 8,400 elders living in licensed nursing homes, assisted living facilities and adult residential care homes. These homes and facilities provide care and services for some of our frailest elderly who are no longer capable of caring for themselves. While these caregivers provide a much-needed service for our elderly, we must continue to do everything we can to ensure a quality standard of care.

“Last year there were 155 complaints received and investigated and after further examination of the complaints, three adult residential care homes were closed by the Department of Health. Although the majority of adult residential care homes are run by reputable caring individuals, there are some individuals that are taking advantage of our seniors and must be more closely monitored and inspected. H.B. No. 914, C.D. 1, gives the Department of Health the tools necessary to ensure the health, safety and welfare of all of our seniors in adult residential care home settings.

“This bill is not intended to cast aspersions on the care home industry, nor is it the intent of this measure to make care home management more onerous. Rather, it’s purpose is to ensure that all care homes are providing the level of care and the quality of care they have promised to their residents. Furthermore, this measure is an important step forward to maintain proper oversight and protection of our frail elderly, who may have no family to look out for them and may not be able to access the Ombudsman or other advocate groups should abuse or neglect occur.

“Hawaii’s senior citizens have greatly contributed to the success of this State. We must assure them that we will see to it that their well being in their later years and their most vulnerable years is taken care of. Unannounced inspections of adult residential care homes and expanded adult residential care homes, like the unannounced inspections in our other long-term care facilities, will help ensure that our elders receive the quality of care they so rightfully deserve.

“For these reasons, I urge my colleagues to join me in voting ‘yes’ on this bill.

Senator Espero rose to speak in support of the measure and said:

“Madame President, I’d like to rise in support of this measure.

“I’d also like to congratulate the Chairs of the Health Committee and Human Services Committee for working with our House counterparts to come up with a compromise which everybody can live with and support.

“Of course, the controversy on this issue was not on the unannounced inspections, but rather on the annual license renewal. Nobody doubts that we need to protect our elderly, and no one disagrees to that statement, and of course we are going to do that with this bill. However, the care home operators had some concerns regarding their annual license renewal which basically deals with their livelihood. I believe a compromise was worked out that everyone can live with and I’d like to acknowledge that on all parties involved.

“Thank you very much.”

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

“Madame President, I, too rise in support of this measure.

“As one of the outspoken spokespeople for the elderly caucus here in the Senate, and one who voted against this bill earlier, I, too, am very happy that we were able to reach a compromise – a reasonable and rational compromise. The issue was never to overlook abuse, or to overlook health and safety violations, or to overlook the responsibility for care. The issue always was whether or not there would be reasonable inspections related to the health and safety of those residents and occupants of the care facilities.

“This shows that we are capable of reaching these compromise conclusions so I, too, want to thank the Chairs of the various Committees. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 42 was adopted and H.B. No. 914, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Bunda, Hanabusa).

Conf. Com. Rep. No. 43 (H.B. No. 32, H.D. 2, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 43 be adopted and H.B. No. 32, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Hogue rose in opposition to the measure and stated:

“Madame President, I rise to speak in opposition to this particular matter.

“There are a couple of problems with this particular bill, colleagues. The first one is somewhat manini, but I want to point it out – and that is, in section 4 of the bill it says each school shall provide a copy of the current list of textbooks and instructional materials upon the request of a student or a parent or a guardian of a student attending the school. The list shall be available not later than the first day of class in each school year. Well, as a former teacher myself, I realize that you need to have flexibility as a teacher. In most cases, the attempt is made to have that list. But for us to mandate that that list be available on the first day of school kind of oversteps those particular bounds.

“There are going to be times when textbooks are going to be made available after the first day of the school year, and sometimes books are going to come to mind after the first day. So, that’s one section of this particular bill that should not be here.

“The most onerous part of this bill is a change in policy, and that is in section b of section 4 it says that each school may assess and collect from each student or the student’s parent or guardian, a textbook and instructional materials fee not to exceed \$20 per student per school year. This means we are going to charge students, or we may charge students, a fee for a textbook. That’s a step in the wrong direction. It’s a user fee for going to school.

“I realize that these are very difficult times that we live in, but this is definitely a step in the wrong direction. We cannot be starting this practice and setting up user fees for items that must be inherent in anyone’s education. I know that the Senator from Hawaii Kai will argue the point that school is free. I know

he brings up that point over and over again that we as taxpayers obviously pay for our school. But a free and appropriate education means that students who go to school should not have to pay for the most elementary items, including their textbooks.

"Now, I know that there is a carve out in the bill which talks about particular poor students and that they wouldn't have to pay this fee, but for all others they would. So it's a step in the wrong direction. For these reasons, I'll be voting 'no.'

"Thank you, very much."

Senator Sakamoto rose to speak in support of the measure and said:

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

"This measure does authorize schools to collect fees on textbooks up to \$20. It also clarifies the process for restitution for lost, stolen, or damaged books. Also, yes, it does require the schools to compile the annual list of textbooks from which parents and students are allowed to purchase their own book.

"I think in regard to the previous speaker, certainly, if at the beginning of school, whatever that teacher has available would be the list, and if subsequently, additional items are added, I think those would be welcomed additions.

"Research has shown that millions of dollars have been lost over the years due to textbooks and other instructional materials which have been lost or damaged by students, in which cases the restitution for the loss has been generally minimal. As recently as March of 2003, I received a board of education report that stated that the department had a deficit of approximately 134,000 textbooks. If we say perhaps at \$50 a book, that's over \$6 million.

"By charging a fee, this minimal fee, the school would be able to perhaps at least stay ahead or keep up with the funds they need for textbooks, workbooks, and those similar types of materials. Hopefully, the students will be more responsible because of the dollars that they or their parents are putting in, and they'd be more aware of the cost of these textbooks and other instructional materials, therefore, they would hopefully be more accountable.

"I think all of us remember early on in the year there was a survey by one of the papers stating that 77 percent of people would pay more to aid schools. I've distributed to members a survey that we did to the school community where in essence a higher percentage said they would be willing to pay the half percent tax for schools. Certainly the population in the school, in order to improve their own school and directly benefit their child, would be higher than this general public 77 percent. I have no doubt that people want a better education, and I have no doubt that people would be willing to assist in that effort.

"In regards to the point about the free and appropriate education, which is in the IDEA (Individuals with Disabilities Educational Act) legislation, we did check with the attorney general on whether that meant a fee, such as textbooks, would not be appropriate. Their response was that, just as in other things, a fee would not be disallowed in the terms of it would not conflict with that particular measure. And we tried to accommodate the children for free and reduced lunch, but certainly my hope, Madame President, is that we would see fit to move this measure forward and have people at least help us with a system that needs help and certainly help address the textbook shortage that we have.

"Thank you."

Senator Trimble rose to speak against the measure and stated:

"Madame President, I rise to speak against this measure.

"I wasn't going to say anything, but after the last remarks I just had to get up and say something about good taxes and bad taxes, good fees and bad fees.

"No discussion so far has been directed to who was going to collect this fee. Is it going to be the teacher? Who is going to account for the money and deposit it? Is it going to be the teacher? How much it's going to cost for every \$20 bill to account for it and keep records. And if we're going to start down this process, why don't we be consistent with what we did last year and keep records of those who paid or did not pay. And if they became a doctor or a licensed technical or professional worker, remind them that in addition to their college loans, there were some school fees.

"It's not only a bad direction. It is not only inefficient, but if we need to fund the schools, then let's get our economy going so we can do it properly."

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

"Madame President, as unaccustomed as I am to stand and speak (laughter), I want to register my opposition to this bill too.

"I think probably it's a microcosm of so many of our problems. And as the last fine speaker, Dr. No, had pointed out, here we are, we're addressing a problem but we're not really addressing the problem and we've got a mechanism but we don't spell it out. We have no accountability. We don't know where the money is going to go. We don't know who's going to watch it. We don't know what's going to happen to it. It'll probably wind up in a special fund and then it will be raided in a couple of years anyway.

"There were two points that the good Senator from Moanalua brought up and one is about the lack of textbooks themselves. This has been a 30 year problem, which neither the past state administration, the current DOE, nor the Legislature has addressed. Everybody has complained about it (the lack of textbooks) but we just didn't make that a priority. We didn't want a priority for textbooks. Instead, we wanted computers and we wanted other things. So now we're talking about textbooks.

"The second issue was of the up to \$6 million loss for damaged and misplaced and lost and (I don't think anybody really steals a textbook, but) books that did not return. This is government's response: not to seek restitution, not to seek accountability from the people that didn't have the textbooks, but to tax everyone else and to make everyone else pay for it. That's fine. The good Senator said that the average cost of the textbook is \$50, probably that or more, although we are going more and more to the Internet and to wireless textbooks. But the point is even \$20 we would still have a net loss and you would be penalizing a lot of people, the majority of people, that are responsible and accountable and take care of their things. And so, as always in society, the government says it's too difficult to make people be responsible or to hold them accountable so we'll tax everyone else.

"And I'm sure the good Senator doesn't want to go into an argument on the half percent increase and the fallacious use of the Advertiser 77 percent survey.

“Thank you, Madame President.”

Senator Hooser rose in support to the measure and stated:

“Madame President, I rise in support.

“I’m not sure if everyone’s reading the same bill that I’m reading. I want to make sure we’re on . . . is it H.B. No. 32, S.D. 1? Is that the bill?”

The Chair replied: “That’s correct, Senator.”

Senator Hooser continued:

“Okay. A brief read of this bill simply says that public schools may assess up to \$20 per student, per year. It’s not government doing anything other than that – empowering local schools and local principals. Isn’t that what we’ve been talking about. As long as I can remember, anyway, it’s empowering local schools to make their decisions on a local level. This is not the DOE; it’s not the Legislature. This is saying this school can look at its population, look at its needs, and if it determines that it wants to charge \$20 per student, per year to have better books or more books, then it may do so. It doesn’t say they have to do it.

“I just fail to see the downside of that. It’s about empowering local schools, local principals to make those decisions working with their local school communities. So, I urge my colleagues to vote in support.

“Thank you.”

Senator Sakamoto rose and said:

“Madame President, I’m rising in response to some of the comments made.

“First, schools do collect lunch fees, bus fees, other fees, so there are mechanisms currently in place. And if this measure does go through and the school does choose, we’re not setting up a whole new mechanism to do this.

“In regard to the \$6 million, those are not only lost or stolen or misplaced books. Certainly, books get old; some schools have complained about books that are over a decade old. So we’re trying to address, we the Legislature are trying to address, the problem that perhaps, as the Senator from Hawaii Kai said, could have, should have been resolved. I suggest that this is our attempt to help to resolve it.

“And certainly, people can say that the use of a poll result in a targeted manner may be fallacious. I think, certainly, some people who portray to put out truthful information fallaciously misrepresent or other things, but I don’t believe this poll or my commenting on it would be fallacious use. I’m attempting to show how people intend to support schools, and if the general public intends to say we’re willing to put dollars out, I think certainly the people directly at hand would be as well.

“Thank you.”

Senator Hogue rose in rebuttal and said:

“Madame President, I rise in rebuttal.

“I just wanted to bring up a couple of the points here. I know that we’ve had some of these discussions in our Education Committee, and it has been brought up that this textbook fee is somewhat analogous to lunch fees or bus fees. Maybe that

wasn’t exactly the point but at least the point was brought up here. Certainly, there’s nothing in the way that we run our schools that says that schools have to provide a lunch. So, I think that textbooks are totally a different animal than lunches or bus transportation, or even athletics, which I think the point can be made that they are or should be paid for by the users that actually utilize them.

“As far as the point that was made about whether this is local empowerment, well, it is local empowerment of the principal, but only the principal is going to decide whether or not the \$20 fee should be charged. There is nothing in this bill that says that he’s going to get input from the community, which is what we’ve been talking about, what we mean local empowerment.

“Then the other part of the bill that is problematical and the biggest reason that I have a problem with it, Madame President, is the fact that it sets up the policy of user fees for standard items such as textbooks – this year, \$20; next year, \$25, \$30, 50? I mean, we’ve seen over the years, colleagues, how things are put in motion, and then when we run into problematical times, that those numbers increase. And we have no idea what future legislative bodies will do.

“So, it’s a bad policy to get started with this and in encourage all of my colleagues to vote ‘no.’ Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 43 was adopted and H.B. No. 32, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 7 (Espero, Hemmings, Hogue, Ige, Slom, Trimble, Whalen). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 44 (H.B. No. 130, H.D. 1, S.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 44 be adopted and H.B. No. 130, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

Senator Trimble rose to speak in opposition to the measure and stated:

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

“What’s interesting is that this bill started out as a spousal consent bill. It is no longer spousal consent, it’s spousal notification. I am somewhat curious how many people here have actually retired from the State of Hawaii and gone through the process . . . oh, I’m sorry, I must be the only one. It was a painful experience. It’s something that I shared with my wife. I wouldn’t want to do it again. We had to make decisions over which we had no knowledge – like who would live longer. But every effort by the employee retirement system was to include the spouse in the process. Codifying, making this into law of a practice they already attempt to do, I think, will have some consequences that may not be desirable at this particular time.

“The employee retirement system is significantly underfunded. They are working as hard as they can with the existing staff. I’m not sure that I want them to devote more staff time, which may result in less money available for the benefits to be paid out. And there is also a liability question if somebody, somehow should make a mistake, and believe it or not, that always happens.

"I don't urge my colleagues to vote 'no.' It's not really that important. I just think that at the present moment, it's not necessary.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 44 was adopted and H.B. No. 130, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PENSION AND RETIREMENT SYSTEMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 2 (Slom, Trimble). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 46 (H.B. No. 531, S.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 46 be adopted and H.B. No. 531, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

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

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

"This bill seeks to undermine the changes to the collective bargaining and civil service reform acts, specifically Act 253 two years ago. What it says is that excluded employees should be treated exactly as everyone else and be paid exactly the same amount and given the same benefits. Well, if they were, they would not be excluded employees. That was the whole basis. There are classifications of employees. There are good reasons for doing so and it is both a fiscal and managerial decision, and it's one that should be recognized and honored.

"So I urge my colleagues a 'no' vote on this bill. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 46 was adopted and H.B. No. 531, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 4 (Bunda, Hanabusa, Sakamoto, Taniguchi).

Conf. Com. Rep. No. 59 (S.B. No. 1051, H.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 59 be adopted and S.B. No. 1051, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator English.

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

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

"This bill is an extension of the wheelchair. It allows people like me a great deal of freedom. It provides the opportunity to travel here and there without the need of an automobile. We've had testimony and e-mails in support of this bill from as far away as Kona and other counties that they support the bill.

"So Madame Chair, I urge all my colleagues to vote 'aye.'"

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

"Madame President, I rise in favor of this measure.

"I would be wearing sneakers on the Senate Floor if it weren't for the Senate Clerk. (Laughter.) If you had to give up your driver's license for a week, maybe you could see the reason why having alternatives for people that don't drive is important in our society.

"I'm not as eloquent as the previous speaker, but I would like to cast my vote on giving the residents of our community more choices. It's particularly important as those of you continue to age and get as old as I. It is also important that we recognize that approving this type of measure of reducing reliability on the automobile will have important long-term consequences for our society.

"So when you approve this measure, I also suggest that you think about also increasing appropriations to expand sidewalks and make them wider.

"Thank you."

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

"Madame President, I also rise to speak in support of this particular measure but I just want to oppose one last bit of testimony, and that is that I think, Senator from Waikiki, you are every bit as eloquent as the speaker that spoke before you.

"Thank you very much, Madame President." (Laughter.)

The motion was put by the Chair and carried, Conf. Com. Rep. No. 59 was adopted and S.B. No. 1051, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PERSONAL TRANSPORTATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 4 (Baker, Chun Oakland, Fukunaga, Ihara). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 65 (S.B. No. 1201, S.D. 2, H.D. 1, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 65 be adopted and S.B. No. 1201, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

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

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

"The bill would seek to add or restore additional regulation by the state over motor vehicle franchisees and manufacturers. And in addition, it sets up the possibility of additional fees and does include two new fees – a \$1,000 fee and a \$500 registration fee.

"So, I'll be voting 'no.' Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 65 was adopted and S.B. No. 1201, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE FRANCHISES," having been read

throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 4 (Bunda, Hanabusa, Hooser, Taniguchi).

Conf. Com. Rep. No. 66 (S.B. No. 931, S.D. 2, H.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 66 be adopted and S.B. No. 931, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

Senator Trimble rose in opposition to the measure and stated:

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

“Good government policy has broad categories. In this case, instead of picking out one characteristic at a time and saying it is worthwhile doing it for this reason, this reason, this reason, this reason, why don’t we just have one category – paid time off. Since every family’s or every person’s needs are different, he can allocate among that which is available his own personal time off for whatever reason he or she needs.

“I ask my colleagues to oppose this measure. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 66 was adopted and S.B. No. 931, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HAWAII VICTIMS LEAVE ACT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 6 (Hemmings, Hogue, Sakamoto, Slom, Trimble, Whalen). Excused, 4 (Bunda, Hanabusa, Hooser, Taniguchi).

Conf. Com. Rep. No. 70 (S.B. No. 1492, S.D. 1, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 70 be adopted and S.B. No. 1492, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

Senator Whalen rose in opposition to the measure and stated:

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

“I’m a little bit surprised about the moratorium. I know that there has been problems trying to figure out a way to regulate or, to phrase it another way, to ensure the safety of different ones. But I don’t see a need to put a moratorium. Although theoretically it’s short, it certainly sends a message through the industry or those who are interested in doing this type of housing project that they could be on shaky ground.

“We have a number of them in Kona that are very successful. Some are quite expensive, others aren’t, but everyone that I’ve talked to says that this is a tremendous gap group type filler thing that keeps our elderly out of homes or hospitals and allows them to stay in an environment, usually where they lived anyway.

“So I’m not sure why we’re putting a moratorium on there and I think it sends a bad message at a time when we’re trying to increase and encourage these types of options within the state.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 70 was adopted and S.B. No. 1492, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ASSISTED LIVING FACILITIES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 4 (Hemmings, Hogue, Slom, Whalen). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 72 (S.B. No. 975, H.D. 1, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 72 be adopted and S.B. No. 975, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Kanno rose and said:

“Madame President, I have remarks that I’d like to have inserted into the Journal. Thank you.”

The Chair having so ordered, Senator Kanno’s remarks read as follows:

“Madame President and Colleagues, I rise to speak against S.B. No. 975, C.D. 1, Relating to Government.

“This bill provides for tort immunity from claims arising from the use of public skateboard parks. It provides for limited liability for the state and counties when they are engaged in the designing, building and operation of a skateboard park. I am voting against this bill because it absolves the government from possible negligent action on its part in an activity primarily engaged in by our youth.

“Although I recognize the argument, especially of the county of Hawaii, that this bill is needed to encourage the establishment of skateboard parks, on balance, I cannot accept the fact that it leaves our youth at risk if there is negligence on the part of the county or state. The bill takes away certain rights enjoyed by our citizens to recover compensation from a government entity when it may be negligent in constructing or operating a skateboard facility and where that negligence was the cause of a person’s injury.

“Whenever the legislature makes a major change in existing concepts of law, whether it be tort law or some other area of law, I feel that it is our duty to examine all the facts to make a deliberate and reasoned decision. In this case there was no testimony or factual information of any law suits filed against the state or any county for injuries arising out of the use of any public skateboard park. I interpret this as an indication that the situation that this bill is attempting to address is based on incorrect assumptions or based only on the fear that someone may sue the county because of an injury.

“The civil justice system takes into consideration the fact that the activity may be a ‘dangerous’ activity and that the participant and potential injured person assumes responsibility and may be partially liable for his or her injury thereby resulting in no recovery or at least a reduction in any possible award.

“Although the state or counties would be held to the same standard of negligence for its failure to repair or maintain a skateboard park, I feel that government should be held to a standard of care where they would be responsible for the design and construction of any recreational facility that especially caters to the youth of our state.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 72 was adopted and S.B. No. 975, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (Kanno). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 73 (S.B. No. 740, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 73 be adopted and S.B. No. 740, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kokubun.

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

"Madame President, reading the committee report we noticed that since 1923, or for the last 80 years, this activity has been occurring within the territory and the State of Hawaii. If we've managed to get along for 80 years, I don't see any reason to change the law now.

"Thank you."

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

"Madame President, I have remarks in support of this measure I'd like to have inserted into the Journal."

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

"Madame President, I rise to speak in support of S.B. No. 740, C.D. 1, which establishes in statute the Public Health Nursing Services Program within the Department of Health. This measure formally recognizes the important roles and functions that public health nurses have been providing to Hawaii's people.

"The public health nursing program was established by the department of health in 1923 to provide services in the areas of communicable disease control, infant welfare and nutrition. Public health nurses perform home visitations to monitor and follow up on health conditions, and to identify, screen and assess children for early intervention programs. These nurses continue to play a prominent role in prevention and control of communicable diseases and immunization activities, and also provide an immediate response to epidemics and other catastrophic disasters and traumatic emergency events affecting the community. They are also heavily involved in Felix-related services and breast and cervical cancer prevention programs, among others. Clearly, PHN has become an indispensable program for the State.

"By establishing the Public Health Nursing Services Program within the Department of Health, we recognize the importance of the program as part of the State's infrastructure to protect the health of Hawaii's citizens. S.B. No. 740, C.D. 1 assures PHN's continued existence and the continued provision of nursing services to thousands around Hawaii. I urge my colleagues to join me to support this important measure.

"Mahalo."

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

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

"I noticed that the good Senator who is a Minority colleague of mine seems to have great personal knowledge about occurred in 1913 and 1923. So, I was just wondering if he has any other further comments about what happened early in the twentieth century.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 73 was adopted and S.B. No. 740, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (Trimble). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 74 (S.B. No. 38, H.D. 2, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 74 be adopted and S.B. No. 38, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure and stated:

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

"Attorneys, attorneys, attorneys – God must love attorneys; he's created so many of them. The discussion in this bill originally was to allow the Hawaii Tourism Authority to hire its own legal counsel because the complaint was that under the prior administration and the prior attorney general, the HTA, like other departments, including the Department of Education, did not get prompt, efficient, talented legal assistance. The new attorney general made a personal commitment that that would change, and the HTA brought up the issue that their contracts somehow were so specialized and unique that the nearly 200 deputy attorney generals in our state attorney general's office would not have the knowledge to work with those kinds of specialized contracts.

"However, in our most recent hearings, which you conducted, Madame President, so well you conducted those hearings, a questioning of the executive director of HTA said that he is very satisfied with the legal services he's getting, that he is very confident that they have the competency to take care of all of the specialized legal contracts like turf grass, and how much you pay for a hot dog down at the stadium, and things like that. So therefore, I don't think we need any additional attorneys at taxpayer expense.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 74 was adopted and S.B. No. 38, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 5 (Hemmings, Hogue, Ige, Slom, Whalen). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 76 (S.B. No. 1423, S.D. 2, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 76 be adopted and S.B. No. 1423, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hooser.

Senator Hogue rose to speak in opposition of the measure as follows:

“Madame President, I rise in opposition to this.

“I’m a father. I’m a proud father of four. I certainly don’t need a commission telling me how to be a father. We don’t need to have a commission on fatherhood. This is a ridiculous intrusion of government into the home. I’m proud to be a father and I certainly don’t need the government telling me how to be one.

“So, for these reasons, it seems like a ridiculous bill. I’ll be voting ‘no.’ Thank you.”

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

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

“I am offended that my colleague finds this legislation to be ridiculous. The Commission on Fatherhood is very important. Recent research proves the active involvement of fathers in the upbringing of their children results in children doing better health-wise, as well as in school, and it keeps them out of trouble.

“This is important because government funds a large number of services provided to children and families, and if you think about those services, most of those services get provided only through the mother. So part of the Commission on Fatherhood, as stated in the bill, is to promote and encourage the active involvement of fathers, which would result in better outcomes for their children.

“The commission is set up as a temporary two-year commission attached to the Office of the Lieutenant Governor. I think there has been a lot of misunderstanding about the bill and that maybe the commission is about telling people how to be fathers, rather it’s about how government can better serve families by involving fathers in the services they already provide.

“Thank you very much.”

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

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

“I think we’ve got it backwards here. As a father who admits at least to four sons that I know of, none of whom look that much like me, the point should not be government involvement. Government involvement has never made a better father or a better mother. If government wants to help fathers and mothers, it can reduce taxes and regulations so people don’t have to spend so much time working and away from their children to provide for the upkeep of government.

“A good father, a responsible father, like a good mother, is one who takes their responsibility seriously, loves their children and understands that it’s a lifetime commitment, and no government body or commission is going to make that something that they’re required to do.

“So, we can talk about this; it may be ‘feel good legislation.’ I don’t know whether it’s ridiculous or not, but in the grand scheme of things, if the government really wants to help fathers

and mothers and families and children, then it should reduce its impact on their daily lives, not increase it.

“Thank you.”

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

“Madame President, I speak in favor of this measure.

“I am in support of this measure because, like the Senator from Kapolei, I feel that we need to raise the awareness of our community about how important fathers are in a child’s life. I’m glad that these dads here speaking acknowledge that important role that you play. There are no public funds that will be involved in this. The Lieutenant Governor has graciously allowed us to attach it to his office so that we can raise the awareness in the community.

“So, I do support this measure. Thank you.”

Senator Hogue rose and said:

“Madame President, I’m just kind of curious, could I . . .”

The Chair interjected:

“For what reason do you rise?”

Senator Hogue replied:

“For a question. For a question, seriously. And I didn’t mean to impugn your integrity when I called the bill ridiculous, but the point here is that it seems that we are getting involved here, government involvement with fathers. I’m curious why you didn’t just call this relating to a commission on families or something like that because that seems to be the intent that you’ve expressed and also the good Senator from Kalihi. I could support something like that, but actually to have a commission on fatherhood, that’s the part that I have problems with.

“So, why was that?”

Senator Kanno responded:

“Actually, Hawaii is slow on the uptake. There is a fatherhood movement sweeping the country. A number of states have established commissions on fatherhood for exactly the same reasons we are.

“Although we’re not trying to focus on fathers at the exclusion of mothers, we really do believe it’s important to put a focus on fathers. As I said earlier, the government programs that are provided through the Department of Health and the Department of Human Services are mostly provided directly to the mother. For our generation, our primary caregiver as children were our mothers. For today’s generation, we expect our fathers today to do so many other things. Fathers today are expected to be in the delivery room; that’s different. We are really asking fathers today to be something different than our own fathers were.

“If you think about all the services government provides, even with our schools and the bill that’s up next on the agenda, it all impacts us as well. We want parents involved in the education of our children. We have to make sure that we’re able to involve fathers as well as mothers. We are not trying to exclude the mother in any way, but unless we put a special focus on fathers, fathers will be excluded, and they do play a critical role in the lives of their children.

“The multitude of services that government provides, whether it be WIC (Women, Infants and Children), or the Department of Health maternal child health branch, what happens to the fathers in the equation? Across the country, states are looking at welfare reform, as well as reforms to their child support law because they recognize the need to involve fathers in a positive way. One of those ways is helping fathers to get back to work. That will help fathers in the area of welfare as well as child support.

“There are many areas for us to tackle. Hawaii is really behind the ball. If you look at the legislation that’s evolving across the country, in Congress, as well as being generated by our President, they are all looking at father-specific legislation because it’s been lacking in these areas.

“Thank you.”

Senator Hemmings rose to speak against the measure and said:

“Madame President, I rise to speak against this legislation. I wasn’t going to do it. (Laughter.)

“I find it quite ironic that the rationale for this bill is to involve fathers in the welfare of their children. But quite ironically, earlier in this Session we passed a bill that allows, for the purposes of convenience, a mother to abandon her child without involvement of the father. So, along with the many other contradictions that government has put into the relationship between men and women, this is especially contradictory, especially with these two bills coming to the Floor today to be voted upon.

“With this bill, we’re asking fathers to be held accountable and to get involved in their children’s lives. And with another bill, we’re telling a mother, for the most part, leave your child on the doorstep of some stranger and you’re totally without liability, and quite frankly, we don’t care what the father thinks. This is the kind of contradiction and kind of government involvement that drives most fathers and most mothers somewhat crazy.

“Anyway, I hope we can ruminate on this, and after doing so, vote ‘no.’”

Senator Trimble rose to speak with reservations and said:

“Madame President, I speak with reservations on this matter. I was just curious what ruminating meant. Is that something a cow did? (Laughter.)

“Anyway, I take umbrage at the sexist remarks made by the gentleman from over there. Men are not whiners. Men realize that we live in a sexist society and we’re the brunt of many comments, many jokes, and discrimination in the law. But that’s all right. We have broad shoulders; we can stand up and take it.

“What bothers me is that we continue to try and divide society into little interest groups. Why don’t we try and look at it from the whole? We are a body of diverse people. Our strength is in our diversity. We do not need commissions for this group – women; this group – the aged. Each commission we set up does have a cost. They print a report, and the next thing they’re going to want to do is change the law and increase government involvement.

“I will be voting for this measure with reservations this year only.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 76 was adopted and S.B. No. 1423, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO A COMMISSION ON FATHERHOOD,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 3 (Hemmings, Hogue, Slom). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 77 (S.B. No. 205, S.D. 3, H.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 77 be adopted and S.B. No. 205, S.D. 3, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

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

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

“This actually is a continuation, in many respects, to what we just did, although what this does is to require paid parental leave for public employees for up to two hours per semester to attend either a conference with a teacher or with a caregiver. Now, I sat through the hearings in the Labor Committee and there was not one person who came forward and said there was a problem. There was not one person that said that there was not flexibility in either the public or private sector workplaces. So why do we always think of more government? And that’s what that last argument was about; that’s what this argument is about – getting the government involved – government services, government programs, government intervention.

“There’s another point to this little story here as well, and the people that testified said, basically they are doing this already. I don’t know of any private employers that if there is an issue where a parent, mother or father, wants to be involved with their children, has an important conference, that they can’t have the flexibility to work it out. That’s what people do, particularly in small businesses.

“Also, however, employees today, if they go to a doctor they are generally required to provide a doctor’s note since they’re paid for that time off. If they vote or when they vote while they’re given time off, they’re still asked to bring in the stub that they have actually voted. This bill doesn’t require anything. It sets up the time that they’re off, ostensibly, to go to one of these conferences but does not require any proof that in fact they did, that they just had the time off.

