

## SIXTIETH DAY

Thursday, May 1, 2008

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Regular Session of 2008, convened at 11:37 a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Norma Wong, Chozen-ji International Zen Dojo, after which the Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Fifty-Ninth Day.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 681 to 693) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 681, dated April 29, 2008, transmitting her statement of objections to House Bill No. 2045 which she has returned to the House of Representatives without her approval and which reads as follows:

“EXECUTIVE CHAMBERS  
HONOLULU

April 29, 2008

## STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2045

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2045, entitled ‘A Bill for an Act Relating to Establishing a Global Youth Center.’

The purpose of this bill is to establish a Global Youth Center in the University of Hawaii. The purpose of the Center is to generate and link an international framework in which youth from around the world will actively engage in the attainment of world peace, environmental sustainability, and human and economic productivity for future generations. These youth shall, pursuant to the provisions of the bill, ‘collaborate with Hawaii’s leaders in education, politics, business, the East-West Center, and appropriate international organizations.’

The goals of the Global Youth Center proposed in this bill are commendable. However, after reviewing this measure in consideration with existing programs and resources, I cannot approve this bill.

Global Youth Center Inc. is a non-profit entity registered with the State of Hawaii and is awaiting final approval of their non-profit status from the Internal Revenue Service. Embedding a non-profit organization within a State agency raises the possibility of violating that portion of the State ethics law (HRS 84-3 and 84-13) and the published State Ethics Code (revised January 2007), which states, ‘You may not use state time, equipment, or facilities for private business purposes, including for-profit and non-profit corporations.’ Global Youth Center Inc. currently occupies office space in a building located on land owned by the University of Hawaii. This bill does not address whether employees of the Global Youth Center will be employees of the State and bound by applicable laws including collective bargaining, civil service, and the procurement code.

The University of Hawaii testified that they had concerns with the cost impact and placement of this program in the University. This bill does not address those concerns and

provides no funding or administrative support to the University. The University of Hawaii identified its budget priorities as approved by the Board of Regents, and the Global Youth Center was not included as a priority. Further, the University of Hawaii was not involved in the planning process for the Center.

I encourage Global Youth Center Inc. to continue pursuing status as a non-profit registered in the State. Upon receiving final approval as a non-profit from the Internal Revenue Service, Global Youth Center Inc. can pursue appropriate State support through the Grant-in-Aid process.

For the foregoing reasons, I am returning House Bill No. 2045 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii.”

was placed on file.

Gov. Msg. No. 682, dated April 29, 2008, transmitting her statement of objections to House Bill No. 2263 which she has returned to the House of Representatives without her approval and which reads as follows:

“EXECUTIVE CHAMBERS  
HONOLULU

April 29, 2008

## STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2263

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2263, entitled ‘A Bill for an Act Relating to Harbors.’

The purpose of this bill is to amend section 266-3, Hawaii Revised Statutes, to grant the Director of Transportation the specific power to adopt administrative rules limiting the noise emanating from State commercial harbors. The bill also amends section 291-36, Hawaii revised Statutes, to exempt from scaling any vehicles used in transshipping neighbor island bound cargo directly between piers located in Honolulu Harbor and any activities limited to crossing a public road, street, or highway within the State at locations approved by the director of transportation, in the case of State highways, or the county engineer, in the case of county roads and streets.

This bill is objectionable because part I relating to harbor noise imposes an unduly burdensome responsibility on the Department of Transportation, Harbors Division, to adopt administrative rules for the regulation and enforcement of noise emanating from State commercial harbors. The Harbors Division is currently implementing the Harbors Modernization Plan, which will understandably add to the activities of our harbors. Persons who moved into the area near commercial harbors knew, or should have known, that there would be noise emanating from the harbor due to cargo operations. To reduce noise, cargo operations may have to be restricted or costly noise abatement programs may have to be implemented, which could have harmful effects on the transport of goods into and out of the State and through the commercial harbor system.

Part II of the bill relating to the scaling of vehicles is also objectionable because it is in the interest of public safety that

the Department of Transportation be able to ascertain the weight of all cargo-transporting vehicles that use the State's highways and bridges. All bridges have weight limitations and the weight of all cargo-transporting vehicles should be verified for compliance. In addition, over-weight vehicles increase the deterioration of highways and bridges at a faster rate and accelerate the need for repair and maintenance. Scaling ensures that vehicles remain within acceptable and safe weight limits and that violators pay their fair share of repair and maintenance costs.