“And the bottom line on all this is, it does not improve parenting. Good parents are involved. Good employers recognize good employees and provide for the flexibility. We do not need additional bills like this.”

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

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

“I was at the same hearing as the Senator from Hawaii Kai and I heard something different. One of the testifiers got up and said that S.B. No. 205 will provide a needed and welcomed benefit for working dads so that they can balance their role as provider and nurturing father. Dads will be able to take needed time off for important events in their children’s lives such as parent-teacher conferences.

"While many of us believe employers should value their employees needs to attend to the health and education of their children, the reality is that parents are often unable or unwilling to ask their employers for leave to attend to such important matters.

"The bill is actually codifying a practice that's currently underway for state employees as well as employees of the County of Maui and the County of Kauai. For state employees, it was an administrative directive back in 1993. It's been in place since then. The bill, one, puts it in statute, codifying that practice as well as expanding the privilege to employees of the City and County of Honolulu as well as Hawaii County. That's why the measure is important.

"Thank you."

Senator Trimble rose in opposition to the measure and stated:

"Madame President, as a government employee, former government employee, I wish to speak to confirm what the . . . I'm sorry, I'm rising in opposition to this measure.

"As a former government employee, I want to confirm that it is a practice to give time off, that a note is required signed by the teacher, that you may have as many times off as you need. The first two hours and the second two hours per semester was generally done by a memo I think from Budget and Finance, but supervisors and managers, as a matter of course, provided it whenever it was needed.

"But this gets back to a bigger issue – what are a person's responsibilities? We continue to say and look at time off, paid time off, in this category, that category – giving blood is good, give him time off for it; going to a parent-teachers conference is good, give him time off for it. In one sense we're talking about fringe benefits, and that should be negotiated by the union. From another sense we're talking about trying to direct other people's lives. I think that the role of government in some senses should be limited and that the people have to be responsible for what they're supposed to do.

"So, I continue to oppose creating additional or codifying additional small ingredients here, there, and there until after a while it really is going to add up to real money, a higher cost of doing government."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 77 was adopted and S.B. No. 205, S.D. 3, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 6 (Hemmings, Hogue, Ige, Slom, Trimble, Whalen). Excused, 3 (Bunda, Hanabusa, Taniguchi).

At 2:38 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:58 o'clock p.m.

Conf. Com. Rep. No. 84 (S.B. No. 459, S.D. 1, H.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 84 and S.B. No. 459, S.D. 1, H.D. 1, C.D. 1, was deferred to the end of the calendar.

Conf. Com. Rep. No. 87 (S.B. No. 1333, S.D. 1, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 87 be adopted and S.B. No. 1333, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kokubun.

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

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

"Madame President, I know that there has been much discussion about the fact that judges deserve raises because we need to get the highest level of potential judge in this particular position. However, I stand before you today in opposition to increases for any of the branches of our government, whether they be the judiciary, legislative, or the executive branch of government.

"We live in austere times, colleagues, and I think that we as Legislators need to take the lead and say 'no' to salary increases now or in the near future, and this goes for judges as well. It is not prudent to be discussing raises at this time, not for the judiciary, the legislature, or any other state employees. Above all, the judiciary, legislature, and the executive branch all stand in public service and they are public servants and so they should not be looking at this at an opportunity to make great money. Would I love to make more money than I make right now? You bet I would. Would judges like to make more money? You bet they would. But we are and they are all public servants.

"For these reasons, I encourage all of my colleagues, especially in these austere times, to vote 'no' on this measure. Thank you, Madame President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 87 was adopted and S.B. No. 1333, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMPENSATION OF OFFICIALS IN THE JUDICIAL BRANCH OF STATE GOVERNMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 6 (Bunda, Hanabusa, Kawamoto, Menor, Taniguchi, Whalen).

At 3:01 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:02 o'clock p.m.

Conf. Com. Rep. No. 90 (S.B. No. 464, S.D. 2, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 90 and S.B. No. 464, S.D. 2, H.D. 2, C.D. 1, was deferred to the end of the calendar.

Conf. Com. Rep. No. 92 (S.B. No. 1262, S.D. 1, H.D. 1, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 92 be adopted and S.B. No. 1262, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Aduja.

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

"Madame President, I still have the same concerns that I raised at the second crossover vote so I'd like to just mention that those are my reservations."

Senator Trimble rose in opposition to the measure and stated:

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

"Procurement is a people problem. It's more than a process problem. In my 27 years working for state government, even though there were problems in other divisions and other departments, it worked well when I tried to execute it because the people involved had good intentions and were held accountable for their actions.

"What bothers me most about this is that we continue to change procurement code. It doesn't seem to make it any better, and we still don't hold people accountable. This measure also increases the future cost of government by creating a body at the UH Law School (I've forgotten its name). Even though it may be no cost in the beginning, it will, after the first year running, be a cost to all of us, and having another body looking at procurement will not in and of itself produce results.

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

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

"Madame President, I rise to speak in favor of the bill.

"Madame President, the basis of this bill was an administration bill and her desire to change the procurement code to best fit small business, contractors, unions, and all those involved with the state procurement. The desire is to level the playing field. The desire is to try to do something that is going to be different from what we had in the past.

"In the past we had contracts that were awarded, and one month down the line you had a protest and the project would stop, and that would add cost to everything, to everybody. This bill was a bill in the making as it started out to be. We got the small contractors. We got the specialty license people. We got the crafts. We got the unions. We even got Mr. Saito. Mr. Saito spent about 15 hours in my office just hammering away to get a bill drafted. This is a bill both the administration and our Committee worked hard for and wants very much. This is a bill I think the Governor . . . I talked to her yesterday as we went to the change of command ceremony at Hickam and she talked about the procurement bill and she talks about it as something that she would like to see happen.

"This bill is a bill that's going to be changing our procurement code. It's going to bring back some integrity. Again, I believe that there's no physical impact. I ask all my colleagues to vote 'aye' on this bill."

Senator Slom rose in support of the measure and stated:

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

"I'd like to echo many of the statements by my good friend and colleague and older classmate from the University of Hawaii. This was a process bringing in a number of different individuals and groups to try to make a better procurement law. We don't have a perfect procurement law. I doubt that we ever will. What we can do is continue to improve it and to try, as the Governor says, to make it more transparent.

"One of the added benefits from this procurement law as drafted right now is that it will solve a number of the problems in the campaign spending area because it will make reforms that will make giving to government officials a lot less lucrative since it changes the decision making process and again makes it more open and visible to the general public before, during, and after the actual bidding or procurement process.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 92 was adopted and S.B. No. 1262, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Trimble). Excused, 4 (Bunda, Hanabusa, Taniguchi, Whalen).

Conf. Com. Rep. No. 96 (S.B. No. 1403, H.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 96 be adopted and S.B. No. 1403, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

Senator Trimble rose in favor of the measure and stated:

"Madame President, I rise to speak in favor of this issue.

"It's a worthy bill. It's long overdue, and when we pass this bill, maybe we should revisit it next year and transfer lands that have been removed from the jurisdiction of the harbors division back to them. Specifically, I'm talking about piers 1 and 2, and piers 8 and 9 around the Aloha Tower, so that the agency that is responsible for insuring that our life blood to Hawaii is developed in a manner that takes care of the long term interest of the state, as well as any commercial development interest.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 96 was adopted and S.B. No. 1403, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF TRANSPORTATION'S MARITIME-RELATED USES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Bunda, Hanabusa, Taniguchi, Whalen).

Conf. Com. Rep. No. 100 (S.B. No. 1332, S.D. 2, H.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 100 be adopted and S.B. No. 1332, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final 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.

"In adding to the words of the Senate Minority Leader from Kaneohe, the Floor Leader, earlier, this is a time that those of us in public office are trying to tell everybody else you have to tighten your belt and you have to do with what you have, and so I urge a 'no' vote on this commission to adjust salaries for the executive branch. Now, a lot of people argue that we're not really voting here to raise salaries; we are authorizing a salary

commission in the case of the judiciary, the executive, and the legislative branches. However, a review of history since we have enacted the commission laws shows that in each and every case, the commission comes up with an increase. And the onerous part is that the Legislature has to vote no, otherwise, the increases become law.

“The other part about this, the executive branch, which is pretty interesting, even though the executive branch is supporting this and they had people attending hearings saying that you get what you pay for and that they need bigger salaries, better salaries, we could not ask for a better group of cabinet appointees in the 16 people that have been assembled and confirmed by the Senate, assembled by the Governor. All of them seem to be overqualified. All of them we know can do better in the private sector in terms of salary and compensation, but it was that extra component that the Senator from Kaneohe was talking about – public service. And that should not be lost, particularly at this time when we’re asking people to make cuts and do without.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 100 was adopted and S.B. No. 1332, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE COMPENSATION OF OFFICIALS IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 5 (Bunda, Hanabusa, Kawamoto, Taniguchi, Whalen).

Conf. Com. Rep. No. 110 (S.B. No. 748, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 110 be adopted and S.B. No. 748, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

Senator Trimble rose to speak against the measure and said:

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

“Colleagues, consider this – an aye vote is the same as a vote of no confidence to the Board of Regents and the University of Hawaii. What good is it to talk about a world class university if the most essential needs of our community go unmet? Specifically I’m talking about the failure of the nursing education program at the University of Hawaii and the college of education. In both regards, they are not turning out a sufficient number of employees to fill the current amount of jobs that are now available.

“We would be remiss if we thought that we could solve the problem of bad management by adding to the bureaucracy by creating a loan program. I think that we need to hold people accountable to get them to make the proper choices, to set the right priorities, and I urge you that if you don’t vote ‘no,’ at least consider what I’ve been saying.

“Thank you.”

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

“Madame President, I rise to speak in support of this measure.

“Madame President, I’m not certain that the Senator from Waikiki was looking at the same bill that I’m looking at when I look at the conference draft on S.B. No. 748. This measure is not about management at the university. It’s about a nursing shortage that looms before us.

“The bill, as we originally passed it across to the House and as we considered it in Conference, had both a nursing loan program and additional funding for faculty staff. The problem that we sought to address with this measure was the fact that there are individuals in our community who would like to pursue a nursing career and are perhaps older students. They are looking for a career change and cannot, without some financial assistance, go forward into that career option.

“Unfortunately, because of the financial crisis that our own budget was facing, we were unable to fund faculty positions which would have allowed more entrants into the nursing program, and we were unable to put dollars into the program. We’ve setup the framework hoping that in the near future, and looking to the private sector, we may be able to provide additional funds for this important endeavor.

“It’s not a slap at the university; it’s acknowledging a need, particularly called to our attention after the nursing strike this year, that we need to pay attention to this very important area in our community. And although it’s imperfect, I ask all my colleagues to vote in favor of this measure.

“Thank you.”

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

“Madame President, I rise in support of this particular measure.

“Colleagues, as all of us have seen, there is a severe nursing shortage that exists not only in the State of Hawaii, but all over the country, just as there is a teacher shortage that exists here in the State of Hawaii and all over the country. I think it is good public policy to look to ways to encourage those people to get into these much needed fields.

“So this is a step in the right direction and I encourage all of my colleagues to vote ‘yes.’ Thank you.”

Senator Trimble rose in rebuttal as follows:

“Madame President, I rise in rebuttal.

“The last time I looked, the budget at the University of Hawaii was what, \$700 million? The support provided by the State of Hawaii was in the hundreds of millions of dollars. They may say that they do not have enough money, but I question whether in that \$700 million or the hundreds of millions of dollars the state is providing them, they could not find the money necessary to expand the college of education and the nursing program to handle those that are able and willing to go to the University of Hawaii for a quality education.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 110 was adopted and S.B. No. 748, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO NURSING EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Trimble). Excused, 4 (Aduja, Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 113 (S.B. No. 1321, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 113 be adopted and S.B. No. 1321, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

Senator Slom rose to speak in opposition of the measure and said:

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

“This measure has been part of the prepaid healthcare act and mandated policies for a number of years and was scheduled to sunset. This bill in this version does a number of things. First of all, it eliminates the sunset provision. Secondly, it expands the definition of serious mental illness. Thirdly, I add new mandated health benefits which would be covered.

“Madame President, I know that mental illness has been a growing concern in our community and nationally as well, and certainly there are reasons to provide medical or insurance care. However, up to this point, the definition has been narrowed and been specific enough that doctors have been able to prescribe treatment and to have some way of accounting for the results.

“What this bill does, really, is take out all restrictions, all limitations, and allows for, as I said, additional definitions and additional benefits. This would be seen as a major cost driver, particularly for those in the small business community that have to foot the bill for the prepaid healthcare act.

“So, we’re doing a number of different things. We’re not really looking at the problems that prepaid healthcare has caused us because a lot of people are finding it very expensive or almost impossible to get basic medical health. And what we keep doing is loading up on additional mandates, which may be sought and may be needed for certain people, but they come at a greater cost.

“I also point to items in our budget, which we all passed unanimously this morning, that cover appropriations for adult mental health. And I caution that while we are looking right now at amounts of money to add to these different kinds of programs, that we should be very cautious and we should be aware that this can be the next area that will develop into a Felix area where the juveniles who have been treated for special education and now become adults are going to need continuing medical services, and it seems that the definitions continue to increase on a monthly basis.

“So, I think we have a number of concerns here, not the least of which is the cost driver effect, but also the part of accountability for these services and also the rationale for trying to measure any kind of acceptable response.

“So, for these and other reasons, I urge a ‘no’ vote on this bill. Thank you.”

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

“Madame President, I rise to speak in support of this measure.

“I actually wish that I could stand here and say that what the Senator from Hawaii Kai said was true, because if what he said were true, we would be close to full parity. Unfortunately, this bill is very narrow. It doesn’t add any new definitions. It

clarifies that bipolar mood disorder is bipolar types I and II. It takes out all of the additional mental health illnesses that the administration had requested and that this Senate had passed over to the House and had hoped to restore in this particular measure.

“This bill is very limited. It makes the limited parity that was passed in previous legislation permanent, but it does not expand the definition. As a matter of fact, this measure just takes a baby step towards making mental health benefits equal to benefits for physical illnesses and injuries.

“There have been two studies done in recent history. One in 1997, we had a sunrise review but that wasn’t enough for the House to go forward with additional mental illness identification. We had one done at the request of the Legislature in 2000 by Session Laws Act 243, and that measure said that approximately 2.2 percent of overall health insurance costs are costs associated with mental health and substance abuse – 2.2 percent. Mental health benefits are hardly a cost driver. Prescription drugs, now that’s a cost driver . . . but for the overall system, but not mental health benefits.

“Of the plan members that use both mental health and substance abuse, there’s approximately 4.1 percent – 1.1 percent of that is for serious mental illness, 2.8 percent for other mental illness. We’re not talking about a huge amount, and this bill doesn’t even expand to a whole range of serious mental illness. We’ve taken out depression, major depression. We’ve taken out dissociative disorder, compulsive disorder. The items that are listed in the bill are already the ones that are on the books. All this measure does is to make this particular baby step towards parity permanent.

“This measure falls short of full and comprehensive parity for the treatment of mental illness, that has been the goal of your Health Committee and this Senate. But S.B. No. 1321, C.D. 1, preserves previous gains and takes an important step forward in providing nondiscriminatory coverage for all illnesses that affect many members of our community. It does help to reduce the stigma for persons that need mental health services.

“In addition, a recommendation at the close of this Session will be made that the Senate agree with the House amendments to S.C.R. No. 116 to continue to demonstrate that parity is not a costly benefit. S.C.R. No. 116 requests a sunrise study of mandatory health insurance coverage for mental health, alcohol, and drug abuse treatment. We expect this study to confirm the 1997 auditor’s report and the 2000 report of the Insurance Task Force on Mental Health that mental health services originally outlined in this measure will not add significantly to the cost of providing such coverage. We already know that the coverage of this bill, its limited coverage, does not add to the cost. Perhaps armed with that supplemental information, we’ll be able to allay the fears articulated by our House colleagues and bring full parity to final action next year.

“For now, I ask that my colleagues join me in supporting this measure which will bring a small step of treatment parity to those with serious mental illness.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 113 was adopted and S.B. No. 1321, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO MENTAL HEALTH,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 2 (Hogue, Slom). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 114 (S.B. No. 1446, S.D. 2, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 114 be adopted and S.B. No. 1446, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Ige.

Senator Trimble rose in opposition to the measure and stated:

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

“We should be judged by not what we say we want to do but what we actually do. This year, this Session, we create a special fund. Next year, maybe there’ll be some money in it . . . then we can take it out and move it into the general fund.

“It has been our practice, our standing practice, for the last several years, and there is no reason to believe that our behavior is going to change this time. So, instead of saying take money from A and put it in B and then into C, why don’t we just eliminate some of the bureaucracy and move the funds directly from A to C.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 114 was adopted and S.B. No. 1446, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TECHNOLOGY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 1 (Trimble). Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 120 (S.B. No. 576, H.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 120 be adopted and S.B. No. 576, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

Senator Trimble rose to speak on the measure as follows:

“Madame President, students pay tuition because they think it’s going to go towards their cost . . .”

Senator Baker interjected:

“Point of order. For what purpose does the Senator rise?”

Senator Trimble replied:

“I rise to speak against this measure.

“This is an inappropriate use of money – to take money from the tuition fund and use it for the alumni association. I’ve risen on several previous occasions and said that the priorities of the University of Hawaii are not what they should be. We talked about nursing. We talked about education. And here we have another example of those misplaced priorities seeking to use money in the tuition fund, tuition paid by students for their education for an activity that is not immediate and direct to that education.

“Thank you.”

Senator Sakamoto rose to speak in support of the measure and said:

“Madame President, I speak in support of the measure, and in part to clarify the previous comment.

“At one point in the progress of this measure, it did include the alumni activities. And as I note in the summary, it’s stated there, but in Conference we removed that contribution from this measure. The foundation remains, as well as was added, reports and the auditor’s ability to access the records of the foundation. So, I’m in agreement with the previous speaker that perhaps the alumni activities would find more appropriate funding. But that is not in this measure.”

Senator Trimble noted:

“Madame President, can I change my ‘no’ vote?”

The Chair responded:

“You just did.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 120 was adopted and S.B. No. 576, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 123 (S.B. No. 1237, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 123 was adopted and S.B. No. 1237, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Bunda, Hanabusa, Taniguchi).

Conf. Com. Rep. No. 125 (S.B. No. 17, S.D. 1, H.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 125 be adopted and S.B. No. 17, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Kanno rose for a conflict ruling as follows:

“Madame President, I would like to request a ruling on a possible conflict. I have a daughter whose fifth birthday will be on October 13, 2005 and will be included in the first group of ‘gap group children’ affected by the legislation.”

The Chair ruled that Senator Kanno was not in conflict.

Senator Kanno then rose to speak in support of the measure with reservations as follows:

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

“I would like to commend the Education Chair for his hard work on this legislation. There are strong points to this bill. I would also like to share some concerns.

“The bill says that in 2005, the DOE shall offer appropriate educational programs, including but not limited to junior kindergarten or pre-kindergarten for ‘gap group children’ born between August 2nd and January 1st. The bill then directs DOE to conduct a feasibility study on these programs.

“Conducting a feasibility study implies that one option is that it is not feasible. Is the Legislature giving the DOE the choice of whether it wants to implement this? If not, it may have been appropriate to direct the DOE to develop an implementation plan instead of a feasibility study.

“The legislation directs the DOE to assess whether pre-kindergarten should be permanent or transitional. We are committed to offering pre-kindergarten, but why would we offer it for only a limited time. Children for years to come will need these services and we should not be providing a back door to the DOE to escape from these commitments. I ask my colleagues to remember that we are restricting children from entering kindergarten. We need to provide an educational alternative to the children we turn away – and not only for the first year; this will affect children every year.

“The feasibility study does not address curriculum. I contend that curriculum is one of the most important items to address and yet it is not.

“I would also suggest that DOE develop a recommendation on whether pre-kindergarten programs should be offered by public employees or by the private sector.

“The bill allows for privately-operated pre-kindergartens on school campuses. Unfortunately, it does not allow the DOE to access private programs that are on DOE campuses.

“I urge my colleagues to support the measure. Thank you.”

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

“Madame President, I also stand in support of this.

“I appreciate what the Chair of Education has done to make this bill better. I do share some of the concerns of the previous speaker and am glad to see that there is a mandatory provision to require that preschool opportunities be provided to the children that will not be able to enter kindergarten who are born after, I believe it’s August 1st.

“I do hope that for any school that does not have the facilities to provide that preschool option, that we have some kind of process in place that will allow the child to attend a school within that school complex. I don’t believe that we should be requiring the families to have to travel very far to be able to provide that preschool opportunity for their children. It should be within their neighborhood.

“I also am very grateful, I believe, that the Chair and Vice Chair of the Ways and Means have placed in the budget a position for the pre-plus coordinator within the Department of Human Services. This is a critical piece in order to have preschool options on school campuses in our elementary schools.

“So with that, again, Chairman of Education, our Committee, and all of you, thank you very much.”

Senator Sakamoto rose to speak in support as follows:

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

“I appreciate the comments of the previous two speakers. And in regard to the comments from the speaker from Royal Kunia and other areas, certainly the intention is that we go ahead. I think there are concerns in the House regarding cost concerns; therefore, they wanted the measure to at least allow the department and others to come back on cost concerns, and the House continues to have some concerns.

“However, I think we in the Senate feel that it’s important that these children get age appropriate education, not be left on the streets. The Senator from Alewa’s concerns of no one being left out are certainly our concerns as a Senate, and we hope the measure can survive, but certainly we’d like these children to have age appropriate education.

“Thank you.”

Senator Slom rose to speak in opposition of the measure and said:

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

“This is a troubled bill, and it’s not just between the Senate and the House. There are so many different things that have been put into this bill and so many things that it has come along from the initial version. At one time, this bill was going to make kindergarten mandatory.

“We’re basing an awful lot on age. We’re basing an awful lot on studies. We’re basing it a lot on theories of age appropriateness and so forth. What we’re leaving out are the parents and flexibility, and I think what this shows once again, instead of really going for educational reform and decentralization, we’re tinkering with the deck chairs as to how to require more people and more of the bureaucracy. We are adding at least one more position.

“Initially, this bill was supposed to be a cost-saving device. There’s not going to be any cost savings in this bill. There’s going to be cost additions, and that’s clear. But the greatest troubling factor to me is the lack of flexibility and choice inherent in this bill.

“Thank you.”

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

“Madame President, I rise in support of this particular measure.

“I want to talk specifically about parental choice and flexibility. I am one parent who has made the choice to enter my children who have late (latter part of the year) birthdays, and so I entered them in kindergarten, ironically, a junior kindergarten a year later. And I’m glad that they did because they advanced in schooling. They’ve become academically proficient leaders in their classes, doing well socially, athletically, and academically. So I’m really proud that I have been able to have that flexibility and to do that.

“I think that this bill actually does give flexibility. There is actually a part of this particular bill that will allow individual schools to grant exceptions for those children whose parents feel that the children should be enrolled at an early time. So, I really believe that parents should have this right if they feel that they have an exceptional child and should be given that right, and I think the bill does grant that.

“I think that we will, through the course of this particular bill, by allowing parents to make that choice and also by

following the lead of our counterparts on the mainland, we will give our children an age-appropriate education. We should not put them in harm's way by starting them late.

"My late wife was a teacher at Kaneohe Elementary School and she was a kindergarten teacher at the lowest level. And she came home one day (she taught half-day kindergarten) and she said, 'You know Bob, I can tell, as I look around the room and I can just actually look at the way that the children act, whether or not their birthdays are after July 1st,' because the children that squirmed, that were immature and really had trouble in her particular classroom, virtually every single one of those were after July 1st birthdays. Studies have proven that, so I think that that does back up with . . . I realize that it's anecdotal evidence, but I think it speaks to the studies that many kindergarten teachers and first grade teachers and elementary teachers have seen throughout time.

"There are some problems with this particular bill, and I think that the Senator from Kunia and that part of the island has spoken to it about the feasibility study. I know that there are some concerns in the Governor's Office about that particular portion of the bill. I would hope that the Governor would still allow this bill to go forward and those questions of the bill could be answered in the coming year.

"So, for these reasons, I encourage all of my colleagues to vote 'yes.' Thank you."

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

"Madame President, I rise in support.

"The difference of a year, when you're four and five years old, developmentally is huge. A child born on January 1st compared to the child born a year later, that difference is developmentally just really, really big.

"Research clearly shows . . . and I'm glad that we're basing our decisions on research and studies and not just flying by the seat of our pants here. This has been studied and the research overwhelmingly shows that students who are in the older half of their class are typically able to cope with the class course better. The students are more engaged and focused. They are emotionally more mature and less prone to stress. They are able to deal with teachers and peers in a more comfortable manner, and by teaching a more homogeneous group that is more socially, emotionally, and academically ready to learn, teachers are prone to be more effective by teaching to classes that are appropriately mature for their grade level.

"Most mainland schools have September 1st for a cutoff date. Hawaii public school students are currently four months behind when measured against mainland schools in social, emotional, and intellectual maturity as they start their academic careers.

"SAT scores of non-special education students born in the second half of the year are statistically significantly below those students who were born in the first half of the year. A significant amount of younger children of non-special education students are classified as having learning disorders. By making sure our students are prepared for the grade level they are entering, we can avoid classifying our children as having those learning disorders when in fact in most cases they are just not ready and they will perform much better if held back that one extra year.

"For these reasons, and also on the flexibility point, it says clearly in the bill, 'the department shall establish procedures and criteria to determine the readiness of children for public

school kindergarten. Parents and guardians may request an assessment of the child and the department may grant an exception in the case of a child who is found to be ready for kindergarten.' I believe this is essentially the same process that's followed in private schools.

"I just believe in my heart . . . a lot has been said that we're not doing much for education, we're not doing much for education. This is a systemic change. This is a fundamental change that will affect every grade level from now on. The class of 2018 will benefit and the class of 2019 and beyond.

"This is real stuff. It's real important, and I encourage my colleagues to vote in support. Thank you."

Senator Menor rose and said:

"Madame President, please have the Clerk note that I'll be voting in favor of this bill but with reservations."

The Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 125 was adopted and S.B. No. 17, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 127 (S.B. No. 789, S.D. 1, H.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 127 be adopted and S.B. No. 789, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak in opposition to the measure and stated:

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

"The bill will add significant cost. This bill specifically does not have an appropriation, but the appropriated amount which is found in the budget is \$12.5 million and places cost implications on the employer for future contributions in Medicare part B.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 127 was adopted and S.B. No. 789, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEE HEALTH BENEFITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 128 (S.B. No. 1393, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Kawamoto and carried, Conf. Com. Rep. No. 128 was adopted and S.B. No. 1393, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EXECUTIVE DEPARTMENTS OF STATE GOVERNMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 132 (H.B. No. 1456, H.D. 1, S.D. 1, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 132 be adopted and H.B. No. 1456, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor.

Senator Slom rose in opposition to the measure as follows:

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

“While this bill does make certain changes that are applicable to I think the soft drink part of the industry, it does not make changes to the entire industry or to the bill itself. Since I voted against the imposition of the bill last year and still believe that the bill should be abolished, I’ll be voting ‘no.’

“I also note that in the bill some of the dates have been changed and part of it is retroactive to October of last year. Thank you.”

Senator Trimble rose to speak in opposition to the measure and stated:

“Madame President, I also rise in opposition to this measure.

“I agree that waste and litter is a significant issue. What disturbs me about this bill is that it was changed as it went along so that manufacturers in Hawaii who produced beverages and or water products would pay the deposit or the tax even though their product was exported. I consider this a significant burden to a potential future industry that has no corresponding benefit to reducing litter in the State of Hawaii.

“Thank you.”

Senator Whalen rose and said:

“Madame President, actually, I have a point of inquiry for the Chair.

“I was a little bit confused reading the bill. If he would submit to the question, it appears to me that the manufacturers here in Hawaii would have to start paying the deposit fee but people cannot collect the deposit on those containers until . . . well, they start paying in 2002 and they won’t start collecting until 2005. Is that a correct reading of the bill?”

The Chair then inquired:

“Is there a response? No response.”

Senator Whalen continued:

“No, I don’t want to recess. I’ll just be in opposition, then. If he doesn’t know, then I don’t know why we’re voting for it.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 132 was adopted and H.B. No. 1456, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Slom, Trimble, Whalen). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 135 (H.B. No. 281, H.D. 1, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 135 be adopted and H.B. No. 281, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

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

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

“This is an amazing bill. If you read it, we can eliminate the backlog of \$540 million worth of school repairs just by writing reports and attending meetings. I contend that you can either do work or attend meetings, but you can’t do both at the same time, and that by adding further meetings and reports to the bureaucracy will make it increasingly bureaucratic.

“Finally, I think that our action today by voting yes by my colleagues that vote yes, we are in a sense giving a vote of no confidence to the board of education and the way they run the school system.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 135 was adopted and H.B. No. 281, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE EDUCATIONAL FACILITIES REPAIR AND MAINTENANCE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 2 (Slom, Trimble). Excused, 3 (Hanabusa, Menor, Taniguchi).

Conf. Com. Rep. No. 136 (H.B. No. 638, H.D. 1, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 136 be adopted and H.B. No. 638, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Trimble rose to speak against the measure as follows:

“Madame President, I spoke against this on April 8, so I rise to speak again.

“I suggested on April 8 that . . .”

The Chair interjected:

“To what reason do you rise?”

Senator Trimble responded:

“I am speaking in opposition to this measure.

“On April 8, I said that there are many worthy causes in Hawaii, including the fund for the widow of the Unknown Soldier. I suggest that as a body we decide how many we want to include. In California, I think the check off box is number 30. So instead of piecemealing it out one at a time and dealing with a different bill every year, why don’t we just consolidate and figure out how many we want and do it all at one time.

“So in the name of efficiency and keeping the cost of government in check, I urge you to vote ‘no.’

“Thank you.”

Senator English rose in support of the measure and stated:

“Madame President, I rise in support.

“I’d like to point out that there is no such thing as a fund for the widow of the Unknown Soldier because if it’s an unknown soldier, how do you know if the soldier is male or female? First, do you know if they have a widow? Second, how do you know if they’re married? So, we have to be very clear that there is no such thing as a fund for the widow of the Unknown Soldier.

“Thank you.” (Laughter.)

The motion was put by the Chair and carried, Conf. Com. Rep. No. 136 was adopted and H.B. No. 638, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 4 (Bunda, Hanabusa, Menor, Taniguchi).

Conf. Com. Rep. No. 137 (H.B. No. 289, H.D. 2, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 137 be adopted and H.B. No. 289, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hooser.

Senator Hogue rose in opposition to the measure and stated:

“Madame President, I rise in opposition to this particular measure.

“A couple of concerns that I have, one is a mandate which will take away flexibility, the other is that the question has been taken out of this particular measure.

“Essentially, colleagues, the Conference Committee has stripped this bill of any major school reform mandates. The bill’s only accomplishment is conforming statutes to reflect the new complex area structure. What we are doing is we are mandating 15 complex areas that already exist. Not only is this legislation unnecessary, but it takes away from any future flexibility of the Board of Education to make changes to school governance.

“Just think about it. It was just a couple of years ago that we went from seven districts to these 15 area complexes. So, if some future state board, if we decided to continue with centralization, came along, we would not be able to make changes because we’ve mandated it to be 15 area complexes.

“We in the Legislature are always looking to reform the school system year after year. Why stall any chance for future reform in the form of governance by passing this particular legislation.

“More importantly, rather than just that particular point, it’s just the fact that once again the people have not been given the opportunity to decide. The constitutional question was put into this particular measure. I know that the Senate debated this

over and over again. While I was not in accord with the final question, I did appreciate the Senate’s stand.

“I wish that rather than passing this particular legislation, we pass nothing at all and work very, very hard in the interim to allowing the people to decide. We need to allow the people to decide if in fact we should have decentralization. We need to put that particular question on the ballot so that the people can decide whether or not we should have a constitutional amendment. That is our job as an elected representative to work very hard for what our people want, and that, I believe, is local autonomy.

“For those reasons, I urge you vote ‘no.’ Thank you.

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

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

“I think rather than mandate, as the previous speaker perhaps has suggested, it does, yes, codify in statute, and the bill does establish complex-based management units, which are comprised of a high school, middle school or intermediate, and the feeder elementary schools. And the 15, yes, are in place, so we’re not mandating the department to do that, but sort of affirming that to correct what was in statute as formerly being districts. We’re correcting the statute in that regard.

“What I think, members and the Senator from Enchanted Lakes, the operative part in this measure, because we could put into statutes the complex, the part that I feel is very important, and we will move ahead on or should move ahead on is the part that says the complex areas shall insure that curricula within each school complex and as practicable within each complex area are aligned with statewide performance standards pursuant to Section 302A and demonstrate a coherent progression through all grade levels. So, by putting the complex in here, then we can start to get to the heart of the matter in the alignment within a complex. The individual schools, ideally I guess, would then organize curriculum calendars, etc., to accommodate the best use of alignment in the programs as well as professional development training and move forward as a K-12 unit.

“The systemic organization of complex-based management structures is essential, in a sense, to line up statewide content and performance standards. This management system would accommodate complex planning. We haven’t done some of the other measures, but I guess I’d like to assure the previous speaker that it is not my intention, nor do I believe it’s our Senate’s intention, to say this is in lieu of or in place of any other reform. I think we were hopeful to get some sort of question if indeed we could come upon one. Let’s hope next year that can be the case. But I think having the complex unit defined and hopefully pressing on the curricula alignment would be a step forward, and we can still do other reforms, government reforms, in the future.

“Thank you.”

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

“Madame President, I stand in support with reservations.

“I support the concept that complex areas should be responsible for curriculum. My concern is that there are lots of bodies and resources in the state office that are assigned to curriculum, and although this measure gives the responsibility for curriculum to the complex, it doesn’t transfer any resources.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 137 was adopted and H.B. No. 289, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 2 (Bunda, Taniguchi).

Conf. Com. Rep. No. 138 (H.B. No. 1175, H.D. 2, S.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 138 be adopted and H.B. No. 1175, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hooser.

Senator Hogue rose in opposition to the measure and stated:

“Madame President, I rise to speak in opposition to this particular measure.

“Madame President, if we were just changing references from administrative superintendent to complex areas superintendent, I wouldn’t have much of a problem. They are always obviously all decided that even though I voted no, that we are going to support the area complexes.

“But what we are doing with this particular measure is we are allowing the DOE to increase administrative costs by increasing the salaries of what would be complex area superintendents and adding the positions of deputy and assistant superintendents.

“If you look in Section 8, page 13 of the particular bill, essentially, what would be allowed is a 50 percent increase for certain employees – a raise of up to \$40,000. In a budget crisis year when we are voting to charge student textbook fees, why are we spending money, big money, for administrative positions and raises?”

“Let us, as responsible Legislators, prioritize educational needs and wants and vote ‘no’ on this particular measure.

“Thank you, Madame President.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 138 was adopted and H.B. No. 1175, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, 5 (Hemmings, Hogue, Slom, Trimble, Whalen). Excused, 3 (Bunda, Hanabusa, Taniguchi).

At 3:54 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:49 o’clock p.m., with the President in the Chair.

The President then made the following announcement:

“Members, we deferred some matters and we want to go back to page 38 to take up S.B. No. 459, campaign spending. Following that bill, we will go to page 26 to do H.B. No. 1400,

and after that we will come back to page 38 to do S.B. No. 464, relating to the fixed rail.”

FINAL READING

MATTER DEFERRED FROM EARLIER ON THE CALENDAR

Conf. Com. Rep. No. 84 (S.B. No. 459, S.D. 1, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 84 be adopted and S.B. No. 459, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

Senator Hanabusa then offered the following amendment (Floor Amendment No. 15) to S.B. No. 459, S.D. 1, H.D. 1, C.D. 1:

SECTION 1. Senate Bill No. 459, S.D. 1, H.D. 1, C.D. 1, is amended by amending subsection (a) of section 11-204, Hawaii Revised Statutes, as amended by section 7 of the bill to read as follows:

“(a) (1) No person [~~or any other entity~~] shall make contributions to:

(A) ~~A candidate seeking nomination or election to a two-year office or to the candidate’s committee in an aggregate amount greater than \$2,000 during an election period;~~

~~(B)~~ (A) A candidate seeking nomination or election to a four-year statewide office or to the candidate’s committee in an aggregate amount greater than \$6,000 during an election period; ~~and~~

(C) ~~A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate’s committee in an aggregate amount greater than \$4,000 during an election period.]~~

(B) A candidate seeking nomination or election to a four-year term of a nonstatewide office, or the candidate’s committee, of an amount greater than \$4,000 in the aggregate, for that election in which the candidate seeks office; or

(C) A candidate seeking nomination or election to a two-year term of office, or the candidate’s committee, of an amount greater than \$2,000 in the aggregate, for that election in which the candidate seeks office.

These limits shall not apply to a loan made to a candidate by a financial institution in the ordinary course of business.

(2) For purposes of this section, the length of term of an office shall be the usual length of term of the office as unaffected by reapportionment, a special election to fill a vacancy, or any other factor causing the term of the office the candidate is seeking to be less than the usual length of term of that office.”

Senator Ihara rose and said:

“Mr. President, I assume we’re waiving the Senate Rule that requires floor amendments by 9:30 this morning, because I just got it about an hour ago . . . which is fine with me. Is that right?”

The President replied:

“Yes.”

Senator Hanabusa moved that Floor Amendment No. 15 be adopted, seconded by Senator Kawamoto.

Senator Hanabusa noted:

“Mr. President, Floor Amendment No. 15 speaks to an error in the C.D. 1. The C.D. 1 had in it an amendment which we do statewide election contributions to \$4,000 for the election period. What Floor Amendment No. 15 does is restore statewide election to the \$6,000 amount.”

The motion to adopt Floor Amendment No. 15 was put by the Chair and carried.

Senator Hanabusa moved that Conf. Com. Rep. No. 84 be received and placed on file, seconded by Senator Kawamoto and carried.

By unanimous consent, S.B. No. 459, S.D. 1, H.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING,” was placed on the calendar for Final Reading on Thursday, May 1, 2003.

RECONSIDERATION OF ACTION TAKEN EARLIER ON THE CALENDAR

Conf. Com. Rep. No. 141 (H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1):

Senator Kim moved that the Senate reconsider its action taken earlier on the calendar in recommitting Conf. Com. Rep. No. 141 and H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1, to the Committee on Conference, seconded by Senator Taniguchi.

Senator Kim noted:

“Mr. President, as you know, we had laying on our desk a floor amendment 14 for this particular bill and there were some concerns about the tax impact. We have been in discussion with the tax department and there is some reconsideration of that, and we believe that we need more time and this item has to lay over until Thursday.”

The motion was put by the Chair and carried.

Senator Kim then moved that Conf. Com. Rep. No. 141 be adopted and H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Kim then offered the following amendment (Floor Amendment No. 14) to H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1:

SECTION 1. H.B. No. 1400, H.D. 1, S.D. 2, C.D. 1, is amended by deleting the contents of the bill and substituting the following:

“SECTION 1. In October of 2001, the legislature met in special session to approve legislation designed to ameliorate the negative effects that the September 11, 2001, terrorist attacks had on Hawaii’s economy. Act 10, Third Special Session 2001, raised the percentage of the tax credit for construction and remodeling of hotels from four to ten per cent for costs incurred prior to July 1, 2003, to assist the tourism industry in its efforts to attract more visitors to Hawaii. The legislature finds that this tax credit is an excellent means to boost Hawaii’s tourism and construction industries, and that extension of this tax credit is warranted.

SECTION 2. Section 235-110.4, Hawaii Revised Statutes, is amended to read as follows:

“**§235-110.4 Hotel construction and remodeling tax credit.** (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter and chapter 237D, an income tax credit, which 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.

The amount of the credit shall be ~~ten~~ eight per cent of the construction or renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii, and shall not include the construction or renovation costs for which another credit was claimed under this chapter for the taxable year; provided that the construction or renovation costs are incurred before July 1, ~~[2003-]~~ 2006.

In the case of a partnership, S corporation, estate, trust, association of apartment owners of a qualified hotel facility, time share owners association, or any developer of a time share project, the tax credit allowable is for construction or renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the construction or renovation cost for which the deduction is taken.

The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed. In the alternative, the taxpayer shall treat the amount of the credit allowable and claimed as a taxable income item for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income.

(b) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year.

(c) If the tax credit under this section exceeds the taxpayer’s income tax liability, the excess of credit over liability may be used as a credit against the taxpayer’s income tax liability in subsequent years until exhausted. All claims for a tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(d) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

~~[(e) The tax credit allowed under this section shall be available for taxable years beginning after December 31, 1998, and shall not be available for taxable years beginning after December 31, 2005.~~

~~(f) To qualify for the income tax credit, the taxpayer shall be in compliance with all applicable federal, state, and county statutes, rules, and regulations.~~

~~(g)~~ (e) As used in this section:

“Construction or renovation cost” means any costs incurred after December 31, 1998, for plans, design, construction, and equipment related to new construction, alterations, or modifications to a qualified hotel facility.

“Net income tax liability” means income tax liability reduced by all other credits allowed under this chapter.

“Qualified hotel facility” means [a]:

- (1) A hotel/hotel-condo as defined in section 486K-1~~[-and includes a];~~
- (2) A time share facility or project~~[-];~~ or
- (3) Commercial buildings and facilities located within a qualified resort area.

“Qualified resort area” means an area designated for hotel use, resort use, or transient vacation rentals, pursuant to county authority under section 46-4, or where the county, by its legislative process, designates hotel, transient vacation rental, or resort use.

“Taxpayer” means a taxpayer under this chapter, and includes:

- (1) Association of apartment owners; or
- (2) Time share owners association.

~~[(h)]~~ (f) No taxpayer that claims a credit under this section shall claim a credit under chapter 235D.”

SECTION 3. Section 235-110.4, Hawaii Revised Statutes, is amended to read as follows:

“§235-110.4 Hotel construction and remodeling tax credit. (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter and chapter 237D, an income tax credit, which 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.

The amount of the credit shall be ~~eight~~ four per cent of the construction or renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii, and shall not include the construction or renovation costs for which another credit was claimed under this chapter for the taxable year; provided that the construction or renovation costs are incurred before July 1, ~~[2006-]~~ 2010.

In the case of a partnership, S corporation, estate, trust, association of apartment owners of a qualified hotel facility, time share owners association, or any developer of a time share project, the tax credit allowable is for construction or renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the construction or renovation cost for which the deduction is taken.

The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed. In the alternative, the taxpayer shall treat the amount of the credit allowable and claimed as a taxable income item for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income.

(b) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year.

(c) If the tax credit under this section exceeds the taxpayer’s income tax liability, the excess of credit over liability may be used as a credit against the taxpayer’s income tax liability in subsequent years until exhausted. All claims for a tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(d) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(e) As used in this section:

“Construction or renovation cost” means any costs incurred after December 31, 1998, for plans, design, construction, and equipment related to new construction, alterations, and modifications to a qualified hotel facility.

“Net income tax liability” means income tax liability reduced by all other credits allowed under this chapter.

“Qualified hotel facility” means:

- (1) A hotel/hotel-condo as defined in section 486K-1;
- (2) A time share facility or project; or
- (3) Commercial buildings and facilities located within a qualified resort area.

“Qualified resort area” means an area designated for hotel use, resort use, or transient vacation rentals, pursuant to county authority under section 46-4, or where the county, by its legislative process, designates hotel, transient vacation rental, or resort use.

“Taxpayer” means a taxpayer under this chapter, and includes:

- (1) Association of apartment owners; or
- (2) Time share owners association.

(f) No taxpayer that claims a credit under this section shall claim a credit under chapter 235D.”

SECTION 4. Section 235-110.4, Hawaii Revised Statutes, is repealed.

~~“§235-110.4 Hotel construction and remodeling tax credit.~~ (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter and chapter 237D, an income tax credit, which 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.

The amount of the credit shall be four per cent of the construction or renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii, and shall not include the construction or renovation costs for which another credit was claimed under this chapter for the taxable year; provided that the construction or renovation costs are incurred before July 1, 2010.

In the case of a partnership, S corporation, estate, trust, association of apartment owners of a qualified hotel facility, time share owners association, or any developer of a time share project, the tax credit allowable is for construction or renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the construction or renovation cost for which the deduction is taken.

The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed. In the alternative, the taxpayer shall treat the amount of the credit allowable and claimed as a taxable income item for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income.

(b) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year.

(c) If the tax credit under this section exceeds the taxpayer’s income tax liability, the excess of credit over liability may be used as a credit against the taxpayer’s income tax liability in subsequent years until exhausted. All claims for a tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(d) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(e) As used in this section:

“Construction or renovation cost” means any costs incurred after December 31, 1998, for plans, design, construction, and equipment related to new construction, alterations, and modifications to a qualified hotel facility.

“Net income tax liability” means income tax liability reduced by all other credits allowed under this chapter.

“Qualified hotel facility” means:

- (1) A hotel/hotel-condo as defined in section 486K-1;
- (2) A time share facility or project; or
- (3) Commercial buildings and facilities located within a qualified resort area.

“Qualified resort area” means an area designated for hotel use, resort use, or transient vacation rentals, pursuant to county authority under section 46-4, or where the county, by its legislative process, designates hotel, transient vacation rental, or resort use.

“Taxpayer” means a taxpayer under this chapter, and includes:

- (1) Association of apartment owners; or
- (2) Time share owners association.

~~“(f) No taxpayer that claims a credit under this section shall claim a credit under chapter 235D.”]~~

SECTION 5. Act 10, Third Special Session Laws of Hawaii 2001, section 4, is amended to read as follows:

“SECTION 4. This Act shall take effect upon its approval; provided that[:

~~“(1) The] the amount of the tax credit under section 235-110.4(a), Hawaii Revised Statutes, amended by section 2 of this Act shall be four per cent for any hotel construction and renovation costs incurred prior to the effective date of this Act[; and~~

~~“(2) Section 2(1) and 2(2) of this Act shall be repealed on June 30, 2003, and section 235-110.4(a) and (c), Hawaii Revised Statutes, shall be reenacted in the form in which it read prior to the effective date of this Act].”~~

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that:

- (1) The amount of the tax credit under section 235-110.4(a), Hawaii Revised Statutes, shall be ten per cent for any hotel construction and renovation costs incurred after November 1, 2001, and prior to the effective date of this Act;
- (2) Section 3 shall take effect on July 1, 2006, and shall apply to any hotel construction and renovation costs incurred after June 30, 2006, and prior to July 1, 2010; and
- (3) Section 4 shall take effect on July 1, 2010.”

Senator Kim moved that Floor Amendment No. 14 be adopted, seconded by Senator Taniguchi.

Senator Kim noted:

“Mr. President, H.B. No. 1400 in Conference was agreed to that it would be an 8 percent tax credit nonrefundable for three years, and 4 percent for four years thereafter. What actually came out of the final draft was 8 percent for four years. So, we needed to fix that and amend it on the Floor, which is what this bill is actually doing.”

The motion to adopt Floor Amendment No. 14 was put by the Chair and carried.

Senator Kim moved that Conf. Com. Rep. No. 141 be received and placed on file, seconded by Senator Taniguchi and carried.

By unanimous consent, H.B. No. 1400, H.D. 1, S.D. 2, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO HOTEL CONSTRUCTION AND REMODELING TAX CREDIT,” was placed on the calendar for Final Reading on Thursday, May 1, 2003.

FINAL READING

MATTER DEFERRED FROM EARLIER ON THE CALENDAR

Conf. Com. Rep. No. 90 (S.B. No. 464, S.D. 2, H.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 90 be adopted and S.B. No. 464, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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, this bill was again, as we promised, reduced to just a study. In fact the Governor has already started part of the study and is informally meeting with members of this body, members of the House body, and members of the City Council and the DTS person. We’re all working together trying to resolve the concerns about fixed rail or some alternative means of transportation to address the commute concerns of the Leeward communities.

“I ask all my colleagues to vote ‘aye’ on this bill. Thank you.”

Senator Espero rose to speak in support of the measure and said:

“Mr. President, I’d also like to rise in support of this measure.

“Twenty years ago the city and county had an opportunity to build a light rail. Unfortunately, in the ‘80s with a new administration, the project was killed. In the ‘90s there was also an opportunity for a light rail fixed system, and again the City Council made the decision and it killed it.

“Now is the time to re-look at that. The situation out in Leeward, West Oahu, and other parts of the island is getting worse. This is an option that we have to seriously consider because we have let opportunities slip through our fingers. Now is the time for these sets of politicians within this body, within the state and city and county to take a hard look and make some hard decisions that will allow the commuters to avoid traffic jams, stalls, congestion, even the rain. A light rail fixed system will do that, and I hope my colleagues will support this.

“Thank you.”

Senator Hemmings rose to speak against the measure and said:

“Mr. President, I rise to speak against S.B. No. 464.

“Mr. President and colleagues, it’s been acknowledged already on this Floor that the Governor has put together a number of people that are looking at the vast alternatives that are available in the urban corridor of Honolulu to solve the problem of transit and traffic congestion. It’s way premature at this time to single out a fixed rail transit system as the only solution. The prudent thing to do is to wait until after additional information has been gathered by all the people involved and possibly move on this next Session if it is the prudent and the number one choice.

"In short, fixed rail may be a long-term solution but the real issue is it may not be, and it is premature at this time to make this commitment.

"Thank you, Mr. President."

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, I was on that City Council 10, 15 years ago when, actually, fixed rail got voted down, and I want to go on record to say that I was in support of it. So I was not one that voted against it.

"Back then, Mr. President, I said 10 years from now, 20 years from now, we're going to need fixed rail or some kind of rail system. Our traffic problems are not going to lessen. And of course the opponents said, oh, we can do bus transit, and we can do dedicated lanes, and we can do all these zipper lanes. And we've done it, but we still have a bad traffic problem. And as I said back then, and I think it's still true today, that in the future it's only going to get worse. It's not going to get better, and we need to look at fixed rail or some kind of rail system in order to move our people in an efficient manner.

"So I urge my colleagues to support this. Thank you."

Senator Ihara rose and said:

"Mr. President, please note my reservations in support of this bill."

The Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 90 was adopted and S.B. No. 464, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IMPLEMENTATION OF A FIXED RAIL TRANSIT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

FINAL READING

MATTER DEFERRED FROM THURSDAY, APRIL 17, 2003

S.B. No. 637, H.D. 2:

On motion by Senator Chun Oakland, seconded by Senator Hanabusa and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 637, and S.B. No. 637, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO MISSING CHILDREN," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

FINAL READING

MATTER DEFERRED FROM WEDNESDAY, APRIL 16, 2003

S.B. No. 1068, S.D. 1, H.D. 2:

On motion by Senator Baker, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1068, S.D. 1, and S.B. No. 1068, S.D. 1,

H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE FACILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

FINAL READING

Conf. Com. Rep. No. 31 (H.B. No. 297, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 31 was adopted and H.B. No. 297, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUGS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 34 (H.B. No. 1255, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 34 was adopted and H.B. No. 1255, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE OFFICE OF ELECTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 35 (H.B. No. 1361, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 35 was adopted and H.B. No. 1361, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MEDICAID PRESCRIPTION DRUG EXPANSION PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 67 (S.B. No. 1312, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 67 was adopted and S.B. No. 1312, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 75 (S.B. No. 1352, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 75 was adopted and S.B. No. 1352, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOME AND COMMUNITY-BASED SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 83 (S.B. No. 582, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 83 was adopted and S.B. No. 582, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 86 (S.B. No. 1135, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 86 was adopted and S.B. No. 1135, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COURT FEES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 101 (S.B. No. 540, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 101 was adopted and S.B. No. 540, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURAL RESEARCH AND DEVELOPMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 102 (S.B. No. 317, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 102 was adopted and S.B. No. 317, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE FIFTIETH ANNIVERSARY COMMEMORATION OF THE KOREAN WAR COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 103 (S.B. No. 1050, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 103 was adopted and S.B. No. 1050, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS RIGHTS AND BENEFITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 107 (S.B. No. 1647, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Menor and carried, Conf. Com. Rep. No. 107 was adopted and S.B. No. 1647, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICES FOR INDIVIDUALS WHO ARE BLIND OR VISUALLY IMPAIRED," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 108 (S.B. No. 585, S.D. 1, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 108 be adopted and S.B. No. 585, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kokubun.

Senator Baker rose and said:

"Mr. President, I have remarks I'd like to have 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 S.B. No. 585, C.D. 1, an emergency measure which appropriates funds from the Hawaii tobacco settlement special fund to the department of human services for children's health programs for the current fiscal year 2002-2003.

"Ten percent of the tobacco settlement moneys received by the Health Department is transferred to the department of human services to provide health care coverage to children under nineteen who are eligible under its children's health insurance program. However, during FY 01 and FY 02, portions of the tobacco settlement moneys meant for this purpose were unexpended. The funds remain in the Hawaii tobacco settlement special fund and may be used for payments to health care providers programs administered by the department of human services.

"This measure will allow the Department of Human Services to utilize surplus tobacco settlement moneys in FY 03. DHS understands that this is a one-time emergency appropriation. Given the extraordinary circumstances, this emergency appropriation is an acceptable approach. Senate Bill 585, C.D. 1, will enable us to provide vital and needed health care coverage to children under nineteen eligible for medical assistance programs. I urge my colleagues to join me in supporting this important measure.

"Mahalo."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 108 was adopted and S.B. No. 585, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 112 (S.B. No. 1279, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 112 be adopted and S.B. No. 1279, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Baker rose and said:

"Mr. President, I have remarks I'd like to have 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 S.B. No. 1279, C.D. 1, which consolidates the Cigarette Tax Stamp Enforcement Special Fund into the Tobacco Enforcement Special Fund. This measure provides the Department of the Attorney General with the necessary funding to carry out its mandate to enforce the cigarette tax stamp, in addition to enforcing the Master Settlement Agreement and administering tobacco prevention programs.

“Additionally, this measure assures our compliance with the Master Settlement Agreement by synchronizing timing of receipt of settlement moneys to match the timing of revenues and expenses utilized. This will ensure that settlement moneys to fund the activities of the tobacco enforcement unit will remain available when the schedule of payments changes in 2004.

“Senate Bill 1279, C.D. 1, will ensure that the State will continue to receive its share of the MSA settlement moneys and receives all of the cigarette tax stamp revenues to which it is entitled. I urge my colleagues to join me to support this important measure.

“Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 112 was adopted and S.B. No. 1279, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TOBACCO,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 117 (S.B. No. 1661, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Menor, seconded by Senator Kawamoto and carried, Conf. Com. Rep. No. 117 was adopted and S.B. No. 1661, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

FINAL READING

Conf. Com. Rep. No. 24 (H.B. No. 1230, H.D. 1, S.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 24 be adopted and H.B. No. 1230, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure and stated:

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

“This is an omnibus bill that ostensibly talks about security for airports, harbors, transportation systems in all. In effect, it is a tax and fee increase bill. It introduces the passenger facility charge revenue fund, a thinly disguised special fund, and a new charge, the passenger revenue facility charge.

“In order to be consistent, Mr. President, I voted against this during a Democrat governor’s administration and I’m going to vote against it during a Republican governor’s administration. The plain fact is that it is going to be an additional charge, and in the guise of security, it is a revenue enhancement measure.

“There has been discussion that interisland flights are exempted from this new tax and that may be true, but anyone leaving for the mainland from international terminals from the neighbor islands or coming through Honolulu will still be taxed at an estimated \$4.50 per person per ticket.

“Thank you.”

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

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

“Mr. President, it’s true that the departing Hawaii passengers going to the mainland would be charged this fee. It could be as high as \$4.50. But this fee, because we haven’t charged this fee in the past, is being charged right now to our people and they allow two departures to charge this fee if you’re taking a trip to the mainland.

“What this fee does is provides us the opportunity to charge that initial fee here in Hawaii. And the reason why we didn’t do that before is because of the fact that we didn’t have the waiver in which we would be waived from interisland flights because of the fact that we are an island state. So now we have the waiver. In October, 2001 we did receive the waiver to not charge the interisland people on interisland flights.

“So, it’s an opportune time for us to receive about \$15 million for airport special funds. The other funds that are needed to get the federal funds that we have are to secure our ports. These monies will be used with the federal funds to secure our ports and for improvements to the harbors.”

Senator Trimble rose in opposition to the measure and stated:

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

“From a broader policy position, this is going in the wrong direction. We are isolated. We are an isolated community, and we’re making it more expensive to leave here. From a social perspective, our attitude should be that anyone that wants to leave Hawaii we should facilitate that even if it were free.

“Think, Mr. President, if in the past you provided free exit visas and transportation for all dissident Republicans, what a nicer place this might have become. (Laughter.)

“On a more serious note, people come to Hawaii with the best of intentions. They run out of money. Some of them turn to crime to support themselves. From a social perspective, we should be looking at not raising the cost of leaving Hawaii but lowering it to enable people that wanted to leave for whatever reason to do so.

“Thank you, Mr. President.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 24 was adopted and H.B. No. 1230, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TRANSPORTATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 3 (Menor, Sakamoto, Taniguchi).

At 5:04 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:11 o’clock p.m.

Conf. Com. Rep. No. 25 (H.B. No. 1154, H.D. 1, S.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 25 be adopted and H.B. No. 1154, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

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

“Mr. President, this is my third time this Session to talk about this bill. I rise in opposition to this measure.

“If this is good policy then why don’t we do the same thing for the Department of Taxation? What this bill does is say that budget and finance may write off all of their costs associating with the disposal of property, as a cost. It sort of ignores the scrutiny of this Legislature. It sort of fits the criteria that my colleague from the Diamond Head Crater normally speaks against.

“It is, essentially, a special fund. It is a special fund that does not get the scrutiny of this body with the same regard as every other fund. It is bad policy and I’m voting against it.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 25 was adopted and H.B. No. 1154, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Slom, Trimble). Excused, 2 (Menor, Taniguchi).

Conf. Com. Rep. No. 26 (H.B. No. 422, H.D. 2, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 26 be adopted and H.B. No. 422, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the measure and stated:

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

“This bill creates the new center for nursing special fund. It also provides for fees and for monetary transfers.

“Thank you.”

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

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

“In addition to the fact that this is a program that was asked for by the nurses to help them address future problems facing nursing, they requested the fees. They’re all in support of it. I believe our colleagues should vote for it as well.

“Thank you.”

Senator Trimble rose to speak in opposition of the measure and said:

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

“The statement that all supported this tax, that all nurses supported this tax, I have not seen verified, and I truly question whether all nurses wish to be so assessed.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 26 was adopted and H.B. No. 422, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO A CENTER FOR NURSING,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 27 (H.B. No. 320, H.D. 2, S.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 27 be adopted and H.B. No. 320, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final 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.

“It also establishes yet another new special fund – the UH management risk special fund.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 27 was adopted and H.B. No. 320, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO RISK MANAGEMENT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 30 (H.B. No. 282, H.D. 2, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 30 be adopted and H.B. No. 282, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final 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 measure, pure and simply, is empire building by the Legislature. It does not include the judiciary in its audits. And third, I believe there is room for both legislative and executive audits and I believe it is better policy to keep the two separate.

“For those reasons, I urge my colleagues to vote against this measure.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 30 was adopted and H.B. No. 282, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE AUDITOR,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Trimble). Excused, 1 (Menor).

Conf. Com. Rep. No. 33 (H.B. No. 1111, H.D. 2, S.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 33 be adopted and H.B. No. 1111, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final 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.

“Actually, I’ve risen in opposition against this bill or similar bills for seven years now. We don’t seem to read the details about these bills, and we seem to be willing to payoff. I doubt that very many of my colleagues know what the total tab is on this bill right now because it’s not shown in either the committee report or in the summary, but it’s over \$14 million.

“It’s very interesting when you look at some of the claims. Some of the claims for malfeasance by public employees are being settled. We had a situation where \$7 million was being settled dating back to 1994 arising out of the QUEST program. But I like some of the individual settlements that are included, and I just have one that our research staff brought to my attention. It’s a \$30,000 settlement, and let me just give you the facts of the case here. It was a trip and fall case at an elementary school at parent/teacher night. The mother tripped in a hole that is 1½ inches deep and 1½ to 2 feet wide on a sidewalk between classrooms while carrying her baby. She landed on her knees and elbows to protect her baby. She sustained approximately \$7,400 in medical and rehab costs due to injuries. She sued the Department of Education for carpal tunnel syndrome; injuries to the back, neck and shoulders; headache; pain and suffering; ill effects on her activities as wife and mother (she was a housewife); and then the husband sued for loss of consortium because, quote, ‘he had to do more around the house,’ unquote. The injury occurred in August 2001. The suit was filed in May 2002. The state is willing to settle for \$30,000. This is just one example.