For the foregoing reasons, I am returning House Bill No. 2263 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii,"

was placed on file.

Gov. Msg. No. 683, advising the Senate of the withdrawal of the nomination of JOSHUA J. WINGSTROM to the Board of Regents of the University of Hawaii, under Gov. Msg. No. 656, dated April 22, 2008, was placed on file.

In compliance with Gov. Msg. No. 683, the nomination listed under Gov. Msg. No. 656 was returned.

Gov. Msg. No. 684, informing the Senate that on April 29, 2008, she permitted the following measure to become law without her signature, pursuant to Section 16 of Article III of the State Constitution, which reads as follows:

Senate Bill No. 3200 as Act 45, entitled: "RELATING TO GOVERNMENTAL RETENTION OF ATTORNEYS."

"Dear Madam President and Members of the Senate:

Re: Senate Bill No. 3200 SD1 HD1

On April 29, 2008, Senate Bill No. 3200, entitled 'A Bill for an Act Relating to Governmental Retention of Attorneys,' became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The bill would require the Attorney General to retain an attorney for a legislative or judicial office if legal representation was requested for that office by the Chief Justice, or the Speaker and Senate President jointly, and the Attorney General declined to provide that representation on the ground of conflict of interest.

This measure is troubling because it would require the Attorney General to fund legal services from the budget of the executive branch for a separate branch of government. There appears to be no reason why such funding cannot come from the budget of the branch that is requesting the legal services. Moreover, there does not appear to be any pressing need for this legislation, as both the legislative and judicial branches of government have statutory authority to retain attorneys without the consent of the Attorney General.

However, the circumstances covered by the legislation are extremely limited. The legislation would be applicable only if there was a request for legal services, the request was declined by the Attorney General, and the specified reason by the Attorney General was conflict of interest. An argument can be made that if the Attorney General's stated reason for declining to provide representation is a conflict of interest and, thus, absent such a conflict the Attorney General would have provided legal services, the fiscal burden of the Attorney General's conflict of interest ought to fall on his department.

For the foregoing reasons, I allowed Senate Bill No. 3200 to become law as Act 45, effective April 29, 2008, without my signature.

Sincerely,

/s/ Linda Lingle  
LINDA LINGLE,"

was placed on file.

Gov. Msg. No. 685, dated April 29, 2008, transmitting the Report on the Temporary Hawaii Inter-Island Ferry Oversight Task Force, prepared by the Department of Transportation pursuant to Act 2, Second Special Session of 2007, was placed on file.

Gov. Msg. No. 686, dated April 30, 2008, transmitting the Department of Agriculture Annual Report for Fiscal Year 2007 and the Statistics of Hawaii Agriculture 2006 Report, pursuant to Section 141-1, HRS, was placed on file.

Gov. Msg. No. 687, dated May 1, 2008, transmitting the Development of the Master Plan and Financial Feasibility Report for Leahi Hospital, HHSC Oahu Region, Preliminary Planning Documents for Leahi Hospital, prepared by the Hawaii Health Systems Corporation pursuant to S.C.R. No. 140 and H.C.R. No. 197 (2006), was placed on file.

Gov. Msg. No. 688, informing the Senate that on April 30, 2008, she signed into law Senate Bill No. 2956 as Act 46, entitled: "RELATING TO MILK," was placed on file.

Gov. Msg. No. 689, informing the Senate that on April 30, 2008, she signed into law Senate Bill No. 3005 as Act 47, entitled: "RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES' RETIREMENT SYSTEM," was placed on file.

Gov. Msg. No. 690, informing the Senate that on April 30, 2008, she signed into law Senate Bill No. 2569 as Act 48, entitled: "RELATING TO THE MUSEUM OF HAWAIIAN MUSIC AND DANCE," was placed on file.

Gov. Msg. No. 691, informing the Senate that on April 30, 2008, she signed into law Senate Bill No. 3228 as Act 49, entitled: "RELATING TO ADJUSTING THE ANNUAL PENSIONS OF RETIRED PATIENT EMPLOYEES AT HANSEN'S DISEASE FACILITIES," was placed on file.