“I would suggest that what we should really do – and I’ve asked for this for seven years now, to no avail – is to look at each and every one of these individual cases and tell the Attorney General’s Office we do not want to settle. We do not want to continue to be taxpayer patsies. People view us, attorneys and others, as deep pockets. But it’s not us because no one in this room paying out the money. It’s the hardworking taxpayers of this state, and 14 million bucks is a big chunk of change.

“So I’m voting ‘no’ on this as a message. Thank you, Mr. President.”

Senator Trimble rose in opposition to the measure and stated:

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

“Colleagues, there probably is not a nexus but was it on April 8th that we talked about, I think, H.B. No. 73 that would provide immunity from prosecution for civil or criminal penalties for law enforcement officials. And I’m sure that there is no connection to this bill, which also shows a settlement to Faith Evans who was employed, I believe, at the Department of Public Safety.

“The issue is deeper than who’s paying the taxpayer. The issue is when are we going to hold our public employees accountable for their actions or their misactions. And when we start doing that, claims against the state will go down.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 33 was adopted and H.B. No. 1111, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 2 (Kim, Menor).

Conf. Com. Rep. No. 36 (H.B. No. 293, H.D. 1, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 36 be adopted and H.B. No. 293, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Espero.

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

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

“Again, this is a bill that’s been bouncing around for several years. What it would establish is a world class farmer’s market established by the state government. There is an appropriation now at \$7,000 in the final draft of this bill.

“I note that we don’t do anything in Hawaii unless it’s ‘world class.’ Everything we do is ‘world class.’

“We don’t need a study, nor do we need an appropriation of taxpayer funds for a farmer’s market. We have dozens of farmer’s markets that are operating at world class levels in most regional and community neighborhoods throughout our state. They’ve done quite well without any government or public support.

“So again, this is a situation where the government need not apply. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 36 was adopted and H.B. No. 293, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE FARMERS’ MARKET,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Hemmings, Hogue, Slom, Trimble). Excused, 1 (Kim).

Conf. Com. Rep. No. 45 (H.B. No. 290, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 45 was adopted and H.B. No. 290, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO UNEMPLOYMENT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 47 (H.B. No. 1362, S.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 47 be adopted and H.B. No. 1362, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose to speak with reservations and said:

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

"Several things should be considered as we look at this again. The first statement was it won't cost us anything. I believe that statement to be false. We are giving the consumers in Hawaii more choices in what to invest their money in, and as a result of this and measures like this, things that people in this community probably support. There will be purchases of these tax-free bonds by individuals that not normally would be purchasing tax-free or as many tax-free bonds. This will affect the amount of income taxes they pay to the State of Hawaii.

"The second statement in regard to these is that the state has no liability. I suggest, colleagues, that regardless of whether the state has liability or not, if one of these loans or bond issuances goes south, that this body will be so concerned about the widows and orphans that lost money that we will make their corpus whole just as we did with Manoa Finance three decades ago.

"Third, I have not seen any study that indicates how much these institutions will wind up paying in interest because there will be a fairly substantial difference between the interest that investors get on the bonds and what these institutions pay. And I think this body may regard this form of assistance less desirable when they know the true cost to the institution issuing the bonds.

"So, I must vote on this measure with reservations, and all similar spurs in the future. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 47 was adopted and H.B. No. 1362, S.D. 1, C.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 Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Baker, English, Hooser, Tsutsui).

At 5:23 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:26 o'clock p.m.

Conf. Com. Rep. No. 50 (H.B. No. 1652, S.D. 1, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 50 be adopted and H.B. No. 1652, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Slom rose in opposition to the measure and stated:

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

"This is very curious. We are appropriating \$500,000 in this bill for activities associated with, quote, 'securing approval for the waiver from the centers for Medicare and Medicaid services for the expansion of prescription drug benefits under the Medicaid program,' unquote. There has never been, in the history of the center, a waiver to any state or locality. We did apply for such a waiver, and that waiver was denied. I think all of my colleagues received notification of that within the last couple of weeks that it was denied. So why we would spend another \$500,000 chasing a waiver which is not going to be given, boggles my mind.

"In addition to that, a number of my colleagues were invited on a bipartisan basis to meet with the Governor a couple of weeks ago along with the Department of Health head, the Department of Human Services, and so forth to discuss this very issue. And what the administration and the executive branch is doing, since the waiver has been denied, they are collaboratively and collectively working, both here and with other states, trying to find other means of bringing meaningful prescription drug reform.

"But to pass a bill like this and to waste a half a million dollars chasing a waiver, which has been denied and which will not be given, is fiscally irresponsible.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 50 was adopted and H.B. No. 1652, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE MEDICAID PRESCRIPTION DRUG REBATE SPECIAL FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Hemmings, Hogue, Slom). Excused, 1 (Ige).

Conf. Com. Rep. No. 78 (S.B. No. 1443, H.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 78 be adopted and S.B. No. 1443, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

"Mr. President, for the record, I want to speak in favor of S.B. No. 1443 making this appropriation.

"Briefly and to the point, the Minority members of the Senate are very concerned about future costs of labor, with the exception of firefighters and police. We believe that these two public organizations deserve all the support we can give them, especially when there is no private sector alternative to fill in the void in case of an emergency, and therefore will be supporting this initiative in contrast to the other collective bargaining benefits being handed out."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 78 was adopted and S.B. No. 1443, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 79 (S.B. No. 1444, H.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 79 be adopted and S.B. No. 1444, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Hemmings rose to speak against the measure and said:

"Mr. President, I rise to speak against this appropriation.

"We all know that the state finances are extremely tight and we saw this morning in passing the budget the very astute Chairman of the Ways and Means Committee said that the growth in the budget, which is about 4.8 percent this year, is due in most part to previously negotiated collective bargaining increases.

"Though we're not getting actual money out in some of these collective bargaining increases, we're giving out a tremendous amount of assistance that's going to cost the taxpayers a lot of money in the future regarding benefits. It's important to note that the entire state is tightening their belts both in private sector employment with unions and non-union employees so much so that there is threatened job security for many people in the state of Hawaii. Nevertheless, we're continuing to give out these benefits. Come collective bargaining, it's going to cost all of us more money than we have in the future.

"It's also important to note that the benefit package for the employees of the State of Hawaii is one of the most benevolent in the nation. For instance, with our 14 paid days of holidays, we are number one in the nation for that. Every year there are 14 days off that are paid for by the taxpayers that most other states do not get anywhere near that number. It usually averages around 10 or 11, looking over the list. Sick leave is one of the most attractive in the nation. We just earlier in the day passed formalizing a procedure where employees can leave state employ to go to conferences regarding their school and children's school programs, and the list goes on, and on, and on. I think it is extremely unfair to the working men and women in Hawaii that continue to pay for this alleged public service while they themselves are suffering.

"Second, and more importantly, is that I think the labor union leaders really have to start looking at the bigger picture here. How much longer are they going to be able to get these benefits and expect job security to exist. I think all of us don't want to see anybody laid off, but there may be a day when we cannot afford to have everybody in employ and continue to pay these benefits that are not enjoyed by their counterparts in the private sector.

"So, for this reason and others, some of us will be voting consistently against appropriations for collective bargaining cost items.

"Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 79 was adopted and S.B. No. 1444, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Conf. Com. Rep. No. 81 (S.B. No. 1040, S.D. 1, H.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 81 be adopted and S.B. No. 1040, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak against the measure as follows:

"Mr. President, I'll be voting 'no' on this bill.

"The bill basically mandates that 10 percent, after a certain limit, of the TAT go to the special fund for statewide trail and

access. Certainly, tourist and our visitors use trails and accesses. Certainly, we should maintain them, but I think the larger issue here is, as we've seen before, different departments, different individuals, different special interest come in and want to take chunks of the transient accommodation tax for either niche marketing, as is the case here, or for repairs and maintenance of existing facilities that should be done by other departments and have not been done.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 81 was adopted and S.B. No. 1040, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Hemmings, Hogue, Slom).

Conf. Com. Rep. No. 85 (S.B. No. 1134, S.D. 1, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 85 be adopted and S.B. No. 1134, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Hogue rose in opposition to the measure and stated:

"Mr. President, I'll be extremely brief in opposition.

"Two new fees . . . I can only have one vote, and I'll make it 'no.'

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 85 was adopted and S.B. No. 1134, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COURT COSTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 93 (S.B. No. 254, S.D. 2, H.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 93 be adopted and S.B. No. 254, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Hemmings rose to speak against the measure as follows:

"Mr. President, I, likewise, will be very brief speaking against S.B. No. 254.

"Mr. President, this sets a bad precedence. Pretty soon we'll be building bridges for private owners throughout this state because everyone who needs a bridge over some public stream is going to claim that it was done in this particular area and why can't they do it in ours, and we can't afford it.

"Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 93 was adopted and S.B. No. 254, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

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

Ayes, 22. Noes, 3 (Hemmings, Hogue, Slom).

Conf. Com. Rep. No. 94 (S.B. No. 534, S.D. 2, H.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 94 be adopted and S.B. No. 534, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

Senator Trimble rose to speak with reservations and said:

“Mr. President, I rise with reservations.

“This is another in a series of bills that we should not have to consider. An aye vote here would be, again, a vote of no confidence in the administration and the board of regents of the University of Hawaii. There are certain things that are so fundamental and so important to our community that they should prioritize those items and fund them without us coming in, and for that, I will be voting with reservations.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 94 was adopted and S.B. No. 534, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AGRICULTURE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 97 (S.B. No. 1496, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Espero and carried, Conf. Com. Rep. No. 97 was adopted and S.B. No. 1496, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AGRICULTURE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 98 (S.B. No. 1440, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 98 was adopted and S.B. No. 1440, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING COST ITEMS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Conf. Com. Rep. No. 99 (S.B. No. 1441, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 99 was adopted and S.B. No. 1441, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Conf. Com. Rep. No. 109 (S.B. No. 745, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 109 be adopted and S.B. No. 745, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kokubun.

Senator Trimble rose in opposition to the measure and stated:

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

“Emergency ambulance service or emergency medical service is a statewide problem. This bill is limited to a very narrow area. It specifies a very narrow type of equipment and it specifies a very narrow set of procedures. I think that it’s more appropriate to examine funding all communities, all rural communities, equal with this regard and treating everyone in our state equally.

“Thank you.”

Senator Baker rose to speak in support of the measure and said:

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

“Actually, this measure does just that because Maui County is the last of the rural areas without this particular type of emergency services, and I have remarks I’d like to have included in the Journal.

“Thank you.”

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

“Mr. President, I rise to speak in support of S.B. No. 745, C.D. 1, which requires the Department of Health to integrate emergency aeromedical services into statewide emergency medical services. 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 services exist to save lives.

“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 assist in reestablishing that vital service, integrating ground, fixed and rotor transport services with our 911 system.

“This measure appropriates \$611,500 for fiscal year 2004-2005 to fund the provision of emergency aeromedical helicopter services for the county of Maui. We have asked the county of Maui for a one-to-one match before the funds are made available, and the Maui County Council has already responded favorably with a matching sum.

“Additionally, \$388,500 has been appropriated to integrate additional ground ambulance services with the emergency aeromedical helicopter services. These funds will be used to provide emergency medical service personnel to crew the helicopter. These personnel will also provide additional staffing for ground ambulance service, serving to extend hours for areas currently with less-than-24-hour service.

“This measure also requires emergency helicopter aeromedical services to use triage protocols and national

aeromedical, triage, and transport guidelines established by the Association of Air Medical Services, the American College of Surgeons, and the National Association of Emergency Medical Services Physicians. This will ensure that such services will be used in an efficient and appropriate manner.

"I want to thank the Ways and Means Committee, especially your Chair and Vice Chair, for assisting your Committee on Health in funding this crucial emergency service appropriation. The Ways and Means committee has been very supportive of restoring aeromedical helicopter services for Maui County, and I appreciate all that they have been able to do for Maui's citizens. My only regret is that we were unable to fund the ground ambulances for the other areas of our State in much need of these services. Future legislatures must find a way to address this growing need in our State.

"Senate Bill 745, C.D. 1, will enable us to take steps to address some very serious emergency medical service needs. I ask my colleagues to join me in supporting this measure.

"Mahalo."

Senator Kokubun then rose and said:

"Mr. President, I'd like to insert comments into the Journal."

The chair having so ordered, Senator Kokubun's remarks read as follows:

"Mr. President, I strongly support the passage of S.B. 745 because it will provide critical and essential health and safety services for Maui County. The provision of an emergency aeromedical helicopter for the four islands of Maui County is obviously necessary to address the geographical circumstances faced by residents and visitors alike. As an intra-county emergency health and safety program, this measure has received unanimous support from the general community, Maui's emergency medical services personnel, Maui County government officials and Maui's medical provider community. In fact, Maui County has agreed to participate as a cost-sharing partner with the state to accomplish the purpose of this measure. Clearly, this demonstrates a truly collaborative and united effort.

"It is also necessary for me to acknowledge the strong leadership of the Health Committee Chair. She was able to gather dedicated support from all segments of her community to design a program to provide essential services that is practical and achievable in terms of implementation. In fact, Maui Senators effectively worked together as a well coordinated team to bring this critical measure forward. It has been a pleasure to assist them in this endeavor."

"Thank you, Mr. President."

Senator English rose and stated:

"I'd like to insert comments, please."

"The chair having so ordered, Senator English's remarks read as follows:

"Mr. President, as one of the author's of this bill, I am asking for your support of its passage here today. I live in Hana, Maui and represent the islands of Molokai, Lanai and Kaho'olawe as well as East and Upcountry Maui. My constituency – these islands – desperately needs this service.

"Some would argue that establishing an aeromedical service for Maui County would open the state to liability and lawsuits

from other citizens residing in the other three counties (Kalawao county would be serviced along with Maui County under this bill). This is simply untrue.

"First, the state has sovereign immunity, and thus is not open to any lawsuits. Second, the other three counties all have some form of aeromedical services. Maui County and Kalawao County are the only counties without access to these types of services. If the first argument were to hold, then the citizens of Maui and Kalawao counties should have the right to sue the state right now for not providing equal services. The absurdity of this argument is apparent.

"This is an innovative, collaborative program that deserves your support. I ask, in the name of all the residents on Maui, Molokai and Lanai, for your affirmative vote on this bill."

Senator Kim rose and stated:

"Mr. President, I have reservations. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 109 was adopted and S.B. No. 745, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMERGENCY MEDICAL SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 4 (Hemmings, Hogue, Slom, Trimble).

Conf. Com. Rep. No. 111 (S.B. No. 1088, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 111 be adopted and S.B. No. 1088, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun Oakland.

Senator Hemmings rose to speak against the measure and said:

"Mr. President, I rise to speak against this bill. I'm pleased to have the opportunity to speak against S.B. No. 1088, and I'll make my comments hopefully brief and succinct and to the point.

"Number one, and it's been said before, this bill is extremely sad for the senior citizens who think they're going to get relief sometime in the near future if this bill passes, because nothing could be further from the truth. As you well know, it takes a while to vest and get benefits, and when they do come, they're not benefits that are nowhere near going to take care of the needs of senior citizens that do have to be placed into full-time care situations. They will only last a year.

"The second point, and therefore that this bill providing relief is basically a hoax. It pays about half the full-time care cost and it also will only last year. So it's going to be a sad surprise for the senior citizens who think they're going to be taken care of.

"The other thin is that this bill is a lifetime of paying for young people that are going to be forced to start paying now, a lifetime of paying for one year of partial assistance in the future. It is particularly onerous for some young person entering the marketplace here in Hawaii for jobs and trying to make a living. To pay for a lifetime with the hopes that maybe they're going to get a little bit of support for one year is a terrible, terrible choice. Because as we all know, for most insurance programs, what makes them work and the magic of the marketplace is choice and price competition, which this does not provide for.

It just provides for a government monopoly in spite of the alleged tax credits that may or may not be available.

“The last thing, and this is the most important thing, we’ve done such a wonderful job and we lauded the Chairman of the Senate Ways and Means Committee and everybody including the executive branch of government for controlling spending and therefore preempting the need for a tax increase. This, at the bare minimum, is going to take \$100 million out of the marketplace and out of the pockets of the citizens of this State. It will be an economic disaster; it will set up a state monopoly, and will further erode Hawaii’s reputation as a place where we can do competitive progressive business.

“I might hearken back to another brilliant medical service program that was started in 1974 called the prepaid healthcare act, and we’ve heard the good Senator from East Oahu tell us about the promises made back then on how well that was going to work for the benefit of the people of Hawaii and how everybody will be doing similar legislation throughout this nation. And we all know, as a matter of history, that is not true, that we’re the only state stuck with the onerous provisions of this good concept. But more importantly, the concept of the prepaid healthcare act is so bad that the State of Hawaii avoids it through temporary hires, vacant position funding, overtime, and a number of other initiatives.

“I would suggest that this bill is going to be equally as detrimental to the marketplace of opportunity in Hawaii and will sadly not provide for the real long term care that will be needed for the elderly.

“I seriously implore you, the members of the Majority Party, to vote ‘no’ on this and I know that subsequent speakers are going to stand up and make an attempt to rebut everything I’ve said, but the facts are the facts, the history is the history, and the impact of this will be very serious on the marketplace. Please vote ‘no.’”

Senator Slom rose in opposition to the measure and stated:

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

“We’ve been debating various forms of this bill for several years now. It is a cruel hoax on the elderly and the infirmed. It is also a cruel proposition to those people that want to be responsible and take care of themselves and have choices.

“This is a tax, let there be no mistake about that. For years, people have argued and tried to call it everything else, and even today we get letters, we get e-mails, we get phone calls – please vote for this, but don’t call it a tax. It is a tax. It has to be a tax in order to extract that money forcibly from every wage earner age 25 to 99 in this State. That’s what it is.

“People talk about it as being only \$10 per month. It starts out as only \$10 per month. It rapidly rises to \$23 per month, per person working in a household. What this does is deny them the opportunity and the choice to put their money into other free market plans of their choice. It gives them the belief that they will have this coverage, and yet there’s a 10-year vesting period. The benefits cannot be paid out until, in this bill in this form right now, January 1st of 2008. It says that you can earn up to 1/10 of your vesting per year but doesn’t say anything about you taking out 1/10 per year before that 10-year vesting period.

“The measure also states that benefit disbursement shall begin after three years of the start of the tax, but there’s no mechanism for which an individual can claim partial benefit

before that 10 years, and no one will be eligible for any money until 2015.

“In addition to that, should you already have private insurance or be trying to take advantage of one of the expanding alternatives in private insurance, too bad, you don’t have a choice. You’ll pay it because it’s a tax. At the end of 10 years, this tax will have accumulated nearly \$1 billion in a new special fund. There is no guarantee in this bill, there is no earmarking, there is no language that this money must be used for the purposes to which it is collected. Is there anyone here who honestly does not think that after 10 years, when someone sees \$1 billion sitting in a fund that there won’t be many, many wonderful things that we can spend that money on rather than what the purpose was for.

“In addition, there is a nearly \$1 million appropriation to set up the operation in the first place. There is a lack of accountability, a lack of responsibility. There is no fiscal integrity in this bill, and the analyses that were done last year, which is still on the basic intent of this bill, shows that it is not economically sound.

“For all of these reasons, I urge my colleagues to consider if you truly want to take care of those in need of long term care – and long term care is a major issue, many of us are facing it; some of us are facing it closer every day than others – this is not the way to go. This would represent the largest single tax increase in Hawaii’s history, and that’s what it is. It looks like a tax; it feels like a tax, because it is a tax.

“Thank you.”

Senator Baker rose to speak in support of the measure and said:

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

“When the previous speakers have done so much to muddy the waters, it’s very hard to figure out where to start. But since we’ve had a lot of debate on this topic, I sent around to all of our colleagues some questions and answers, some additional information on this measure. I, too, will try to be brief because I know many people here have heard me speak before and heard others talk about the benefits of this measure.

“Let me just say that the measure is actuarially sound, that there is yearly reporting, that the trustees can only spend this money or the money can only be used for the purpose for which it was collected, and that according to the actuary, one of the very best in the country, this program will meet 75 percent of the need. No, it’s not going to pay 100 percent of the cost, but it will go a long way to making sure that seniors or others, who may have two deficiencies of daily living and need to access the benefit, will have a choice of care.

“Many of the long term care insurance products right now simply don’t have home and community based services in them, and that’s clearly what more and more of us seniors want. Only 6 percent of Hawaii’s residents have any kind of long term care insurance. It’s expensive and it doesn’t provide significant coverage. So what happens? People who can’t afford long term care end up on Medicaid if they’re the 2 or 3 percent who are lucky enough to be the first to go after those funds.

“Long term care insurance is like any other insurance, such as collision, fire, homeowners. We hope we never have to have need for it but we’re very happy to have it if we are in an accident or are robbed.

“Presently, all taxpayers, including the very young wage earners, pay approximately \$400 per year in taxes that go to fund the state’s portion of the Medicaid program. This burden will grow in the years to come because of the aging of our population. By 2020, it’s estimated that the percentage of people age 65 and older will have risen from 12.7 percent to 20 percent. If we do nothing, taxpayers will be called upon to pay more and more in taxes to care for the elderly.

“The long term care financing mechanism in this bill will slow the growth in our Medicaid program merely because 75 percent of the demand for home and community-based care will be met. Very importantly, this program does provide choice for people, something our current system simply doesn’t allow.

“And for those who are concerned about the financing mechanism – yes, it’s collected through the income tax, so you could call it a tax – if you look at it carefully, it really is very nominal for the benefit, considering that it’s going to address 75 percent of the need. You’re looking at the cost of a plate lunch, a movie. It’s a very, very modest investment in the future.

“Mr. President, we’ve heard from seniors. We’ve been looking at this issue since I was in the Legislature back in the late ’80s. As a matter of fact, we’ve been studying this thing for a long time, almost studying it to death. And every proposal, every study group, every task force, every working group that’s looked at this comes back to the fact that if you want to have a successful program, if you want to have a program that’s going to help people stay in their home and access community services, it’s got to be universal and it’s got to be done in this fashion if it’s going to be actuarially sound.

“Mr. President, I would like to submit for the record an editorial in the Honolulu Advertiser, Monday, March 31, that talks about the merits of this measure that’s before us. I would also like to submit for the record, a number of questions and answers that further expand on the positive points in this measure and how we can counter some of the arguments by the speakers before us, but I don’t want to read them all and take up the time of this body.

“But I ask my colleagues to consider all of our futures. It’s important that we take this action now to ensure that elderly and others who have need of long term care services have appropriate services and have it when they need it.

“Thank you.”

The Chair having so ordered, Senator Baker’s inserts are identified as ATTACHMENT “A” (Honolulu Advertiser editorial) and ATTACHMENT “B” (long term care financing plan questions and answers) to the Journal of this day.

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

“Mr. President, I rise in opposition to this particular measure and also to rebut some of the previous comments.

“First off, I realize that the working group that got this bill together did support this particular tax, but I really doubt that every single working group would support a tax. I think other states have had other long term care measures and they have not had to go to a universal tax.

“Is this truly actuarially sound? That’s a mouthful, and is it true? Well, they said that at the beginning when they introduced this bill, and yet as they went through the process this year, colleagues, they delayed the start of benefit payments from January 1, 2007, to January 1, 2008, quote, ‘in the interest

of actuarial soundness.’ So is it truly actuarially sound? Then the previous speaker said that the actuary, a noted, eminently qualified actuary says that this payment will meet 75 percent of the need. Is that true? This will meet approximately \$2,100 a month. In the committee report, the committee report says that long term care costs between \$5,000 and \$7,000 a month. Well, unless this is the new math, that’s not 75 percent.

“Then as to the point that somehow this is insurance, long term care insurance, colleagues, this is not insurance.

“This is a memo that was sent to me by someone who has been previously an underwriter in the insurance industry who has looked over this thing, and he says any competent insurance underwriter or actuary will tell you something’s not insurance if (1) people with virtually no chance of using the benefits are forced to participate; (2) the tax charge bears no relation to the person’s risks; (3) the tax starts immediately but no one is eligible for any coverage whatsoever for at least three years and perhaps even ten; (4) the directors running the program, in this case the Legislators, have no fiduciary duty to the recipients; (5) the directors can raise the taxes or change the terms or amount of coverage at any time; and (6) the directors are legally entitled to raid the accumulated money ostensibly earmarked for benefit payments and spend the money on anything they want. This is not insurance.

“So what should we do? What should we do, because this is one point that I absolutely agree with the previous speaker and this is a point that I absolutely agree with the Honolulu Advertiser. We should care about long term care. What can we do? We can help people purchase long term care insurance through tax credits. That part is in the bill. That bill was put forward by the Governor. The Governor supports that bill. People in the business community support that bill, and people out in the community should support that because it encourages people to buy long term care insurance.

“Unfortunately, the unintended consequence of . . . I’m going to just call it a well-intended idea. This idea that this particular working group has put forward here is to try to help people who are seniors. Unfortunately, they have created a disincentive. There is the feeling, there is the feeling out there that if you pay this tax, that you have long term care. What if you need long term care for a longer period of time? What if you need to go into a nursing home? The committee report already says \$5,000 to \$7,000 a month. Why don’t we encourage people as a public policy to purchase long term care insurance with a credit? That’s what absolutely makes sense, using a tax credit.

“I wish that this bill had been put forward with the way that the Governor had intended it, and that is a long term care tax credit. That is a very, very good policy and it meets the needs of the community and it meets the needs of the aging population.

“For all of these reasons, I encourage my colleagues to vote ‘no.’”

Senator Hemmings rose again and said:

“Mr. President, in speaking against this bill I would like to rise in rebuttal to some previously stated remarks. The remarks having to do with muddying the water, I would suggest that those remarks actually turn the muddy water into chocolate pudding.

“Equating this to the cost of a plate lunch every month is off the Richter scale ludicrous. We’re not talking about the cost of a plate lunch; we’re talking about \$100 million. That’s a lot of plate lunches, a lot of money coming out of people’s pockets.

“We’re not even means testing this. The wealthiest of the wealthy are going to be able to get a bargain at the cost of the poorest of the poor, who will have to pay for this also.

“Third, there’s nothing in this bill at all that is going to preempt on an ongoing basis the eligibility for the medically indigent to collect Medicaid. That’s an outright fallacy.

“And lastly, I would hate to think that this body would use as a rationale to vote for any legislation the endorsement of the editorials of the Honolulu Advertiser. I might suggest that there might be another paper that might not think this is a great idea for the reasons stated by previous opponents to this legislation. For the record, the editorials of the Advertiser, God bless them, they’re entitled to their editorial opinion, but they’ve supported every budget and tax increase in recent history that’s taken this State to the brink of bankruptcy. And now we’re supposed to push us over the edge because the editors of the Advertiser think it’s a good idea.

“Think about it. Let’s do what is prudent. Let’s encourage competition in the marketplace. Let’s find very focused legislation that can help those few who are in limbo between medical solvency to take care of themselves and the Medicaid fund, which we really should be addressing. This does not do it. It is a hoax on the taxpayers, and more importantly, it is a cruel, cruel hoax on many senior citizens that think tomorrow or sometime in the future that they would get coverage if this bill passed and was signed into law by the Governor.

“Thank you, Mr. President.”

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

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

“This measure establishes the funding mechanism to implement the long term care financing act that we passed last session and I would like the words of the Health Chair and the documents that she’s presenting to be inserted into the Journal as if they were my own.

“Mr. President, approximately 80 percent of the long term care expenses are currently paid for by Medicaid, and most individuals spend down their assets within a few months of needing long term care services because they are so expensive. Currently, every taxpayer contributes, as the Health Chair had mentioned, \$400 per year towards Medicaid, and this amount is expected to rise exponentially unless we reduce reliance on Medicaid for long term care as is proposed by S.B. No. 1088.

“This state is experiencing a Medicaid funding crisis with a growing budget of \$800 million and an additional deficit of \$90 million in this current fiscal year. Medicaid payment for long term care is a major contributor to this crisis. In the year 2011, when the first of the baby boomers will become 65 years old, it is anticipated that the demand for long term care services will skyrocket and potentially consume a huge portion of the state budget.

“We need to stem the rising cost by providing for universal basic protection for those needing care in the future. This measure will make basic long term care services affordable to the vast majority of our population. The long term care contribution operates like insurance in that the affordable rates are made possible by a large risk pool and everyone has some degree of protection.

“The long term care contributions are to be deposited into a separate and dedicated trust fund that cannot be raided or diverted. The fund will be used strictly to pay for long term care benefits for those who have made contributions to this fund.

“This measure will serve as an economic stimulus to the state for the creation of new businesses that provide a range of long term care services and the expansion of long term care insurance products, leading to the creation of many new jobs in Hawaii.

“Let’s continue Hawaii’s strong tradition of caring for our elderly and disabled and commit to support families and friends in their efforts to take care of their loved ones. I urge my colleagues to adopt this measure with a sense of honor and pride in doing the right thing.

“Thank you, Mr. President.”

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

“Mr. President, I rise to speak in support, but with strong, strong reservations.

“Mr. President, I support providing a means for long term care and I also support the tax credits provided in the bill. But I have looked over this proposal very carefully and I have a number of concerns, Mr. President.

“While long term care is important and we all need a plan for it, the realities of life dictate that families today often live from paycheck to paycheck. Mr. President, I received an e-mail from an individual who said, ‘I have long term care insurance. I am willing to pay an additional \$10 a month if this means that others will have some protection.’ Mr. President, this is not just \$10 a month. It will continue to escalate every year – from \$10 per month in 2005 to \$23 per month in 2012, or \$120 a year to \$276 a year. This is a tax that more than doubles in eight years.

“So what about those who cannot pay, Mr. President? As a Legislator, I have the responsibility to consider those who may not be able to pay, and this tax mandate does not consider the hardships of a young family; it does not consider the hardships of the poor. Anyone making at least \$10,000 a year would be required to pay this tax. If you earn at least \$10,000 a year, this would equate to roughly taking home approximately \$830 a month. After taxes and other deductions, Mr. President, an individual could take home maybe \$600 a month. So, figure in rent, utilities, clothes, possibly children, and there is not a whole lot left over to pay for this tax.

“On page 2, line 6, it states: A taxpayer who files a joint return under, and the taxpayer’s spouse together with whom the taxpayer jointly files a return, shall each pay the amount of the tax. Whether your spouse is working or not, you both have to pay.

“By the year 2012, Mr. President, a couple could be required to pay \$46 a month, \$552 a year, and if they happen to have elderly parents living with them with no income, that amount doubles. And what is the benefit? As you’ve heard earlier, it’s just one year – 365 days. That is all the benefit you get, \$70 a day. Surely it goes up a little bit to \$83 a day after the 10-year vesting period. What do you think the cost of long term care is going to be in 10 years in 2012?

“Also, in 2012, we have no idea beyond that what that tax is going to be. According to the bill, the board of trustees will be

the ones to recommend to the Legislature any adjustment to the amount of the long term care tax.

“On page 5, line 4, it states: Any individual who has paid the long-term care income tax for ten years, shall be fully vested to receive the defined benefit, but shall continue to be subject to pay the income tax. So, Mr. President, if for some reason you were to lose your job, or your pay drops below \$10,000 and you cannot make any payments, you would lose 1/10 of your benefit each year that you do not pay. So in 10 years, say you’ve vested in 10 years and the following 10 years you do not make any payments because of hardship, because your pay drops below \$10,000 or because you don’t have any job, you would lose your vested right. You would lose all 10 years of your vested right – 1/10 every year. So, unlike retirement, you do not have any protected vested rights.

“Again, an individual who has paid in for 10 years could ultimately lose their 10 years. Vesting only counts only if you continue to pay up until the time you need the benefit. And that is stated in the bill.

“This mandatory tax, or insurance as some have termed it, has been like to automobile insurance. Yet, there is no vesting in auto insurance and you’re not mandated to pay for auto insurance prior to or in anticipation of driving a car. This is exactly what this bill is – it’s in anticipation to and prior to possibly needing long-term care insurance.

“Also, Mr. President, there is a number of concerns that were raised by the tax department. They point out in this memo: ‘Employers will have to modify their payroll systems to withhold the proposed tax from employees. For many small businesses, this may be a substantial burden. The imposition of an additional income tax will be a burden on lower income employees or individuals who work part time. The department does not have the resources to collect and enforce the tax on self employed individuals. The department estimates it will cost \$6.9 million to set up the program in the first year and more than \$2.4 million to administrate the program each year. It is a brand new tax. It requires a new system to account for long-term care tax payments for 700,000 taxpayers. The department must apply any tax payment to the payment of delinquent long-term tax payments before applying the payment to income taxes. This requirement complicates the tax administration because the department must determine if a taxpayer is current on their long-term care tax payments before applying any payment to the payment of income taxes.’ And they go on with other concerns, Mr. President.

“Finally, I want to say that this measure will take money immediately out of the local economy. It will set aside money that could be part of the economy and it totally just takes it out of the economy, puts it into a fund and will not be part of that economy. For those reasons, Mr. President, I have strong reservations and I hope that this measure will be fixed or amended or somehow taken into consideration a number of these issues that have been raised.

“Thank you.”

Senator Baker rose again and said:

“Mr. President, I wasn’t going to speak again, but since our Vice President was quoting from an old tax memo, I thought it was necessary to correct the record.

“The tax department did have those concerns prior to meeting with my Co-Chair on this particular measure, and our consultant, to go over their misunderstandings of how the bill was to operate. They understand now that it’s not going to take

\$6 million to set up. As a matter of fact, the monies that are incorporated into this measure are based on their refined recommendation, which I will also have inserted into the Journal and will share with the Vice President at the conclusion of this Session.

“The funds that are being used to start up will be paid back. So the general fund will be reimbursed. It is not creating a new set of taxpayers but the current taxpayers. And when the tax department understood how the program would be set up, that the third party administrator would be responsible for much of the paperwork, they were able to revise their estimates. Also, they were able to admit that it’s not going to be a burden on small business, it’s not going to cause the employer to have to make any manipulations. It will be built into their tables.

“So, with those particular caveats in mind, the administration of this measure is not going to be onerous to the tax department and we have provided for start-up costs for them as well. I would contend that yes, there is going to be a cost to each and every one of us, but without this program, the cost will be far greater to all of our families, as well as individuals, and the cost to the state will be even a greater burden as a result.

“Thank you.”

The Chair having so ordered, the memo from the Tax Department is identified as ATTACHMENT “C” to the Journal of this day.

Senator Hogue rose and said:

“Mr. President, will I be allowed to ask a couple of speakers questions and then make a statement afterwards?”

The Chair having answered in the affirmative, Senator Hogue continued:

“The first question is to the Senate Vice President, who I thought gave a very, very eloquent speech. I’m just wondering, Senate Vice President, after you gave that speech if you convinced yourself to vote ‘no?’”

Senator Hogue continued:

“I guess she reserved comment this time. I’ve had other interviewees who have also reserved comment.

“The second question has to go to the Health Chair, and I understand, Health Chair, that the \$6 million number that we heard in testimony before us in the Health Committee has been revised. I’ve just curious what the new number is from the Department of Tax. You said that that number had been lowered, and since I didn’t receive the testimony, do you know what that number now is?”

Senator Baker answered:

“Mr. President, the amount for start-up is what’s provided for in this measure. I believe we provided them with \$500,000 in each year of the biennium. And they have told us that administration on a going forward basis is about \$350,000.”

Senator Hogue rose and questioned:

“Will that in any way change the actuarial estimates?”

Senator Baker replied:

“No, because that was about the amount that was factored in.”

Senator Hogue continued:

“Thank you very much for those answers.

“My statement, Mr. President, that I wanted to make had to do with the comment made by another previous speaker that the funds cannot be raided or diverted because they’re set in law. As we will see in a future measure in which we will vote on, which has to do with the hurricane fund, all the Legislature has to do is change the law and funds can be raided and diverted. So, I want to point that out, that we cannot make that absolute statement because we have no idea what legislative bodies will do in the future.

“I also wanted to point out one other thing too, because there’s been a lot of talk about how much this is going to cost us in the future. I realize that long term care will cost us a lot in the future, but if you look at research and what long term care insurance costs, for example, I’m 49 years old, I will turn 50 years old in September. On my 50th birthday, I can go down and I can become a member of AARP and I can purchase long term care insurance at a cost that is very near this \$10 a month figure. In fact, I can purchase that for about \$12 a month. That \$12 a month figure is, on this particular tax scale, near the bottom because it increases from \$10 a month or \$120 a year to \$12 a month, \$144 a year, in the second year, all the way up to \$23 a month, \$276 or so a year by the end of the measure.

“So the point is that individuals have the opportunity to go out and buy affordable insurance. Now, I realize that there are people who are older, who are in more of a risk category that the insurance will be higher, and while I feel badly for them, they should have, before this period, purchased their long term care insurance. So why are we trying to cover for them.

“As for the concern about losing assets, we could also, Mr. President, pass legislation like other states have, and I believe six states have, to protect the loss of assets. That would be good public policy. This isn’t.

“Thank you.”

Senator Chun Oakland rose on a point of inquiry as follows:

“Mr. President, I have a point of inquiry to the previous speaker.

“I wanted to ask the Senator from Kaneohe, in any purchase of long term care, and I’m not too sure if you have that long term care product, what does the cost or the amount that you’re paying equate in terms of benefit?”

Senator Hogue replied:

“I don’t have the policy here in front of me. It is my understanding that that particular policy that I spoke to does not count for in-home care but would actually benefit me at a greater amount than the benefits that are actually derived in this particular measure.

“So, I would get an opportunity to either purchase that, or if I wanted in-home care, I could perhaps pay a little bit more than that \$12 a month cost. Perhaps I could pay \$20 a month or \$25. I’d have to check the marketplace. But I believe that I could find something for a reasonable cost. And with long term care tax credits, I believe that I could actually benefit more than this particular measure.

“Thank you.”

Senator Chun Oakland further inquired:

“I believe also that if it’s out-of-home care, do you have a benefit that would pay more than a year’s worth of a nursing care home?”

Senator Hogue answered:

“I’d have to go and look into the particular policies, but I understand your point.”

Senator Chun Oakland then said:

“It would not, I think in most cases, purchase more than that. I also wanted to ask you the question, does such a long term care policy allow for a person to stop paying without losing the benefits?”

Senator Hogue replied:

“I’ll be real honest with you. I cannot answer that question.”

Senator Chun Oakland continued:

“My understanding is, with long term care insurance, private long term care insurance, you need to continue paying. You don’t have that incremental 10 percent reduction over 10 years as this policy or this insurance program is providing.”

Senator Slom rose again and said:

“Mr. President, as long as we’re playing truth or dare, I’d like to add some remarks of my own.

“I would . . . first of all, I’m stupefied by the wonderful testimony made by the Senate Vice President who could only bring herself to serious, very serious, very extremely serious reservations. I think she laid out the case very accurately.

“But I want to go back to some of the things that the good Senator from Maui, the Chair of the Health Committee said, because I would like to believe her and the things that she said. If I believed her, then everything would be all right. We wouldn’t have any concerns. Unfortunately, I can’t because a lot of the things she said are just not true.

“First of all, when she mentioned that no working group has ever come up with any other alternative than attacks, that’s incorrect. I was part of a two-year bipartisan working group in this Senate, and we came up with all kinds of alternatives and options. As a matter of fact, the only reason I got on that working group was because the stated mission and purpose was to find private, non-government, non-tax options. However, those people that have been pushing for more than a decade now to have the state take over this function and the state tax, they rule the day. And the final product that came out of there, disregarding all of the other options and alternatives, was it’s got to be done by the state; it’s got to be a tax.

“Secondly, the point that this is just like automobile insurance or life insurance is totally untrue. The speaker knows that. As was said by the Minority Floor Leader, first of all you’re not forced to buy these types of insurance and there is such a wide array of different products that people buy for their own individual customized needs which differ, whether we’re talking about life or casualty or fire or anything else.

“The main thing is that it is insurance and this is a tax. And as much as the proponents would like us not to mention that word, it is a tax. It is forced.

“As was pointed out by the good Senator from Kalihi, the Vice President, if you are filing a joint return, your spouse will pay this as well, every working person from the age of 25 years on.

“The good Senator from Maui pointed out that only 6 percent of the people in Hawaii have long term care insurance. I don’t doubt that figure. It probably is true. I haven’t checked it but I can tell you why, if that is the figure. Because for a dozen years now, we’ve been promising everybody, don’t worry about it, the state’s going to take care of it. We’re going to pay for it, like we promise everything else.

“And another thing – no other state has ventured into this area and no other state probably will. And the reason is the cost and the reason that we’ve been talking about this for more than a dozen years. The more you examine it, the more you get through the machinations and the miscommunications and the misstatements of fact made by the proponents, you find out how little you actually pay. And that’s fact.

“As far as the actuarial study, maybe the good Chair and I can get together because the actuarial study that I read last year is entirely opposite from what she told this body.

“And as far as the Tax Department, I think it will be a surprise to the new tax director in the Tax Department that they just didn’t understand all this and that now they can be enlightened as to what the real figures and what the real workings are. I think they do understand it. I think they understand the consequences, they understand the cost, they understand the impact.

“And if you are paying into this and suppose you were deciding to leave Hawaii, you would take nothing with you . . . Oh, except the new passenger departure tax, you’d get to take that with you. But you wouldn’t get anything from this long term care tax, cause you leave, it’s over; you die, it’s over. You want to transfer it to something else, you can’t do it. There is no choice, no flexibility. That’s why it is not insurance.

“We talk about the \$400 per taxpayer right now for Medicaid and the hope that that might go down because if we have this new tax scheme, that will take some of the pressure off of Medicaid. There’s nothing in the bill that indicates that. There’s no promises that can be made. There’s no substantiation of that. They’ll pay the \$400 and maybe next year it will be up to \$500 and then it will go to \$600 because of the other needs of the elderly and others. But in addition, they’ll now be paying this tax as well.

“So what we’re trying to do here is to fool the public. Mr. Ponzi would be proud. And if we do this, we are embarking in the wrong direction and we are diverting focus, funds and resources from really helping the elderly and helping those that want to take care of themselves. We hope that we can get the message down to young people that it’s in their best interest to take care of themselves and their families later on.

“The industry has changed in the last dozen years in response to the recognition that not only is this more of a need, but that there is more of a demand for this type of product, and therefore they have been offering additional products.

“And to the good Senator from Kalihi, I would say that there are products on the market right now that will allow for home care, will allow for a combination of home and nursing home, and most of us absolutely believe in home care where and when it is possible. But those of us that have had family, loved ones who we have taken care of in long term care situations, as I mentioned previously, it is an agonizing chore. It is physically,

financially, and emotionally draining. There’s no question about that. And sometimes, people just can’t keep their loved ones at home and so they look for other alternatives. We’re not going to be putting everybody in nursing homes because we don’t have the nursing homes, and we don’t have the staff, and we don’t have the money to take care of all those things.

“So what we should be doing collaboratively and collectively is looking over the alternatives that we have right now, maximizing the choices and flexibility for individuals, taking a look at needs test and identifying those people that through no fault of their own cannot take care of themselves and need help and help those people. That’s what we have to do. That’s our mandate, and we can do that, and I hope that we will.”

Senator Hooser rose to speak in support of the measure and said.

“Mr. President, I rise in support.

“I want to say that I rise in support, and I would ask my colleagues to choose their words carefully when addressing fellow Senators on the Floor. I take offense when one questions the integrity . . .”

Senator Whalen interjected:

“Point of order, Mr. President. I don’t think he’s addressing the motion on the Floor right now or the bill.”

The President then said:

“Senator Hooser, please keep germane to the subject.”

Senator Hooser continued:

“A prior speaker questioned the facts. Okay, I’ll move forward. Anyway, I was offended by the previous speaker.

“When you call this a hoax, what you’re saying is there’s an intent to deceive, and I don’t believe that is true. When you say the intent is to fool the people, I find that offensive. I know that’s not true also.

“This is about doing the right thing. People elected us here as government leaders to be responsible – socially and morally responsible – for those who cannot look after themselves. They elected us to be responsible to plan for, to protect, and when possible, to provide a social safety net for the sick, the very young, the frail, and our kupuna, the elderly. Social security, Medicaid, Medicare, and one of the greatest achievements of this Hawaii State Legislature, the prepaid healthcare act, are all the results of forward-thinking elected Legislators who made those very tough but very right decisions a long time ago. You can bet these very same arguments were made at those times, and you can trust that the free market would not have taken care of those and that our parents and our grandparents and some of us are very, very happy that those programs are in place.

“This is one small step, and it will be improved over the years, just like these other programs have been over the years. One very small step to do the right thing. What else are we going to do? We know the problem is out there. It’s been debated. It’s been discussed. It’s been studied for years and years and years. This bill is ready and it is the right thing to do, and I encourage my colleagues to vote in support.

“Thank you, Mr. President.”

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

"Mr. President, I rise, I guess, with reluctant support with extreme reservations. And I also reserve the right to maybe vote 'no' on this.

"Mr. President, in listening to this debate, I'm compelled to stand and speak because we are in a very strange point here. On the one hand we're trying to deal with a major social program, and that is long term care. Now, a lot of the speakers have brought up many different points and many different arguments for and against it, and a lot of it, most of it, holds a lot of validity. I think, though, for us, the moment is here that we have to consider just what it means. Because on the one hand, we're saying let the free market take care of this.

"As one speaker said, the Senator from Kaneohe, 'when I turn 50, I will purchase this insurance.' You may need to use it next year. You may need to use this type of long term care. God forbid if one of us were in an accident or something that you need this type of care, why is it that our society is saying when I get older I will purchase this. That is one of the questions. Why not do it now?

"So, one of the problems is that we're saying let the free market take care of it, but yet we're not doing it ourselves. We're not encouraging people to do it, and that becomes a social problem. Because in the end, towards the end, the year 2011 is the year when those that are 50 will be hitting the retirement age, will be starting to look at these things, and they have not put in the social infrastructure, built the long term care homes, built the skilled nursing care facilities, put in the infrastructure to take care of themselves.

"Now, the issue before us is whether or not we should move forward with a mechanism to provide a minimum standard of care for all of the citizens of Hawaii and spread that cost amongst everybody. Many of my friends who are in their 30s and 40s and 20s and upwards are saying, 'look where they're working, they're making money,' this is difficult for them. I've been getting a lot of those calls. A lot of the people that are older have been calling and have been saying, 'hey, we think this may be a good idea. It's a supplement. We understand it's a supplement. We understand that it provides for in-home care, which long term care insurance does not.' So, it's a quandary. It's contradictions of what we're trying to do, and it's also different points of views.

"I'm at a strange point mainly because I spent a good part of my adult life caring for both of my grandparents. And I understand very much what it means to be a caregiver for two elderly grandparents. Both have recently passed, but I learned a lot through that process. I learned about human compassion, about what it is and what it means to allow someone to remain in their home as long as possible, and to provide the care that's needed for them. So the compassionate part of me is saying that I should support this bill. The other side of me is saying that, well, hey, we're adding to the cost of living in Hawaii. We're adding to the amount that people have to pay every year just to live here.

"Now, if we were to take this out one step farther, how much will society pay if we don't enact something like this when all of you and all of us reach a certain age and we didn't purchase our long term care insurance policies and we're depending on society to cover our expenses.

"I went back and I looked at the medical bills for my grandfather. It was over \$1 million. I looked at the medical bills for my grandmother, over \$500,000. I would have not been able to afford that had it been for insurance that they had.

"So, yes, there are many financial issues, Mr. President. There are many social issues involved with this, but really, this vote is one of compassion and one of conscience and how do we reconcile all of these differences right here right now.

"I'm right on the edge. I'm going to make up my mind in the next few minutes, and unfortunately, or fortunately, I guess, is the way to phrase it, as Senators, the only option that we have is that we have to vote on all the issues. Now, many people will debate it and take a side and say they should do this or they should do that. The 25 of us have to make a vote of conscience now, and we have to weigh all of this in the next few minutes. What do we think is the best interest of all of the people of Hawaii? Do we spread the cost amongst everybody, our million-plus population, and in the end hope that we have accumulated enough wealth to cover the minimum needs of most of these people. Do we say 'no,' let the free market take this, and those that decide to purchase insurance, long term care insurance, will get some care. What do we do? That's the question.

"So in the next few minutes, Mr. President, I will make up my mind on how I'm going to vote. This is what's been going through my mind as this debate has been happening, and I think that whatever choice we make here, if we move forward with the bill or if we do not pass it, we will still be dealing with the long term care issue in the future, and we still have to build the facilities, the homes, and put in place the infrastructure to deal with this with or without this bill.

"Thank you, Mr. President."

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

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

"Much discussion has taken place today. We've talked about being elected to do the right thing. When I think of what the right thing to me means, it means being honest with myself. It means being honest with the people that elected me. And sometimes it means telling them that if something sounds too good to be true, it probably is.

"I imagine many of you were at the vocational rehab luncheon that was held earlier this year. What impressed me being there was the accomplishments of the recipients of the awards in terms of their ability to lead better lives because they had the determination to succeed.

"When we look at how benefits are paid out, it's not a precise number like social security - when you're 65, you get it. Rather, it is when two life functions are impaired. This is not a precise number. It is open to discretion. It is open to whether a person wants to succeed or not and their ability to find somebody that will certify that a life function has been affected. My sense is that what will happen to this fund is something akin to what happened to banks in 1929. When there was a fear of insolvency, there was a run on the bank. The same potential for use of discretion exists in this act.

"In closing, I would like you to look at the numbers 10, 10, 70 and 75. I know that statistics is a science and we have had the best in actuarial science that money can buy. My past experience is that you cannot find anyone that practices that science that will always come up with round numbers - \$10 a month, 10 years, pay out is \$70 for 75 percent of the cost.

"I want to do the right thing. I would like to say yes, today we can solve the problem. But doing so would be as likely as this body passing a law preventing those of us that are over 55

from aging another day for at least one year. It is not in our power to do all the good that we would like to do, and sometimes we need to be honest with ourselves and we need to be honest with our constituents. This is still work in progress.

“Thank you.”

Senator Espero rose to speak against the measure as follows:

“Mr. President, I’d like to rise against this measure also.

“Both sides do have some very compelling arguments on why this should be passed, however, my own gut feeling at this point in time is that there is still some work to be done. I realize that many people have put a lot of effort into this, however, I just don’t feel that this is the time to be passing this measure.

“Thank you.”

Senator Hogue rose and said:

“Roll Call vote, Mr. President.”

Senators Bunda, Kawamoto, and Sakamoto requested their votes be cast “aye with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 111 was adopted and S.B. No. 1088, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO LONG-TERM CARE,” having been read throughout, and Roll Call vote having been requested, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 16. Noes, 9 (Aduja, Espero, Hemmings, Hogue, Ige, Slom, Trimble, Tsutsui, Whalen).

Conf. Com. Rep. No. 118 (S.B. No. 377, S.D. 1, H.D. 2, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 118 be adopted and S.B. No. 377, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

“Mr. President, I rise to speak in favor of S.B. No. 377.

“Mr. President, I was having a conversation recently with one of my colleagues who told me, though I am viewed as the proponent of this Ko Olina tax credit, they have never really heard me speak to it. And I thought about it and I said that’s absolutely correct. So I believe that it is time for me to speak to the infamous Ko Olina tax credit, which was S.B. No. 2907 last year, vetoed by Governor Cayetano, and now is S.B. No. 377.

“Mr. President, before I begin, I would like to thank the Chairs of the Tourism and Ways and Means Committees because this is like sending your child off to school, I think – you proposed a bill but it’s completely out of your hands. Maybe if I was as good as the Senator from Waipahu, I would figure out how to opihī my bills, but I haven’t learned that from him yet. (Laughter.) Are you awake? (More laughter.) Just checking.

“Mr. President, the irony of this bill is that when I was a law student about 25 years ago, I clerked in the legal aide office in Waianae, and my whole summer’s project was to work in opposition to the development of what’s called West Beach,

which we now know as Ko Olina. It was Horita’s West Beach project.

“About ten years later as a lawyer, I literally stumbled into labor law, representing the infamous and notorious Arthur Rutledge. And it is through Arthur Rutledge that I became the labor lawyer that I am known for as today. And Arthur Rutledge had very few people that he respected. One such person was Harry Weinberg, and I cut my teeth in labor negotiations over the bus, Harry Weinberg’s pride and joy in Hawaii.

“Today I stand before you in support of the Ko Olina tax credit, in support of the development of the area that I so strenuously opposed as a law student. And a lot of it also it gives me great pride now because this Harry Weinberg that was really this picture on the wall – and literally, Arthur Rutledge had his picture on the wall – has come almost full circle for me in that he is now an integral part of this tax credit.

“Mr. President, much has been said about this tax credit and I would like to address that, and I hope that my colleagues here today will be able to vote in favor of it with my comments.

“First of all, let there be no mistake. This is a tax credit which I authored and proposed. It is not a tax credit, as some say, that is for a developer or a particular person. In fact, I believe that as it now stands, the ultimate beneficiary of most of this tax credit will probably be the Weinberg Foundation. And for areas such as mine, Mr. President, the Weinberg Foundation has done a lot. It has, for example, already given in excess of \$1 million to the homeless project. And as you know, Waianae is the dumping grounds of many things and we also take all the homeless as well.

“This tax credit came about when the Governor, then Governor Cayetano, decided that gambling should come to this island, but he wanted it contained, and the site that he selected was none other than Ko Olina. I was in strong opposition to that, Mr. President, because Ko Olina is the entryway to the Waianae Coast and it is the only entryway. Everyone knows about the problems that we have when there’s a major traffic jam, hostage situation, water main break. You can’t get into Waianae, but you will be in front of Ko Olina. I believed that such a development, a gambling establishment, would be terrible for an area that has such low social economic status – people who are without jobs, and the kinds of problems that we have in the area.

“What I did believe, Mr. President, is the fact that we need an economic engine to revitalize that whole area, and Legislators before myself have decided that Kapolei would be the second city and that we would have a second city on the island of Oahu. They also decided that we needed something other than Waikiki, that we needed a second resort destination. And that’s a debate that I listened to very carefully because one other place being considered was Makaha and of course Kuilima (what was then Kuilima) or Turtle Bay on the Windward side, and West Beach. And West Beach, now Ko Olina, won out. However, as you sit back and you look at the developments, Kapolei is becoming a suburbia. It is becoming a commuter population base. That was not the vision. That was not the intent. The idea was we would have a true second city. Ko Olina has only one hotel. We have a timeshare, but at this point this seems to be where it’s going to end unless something can be done to revitalize it.

“With all due respect to the Senator from Kahuku, what I don’t want to see is great plans like Turtle Bay was, and to have only a hotel and a lot of townhouses and a golf course. That is not what I’d like to see for this community base.

“So this tax credit brings us a different opportunity, and this is a different tax credit. It is a tax credit that says shall develop, basically, the aquarium to act as the attraction for the area. It also has in it the training facility. It was amended to include Makaha because the other problem we have is that Makaha Inn, whether it was called Sheraton Makaha, run by ANA, the Japanese airlines, it has gone up and down. And it’s now down again, Mr. President.

“We can have another project there, vacant and subject to vandals. And the Weinberg Foundation is looking at and is in negotiations at this present time to purchase that and to put forth the training facility – a training facility which can be used by not only the youth of the Waianae Coast, but for all youth, because this is envisioned to be something that is a total facility. It has kitchens already there. You can have culinary type classes, but it gives the students the opportunity to actually run a hotel, something that they do not have anywhere else. And this is also being made possible by this tax credit.

“One person came up to me and said, ‘You know, Senator Hanabusa, why don’t you just say you want a \$7.5 million subsidy for the Waianae Coast? Isn’t that basically what this is?’ And I told this person, ‘this is not an issue of subsidy. I do not want to have the Waianae Coast become an area where everyone feels it’s just the haven for human service type projects.’

“As a matter of fact, in a discussion I had with some people there who talked about why don’t we benchmark success for the Waianae Coast, and they came to me and they said, ‘How would you measure the benchmark of success? Don’t you think if we had people who had a rise in their median income or homes were selling at a higher rate, isn’t that a great benchmark?’ And I looked at them, and you know, they were social service providers and I said I have the perfect benchmark – and that is when the people of Waianae can no longer qualify for your services. That’s my benchmark. Of course, they didn’t like what I was saying because social services is a major industry in Waianae. It’s a major industry, because you have to take care of a lot of our needs. I don’t want to see that. I want to see opportunity. I want to see the ability for the people to bootstrap themselves, and I see that with this simple tax credit.

“This is a different tax credit. This is a tax credit with a cap. This is a tax credit that before it came before you, it had dynamic impacts calculated – the only one that I know of – and it was done by none other than Dr. Seiji Naya who said 186 million will be generated for the 75 million. How many tax credits do we know of that has had that analysis, that we can before you and say this tax credit will give us 186 million and 75 million will be the cost. This tax credit does that.

“The other thing that I’d like to say is, people say to me, ‘this is a tax credit that only affects a particular area. Tax credits shouldn’t be used for a particular area.’ My response is, why not? One reason this tax credit should be considered is because when you want to stimulate an economic base, why not focus it in a particular area. If you look at the Ko Olina area and you can develop not only the aquarium . . . and as a result of Governor Cayetano, and I credit him for this, he said to the developers ‘I may consider not vetoing this bill if you can bring forth people who will say we will do this; we will invest in the area.’ And people came forth and they have appeared before various Ways and Means and Finance Committees. Ritz Carlton has come forward. Intrawest has come forward. You have all these various other entities who said they have come forward, and Weinberg – Weinberg who will donate the land underneath that aquarium and put its resources, not only for the

training facility, but also, also, for the development of that aquarium. This is what we’re talking about. Why not?

“Let me tell you another reason why not. When you take your rubbish out in the morning, for those of you who are on Oahu and for those of you who are staying over, do you ever wonder where it goes? Let me tell you where it goes. It goes to my area – Waimanalo Gulch, the only municipal solid waste landfill in this state. And if it manages to get burned, it goes to Campbell Industrial Park. Now the area of the good Senator from Kapolei, it was my area as well. When you turn on your electricity, do you know where most of that electricity is generated? In our area, Kahe Power Plant. If it’s not Kahe, it’s Kalaeloa or AES, Campbell Industrial Park. And as Hawaiian Electric looks to expand electricity on this island, where are they going to go? Campbell Industrial Park. As you look at alternative disposal facilities, where are they looking for? H-Power is in Campbell Industrial Park. The Plasma Park Technology, where is that? Kalaeloa, many of you may know it as Barber’s Point, all part of this region.

“And as we look at Iraq, where do you think the Schofield Barracks soldiers train? Makua, the other end of my senatorial district. So I say, why not?

“An issue that I’ve had and fought way before I even considered running for office is the 138 kV lines. This is before it was popular in Manoa, before it became known on Waiiahila Ridge. Because when Malama Manoa became an entity, they came to see me. And they asked me what do you have to say about this. Can you help us? And I said, I will tell you, when we were fighting this on the Leeward Coast, when these 138 kV lines were being planned from Campbell Industrial Park to Waiao Power Park, no one else was there to fight for the people of our region. And I said, but I don’t have any ill feelings about that and sure I will. But let me tell you something, all of those lines, most of your electricity are actually traveled on these 138 kV lines, because the 138 kV lines are the only ones that can complete that grid, that grid that is necessary to ensure that your computers don’t blitz and so forth. And where do they come from? Basically, this particular area. This is the area.

“By the way, did I tell you we have all the illegal landfills as well. And in addition to that, when you do construction, infamous construction, where do you think the only legal landfill is? It’s in Nanakuli. By the Way, Waimanalo Gulch is not in the good Senator from Waimanalo’s district. It is in none other than Nanakuli. They just called it that so that we would believe that it was somewhere else. And you what, it worked. We did. (Laughter.) We did believe it, and we thought great, we’re going to support Waimanalo Gulch because it’s out of our area. Even Waimanalo Gulch we were promised, our community was promised, 15 years and it would be gone. No way, no way. It’s not going to be gone.