Gov. Msg. No. 692, informing the Senate that on April 30, 2008, she signed into law Senate Bill No. 3240 as Act 50, entitled: "RELATING TO MOTOR VEHICLE DRIVER'S LICENSE," was placed on file.

Gov. Msg. No. 693, informing the Senate that on April 30, 2008, she signed into law House Bill No. 2254 as Act 51, entitled: "RELATING TO BANKS AND FINANCIAL INSTITUTIONS," was placed on file.

#### HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 819 to 826) were read by the Clerk and were placed on file:

Hse. Com. No. 819, informing the Senate that the Speaker on April 29, 2008, made the following changes to the conferees on the following bills:

H.B. No. 1755, H.D. 1 (S.D. 1):

Discharged all conferees.

H.B. No. 2605, H.D. 2 (S.D. 1):

Discharged all conferees.

Hse. Com. No. 820, informing the Senate that the House reconsidered its action taken on April 29, 2008, in disagreeing to the amendments proposed by the Senate to H.B. No. 1755, H.D. 1 (S.D. 1).

Hse. Com. No. 821, informing the Senate that the House reconsidered its actions taken on April 29, 2008, in disagreeing to the amendments proposed by the Senate to the following House bills:

H.B. No. 2387, H.D. 1 (S.D. 2);  
H.B. No. 2605, H.D. 2 (S.D. 1);  
H.B. No. 2710, H.D. 2 (S.D. 2); and  
H.B. No. 3150, H.D. 2 (S.D. 1).

Hse. Com. No. 822, informing the Senate that the amendments proposed by the Senate to H.C.R. No. 138, H.D. 2, were agreed to by the House and H.C.R. No. 138, H.D. 2, S.D. 1, was finally adopted in the House of Representatives on April 29, 2008.

Hse. Com. No. 823, 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 on April 29, 2008:

H.B. No. 2164, H.D. 1, S.D. 1;  
H.B. No. 2224, H.D. 1, S.D. 2;  
H.B. No. 2271, H.D. 1, S.D. 2;  
H.B. No. 2547, S.D. 1;  
H.B. No. 2614, S.D. 1;  
H.B. No. 2929, H.D. 1, S.D. 1;  
H.B. No. 2954, S.D. 1;  
H.B. No. 2955, H.D. 1, S.D. 1;  
H.B. No. 2971, H.D. 1, S.D. 2;  
H.B. No. 3085, H.D. 2, S.D. 1; and  
H.B. No. 3191, H.D. 1, S.D. 2.

Hse. Com. No. 824, informing the Senate that the following bills passed Final Reading in the House of Representatives on April 29, 2008:

H.B. No. 94, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 118, S.D. 1, C.D. 1;  
H.B. No. 523, H.D. 2, S.D. 1, C.D. 1;  
H.B. No. 660, S.D. 1, C.D. 1;  
H.B. No. 661, H.D. 1, S.D. 3, C.D. 1;  
H.B. No. 931, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 1153, S.D. 1, C.D. 1;  
H.B. No. 1356, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 1365, S.D. 2, C.D. 1;  
H.B. No. 2062, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 2139, H.D. 2, S.D. 1, C.D. 1;  
H.B. No. 2204, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2245, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 2253, H.D. 2, S.D. 1, C.D. 1;  
H.B. No. 2255, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2272, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2346, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2366, S.D. 1, C.D. 1;  
H.B. No. 2372, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2386, S.D. 2, C.D. 1;  
H.B. No. 2388, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 2438, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2450, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 2486, S.D. 1, C.D. 1;  
H.B. No. 2492, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2500, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2519, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2520, H.D. 3, S.D. 2, C.D. 1;  
H.B. No. 2550, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2557, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2661, H.D. 2, S.D. 2, C.D. 1;