“And in addition to that, where is the largest percentage of Native Hawaiians in this state? Nanakuli and Waianae, my area. Who’s got the lowest social economic status? My area. Whose got the most problems? My area. I don’t say it with pride. I’m just saying that to make this case, because with this tax credit, with the training facilities, I believe that this area can take off. And for those of you who say, well, what about my area? You know, I tell you get on this bandwagon. Let’s see. If this is successful, I see no reason why we can’t repeat it elsewhere and take care of other areas that are in need of this specific help.

“Believe it or not, I actually do have a vision about what we’re going to do. What a lot of people did not know is that as the controversy with Ewa Villages started, and we are all very familiar with that, how many people actually knew that Ewa

Villages was being developed by the City and County of Honolulu as a point where you would drop tourist off so that they could what a real plantation town looked like. What does Ewa Villages have? Ewa Villages has ORNL, an actual railroad. That railroad goes through Ko Olina and where does it end on the other side? It ends at Kahe Power Plant now, but it can actually go into Nanakuli.

"I feel that we have the masses, the number of people. Whether they come to that region by ship, because we also have the deep draft harbor too, or they come to stay in the Ko Olina resort areas because that aquarium will attract them there, that this railroad can bring people into Nanakuli. We don't want them on our roads. We've got bad roads. So they would go by railroad and it would drop them off at Nanaikapono School, which is being moved. And in that area, Nanaikapono and Camp Andrews, I can see the people of Nanakuli, then doing true eco-tourism. If it's true that Japanese tourist and other tourist want to see real Hawaii, real Hawaiians, then you know what, let them come to Nanakuli. Let the people of Nanakuli have their lifestyle, and let the tourist come in by train and go out by train.

"Think about what that would mean for this whole state. Think about what that would represent in terms of revitalizing not only our area and giving the people in my area hope and a future, but for the whole state.

"So, Mr. President, with that, I hope that my colleagues will support the passage of S.B. No. 377. And I apologize because I hadn't realized that I've never spoken to this measure to this body. Thank you very much."

Senator Kawamoto rose to speak in support of the measure and said:

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

"Mr. President, I don't claim to be in that area. We're just in the outskirts of that area, but we support this bill primarily because of the fact that we support the idea of the second city when it came about. We support the fact that we need to develop, as a job creation area, we need to develop that area because of the fact that it's going to cost us big money to get some kind of transit, some kind of alternative means because the traffic is bad, really bad. If we can divert the traffic coming down H-2 or having people from downtown Honolulu come out to this area, then the traffic may be even.

"I'm concerned because, as the Transportation Chair, you pointed me to be there and this is one area that we want to develop. And hopefully next year or the year after we can again finish this complete vision with the University of West Oahu campus. (Laughter.)

"Thank you very much, support this project and maybe this is going to be the impetus of getting the whole area developed. Thank you."

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

"Mr. President, I rise somewhat reluctantly in opposition.

"I'm reluctant for several reasons. One is to follow the eloquence of the Senators from Waianae and Waipahu, and especially the Senator from Waianae that spoke so eloquently about her community. I'm not speaking today to convince my colleagues to vote against the measure. I'm speaking today to explain my reasons and motivations so the good Senators understand that I've thought this through.

"I'd very much like to vote in support just to support my colleagues on a good project, but after looking at the bill and giving it much thought, I can't bring myself to do so. This is a \$75 million tax credit and I have many concerns. One concern clearly is that we're targeting one area, one primary developer. More serious concerns than that, though, involve that there seems to be no guarantees. We don't seem to be asking enough from the people who are the beneficiaries of the \$75 million. Though there are references to building an educational facility, there seems to be no real clear guidance or guarantees on how the educational program would run, who would actually do it, and how it would work.

"More importantly, even though it will be generating jobs, there seems to be no assurances that the jobs will be good jobs, high paying jobs. I would prefer to have a prevailing wage clause guaranteeing there would be union jobs paying a good wage. There are many concerns. As a neighbor islander, I would prefer a tax credit that would apply to the entire state. With there being some question about whether or not the hotel construction and remodeling tax credit will be able to squeeze into this budget and the tightness of the budget, I'm afraid perhaps that the rest of the islands, in terms of this type of tax credit, will be left out.

"Jobs are important, but I think more important than just generating jobs we need to look at diversifying our economy, especially at this time. The unemployment rate for the City and County of Honolulu for the island that we're on right now is at 2.7 percent. This is the time I believe we should be spending \$75 million on diversifying the economy instead of focusing on more of the same – hotel construction, resort construction . . . 2.75 percent. On the Big Island, it 4.2 percent. On my island, it's .8, and on Molokai it's 6.1. On these islands the residents can't drive to where the jobs are, so I believe we have a statewide problem and I would prefer the credits be distributed statewide.

"Again, it's not simply more jobs. We need to look at raising the people up, diversifying the economy. I wonder what would happen if we spent \$75 million on schools for the Leeward Coast or \$75 million on UH West Oahu, or \$75 million on diversified agriculture, or other efforts in job diversification, in economic diversification.

"So these are some of the reasons, and I fully understand the passion and the need to serve your district and I reluctantly am speaking in opposition. Thank you."

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

"Mr. President, I rise to speak in favor of S.B. No. 377.

"Mr. President, if I wasn't already in support of this measure, I certainly would have been convinced by the words of our Majority Leader. Certainly she spoke eloquently, and I agree with her. I also understand where she's coming from because my district of Kalihi is often the dumping grounds and certainly we need economic viability in that area. And that is why I've been so strong as far as the prison being relocated and having that area have some economic viability.

"I certainly support our Senator from Waianae and the Waianae Coast for its long neglect of that area and the fact that we depend upon that area for so many of our negative things that we don't want in our own back yard. So, certainly, Mr. President, I am not just a newcomer to the support of that area. I've supported the so-called West Beach, and I hate to age myself by bringing up where I've been in the past, but when I was on the city council back in 1985 we rezoned that area. We

rezoned West Beach, which is now, as we've heard, Ko Olina. We rezoned the area and we also designated Kapolei as the second city, and we were supposed to move all the government buildings and we're supposed to put in businesses there to make it the second city. And here we are 18 years later still looking for the second city, trying to develop the second city, and also trying to develop this resort area of Ko Olina.

"Certainly, a tax credit of this nature will help to do that, will help to revitalize West Oahu, Mr. President. It will create multi-resort island model, like the one that we have on Maui and Kauai and the Big Island. It will complement Waikiki. It will diversify the Oahu visitor base by bringing in new hotels. It will also provide an incentive to create the world-class attraction that we need. The visitors come to Hawaii on their second and third visit and they have no new attractions.

"I have said time and time again, Mr. President, in the Tourism Committee that we need to look at our product. We need to look at renewing our product, refreshing our product, because it's getting old. And if we're not going to encourage these kinds of developments, then we're not going to get new visitors or return visitors coming back.

"Mr. President, this project is going to create 10,000 new construction jobs; 2,100 new permanent jobs. It's going to be \$750 million of new construction, not state construction, mind you. It would be private construction monies. The only monies involved is a tax credit. In order to get the tax credit you have to show that you've expended the cost and the monies.

"Weinberg Foundation, who has helped so many on this island, so many people in the whole state, has committed the lands and the resources to make this a reality. They have committed the training facility. I spoke with the developer yesterday to the issue on the training programs and they have assured me that they will be doing the training programs. They're going to be doing the training center as well as the training programs. I believe it's also a commitment to the Senator of Waianae as well.

"The Leeward Coast is long overdue for this kind of incentive, Mr. President. The residents of the Leeward Coast so deserve some attention from this Legislature, and I urge all of my colleagues to support this measure.

"Thank you."

Senator Slom rose to speak in support of the measure and stated:

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

"I've talked about this before. I supported this. People in my own district in East Honolulu ask me why would you in Hawaii Kai support something in Waianae? And I said because I am a State Senator. We are all State Senators. We should take the position that most important for us and for the state is anything that is going to benefit any portion of our state.

"When we look at the situation at Ko Olina, as very specifically detailed by the Majority Leader, we want to reiterate again this is not a subsidy. I don't vote for subsidies. This is not a government project. This is private investment. As I've said on previous occasions in sitting through all of the hearings for the last couple of years, I have never, before I came to the Legislature or since, ever seen any developers come down to this Legislature, sit through hearings, answer every question posed to them specifically, made every change that was asked of them, jumped through every hoop, did everything that was required without whining, without complaint, without

excuse. I've never seen it, Mr. President, and I doubt that any of my colleagues have either.

"Let's get this straight, this is not for one specific project or one developer. Hey, anybody that had the ability, the vision, and the risk potential to come forward could qualify and would have been welcomed for a project like this. But the fact of the matter is there's no great desire to do that or to invest in Hawaii. Why? Because of some of the trashy bills and increased taxes and regulations that we passed over the last seven hours sitting in room. We still remain an anti-business state and we send that message all the time, and some of the arguments against this bill reinforce that.

"Well what about the jobs? They may not be the right kind of jobs. They may not be good enough jobs. They may not pay enough. I say to my colleagues, then you start a business, and you provide the jobs, and you provide the investment, and you provide the diversification. Because the fact of the matter is Hawaii has been and continues to be passed over. We are not taken seriously as a business or investment center. In fact, we used to have a chief of state who used to deride publications like the Wall Street Journal, Investor's Business Daily, Fortune, The Economist, Financial World. His comments were, 'Nobody reads them; nobody pays attention to them anyway. They're just right wing publications.' That attitude has got to change.

"What this project, what this development gives us an opportunity to do is to be a beacon to attract other developments in other parts of our state. Because if investors see that in fact we are serious about wanting people to do business and to invest here, they will then overcome their reluctance and they will take us more seriously.

"Now, about the \$75 million, some people would have you believe that we're just going to hand somebody \$75 million. You know, like in case they made a surf movie or something like that. That's not the case here. As the good Senator from Waianae pointed out, the previous study under the last administration by the head of the Department of Business and Economic Development said, the returns expected conservatively on the \$75 million were \$186 million. And they were very specific and very detailed, but here's the most important thing – this project and this development is dependent on meeting certain criteria and certain schedules, and certain developments and actually performing. They don't perform, they don't get the credits. They don't do it in a timely manner, there is penalties for that. There's no guarantee. This is not a refundable credit that they can take to the bank. And it's not for the attorneys or for the CPAs. It's for some people that will actually utilize the risk and sweat capital.

"I'm a very strong proponent of economic diversification. I think we have muffed many opportunities in the past. I see this as a project and an opportunity for that diversification. The fact of the matter is, however, that tourism happens to be the engine that is driving our economy, the only primary engine at this point. But still, what are we talking about? Here we're talking about economic diversification within the resort and recreational market. But the important thing here is that it is on the private developer's nickel. They have to perform, and nobody will be watching this project and demanding more than those of us that support it. Because as has been pointed out for the second city and for other projects, we've watched them languish for 5, 10, 15, 20 years. But this bill and this credit is very specific. And this developer and this project is under scrutiny and under a microscope like never before. And if he fails, which would be a shame and I don't think he will, but if he fails, it's his failure, not the taxpayers of this state.

“That’s why the Governor didn’t like it, the past Governor. Even though everything he required – additional investors, additional people, people like Weinberg came forward; they showed their faith and confidence in this – he didn’t like it. He liked projects that the taxpayers had to support. He wanted another aquarium that the taxpayers would support. What we want are projects that private risk-takers will support themselves, that will help diversify the economy, that will attract investment, that will create jobs which will help an area or areas that not only has been known for dumping and for third class citizenship, but for people without hope, people without something to look forward to.

“Sure, we could take \$75 million and we could build all kinds of things. We’re even taking some of it. We’re talking about building world class farmer’s markets. We’re talking about other things that we can construct, and yes, we can construct schools as well. We might not be able to maintain them, though, since we still have a \$640 million backlog on existing schools. We could build another campus of the University of Hawaii, even though we don’t take care of the campus at Manoa properly, or Hilo. We can educate the people, and then after they get their degrees, we can wave goodbye to them at the airport as they go to seek other places where there are economic opportunities.

“We have an opportunity here and a chance to do something positive. And as State Senators, it is a situation where we have to look at the state as a whole and not say why did that district get it and my district didn’t get it. You got somebody in your district, have them come forward. Have them come forward with the plan, the vision, the energy, the resources, the guarantee, and the risk taking, and then we can have multiple Ko Olinas.

“Thank you, Mr. President.”

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

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

“I appreciate the good words of the Majority Leader and her passion for her district. I believe this is a very worthy project. I’ve seen some of the designs and I appreciate the vision of the people who have been behind this particular project.

“But I want to talk about an issue that has come up in the press, because I do believe that from time to time the press has a tendency to characterize things without fully understanding that this somehow is a \$75 million tax loss or a \$75 million tax subsidy. As the good Senator from Waianae already mentioned, past studies have indicated that the state will net approximately \$186 million in future tax revenues from this very worthy project. That means that this is not a \$75 million tax loss but it is at least a \$111 million windfall. Now that’s a great return on investment.

“There was a question of how could we spend \$75 million in tax money. I think that we should be looking at ways that we’ll be able to spend this extra \$111 million in tax money. We can improve our public schools. We can go a long way to getting into that repair and maintenance backlog. We can improve our universities. We can maybe even get the good Senator from Waipahu’s university built out there. We can talk about other ways to diversify our economy.

“This is a great investment for the entire State of Hawaii, a great return on investment, and I urge you to vote ‘yes.’ Thank you, Mr. President.”

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

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

“Mr. President, when tax credits are given for any reason, we are asking other taxpayers to sacrifice to shoulder the burden of taxation. It is very important, therefore, that we remain fiscally responsible and target tax incentives for specific purposes.

“It is clear that this tax measure before us will benefit a single taxpayer, and clearly I acknowledge the fact that it would impact the region and it may help to stimulate other activity in the Ko Olina area. But let’s look at the bill that’s before us specifically and not talk about smoke and mirrors and other kinds of benefits that may or may not occur.

“This tax credit before us, members, is a super tax credit. There is no other tax credit like this tax credit that is before us that is currently offered to any other taxpayer in the state. This tax credit can be claimed against GET taxes; this tax credit can be claimed against TAT taxes; this tax credit can be claimed against timeshare taxes; this tax credit can be claimed against public service company taxes; in fact, this tax credit can be claimed against virtually every single tax that the State has. I was trying to identify a tax that can’t be claimed, and the only tax that I can find that can’t be claimed is a rent-a-car tax. So, let’s just be very, very specific about this. This tax credit that we’re about to vote on is unlike any other tax credit that we’ve ever adopted.

“Not only is this a super tax credit that we’re offering, but there is very little that’s required. There’s been talk about the developer being held to a very specific timetable. I don’t see any timetable in this bill. I don’t see any requirement that the developer has that would trigger him default and not be able to claim the credit.

“This bill is very, very specific. The taxpayer has to do only two things – one is to spend the money for a world class aquarium or other attractions, and the second is to commit, 17 years down the road, to commit 50 percent of any profits that this project may generate. These are the only two things that this bill requires in order for the taxpayer to claim this super tax credit. And again, as I said, this is the only tax credit that I know of that really can be applied against all taxes that the State implements.

“The definitions in this bill are very vague. People talk about being specific and being very limited, but there’s no definition what a world class aquarium is. I’m not certain what that means or what cost would be qualified. There is no definition of attractions. Attractions could mean facilities that the drafters of the bill never intended. Attractions could be a water park; attractions could be an amusement park; attractions could be a shopping center; attractions could be a movie theater. In fact, if you go to Webster’s, the definition of attraction is: a feature or characteristic that attracts; a person, place, thing, or event intended to attract.

“So clearly, this bill can be, and the tax credits can be, applied for virtually anything that occurs in these parcels.

“There’s been much said about the economic impact of the project, but this bill doesn’t require any additional investment. There are absolutely no criteria. There is no requirement that training programs be offered, only that funds spent to acquire a resort can be claimed as a credit. There’s no requirement that they hire local people. There’s no requirement, in fact, that the

aquarium ever be completed or operational. The only requirement is that the developer spends the money.

"There's been lot's of discussions about developers standing up and willing to commit to go forward with the project. This bill doesn't specify that anybody else is going to be investing in Ko Olina. There's absolutely no requirement in this bill. In fact, if you refer to Governor Cayetano's veto message explicitly, he says, and I'm quoting, 'it provides little promise of additional economic benefits to the taxpayers because many of the businesses involved here were already committed to building their developments.' The Marriott Corporation, for example, has informed me that it will build its 750 timeshare unit project at Ko Olina regardless of whether this tax credit moves forward.

"Prior to September 11, 2001, several Ko Olina developers publicly announced their intent to build their projects on the site and some are moving forward when and if the funds are available.

"I did also want to talk about two other things, and we've talked about it a lot. The Senator from Kauai talked about the fact that unemployment on Oahu is at 2.7 percent. When you talk to economists, their view is that 2.5 percent is essentially full employment.

"I also would like to quote for the members the statistics from the Hawaii State Department of Labor. The lowest average wage industries in the State of Hawaii – I guess this is based on the 2001 payroll – the lowest average wages were in the arts, entertainment, and recreation industry, and the average annual wage was \$19,261. The second lowest industry average annual wages is in the accommodation and food services industry at \$19,964 annual average wages.

"Now, I guess the problem that I have is that we've been focusing our tax credits at diversifying our economy. We've made a conscious decision that the challenge before us is not job creation for the sake of job creation. The challenge before us is really quality job creation. It's the high paying jobs that we want to create. The salaries in those industries that we've targeted, based on the Department of Labor's same statistics, are: professional services, \$45,500 annual average salary; scientific research, \$51,000; computers and information technology, \$49,000 average annual salary; project management and consulting, \$50,000 average annual salary.

"I truly can relate to the Senator from Waianae, and I really do want to see a better future for the Waianae Coast. In fact, last week we spent two hours at Searider Productions at Waianae High School, and let me tell you, members, by far, Searider Productions is the best video and digital media production in the State, bar none, public or private school. There were 200 students in that program, fully engaged, producing a print newspaper, producing an electronic newsletter, producing a Website, producing a video magazine, learning all of the technology skills to compete and win. In fact, their production had just returned from a national conference on the West Coast where they took first place amongst 32 teams from across the country.

"Members, I really truly believe that the people of Waianae deserve a better future and I believe that we need to be judicious about our tax credits and focus and really give them the future that they deserve. For this and all other reasons, I'll be voting 'no.'"

Senator Espero rose to speak in support as follows:

"Mr. President, I'd also like to rise in support of this measure.

"I'd like to point out that the good Senator from the Waianae Coast also forgot to mention that we also have an oil refinery, a sewage plant, and the Kalaeloa Airport in West Oahu. But with these put aside, there are some very good things happening in West Oahu from Ko Olina to Kapolei, the Ewa Marina, the future UH West Oahu, and this is just going to help boost what's currently happening.

"Now, the good thing, as has been stated, is it is a private developer. There are no government bonds involved. There are no grants-in-aid. There are no loan guarantees, no subsidies. And looking at what's been happening out there and looking at the plans, the Senator from Pearl City had some concerns but I have no doubt that this is going to be a world class aquarium in a world class resort. I have no doubt that in time the Ko Olina resort may become the finest resort in the State of Hawaii. I have no doubt that thousands of jobs are going to be generated – construction jobs as well as visitor industry jobs. And I have no doubt that local people will be hired, and not only local people from the Waianae Coast and from Ewa Beach and from Waipahu, but people from the whole island.

"It was commented that this is targeted for one area. This is not targeted for one area. The majority of the people live on Oahu. We don't have a resort that's going to be the caliber of Ko Olina once it's done. But once it is completed, people throughout the world are going to stay at Ko Olina resort and know that it is a five-star quality resort and it is going to help our visitor destination and visitor industry.

"We need this bill because the future of Oahu is West Oahu. In five to ten years, that is going to be the best place to live on this island. We will have everything and more that this island and this population currently needs. We're going to move the traffic out west. We're not going to double-deck the freeway. Maybe we'll get our light rail and many, many good things are going to happen. And with the state's assistance, the tax benefits as was stated from the Senator from Kaneohe will definitely no doubt outweigh the \$75 million.

"In the long term, this is going to be a fantastic investment for the State of Hawaii. And just like now where people from Waianae, Kahuku, Waimanalo drive into town to Waikiki to work, people from Waikiki, Kahuku, Waimanalo may drive west to work. And maybe one day they'll be living out there because of all the good things that we are doing.

"Thank you, Mr. President."

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

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

"Mr. President, I'd like to start off by commending the Senator from Waianae for her leadership on this bill.

"Years ago, it was determined that the Kapolei region would be the secondary urban center for the Island of Oahu. The target of tens of thousands of new homes. We'd be able to preserve Windward Oahu and the North Shore and to keep the country, country, by targeting all of this growth into one community. Together with that came the promise of a full complement of services that a city offers – most importantly jobs. The hope is that traffic heading into town during rush hour will be lessened by cars heading to Kapolei.

"The pieces were in place. A visitor destination which came with brand new beaches. A deep draft harbor. When Barbers Point closed in 1999, the State and City received a 2,000-acre parcel.

"The development of a thriving new city takes time. The potential is there.

"I was born and raised in Leeward Oahu, and I've seen the growth in our area. We do have thousands of new homes. We do have a lot of traffic still fighting rush hour. We do have overcrowded schools. We do have all of the heavy industrial facilities for our island.

"Now is the time for the state to follow through with the commitments made to the people of Leeward Oahu. This proposal represents that hope and opportunity. I urge my colleagues to vote 'aye.'"

Senator Trimble rose to speak with reservations and said:

"Mr. President, I rise with reservations.

"I have voted no on I think almost every tax credit that I've heard so far this year. I fully intended to vote no today. I was impressed by the remarks from the Senator from Waianae. I saw no reason to . . . what was it that Emerson said, 'A foolish consistency is the hobgoblin of little minds.'

"listening to the speeches, I can agree with some of those that spoke against that maybe this won't happen or maybe that won't happen. But what I got was it has a very good chance of moving jobs closer to the very people that need those jobs most. Maybe it will work, maybe it won't work, but we haven't done anything else so far this year.

"So, I will be casting an 'aye' vote when the vote is taken. Thank you, Mr. President."

Senator Hanabusa rose and said:

"Mr. President, I appreciate the comments of the Senator from Aiea, and it unfortunate that this tax credit is almost viewed something like an either/or. I accept the fact that he feels very vehemently about the fact that we want to do different quality or higher quality jobs. Mr. President, we are not all created equal.

"I am dealing with a district where many just want jobs. The Searider production the good Senator from Aiea mentioned it. Mr. President, that is a passion of mine as well. I have dedicated a lot of time in securing resources. When the good Senator of Aiea went on and was able to compliment them, it is because of a HUD grant that we secured. A HUD grant that when the opening was held, Shawn Lester from Maui came over and looked at it. I'm sorry, it wasn't Shawn Lester, it was Shawn McLaughlin from Maui came over and looked at it and said can we use this model and bring it to Molokai, because it is an exciting model.

"But Mr. President, Candy Suiso is the teacher at Waianae High School who I fully credit for this success. One of the things she and I sit back and talk about all the time is what next? What next? These students who graduate from the Waianae High School and who have had the training in the Searider productions come out as good as, and maybe better than, many of the people who go through the media programs at Leeward Community College.

"But we sit there and we say, what's their future? There's only so many camera-person type jobs around. There's only so

many of these jobs. So we were saying maybe what we have to do is go out and promo this. Maybe one of them will become the new George Lucas and bring a whole industry back. Those are the dreams that we have.

"But Mr. President, we have a more practical problem. We have 2,000-plus students at Waianae High School. Only 200 can avail themselves of this media program. We were fortunate enough to break ground, finally, for the media center, which under the good leadership of the Senator from Makiki when she was Ways and Means Chair she managed to put in and save even after Governor Cayetano line item vetoed it or tried to take it out of the budget. And we have broken ground on that, but we still sit there and we say, God, they do great work, but what next? What about the others?"

"I would love to know that every single child in Waianae can move on and become a high tech person or can move on and actually get a \$50,000 a year job or a higher paying job. But the reality is, Mr. President, many of them just want jobs, and they're not students who are bad. They're students that as I went to Makaha the other day, somebody that I thought was heading off for college was working there and said to me something like, I'd like to work for Ko Olina. And I looked at him and I said, I thought you were heading off for college. Certain circumstances didn't work out so he couldn't go.

"Mr. President, if the Ko Olina tax credit goes through and if we're able to see these hotels, the training program is so critical because what it does is gives everyone the opportunity to learn how to manage. Middle management we are low on, we don't have that. This training program will bring that forth. And yes, it does give the kids in my area, or the kids in anybody's area the opportunity to make this a career.

"And if this area goes, then maybe the high tech types of jobs will be there. Maybe biotech jobs will be there too. But I have the cold reality that not every single one of them is going to be able to move on and become the next George Lucas or whoever. The reality is I've got an area that is a problem, and I'm not ignoring that fact. I want high tech. I put everything into that as well. But Mr. President, it can only afford in that one school 200 students and that's it. What happens to the rest? And what happens to those who can't do that? What about those who have to go into construction? What about those who may make great groundskeepers? What about those who may play well with dolphins? We need that opportunity, Mr. President, and that is what this tax credit poses for us.

"And let me just end by saying this, if the developer doesn't do what is required for qualified tax credits, Mr. President, there is no tax credit. He doesn't get the money. This is not a refundable tax credit. This is nonrefundable. They have got to earn it. If they don't earn it and they don't do it, they don't get it. It's as simple as that.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 118 was adopted and S.B. No. 377, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 3 (Hooser, Ige, Ihara). Excused, 2 (Fukunaga, Tsutsui).

Conf. Com. Rep. No. 119 (S.B. No. 1305, S.D. 1, H.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 119 be adopted and S.B. No. 1305, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kim.

Senator Slom rose to speak in opposition to the measure and said:

“Mr. President, I’ll be voting ‘no’ on this bill.

“The reason for that is that it takes money from the emergency and budget reserve fund, the so-called rainy day fund, and I don’t think that’s appropriate.

“Thank you.”

Senator Baker rose in support of the measure as follows:

“Mr. President, I have remarks in support of this measure I’d like 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 S.B. No. 1305, C.D. 1, which appropriates funds from the emergency and budget reserve fund for vital health and human services programs which are necessary to maintain our State’s social service safety net.

“On the health side, appropriations to Molokai General Hospital, the only hospital on the island of Molokai, and to Kahuku and Wahiawa General Hospitals, will ensure essential health services remain available in our rural communities. Appropriations to community health centers who regularly provide healthcare to our State’s uninsured and operating subsidies to the Waianae Coast Comprehensive Health Center and the Hana Community Health Center will ensure our healthcare safety net will remain in place for rural and isolated communities. Once again with this measure, we are trying to get the Department of Health to pay attention to the oral health needs of our children. By utilizing our community health centers, more of Hawaii’s underserved keiki will receive vital dental services.

“Additionally, this measure provides funding to leverage private sector support for programs delivering statewide services such as the St. Francis Medical Center’s bone marrow registry and the Poison Center at the Kapiolani Medical Center for Women and Children Sex Abuse Treatment Center. Programs which give support to victims of sex abuse and domestic violence are continued with funding in this measure.

“Two other appropriations will leverage federal funds to establish an adolescent residential treatment center to treat poly-drug abuse, and fund community anti-drug efforts aimed at preventing crystal methamphetamine use on the Big Island. The island of Hawaii has suffered a disproportionate share of the effects of crystal meth use, and these programs are essential to assist Hawaii County in fighting crystal meth use and the host of problems that it creates.

“Lastly, this measure appropriates general funds to implement the Hawaii Rx program. Hawaii Rx is an important step to address the ever-increasing cost of prescription medication, a significant contributor to the rising cost of health care. Without programs like Hawaii Rx in place, we will see more and more citizens, seniors in particular, forced to go without other necessities in order to cover the cost of their life-saving prescription drugs.

“Senate Bill 1305, C.D. 1, will provide our citizens with vital health and human services. Without these services, our health services safety net would be irreparably damaged for some communities and severely compromised for others. These appropriations are a necessary and proper use of the emergency and budget reserve fund. I urge my colleagues to join me to support this important measure. Mahalo.”

Senator English rose to speak in support of the measure and said:

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

“Mr. President, this is a very important bill for the neighbor islands. I want to commend the Chair of the Health Committee for guiding this very important bill through.

“This bill holds many very important measures for my district and for the community health centers. Moloka’i General Hospital’s funding is within this measure – Hana Community Health Center, Hale Mahaolu, Maui AIDS Foundation, Lamalama Ka `Ili program on Moloka’i and many, many others for the state.

“This is one of those bills that is attached to the budget in that we use it as a vehicle to take care of the medical, some of the human services, and community health centers. It’s a very important bill, and I want to again extend my thanks to the Chair and to the Vice Chair of the Health Committee for making this bill go through and also to the members of the WAM Committee for allowing this to move forward.

“Thank you, Mr. President.”

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

“Mr. President, I just wanted to speak in favor of this measure and insert remarks into the Journal and to also express my appreciation to the Chair of Health, to our counterparts in the House, the House Health Chair as well as the House Human Services Chairman, and particularly to the money Committee Chairs and Vice Chairs for their support, and all of you.

“Thank you.”

The Chair having so ordered, Senator Chun Oakland’s remarks read as follows:

“Mr. President and Colleagues, I rise to speak in strong support of S.B. 1305, which appropriates funds for essential health and human services programs and services.

“I wish to express my deep appreciation to my staff, the Chairs, Vice Chairs and members of the Ways and Means and Finance Committees, the House Health and Human Services Committees, all of the members of the Legislature, and the members of the public who worked with the Senate Health Committee Chair, the House Health Chair, the House Human Services and Housing Chair and me to develop the contents of this bill.

“I also wish to thank my colleagues for funding these essential services and programs that are so necessary to so many people, and for once again demonstrating the Legislature’s commitment to maintaining the safety net of programs and services for our community.

“In closing, I urge your support for the important programs and services in S.B. 1305.

“Mr. President, I have a list of the programs and services funded through this measure that I would like to be read into the record.

**S.B. 1305, S.D. 1, H.D. 1, C.D. 1 (Relating to State Funds)
List of Programs and Services Funded**

All appropriations are from the emergency and budget reserve fund and are for fiscal year 2003-2004 only.

Human Services Programs and Services

<u>Grantee/Expending Agency (Service/Program)</u>	<u>Amount</u>
1. Hale Mahaolu <i>Personal care program for disabled or chronically ill frail adults and elders residing in Maui county.</i>	\$90,000
2. Department of Human Services (DHS) <i>Treatment services for child victims of intrafamilial sexual abuse and their families who are not covered under the DHS child protective services system.</i>	\$200,000
3. Department of Human Services <i>Forensic medical examinations of children in foster custody placements.</i>	\$150,000
4. Hawaii Youth Services Network <i>Transitional Living Program for Unserved Street Youth.</i>	\$100,000
5. Department of Health, Alcohol and Drug Abuse Division <i>Substance abuse services for youth and adolescents.</i>	\$100,000
6. Department of Human Services <i>Residential Alternative Community Care Program.</i>	\$1,000,000
7. Department of Human Services <i>Chore Services Program.</i>	\$200,000
<u>Grantee/Expending Agency (Service/Program)</u>	<u>Amount</u>
8. Bridge to Hope Program	\$300,000
9. Volunteer Legal Services Hawaii <i>Na Keiki Law Center project focusing on protecting the legal rights of children.</i>	\$200,000
10. Kaneohe Community Family Center <i>Continuation of core services, particularly for families that are low income, unemployed, or underemployed, and families of at-risk youths.</i>	\$100,000
11. Kuhio Park Terrace Family Center <i>Continuation of core services to low income individuals and families residing in Kuhio Park Terrace and Kuhio Homes.</i>	\$100,000
12. Waipahu Community Adult Day Health Center and Youth Day Care Center pilot project	\$300,000
13. Domestic Violence Clearinghouse and Legal Hotline <i>Maui program services.</i>	\$150,000

14. Blueprint for Change <i>Delivery of diversion services and child protective services to target families, including the establishment of additional sites for neighborhood places.</i>	\$421,000
--	-----------

15. Housing and Community Development Corporation of Hawaii <i>Homeless assistance.</i>	\$150,000
--	-----------

16. Existing Kalihi-Area Youth Service Centers	\$500,000
--	-----------

Health Programs and Services

<u>Grantee/Expending Agency (Service/Program)</u>	<u>Amount</u>
17. Molokai General Hospital	\$750,000
18. Molokai General Hospital <i>Lamalama Ka 'Ili Community Health Services programs.</i>	\$50,000
19. Kahuku Hospital <i>Costs of emergency room operations, inpatient and outpatient care for the underinsured, medical malpractice insurance, and labor.</i>	\$750,000
20. Waianae Coast Comprehensive Health and Hospital Board, Inc.	\$750,000
21. Wahiawa General Hospital <i>Indigent care services.</i>	\$500,000
22. St. Francis Medical Center <i>Operation of the Bone Marrow Registry.</i>	\$50,000
23. Department of Health <i>Hospital-based poison center to operate twenty-four hours a day.</i>	\$200,000
24. Maui AIDS Foundation <i>Case management program.</i>	\$75,000
25. Hana Community Health Clinic <i>Operations and care services for uninsured patients.</i>	\$700,000
26. Department of Health <i>To provide resources to nonprofit, community-based health care providers to care for the uninsured.</i>	\$1,450,000
27. Kapiolani Medical Center for Women and Children <i>Sex Abuse Treatment Center master contract.</i>	\$300,000
28. Department of Health <i>To establish an adolescent treatment center to treat poly-drug abuse on the island of Hawaii.</i>	\$300,000
29. Department of Health <i>Community anti-drug efforts aimed at preventing crystal methamphetamine use on the island of Hawaii.</i>	\$100,000
30. Department of Health	\$450,000

Comprehensive oral health services to underserved children.

Hawaii Rx Program

31. Department of Human Services \$200,000
To develop a plan to implement the Hawaii Rx program to carry out the purposes of Chapter 346, Part XIII, Hawaii Revised Statutes.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 119 was adopted and S.B. No. 1305, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 1 (Slom). Excused, 4 (Espero, Hanabusa, Ihara, Tsutsui).

Conf. Com. Rep. No. 121 (S.B. No. 58, S.D. 1, H.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 121 be adopted and S.B. No. 58, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose in opposition to the measure and stated:

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

"I believe it is appropriate to have a clear separation between elected officials and nonprofits. And I believe that an elected representative served or is serving at executive director, and for that reason, I'll be voting 'no.'

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 121 was adopted and S.B. No. 58, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL REPAIR AND MAINTENANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 2 (Slom, Trimble). Excused, 4 (Espero, Hanabusa, Ihara, Tsutsui).

At 7:41 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:06 o'clock p.m.

Conf. Com. Rep. No. 122 (S.B. No. 402, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Baker and carried, Conf. Com. Rep. No. 122 was adopted and S.B. No. 402, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Trimble). Excused, 2 (Espero, Whalen).

Conf. Com. Rep. No. 124 (S.B. No. 1700, S.D. 1, H.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 124 be adopted and S.B. No. 1700, S.D. 1, H.D. 2, C.D. 1, having been

read throughout, pass Final Reading, seconded by Senator Kokubun.

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

"Mr. President, I rise in support.

"I know the hour is late but this is a very important measure so please bear with me while I actually say remarks as opposed to just putting it in the Journal.

"This measure is a result of a tremendous amount of work and collaboration between the charter schools, the conversion charter schools, Kamehameha Schools, the Department of Education, and obviously the House and Senate. Your Education Committees and your money Committees worked very hard. The Senator from Ka'u on the Big Island, in particular, worked hard to help bring this forward.

"This is a major step forward in providing support to the charter school movement by clarifying the funding levels for charter schools and providing charter schools with the administrative support structure separate from the regular administration's structure.

"This measure seeks to create fairness for all public school students by using a published per pupil cost as a basis for funding. From this, we have subtracted federal funds, which charters will receive or can receive based on if it's a grant or some form for them to access it, just as other public schools can.

"We also deleted special education, and for this service the charters will be able to collaborate and work with the DOE to get those services provided.

"In this first year, next school year, the per pupil allocation was calculated by the budget director at the department to come out to \$5,355. All students receive this amount. Special education students receive additional SPED funding, which is not calculated into the base formula. This allocation, just for clarification, does include all fringe benefits because we took the total amount less federal, less SPED, divided, so that's all their funds. And since the Department of Education pays fringe benefits from another account, it's anticipated that this reimbursement process will be worked out with the DOE for any fringe benefits the charter schools would like the state to provide.

"This also provides choice for the charters in allowing them to seek economies of scale, and the ways in which they get resources to help them run their school. This measure seeks to foster independence and accountability, as well as provide for a basis for financial and administrative planning.

"It has been difficult to draft a measure to meet the needs of such independent and diverse group of schools such as the charters. As problematic as the process has been, I believe that much of what we've learned along the way will benefit our entire school system. Perhaps it's a model that will enable us to observe the governance at a school level. In part, the per pupil weighted formula, which this is sort of one example of, and various combinations of administration and management.

"So I would like to thank those of you who suggested improvements as the bill went along, came with ideas based on your charter schools wherever they are, and hopefully we can continue to improve charters and indeed all of education statewide as we go forward. So, thank you for your support, and I ask for your support on this measure."

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

“Mr. President, I also rise in support of this very important measure, and I appreciate the hard work of the Senate Education Chair, also the Vice Chair of Ways and Means, and others.

“This is a very important matter to level the playing field, especially with regards to funding for the charter schools. The charter schools are virtually unanimous in their support of this bill and they have definitely been looking forward to the increase in their funding.

“There are some concerns regarding the authority of a separate administrative arm. Some of those concerns have been addressed by a representative in Washington, Dean Kern, who heads the charter school movement. Hopefully he can be helpful as this bill moves along and hopefully the state’s charter schools and this administrative arm will be willing to listen to him because he represents quite a bit of money with regards to federal funding.

“So, this is a step in the right direction. It’s a great improvement and hopefully we’ll have some very healthy charter schools because of it.

“Thank you very much, Mr. President.”

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

“Mr. President, I just would like to speak in support of this measure with reservations.

“I did want to congratulate the Chair of Education. I do agree that this is a good step forward.

“I am very much concerned in one area. Right now the funding formula includes funding for special needs children in the basic funding. And essentially, the schools would be required to implement the IEPs for special needs children within the normal allocation that they get for the regular student. If in fact more services are required, then the charter school has to go back to the department and get them to bless the individualized education program and seek funds through the department in order to provide services for the special needs children. I really do believe that that funding will be inadequate for special needs children.

“One of the big problem areas that we’ve had with special needs children is whenever you have an arbitrary barrier where you have two organizations responsible for the education of the child, and this is what I see. In one case the state would be responsible for providing funding but then they take control. They develop the IEP and they’ll develop the program. Or the school has to live within its own means.

“I’m just very much concerned. I hope that we can continue to monitor the special needs funding and the way that it’s set up in this bill and really make an effort to give the charter school total responsibility and total funding for special needs children.

“Thank you.”

Senator Kokubun rose to speak in support of the measure and stated:

“Mr. President, I stand in strong support of this bill.

“As a co-introducer of this measure, it is extremely gratifying to participate in legislative action that improves the capabilities of charter schools and, in turn, the Department of Education as well. This measure provides a formula for more equitable funding for charter schools and for more independence in terms of administrative matters for charter schools.

“I also want to commend the Chairman of the Education Committee on a job well done. He was very tenacious in pulling this effort together, and certainly through the collaborative group that he assembled, I think, was able to gain general agreement.

“I just wanted to mention, for the record, that I think the good Senator from Moanalua has now fixed his car; he’s built a bridge; and he’s driven the car over the bridge. So, congratulations.” (Laughter.)

Senator Sakamoto rose and said:

“Just to clarify part of the Senator from Aiea’s comment.

“Again, on the per pupil cost we took the total cost, subtracted the fed, subtracted special ed. That means the special ed dollars are not in the 5,355. They remain with the department and the charters are to negotiate.

“I agree there’s some concern of who has the IEP and how they control it, but the dollars are currently with the DOE and they have to negotiate either services or dollars. So, just to clarify.

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 124 was adopted and S.B. No. 1700, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Conf. Com. Rep. No. 126 (S.B. No. 209, S.D. 3, H.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 126 be adopted and S.B. No. 209, S.D. 3, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kanno.

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

“Mr. President, I rise briefly in opposition.

“It changes a position from a 10-month position to a 12-month position and therefore adds cost to the state, so I’ll be voting ‘no.’

“Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 126 was adopted and S.B. No. 209, S.D. 3, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 129 (S.B. No. 1438, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 129 was adopted and S.B. No. 1438, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 130 (S.B. No. 1439, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 130 was adopted and S.B. No. 1439, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR SALARY INCREASES FOR PUBLIC EMPLOYEES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 131 (S.B. No. 1442, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 131 was adopted and S.B. No. 1442, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING APPROPRIATIONS FOR COLLECTIVE BARGAINING COST ITEMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 8:17 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:18 o'clock p.m.

Conf. Com. Rep. No. 134 (H.B. No. 1412, H.D. 2, S.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 134 be adopted and H.B. No. 1412, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Trimble rose to speak in opposition to the measure and stated:

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

"State licensing, conveying status, this status enables licensees to charge consumers more. I do not see a corresponding benefit to consumers or the state for this practice and therefore oppose and will be voting against this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 134 was adopted and H.B. No. 1412, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL COUNSELORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Trimble). Excused, 2 (Ihara, Whalen).

Conf. Com. Rep. No. 139 (H.B. No. 640, H.D. 1, S.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 139 be adopted and H.B. No. 640, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

"Mr. President, briefly in opposition.

"A raid on the hurricane relief fund, a million dollars over two years. We're all for mitigation; we're not for this bill.

"Thank you."

Senator Hogue rose to speak in opposition to the measure and said:

"Mr. President, I also rise in opposition.

"I also want to make this point once again. I get asked this over and over again. When is the state going to return my hurricane fund money? I do believe that the best public interest for the state would be to return at least a portion of that money. They can keep some of it around for future hurricanes, but return the money to the people who paid into it.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 139 was adopted and H.B. No. 640, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE LOSS MITIGATION GRANT PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 5 (Hemmings, Hogue, Ige, Slom, Trimble). Excused, 2 (Ihara, Whalen).

Conf. Com. Rep. No. 143 (H.B. No. 808, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 143 was adopted and H.B. No. 808, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Whalen).

Conf. Com. Rep. No. 144 (H.B. No. 1300, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 144 was adopted and H.B. No. 1300, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Whalen).

THIRD READING

Stand. Com. Rep. No. 1668 (H.B. No. 378, H.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1668 be adopted and H.B. No. 378, H.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. 1668 was adopted and H.B. No. 378, H.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 (Whalen).

Stand. Com. Rep. No. 1669 (H.B. No. 379, H.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1669 be adopted and H.B. No. 379, H.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. 1669 was adopted and H.B. No. 379, H.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 (Whalen).

Stand. Com. Rep. No. 1670 (H.B. No. 380, H.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1670 be adopted and H.B. No. 380, H.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. 1670 was adopted and H.B. No. 380, H.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 (Whalen).

Stand. Com. Rep. No. 1671 (H.B. No. 381, H.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1671 be adopted and H.B. No. 381, H.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. 1671 was adopted and H.B. No. 381, H.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 (Whalen).

Stand. Com. Rep. No. 1672 (H.B. No. 382, H.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1672 be adopted and H.B. No. 382, H.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. 1672 was adopted and H.B. No. 382, H.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 (Whalen).

Stand. Com. Rep. No. 1673 (H.B. No. 383, H.D. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1673 be adopted and H.B. No. 383, H.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. 1673 was adopted and H.B. No. 383, H.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 (Whalen).

Stand. Com. Rep. No. 1675 (H.B. No. 485):

Senator Taniguchi moved that Stand. Com. Rep. No. 1675 be adopted and H.B. No. 485, 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. 1675 was adopted and H.B. No. 485, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HANAHAU'OLI SCHOOL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Baker, English, Hooser, Tsutsui). Excused, 1 (Whalen).

Stand. Com. Rep. No. 1676 (H.B. No. 488):

Senator Taniguchi moved that Stand. Com. Rep. No. 1676 be adopted and H.B. No. 488, 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. 1676 was adopted and H.B. No. 488, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR MID-PACIFIC INSTITUTE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Baker, English, Hooser, Tsutsui). Excused, 1 (Whalen).

Stand. Com. Rep. No. 1677 (H.B. No. 645):

Senator Taniguchi moved that Stand. Com. Rep. No. 1677 be adopted and H.B. No. 645, 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. 1677 was adopted and H.B. No. 645, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR ASSISTING NOT-FOR-PROFIT CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES TO THE GENERAL PUBLIC," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1678 (H.B. No. 939):

Senator Taniguchi moved that Stand. Com. Rep. No. 1678 be adopted and H.B. No. 939, 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. 1678 was adopted and H.B. No. 939, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR HOALA SCHOOL," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Baker, English, Hooser, Tsutsui). Excused, 1 (Whalen).

Stand. Com. Rep. No. 1679 (H.B. No. 1564):

Senator Taniguchi moved that Stand. Com. Rep. No. 1679 be adopted and H.B. No. 1564, 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. 1679 was adopted and H.B. No. 1564, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR CHAMINADE UNIVERSITY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Baker, English, Hooser, Tsutsui). Excused, 1 (Whalen).

ADVISE AND CONSENT

Stand. Com. Rep. No. 1658 (Gov. Msg. No. 322):

Senator Menor moved that Stand. Com. Rep. No. 1658 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of MARSHALL D. CHINEN to the Real Estate Commission, term to expire June 30, 2004, seconded by Senator Baker.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1659 (Gov. Msg. No. 324):

Senator Menor moved that Stand. Com. Rep. No. 1659 be received and placed on file, seconded by Senator Baker and carried.

Senator Menor then moved that the Senate advise and consent to the nomination of BECKY L. HAYASHIDA to the Rental Housing Trust Fund Advisory Commission, term to expire June 30, 2004, seconded by Senator Baker.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1660 (Gov. Msg. No. 325):

Senator Sakamoto moved that Stand. Com. Rep. No. 1660 be received and placed on file, seconded by Senator Hooser and carried.

Senator Sakamoto then moved that the Senate advise and consent to the nomination of JOELLE KANE to the Board of Directors of the Research Corporation of the University of Hawai'i, term to expire June 30, 2007, seconded by Senator Hooser.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1661 (Gov. Msg. No. 333):

Senator Kim moved that Stand. Com. Rep. No. 1661 be received and placed on file, seconded by Senator Tsutsui and carried.

Senator Kim then moved that the Senate advise and consent to the nomination of KIYOKO Y. KIMURA to the Board of Directors of the Hawai'i Tourism Authority, term to expire June 30, 2004, seconded by Senator Tsutsui.

Senator Kim rose in support of the nominee and said:

"Mr. President, I'd like to have remarks entered into the Journal for Gov. Msg. No. 333 for Kyoko Kimura for HTA. And also, members, her vision statements have been delivered to you on your desks."

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

"Mr. President, it is my pleasure to rise in support of Governor's Message No. 333 for the confirmation of Kyoko Kimura as a member of the Hawaii Tourism Authority Board of Directors.

"Ms. Kimura is the president and general manager of Diamond Resort Hawaii, which operates a resort in Wailea and owns several properties pegged for future development. She is a graduate of Kobe College of Japan and the prestigious Cornell University School of Hotel Administration, and has been associated with the Diamond Resort Corporation since 1987.

"She will bring to her HTA responsibilities many years of experience in resort management in Hawaii and Japan, considerable knowledge of our all-important Japanese market, and, I know, many fresh ideas for stimulating the visitor industry. As a resident of Maui, Ms. Kimura has been active in the tourism sector and community, and would add a Valley Island perspective to the HTA's deliberations, as well as a keen sense of what the industry and public at large are seeking from the state's sole tourism agency.

"During the advise and consent hearing, Ms. Kimura received 43 written testimony in strong support of her nomination by a number of different factions including county government, the hotel and tourism industry and community members not only from the island of Maui but from all islands.

"Kyoko Kimura is deserving of the Senate's confirmation to the Hawaii Tourism Authority, and I ask you to join me in supporting her nomination."

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1662 (Gov. Msg. No. 355):

Senator Baker moved that Stand. Com. Rep. No. 1662 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of GLENN M.L. PANG MD to the Drug Product Selection Board, term to expire June 30, 2006, seconded by Senator Chun Oakland.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1663 (Gov. Msg. No. 361):

Senator Baker moved that Stand. Com. Rep. No. 1663 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of PAULA A.Y. ARCENA to the Board of Health, term to expire June 30, 2007, seconded by Senator Chun Oakland.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1664 (Gov. Msg. Nos. 363 and 410):

Senator Baker moved that Stand. Com. Rep. No. 1664 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Health Planning Council, Honolulu Subarea of the following:

GEORGE A. WESSBERG DDS, term to expire June 30, 2007 (Gov. Msg. No. 363); and

JENNY L. STONE MD, term to expire June 30, 2007 (Gov. Msg. No. 410),

seconded by Senator Chun Oakland.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1665 (Gov. Msg. Nos. 390 and 391):

Senator Baker moved that Stand. Com. Rep. No. 1665 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nominations to the Reproductive Rights Protection Committee of the following:

KRISTINE M. ALTWIES NICHOLSON, term to expire June 30, 2007 (Gov. Msg. No. 390); and

VALERIE MARIE WANG MD, term to expire June 30, 2007 (Gov. Msg. No. 391),

seconded by Senator Chun Oakland.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1666 (Gov. Msg. No. 405):

Senator Baker moved that Stand. Com. Rep. No. 1666 be received and placed on file, seconded by Senator Chun Oakland and carried.

Senator Baker then moved that the Senate advise and consent to the nomination of ANNE T. ZANE to the Board of Certification of Public Water System Operators, term to expire June 30, 2004, seconded by Senator Chun Oakland.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

Stand. Com. Rep. No. 1667 (Gov. Msg. No. 423):

Senator English moved that Stand. Com. Rep. No. 1667 be received and placed on file, seconded by Senator Kokubun and carried.

Senator English then moved that the Senate advise and consent to the nomination of GENEVIEVE SALMONSON as the Director for the Office of Environmental Quality Control, term to expire May 9, 2006, seconded by Senator Kokubun.

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

Ayes, 24. Noes, none. Excused, 1 (Whalen).

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM FRIDAY, APRIL 25, 2003

Stand. Com. Rep. No. 1623 (H.C.R. No. 90):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 90, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE U.S. SMALL BUSINESS ADMINISTRATION TO RE-EXAMINE THE CRITERIA FOR DESIGNATING HUBZONES UNDER THE HUBZONE EMPOWERMENT CONTRACTING PROGRAM AS IT APPLIES TO THE STATE OF HAWAII," was adopted.

Stand. Com. Rep. No. 1624 (H.C.R. No. 78):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the majority of the Committees was adopted and H.C.R. No. 78, entitled: "HOUSE CONCURRENT RESOLUTION STRONGLY SUPPORTING THE CONVENING OF THE 2003 ANNUAL MEETING OF THE UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL'S PERMANENT FORUM ON INDIGENOUS ISSUES TO BE HELD IN HAWAII," was adopted with Senator Slom voting "No."

Stand. Com. Rep. No. 1640 (H.C.R. No. 43):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and H.C.R. No. 43, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE EXPLORATION OF OPTIONS FOR REDESIGNING THE BENEFIT LEVELS OF 'A' STATUS PLANS DEFINED UNDER HAWAII'S PREPAID HEALTH CARE ACT," was adopted.

Stand. Com. Rep. No. 1641 (H.C.R. No. 92):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and H.C.R. No. 92, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, IN CONJUNCTION WITH HAWAII'S HEALTH PLANS, TO EXPLORE OPTIONS FOR PROVIDING MEDICAL SAVINGS ACCOUNTS AND HIGH DEDUCTIBLE HEALTH PLANS TO HAWAII'S BUSINESSES UNDER HAWAII'S PREPAID HEALTH CARE ACT," was adopted.

Stand. Com. Rep. No. 1642 (H.C.R. No. 94, H.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the majority of the Committee was adopted and H.C.R. No. 94, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT TO SUBMIT REPORTS ON EXEMPT EMPLOYEES AS REQUIRED BY ACT 253, SESSION LAWS OF HAWAII 2000," was adopted.

Stand. Com. Rep. No. 1643 (H.C.R. No. 97, H.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 97, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE EMPLOYEES' RETIREMENT SYSTEM TO CONDUCT A STUDY ON THE FEASIBILITY OF A HYBRID RETIREMENT PLAN," was adopted.

Stand. Com. Rep. No. 1644 (H.C.R. No. 109):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 109, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE EMPLOYEES' RETIREMENT SYSTEM TO REVIEW ITS INVESTMENT PRACTICES, DETERMINE WHETHER ANY INVESTMENTS ARE BEING MADE WITH COMPANIES BASED IN COUNTRIES THAT SUPPORT TERRORISM, AND RETHINK ITS INVESTMENT POLICIES REGARDING THESE COMPANIES," was adopted.

Stand. Com. Rep. No. 1653 (H.C.R. No. 95):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 95, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE EMPLOYEES' RETIREMENT SYSTEM TO STUDY THE FEASIBILITY OF A DEFERRED RETIREMENT OPTION PLAN BENEFIT FOR FIRE FIGHTERS AND POLICE OFFICERS," was adopted.

Stand. Com. Rep. No. 1654 (H.C.R. No. 117):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 117, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF EDUCATION TO ENTER INTO A REAL ESTATE TRANSACTION AGREEMENT FOR A NEW ELEMENTARY SCHOOL IN KAHULUI, MAUI," was adopted.

Stand. Com. Rep. No. 1655 (H.C.R. No. 185):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 185, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF EDUCATION TO IMPLEMENT CAREER PATHWAYS AS A PART OF A SCHOOL REFORM MODEL TO INCLUDE THE REDESIGN OF CAREER AND TECHNICAL EDUCATION THAT IS REFLECTIVE OF ECONOMIC DEVELOPMENT INITIATIVES AND PRIORITIES," was adopted.

Stand. Com. Rep. No. 1656 (H.C.R. No. 82, H.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the report of the Committee was adopted and H.C.R. No. 82, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION URGING HAWAII HEALTH SYSTEMS CORPORATION AND ST. FRANCIS HEALTHCARE SYSTEM TO CONTINUE THEIR PARTNERSHIP IN SERVING THE NEEDS OF DIALYSIS PATIENTS IN HAWAII," was adopted.

Stand. Com. Rep. No. 1657 (H.C.R. No. 165, H.D. 1):

On motion by Senator Kawamoto, seconded by Senator Hogue and carried, the joint report of the Committees was adopted and H.C.R. No. 165, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE KALAUPAPA SETTLEMENT OPERATIONS AND EXPENDITURES," was adopted.

MISCELLANEOUS COMMUNICATION

Misc. Com. No. 9, from the Honorable Robert Bunda, President of the Senate, and the Honorable Calvin K.Y. Say, Speaker of the House of Representatives, dated April 25, 2003, transmitting a memorandum amending the Joint 2003 Legislative Calendar, was read by the Clerk and was placed on file. (Misc. Com. No. 9 is identified as ATTACHMENT "D" to the Journal of this day.)

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 1311, S.D. 1 (H.D. 1):

Senator Taniguchi moved that the Senate reconsider its action taken on April 10, 2003, in disagreeing to the amendments proposed by the House to S.B. No. 1311, S.D. 1, seconded by Senator Kokubun and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1311, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Taniguchi, Tsutsui, Hemmings). Noes, none. Excused, 2 (Kokubun, Sakamoto).

Senator Taniguchi moved that the Senate agree to the amendments proposed by the House to S.B. No. 1311, S.D. 1, seconded by Senator Kokubun.

Senator Taniguchi noted:

"Mr. President, S.B. No. 1311, S.D. 1, relating to special funds, this is the central services exemption.

"The House put back two exemptions – one for the DOE and one for HCDA. So we're going to agree to that."

Senator Chun Oakland rose and said:

"Mr. President, point of inquiry with regards to S.B. No. 1311.

"I wanted to know if the healthy Hawaii initiative or the tobacco settlement funds was still exempt from paying or being assessed the fee by B&F or if in fact the healthy Hawaii initiative or tobacco funds will now be subject to B&F."

Senator Taniguchi replied:

"I believe they're still exempt."

Senator Chun Oakland continued:

"My understanding is the House in its draft had amended such that it would take monies away from the Department of Health fund so I would like to ask if you could please look into that.

"Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1311, S.D. 1, and S.B. No. 1311, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL FUNDS," was placed on the calendar for Final Reading on Thursday, May 1, 2003.

S.B. No. 1394, S.D. 2 (H.D. 1):

Senator Taniguchi moved that the Senate reconsider its action taken on April 10, 2003, in disagreeing to the amendments proposed by the House to S.B. No. 1394, S.D. 2, seconded by Senator Kokubun and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1394, S.D. 2, on the following showing of Ayes and Noes:

Ayes, 3 (Taniguchi, Tsutsui, Hemmings). Noes, none. Excused, 1 (Kokubun).

Senator Taniguchi moved that the Senate agree to the amendments proposed by the House to S.B. No. 1394, S.D. 2, seconded by Senator Kokubun.

Senator Taniguchi noted:

"Mr. President, this is relating to conformity of the Hawaii income tax law to the internal revenue code.

"The House put in some additional provisions for teachers, so we will agree to that."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1394, S.D. 2, and S.B. No. 1394, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," was placed on the calendar for Final Reading on Thursday, May 1, 2003.

S.B. No. 1397, S.D. 1 (H.D. 2):

Senator Taniguchi moved that the Senate reconsider its action taken on April 10, 2003, in disagreeing to the amendments proposed by the House to S.B. No. 1397, S.D. 1, seconded by Senator Kokubun and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1397, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 3 (Taniguchi, Tsutsui, Hemmings). Noes, none. Excused, 1 (Kokubun).

Senator Taniguchi moved that the Senate agree to the amendments proposed by the House to S.B. No. 1397, S.D. 1, seconded by Senator Kokubun.

Senator Taniguchi noted:

"Mr. President, S.B. No. 1397 is a bill relating to simplified tax administration.

"I guess the House made some technical amendments only. We will agree to that."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1397, S.D. 1, and S.B. No. 1397, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SIMPLIFIED TAX ADMINISTRATION," was placed on the calendar for Final Reading on Thursday, May 1, 2003.

S.B. No. 1400, S.D. 1 (H.D. 1):

Senator Taniguchi moved that the Senate reconsider its action taken on April 10, 2003, in disagreeing to the amendments proposed by the House to S.B. No. 1400, S.D. 1, seconded by Senator Kokubun and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1400, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 4 (Taniguchi, Kokubun, Tsutsui, Hemmings). Noes, none.

Senator Taniguchi moved that the Senate agree to the amendments proposed by the House to S.B. No. 1400, S.D. 1, seconded by Senator Kokubun.

Senator Taniguchi noted:

"Mr. President, S.B. No. 1400 relates to tax administration.

"Again, the House made some technical amendments that we agree to."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1400, S.D. 1, and S.B. No. 1400, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION," was placed on the calendar for Final Reading on Thursday, May 1, 2003.

S.B. No. 1410, S.D. 1 (H.D. 1):

Senator Hanabusa moved that the Senate reconsider its action taken on April 10, 2003, in disagreeing to the amendments proposed by the House to S.B. No. 1410, S.D. 1, seconded by Senator Sakamoto and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1410, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 4 (Hanabusa, Sakamoto, Taniguchi, Hogue). Noes, none. Excused, 3 (Kokubun, English, Tsutsui).

Senator Hanabusa moved that the Senate agree to the amendments proposed by the House to S.B. No. 1410, S.D. 1, seconded by Senator Sakamoto.

Senator Hanabusa noted:

"Mr. President, this is the bill relating to claims against the University of Hawaii.

"The House amendment is the inclusion of the last claim which we were not aware of at the time that we passed it out of this Chamber."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1410, S.D. 1, and S.B. No. 1410, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CLAIMS AGAINST THE UNIVERSITY OF HAWAII AND PROVIDING APPROPRIATIONS THEREFORE," was placed on the calendar for Final Reading on Thursday, May 1, 2003.

S.B. No. 1334 (H.D. 1):

Senator Ige moved that the Senate reconsider its action taken on April 4, 2003, in disagreeing to the amendments proposed by the House to S.B. No. 1334, seconded by Senator Aduja and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 1334, on the following showing of Ayes and Noes:

Ayes, 2 (Ige, Aduja). Noes, none. Excused, 1 (Hemmings).

Senator Ige moved that the Senate agree to the amendments proposed by the House to S.B. No. 1334, seconded by Senator Aduja.

Senator Ige noted:

"Mr. President, the House made just technical, nonsubstantive amendments for the purposes of clarity and style."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1334, and S.B. No. 1334, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE INTERNET PORTAL," was placed on the calendar for Final Reading on Thursday, May 1, 2003.

S.C.R. No. 16, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate reconsider its action taken on April 22, 2003, in disagreeing to the amendments proposed by the House to S.C.R. No. 16, S.D. 1, seconded by Senator Chun Oakland and carried.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 16, S.D. 1, seconded by Senator Chun Oakland.

Senator Baker noted:

"Mr. President, the House made basically some technical amendments that we can agree with. Thank you."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 16, S.D. 1, and S.C.R. No. 16, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO DEVELOP PUBLIC HEALTH STRATEGIES TO ADDRESS THE HEPATITIS C PROBLEM," was placed on the calendar for Final Adoption on Thursday, May 1, 2003.

S.C.R. No. 116, S.D. 1 (H.D. 1):

Senator Baker moved that the Senate reconsider its action taken on April 22, 2003, in disagreeing to the amendments proposed by the House to S.C.R. No. 116, S.D. 1, seconded by Senator Chun Oakland and carried.

Senator Baker moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 116, S.D. 1, seconded by Senator Chun Oakland.

Senator Baker noted:

“Mr. President, the House made basically some technical amendments that we can agree with. Thank you.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 116, S.D. 1, and S.C.R. No. 116, S.D. 1, H.D. 1, entitled: “SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF MANDATORY HEALTH INSURANCE COVERAGE FOR MENTAL HEALTH AND ALCOHOL AND DRUG ABUSE TREATMENT,” was placed on the calendar for Final Adoption on Thursday, May 1, 2003.

At this time, Senator Hogue moved that the referral of H.C.R. No. 41, H.D. 1, to the Committee on Transportation, Military Affairs, and Government Operations be waived, seconded by Senator Hemmings.

Senator Hogue noted:

“Mr. President, I’m asking my colleagues to allow a floor vote on this particular measure which is urging the Department of Accounting and General Services to establish an intergovernmental community task force to plan for the development of an alternative access road to Kailua High School in Kailua Oahu.

“Colleagues, this measure has been long asked for by the community, just asking that the DAGS people and the executive branch help out the community. It has been passed unanimously by the House and I realize there was a backlog in the Committee and therefore it didn’t get a chance to be heard over here in the Senate. So I’m hopeful that we can get the waiver and get a chance to vote on it on, I guess, Thursday.

“Thank you very much, Mr. President.”

Senator Kawamoto rose in opposition to the motion and said:

“Mr. President, I oppose the request.

“Primarily, Mr. President, DAGS does not have the equipment or the people to access the road. I think DOT, Department of Transportation, has the people and the people to look into this matter and it should go to the DOT versus DAGS.”

Senator Hogue rose in rebuttal as follows:

“Mr. President, I just rise in rebuttal.

“Conversations with the executive branch have indicated that there are a number of executive branches that would need to be involved here – DOT, Department of Public Safety, Department of Education – and all we’re asking DAGS to do is to be the spearhead so that we can get all of the different aspects, including federal monies and city monies together and work with the community. So that’s why DAGS is actually spearheading it here.

“So as I’ve said, we’ve had full support from the House and just hopeful that we can just have this go forward for a long suffering community.

“Thank you very much, Mr. President.”

Senator Kawamoto responded as follows:

“Again, Mr. President, the money is going to come through highway funds, special highway funds. And the people that look into these kinds of matters are from DOT and they need to insure the coordination and lead the investigation or the survey.

“So I ask that this be tabled and be left for next year’s consideration.”

The motion was then put by the Chair and failed to carry.

Senator Hemmings rose and said:

“Mr. President, I think the proper request would be a division of the house, please.”

At 8:35 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:37 o’clock p.m.

Senator Ihara rose and said:

“Mr. President, could you repeat what’s the effect of the vote? Is this the vote? This is not a vote on the resolution I believe. It’s a vote on . . .”

The President interjected:

“That’s right. This is a vote on the referral of the resolution.”

Senator Ihara then inquired:

“So what’s the effect of the vote?”

The President replied:

“If members vote down on it, then it stands and there is no referral to DAGS or . . .”

At 8:38 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:39 o’clock p.m.

The President then stated:

“Senator Ihara, a ‘no’ vote means that the referral stays with the Committee on TMG.”

Senator Ihara the inquired:

“What does a ‘yes’ vote mean?”

The President replied:

“A ‘yes’ vote means that we urge the Committee, urge the department . . .”

At 8:39 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:40 o’clock p.m.

Senator Hemmings rose and said:

“A point of clarification. It’s my belief, Mr. President and colleagues, that if you vote ‘no’ on the motion, you’re keeping

the resolution in Committee. If you vote 'yes,' you're waiving the referral of the Committee and the resolution goes directly to the Floor for Final vote for one-day notice on Thursday."

The motion was then put by the Chair and, Roll Call vote having been requested, failed to carry on the following showing of Ayes and Noes:

Ayes, 7. Noes, 17 (Aduja, Baker, Bunda, English, Espero, Fukunaga, Hanabusa, Ige, Inouye, Kanno, Kawamoto, Kim, Kokubun, Menor, Sakamoto, Taniguchi, Tsutsui). Excused, 1 (Whalen).

At 8:42 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:43 o'clock p.m.

SENATE RESOLUTION

The following resolution (S.R. No. 147) was read by the Clerk and was disposed of as follows:

Senate Resolution

No. 147 "SENATE RESOLUTION REQUESTING THE SENATE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS AND TWO MEMBERS OF SENATE LEADERSHIP TO CONDUCT AN INTERIM STUDY OF THE SENATE RULES REGARDING DECISION-MAKING BY STANDING COMMITTEES AND CONFERENCE PROCEDURES REGARDING DECISION-MAKING BY CONFERENCE COMMITTEES."

Offered by: Senator Hanabusa.

By unanimous consent, action on S.R. No. 147 was deferred until Thursday, May 1, 2003.

At this time, Senator Hogue moved that the deadline for the introduction of substantive resolutions on the 2003 Senate internal legislative timetable be waived, seconded by Senator Hemmings.

Senator Hogue noted:

"Mr. President, this is S.C.R. No. 207 rejecting the recommendation of the Legislative Salary Commission to raise legislative salaries. So what I'm asking you to do is to follow the lead that we have set here on the Floor today recognizing that these are austere times and that it is not prudent to raise salaries in the judiciary branch, the executive branch or the legislative branch.

"Thank you."

Senator Baker rose on a point of order as follows:

"Point of Order, Mr. President.

"I believe the motion and the discussion ought to be on the point of waiving the Rules, not on the substance of the resolution."

Senator Hogue responded:

"Mr. President, point very well taken. I appreciate that.

"Because a similar waiver was granted on another measure earlier today, I think a precedent has been set, so I'm asking for you to follow through on the precedent you already set with

regards to waiving the internal calendar. I'm asking you to do it again.

"Thank you."

Senator Ihara rose in favor of the motion and said:

"Mr. President, I speak in favor of the motion to waive the Senate Rule.

"If this goes to a vote, I will actually be voting against it but I believe that the Senate should waive its Rule and take this matter up because the Legislative Salary Commission is in the constitution and the constitution says that the Legislature may reject the Legislative Salary Commission's plan submitted to the Legislature, which they did, by the constitutional deadline. Therefore, I think that this matter should be voted up or down on the substance as permitted by the constitution.

"Thank you."

At 8:46 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:51 o'clock p.m.

Senator Hanabusa rose and said:

"Will the movant submit to a question?"

The President posed the question and Senator Hogue having answered in the affirmative, Senator Hanabusa inquired:

"You made a reference in your statement in favor of your motion that we had waived the conference calendar for some other measure and we're just curious as to what measure were you referring to?"

Senator Hogue responded:

"Well, I was here earlier and I recall that specifically being done. I don't recall whether it was at a time when you were out of the room or not, but I do recall because the Senator, Senator Ihara, actually asked if we had waived it and the answer from the dais was yes."

At 8:52 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:52 o'clock p.m.

Senator Hanabusa rose and said:

"Mr. President, I'd like to follow up on that discussion.

"Senator Hogue, I believe what you're referring to is the floor amendment that referred to the amendment to S.B. No. 459, which is regarding the campaign spending bill."

Senator Hogue then stated:

"I don't believe that that was the one. I believe it was a measure that was . . . I believe, if memory serves me correctly because I didn't note it in my journal, that it had to do with the recommitment and we had to take it out of recommitting. I believe that was the one that we were talking about, but I could be corrected on that."

Senator Hanabusa then said:

"Mr. President, if I may proceed.

“Mr. President, to take a motion and to make a motion to reconsider prior action is not the same as what Senator Hogue is requesting now, which is to waive the Senate internal Rules and calendar. I believe that we’re talking about two very different situations.

“Thank you, Mr. President.”

Senator Hogue responded:

“Mr. President, my memory is that we did have to waive the internal calendar on some measure that went forward earlier today, and so because that precedent was set, it may not have been in the exact situation but my memory is usually pretty good. I just can’t remember exactly where that happened but I do remember that the answer was yes.

“Thank you.”

Senator Ihara rose and said:

“Mr. President, maybe I’ll stand in support of the motion to waive just by pointing out a couple of facts.

“I mentioned that the Legislative Salary Commission is established by the constitution, and it is required to submit its salary increase plan by the 40th session day, which was submitted on the 39th day, actually, March 25, I think because the 40th day was a holiday. No, they submitted it on the 40th day which is March 27.

“My point is that even if those who might want to reject the salary plan submitted the resolution that same day, they would have to have had the legislative time table waived because the deadline for the introduction of substantive resolutions was on the 31st day. So I believe because the constitution gives the Legislature the right to reject, I don’t think that the legislative timetable should be the reason why the question of rejecting the salary plan . . . I don’t believe that the calendar should be the reason why the legislative salary plan consideration should be rejected.

“Thank you.”

Senator Hanabusa rose and said:

“Mr. President, I was remiss in on looking very carefully at the supplement number two, which is S.C.R. No. 207. Mr. President, this is an SCR, it’s a concurrent resolution, so by its nature, we need to have, if we’re going to try to pass a concurrent resolution, the concurrence of the House. And as far as I’m aware, in the capacity of the Majority Leader, the House has not concurred to entertain any further concurrent resolutions. If this was simply an SR then I believe procedurally it can be brought up at any time.

“However, this is not simply waiving an internal calendar on our side, meaning on the Senate side. This needs the concurrence of the House. We do not have the concurrence of the House, Mr. President, and as a result I believe that this is out of order and we should vote it down.

“Thank you.”

Senator Hemmings rose and said:

“In order to be consistent, I think it was accurately pointed out – I’m speaking in favor of the motion, Mr. President – by our constitutional expert that it appears that the Senate Rules are in contradiction to the state constitution. I would suggest that

the constitution would take precedence over Senate Rules regarding waivers on this particular issue.

“Second to that, the good Senator from Waianae, the area of Waimanalo Gulch, did point out accurately that this is a concurrent resolution and that the House would have to waive their Rule likewise in order to pass this concurrent resolution on Thursday, which is something they could do.”

Senator Hogue rose and said:

“Roll Call vote.”

The President then announced:

“An ‘aye’ vote is to approve the waiver to consider S.C.R. No. 207, rejecting the salary commission’s recommendations. A ‘no’ vote is of course to deny the waiver.”

The motion was put by the Chair and, Roll Call vote having been requested, failed to carry on the following showing of Ayes and Noes:

Ayes, 5. Noes, 19 (Aduja, Baker, Bunda, Chun Oakland, English, Espero, Fukunaga, Hanabusa, Hooser, Ige, Inouye, Kanno, Kawamoto, Kim, Kokubun, Menor, Sakamoto, Taniguchi, Tsutsui). Excused, 1 (Whalen).

Senator Baker, Chair of the Committee on Health, requested a waiver of the notice requirement pursuant to Senate Rule 21 for S.R. No. 42, and the Chair granted the waiver.

ADJOURNMENT

At 9:00 o’clock p.m., on motion by Senator Kawamoto, seconded by Senator Hogue and carried, the Senate adjourned until 3:00 o’clock p.m., Thursday, May 1, 2003.

ATTACHMENT "A"

"Honolulu Advertiser

EDITORIAL

Monday, March 31, 2003

Cover all the bases for long-term care

The latest long-term-care bill to emerge from the Senate seems to combine the best of both worlds.

Each taxpayer would pay \$120 a year to create a long-term-care 'supplementary' fund to offer at least partial relief for those who cannot afford private insurance. Meanwhile, those who can afford such private long-term-care insurance would receive a tax credit under the measure.

Sen. Fred Hemmings, who supports Gov. Linda Lingle's tax-break-only solution to long-term healthcare, says the combined program is 'holding a good issue hostage to keep a bad initiative alive.' We would argue the opposite, that the payroll tax for long-term care is the stronger initiative keeping the weaker tax break alternative afloat.

Time and again, retirees have written to us about the obstacles to being approved for — let alone afford — private long-term-care insurance. Many insurers are simply not eager to take on anyone at risk for geriatric illnesses such as Alzheimer's disease.

And some of them, too, can see the merits of offering alternatives. According to a report by Advertiser Capitol Bureau writer Lynda Arakawa, one long-term-care specialist for John Hancock says the tax credit would provide an incentive for middle-class folks to buy coverage while the state long-term-care payroll tax could cover people without the resources.

Assuming that this bill is not a Machiavellian means to kill either one or the other long-term-care proposal, we support this two-pronged approach because, as we've repeatedly stressed, Hawai'i must do all it can to prepare for the gray revolution.

Only 6 percent of Hawai'i residents have long-term-care insurance, according to the state Executive Office on Aging. Plus, a 2002 study by MetLife found that Hawai'i patients pay above the national average per-diem price for a private room in a nursing home, and also pay more for home healthcare aides.

In a nutshell, a long-term-care safety net is going to require more than private insurance tax breaks."

ATTACHMENT "B"**LONG TERM CARE FINANCING PLAN
QUESTIONS AND ANSWERS****A. Target Populations**

1. What is the income level of our target group?
All taxpayers above the federal poverty level.
2. Should the program exempt those below the poverty level?
Consider recommending that DHS pay the premium for these individuals.
3. Should a tax based on age be considered?
No, it is not really practical to tax on age, since age is generally not collected or updated in tax systems. A strong argument can be made that everyone suffering a given level of ADL deficits has similar needs for care and assistance.
4. Will federal employees be enrolled in or exempted from this plan?
All those filing a Hawaii Resident Tax Return will be enrolled.
5. How will part-time residents be dealt with?
If the individual files a Hawaii Resident Tax Return, he or she will be enrolled.
6. How will the tax be collected from retirees who don't file Hawaii state taxes?
They must file a Hawaii Resident Tax Return on taxable income to be enrolled. If a person is not required to file a return because all income comes from pension benefits, the Trustees will provide a means for them to pay the program cost voluntarily.
7. Will a non-resident paying Hawaii state taxes be given a choice to participate or not?
Residents will be enrolled on the basis of their tax filing. The Trustees will provide a means for vested persons who leave the state to continue their payments to guarantee portability of the benefits.

8. Will we require pensioners who do not file Hawaii state taxes to file a return and pay into the plan?
No, but they will have an opportunity to pay the program cost through a voluntary enrollment.

B. Computation of Tax

9. Will the qualifying income level (over the poverty line) be computed on AGI or taxable income?
It was suggested that it be computed on AGI.
10. What does HIPAA qualified or non-qualified mean in the context of Hawaii's proposed LTC Insurance Program?
HIPAA gives some guidelines that offer special tax treatment for LTC coverage that is guaranteed renewable, portable, covers only long-term problems, and does not supplant Medicare. The Trustees are committed to keeping the terms of the program consistent with the conditions for receiving federal tax benefits.
11. Specifically then, would the \$70 day benefit be taxed by the state or federal government?
The benefit is exempted from Hawaii income tax in the law; exemption from federal income tax will be handled in the same way that private LTC insurance is handled.
12. Would receiving the benefit make a person who is otherwise eligible for Medicaid benefits ineligible because it increases their "income" above the threshold?
If they were/are eligible for Medicaid they did not pay into the program, so the question is moot? If they paid into the program and then became eligible for Medicaid, they should be able to receive the benefit (as persons receiving 55 benefits do presently) but it would supplant the Medicaid payment if it was in excess until the benefit expired or; if the LTCI benefit is lower than what Medicaid would have paid, Medicaid pays the difference. The benefit, like other LTC policy benefits, is not intended to be counted as income.

C. Means of Collection

13. Will the tax be through payroll deduction?
Yes. Employers will use the Withholding Table to determine the amount as they do currently. There will be no added work. Sole proprietors will use the Estimated Income Table to estimate their quarterly withholding.

14. Will non-working taxpayers pay annually when filing HI State Taxes?

Yes.

15. How should the issue of carry back losses be addressed?

If the individual's income computations generate an AGI of zero, than after a one-year grace period, the individual would be de-vested for a year. For example, a one-year loss carry-over would have no effect, but the second year would trigger the de-vesting process until the income again comes over the floor that has been set.

16. How will tax refunds be handled in the case of carry back or carry forward losses?

Both will be off set by the LTC tax or refund owed.

17. How can we ensure the LTCI fund will receive priority?

This has been written into the law.

18. Will the LTC fund collect penalties for late payment?

The Fund will collect only the tax and any late interest due. Penalties will be kept by the Department of Taxation, as one of the costs of general tax enforcement.

D. Vesting and De-Vesting

19. How will the taxes collected be credited to the individual?

The TPA must keep track of all enrollees.

20. How will taxpayers track their vesting?

The TPA will be required to send notification of vesting status to each enrollee annually.

21. If taxes are collected from an employee but not submitted by the employer, how will this be handled?

The same way the tax department handles this situation presently.

22. If a person is vested, then moves out of state, must they continue to pay into the fund regardless of where they reside?

Yes, if the person wishes to remain fully vested in the program.

23. How will the fund be notified of a beneficiary's death?

The Trustees will Ask the Death Registry at DOH to notify the TPA.

24. When does de-vesting start? Should it be after one month of non-payment or a year?
Since taxes are reconciled only when the annual return is file, the grace period will run for a whole year.
25. Will the taxpayer be considered a tax delinquent if they miss a payment?
Like any other tax, the LTC tax must be paid. In the United States and in Hawaii we do not exempt someone from paying a tax that everyone else pays.
26. Will the Tax Department use their Due Process procedures to resolve disputes regarding non-payment of the LTC tax?
The State Tax Department could use their existing adjudication procedures for appeals, or could establish a separate procedure because the basic rules differ from those used in other tax issues. For example, when you are delinquent a year in taxes you are delinquent, but when you are late a year in LTC payment, you are in a grace period. When you are late two years, you are in de-vesting status. The Trustees can establish appropriate rules for handling disputes involving vesting issues.

E. Start Up

1. When should the program begin?
Two years after the legislation has passed and been signed into law.
27. Will money be appropriated to the Tax department for start-up?
Yes, the Tax Department will have to make some revisions to its forms and instructions.
28. Will there be any startup costs for the Trustees' Office?
A general fund appropriation will be needed to pay for the costs of setting up the TPA contract, communications and other expenditures. The office itself is expected to have four paid employees and two or three specialized advisory contracts. The Trustees will be required to repay this appropriation to the general fund.
29. Will money be appropriated to educate the public about the new tax?
This will be included in the start up and continuing administrative funding.

-
30. How will the Trustees be sure the fund is adequate from year to year?
The Trustees must file an annual public actuarial report which presents all solvency and other financial issues.
31. How will the trustees manage the Trust Fund?
The Trustees must hire appropriate investment advisors to be sure that funds earn adequate yields, are invested in appropriately secure instruments, and are sufficiently liquid to pay benefits as needed.
32. Won't the Trustees have to set up a complete accounting system, member record system, and the like from scratch?
No, when the Trustees hire a Third Party Administrator (TPA), they will be using the same basic record keeping software and systems that the TPA uses to track payments and benefits for purchasers of private LTC insurance for the national insurers that the TPA services. The bulk of these costs have already been invested in tested, working software and systems.
33. Is care advocacy/management/coordination a service to be incorporated in this program?
Yes. The TPA shall provide care coordinators to help beneficiaries find and arrange the services they need. The TPA will also be required to monitor for potential fraud or abuse. This does not reduce the benefit to the beneficiary.
34. What does it mean to say that a person must "fail" an ADL to qualify for benefits?
The federal HIPAA act defined some qualifications for LTC insurance benefits. These have been widely adopted by the industry. These are the standards the TPA will use in assessing benefit status.
35. Is the benefit portable?
Yes. Like any insurance benefit, eligibility depends on paying a premium. If it is not possible to collect the LTC insurance tax from former residents of Hawaii using one of the standard tax forms, the trustees shall provide for a payment system so that beneficiaries can continue their coverage after leaving the state. Persons who need the benefits may qualify for them wherever they live.
36. Multiple jobs—will people pay twice?
If someone has more than one job, the LTC tax would be built into the standard withholding table. Taxes would be withheld for the income from each job and the amount due, the amount owed or the amount of refund will be calculated on the annual tax return.

37. What will this cost the employer?

There should be no action required of the employer beyond complying with the existing income tax withholding provisions. Therefore there will be no added cost.

38. What is the cost of the bureaucracy for keeping track of payments made?

The record keeping system is part of the normal operating duties of the third party administrator. The cost of keeping the records has already been priced into the system.

39. What is the Tax Department's obligation?

The Tax Department participates in four steps:

- 1. Revise tax returns to collect the LTC tax from all those required to pay it;*
- 2. Calculate the total tax paid for LTC insurance by each taxpayer;*
- 3. Transmit this record to the Board of Directors; and*
- 4. Transfer appropriate monies to the fund as accrued.*

It is useful to note that the Tax Department generally revises some feature of the tax return, the instructions and the calculating software each year.

40. Is the insurance guaranteed renewable?

What guaranteed renewable means is that a holder of an insurance policy cannot be excluded from further coverage except for nonpayment of premium. For almost all of society, the LTC tax is a guaranteed payment of premium and additional collection mechanisms can be extended to assure that everyone has a guaranteed way of paying the premium. Thus, it is clearly guaranteed renewable.

41. What happens to workers who only stay a short time in Hawaii i.e. Military wives?

We must ask the same question about state tax dollars collected and spent on schools, highways, airports, and similar services which the short term resident must also pay and is unlikely to use. This is the cost of living and working in any state.

We don't really talk about excusing childless couples from paying for schools that they don't use. This tax benefits everyone whether they use it or not because it helps keep people at home in less costly surroundings and delays or avoids dependence on Medicaid.

42. Can we exempt people who already have LTC insurance from paying the tax?

The current bill incorporates a tax credit for those who hold a long term care insurance policy in about the amount of the tax, \$120 a year.

43. Won't the program someday get to where very few workers are supporting many who are not working?
No, the program is income-based and participants pay most of their lives, just like a private long-term care insurance policy. The number of beneficiaries to people paying in will always be a very small ratio.
44. Why should everyone be burdened with a tax when not everyone will need it?
Everyone is now burdened with taxes to pay for Medicaid. The estimated average cost per taxpayer in Hawaii is \$ 400. Unless we can slow the growth rate of Medicaid, we have no control over the money the state is forced to spend on those services. Today, Medicaid is the payer of first resort, not the last resort, which is different from every other component of the system. It was never intended by Congress to have Medicaid be anything other than a safety net for the poor and indigent or those on hard times -- not to pay for every three out of four people receiving LTC in the state.
45. Is it fair to burden the young?
We are burdening them now with approximately \$400 per year in taxes that go to the Medicaid program, regardless of their potential to use it. This cost goes up every year. The state is mandated by federal law to pay for the care of certain categories of the population, such as the indigent needing long term care. The young are already burdened by paying for care for their parents and grandparents. Families' pay enormous out of pocket costs.
46. Can the state control the Medicaid costs?
No, the state must pay for the care of the indigent for services that are mandated and the legislature has to find the money to cover these mandated costs. At the rate of increase in the Medicaid program for long term care, the state budget will be overwhelmed by the pressures placed on it by the aging baby boomers.
47. Will benefits increase after the first ten years?
The tax rate and benefits have been set more or less within the range of vision we have now. The Trustees must come to the Legislature in 2011 to propose continuing inflation adjustment of benefits and appropriate tax rates. As the Fund develops experience, it will be possible to take "longer looks" into the future and limit rate increases.
48. Why do rates go up over time, is it only inflation?
Inflation and benefit increases are part of the story. All long term care insurance programs, private and public, must deal with the fact that people are living longer and have more chances

to require LTC in the future. The expected use rate in the near future is about 2.7% or so—in 2078 it is near 7.5%. We simply must all recognize that people are living longer and will require longer periods of care several decades from now. And, because the program promises benefits, it has to fund those benefits -- even those six and seven decades away.

49. Usually insurance programs are put together by insurance experts. Who are the experts involved in this program?

The Temporary Trustees consulted officers of some of the largest long term care administrative organizations in the United States. These include the following national experts who are continually engaged in helping insurance companies manage their LTC business:

Administrative Load/Bureaucracy

LTCGroup – Peter Goldstein

CTHC – Gary Jacob

LTC Insurance Management Consultant – Margaret

Hottinger

Coverage Implications for State

The Lewin Group, Div. of Quantiles, Inc. – Lisa Alecxih, VP

Effects on Private LTC Insurance

Milliman & Robertson – Dawn Helwig

50. If I have the social insurance LTC coverage and I want to buy additional coverage can I do that?
- A number of reputable private LTC insurers have policy forms filed in Hawaii that offer a 365 day waiting period, and are about 30% cheaper than policies that offer a 30 day waiting period. If you have coverage from the social insurance policy, you could consider buying a private policy with a longer exclusion time -- 365 days is the number of days of LTC service in the social insurance policy.*
51. Don't all government programs cost more to administer than private programs?
1. *There is no private medical insurer with a lower cost per dollar of service than Medicaid and Medicare.*
 2. *The cost of administration of the CALPERS employee program has declined from about 8% of premium to less than 5% of premium by judicious use of a third-party administrator to do the back-office work.*

3. *The administration of LTC programs is so specialized that very few commercial insurance companies perform this task themselves – they, too, hire TPA (Third Party Administration) firms to do this work.*

52. Won't future legislatures or administrations be tempted to raid the LTC Fund?

The bill provides that the funds may not be spent for any other purpose than paying benefits and administering the LTC system. The Trustees are obligated to observe this provision by law, under language that requires their prudent representation of the fund's and its beneficiaries' interests.

ATTACHMENT "C"**LINDA LINGLE**
GOVERNOR**JAMES R. AJONA, JR.**
LT. GOVERNOR**KURT KAWAFUCHI**
DIRECTOR OF TAXATIONSTATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

April 18, 2003

The Honorable Rosalyn H. Baker
Chair, Senate Committee on Health
State Capitol, Room 220
415 South Beretania Street
Honolulu, HI 96813

RE: H.B. No. 1616, H.D. 1, S.D. 2, Relating to Long Term Care

Dear Chair Baker:

This responds to your telephone call to Grant Tanimoto requesting a further breakdown of the costs to administer H.B. No. 1616, H.D. 1, S. D. 2.

We estimate that the total start up costs for changes to the computer system to administer the long-term tax and to set up programs to answer questions from taxpayers about this new tax will be approximately \$1,020,000¹. We estimate the annual cost of administration at \$320,000.²

The costs for the 2004 and 2005 fiscal years are as follows:

Fiscal Year 2004 Total Cost: \$430,000.

- \$250,000 would be needed for system start up costs.
- \$20,000 for start up costs for Taxation Services to prepare to answer taxpayer questions about the tax. This does not include the cost of printing and mailing of new tax forms.
- \$160,000 (½ year) would be required for employees to administer the program.

¹ This estimate is based on the assumption that the Department of Taxation (Department) will not be required to verify the payment of long-term care income tax withholdings against the annual long-term care income tax filings.

² Wayne Kinoshita, the Acting Compliance Division Administrator, estimates that the annual costs are approximately \$250,000 for wages, equipment and operating expenses for four additional employees to collect the long term care income tax from approximately 3,000 delinquent employers. Jerry Ebesu, the Acting Taxation Services Administrator estimates that the annual cost for additional staffing to handle inquiries and other resources is \$70,000.

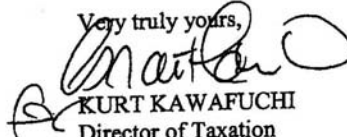
The Honorable Rosalyn H. Baker
April 18, 2003
Page 2

Fiscal year 2005 Total Cost: \$1,070,000.

- \$750,000 would be required for system start up costs.
- \$320,000 would be required for employees to administer this program.

Fiscal year 2006 and later Total Cost: \$320,000 for employees to administer this program.

If you have questions or need additional information, please call me at 587-1510 or your staff may call Grant Tanimoto at 587-1569.

Very truly yours,

KURT KAWAFUCHI
Director of Taxation

ATTACHMENT "D"



HAWAII STATE LEGISLATURE
STATE CAPITOL
HONOLULU, HAWAII 96813
April 25, 2003

MISC. COMM. NO. 9

TO: All Members of the State Legislature
SUBJECT: Extension of Conference Committee Deadlines

We hereby amend the Joint 2003 Legislative Calendar as follows:

The final decking deadline notwithstanding, committees on conference shall be allowed only between the hours of 9:00 a.m. and noon on Saturday, April 26, 2003, in Room 309 of the State Capitol. No committee on conference shall be allowed after noon, April 26, 2003.

All signed committee reports shall be submitted to the respective Clerks by noon, Monday, April 28, 2003.

All other deadlines on the Joint Legislative Calendar shall remain in effect.

- c House Chief Clerk
- Senate Chief Clerk
- House Sergeant-at-Arms
- Senate Sergeant-at-Arms

Robert Tom
11:03 p.m.
4-25-03

Calvin K. Ag
11:04 P.M.
4/25/03