H.B. No. 2697, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2700, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 2727, H.D. 2, S.D. 1, C.D. 1;  
H.B. No. 2730, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2739, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 2761, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2763, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2772, H.D. 3, S.D. 1, C.D. 1;  
H.B. No. 2781, H.D. 2, S.D. 2, C.D. 1;  
H.B. No. 2847, S.D. 1, C.D. 1;  
H.B. No. 2920, S.D. 1, C.D. 1;  
H.B. No. 2953, S.D. 1, C.D. 1;  
H.B. No. 2972, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 2977, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 2978, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 3002, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 3040, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 3126, S.D. 2, C.D. 1;  
H.B. No. 3173, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 3174, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 3175, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 3177, H.D. 1, S.D. 2, C.D. 1;  
H.B. No. 3178, S.D. 2, C.D. 1;  
H.B. No. 3179, S.D. 1, C.D. 1;  
H.B. No. 3249, H.D. 1, S.D. 1, C.D. 1;  
H.B. No. 3331, H.D. 2, S.D. 2, C.D. 2;  
H.B. No. 3383, S.D. 1, C.D. 1;  
H.B. No. 3386, H.D. 1, S.D. 2, C.D. 1;  
S.B. No. 69, S.D. 2, H.D. 3, C.D. 1;  
S.B. No. 988, S.D. 2, H.D. 3, C.D. 1;  
S.B. No. 1035, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 1337, H.D. 1, C.D. 1;  
S.B. No. 1487, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 1526, S.D. 2, H.D. 3, C.D. 1;  
S.B. No. 1793, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 1802, H.D. 1, C.D. 1;  
S.B. No. 1891, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 1961, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2004, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2041, H.D. 1, C.D. 1;  
S.B. No. 2054, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2055, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2080, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2150, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2157, S.D. 1, H.D. 2, C.D. 1;  
S.B. No. 2163, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2196, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2212, S.D. 1, H.D. 2, C.D. 1;  
S.B. No. 2218, S.D. 1, H.D. 2, C.D. 1;  
S.B. No. 2293, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2314, S.D. 1, H.D. 2, C.D. 1;  
S.B. No. 2334, S.D. 2, H.D. 1, C.D. 1;  
S.B. No. 2341, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2345, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2365, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2373, S.D. 1, H.D. 2, C.D. 1;  
S.B. No. 2396, S.D. 1, H.D. 3, C.D. 1;  
S.B. No. 2434, H.D. 1, C.D. 1;  
S.B. No. 2449, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2456, S.D. 2, H.D. 1, C.D. 1;  
S.B. No. 2459, S.D. 2, H.D. 1, C.D. 1;  
S.B. No. 2542, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2546, S.D. 2, H.D. 1, C.D. 1;  
S.B. No. 2644, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2652, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2663, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2668, S.D. 2, H.D. 1, C.D. 1;  
S.B. No. 2730, S.D. 2, H.D. 2, C.D. 1;  
S.B. No. 2768, S.D. 2, H.D. 1, C.D. 1;  
S.B. No. 2785, S.D. 1, H.D. 1, C.D. 1;  
S.B. No. 2803, S.D. 1, H.D. 1, C.D. 1;

S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 2825, S.D. 1, H.D. 2, C.D. 1;  
 S.B. No. 2826, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 2827, S.D. 1, H.D. 1, C.D. 1;  
 S.B. No. 2830, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 2833, S.D. 1, H.D. 1, C.D. 1;  
 S.B. No. 2838, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 2840, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 2843, S.D. 2, H.D. 3, C.D. 1;  
 S.B. No. 2849, S.D. 1, H.D. 1, C.D. 1;  
 S.B. No. 2867, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 2876, H.D. 2, C.D. 1;  
 S.B. No. 2878, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 2879, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 2895, S.D. 1, H.D. 1, C.D. 1;  
 S.B. No. 2933, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 2961, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 2977, S.D. 1, H.D. 2, C.D. 1;  
 S.B. No. 3001, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 3009, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 3051, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 3061, H.D. 1, C.D. 1;  
 S.B. No. 3069, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 3076, H.D. 1, C.D. 1;  
 S.B. No. 3087, S.D. 1, H.D. 1, C.D. 1;  
 S.B. No. 3092, S.D. 1, H.D. 1, C.D. 1;  
 S.B. No. 3102, S.D. 2, H.D. 1, C.D. 1;  
 S.B. No. 3166, H.D. 1, C.D. 1;  
 S.B. No. 3171, S.D. 2, H.D. 2, C.D. 1;  
 S.B. No. 3203, S.D. 1, H.D. 1, C.D. 1;  
 S.B. No. 3227, S.D. 2, H.D. 1, C.D. 1; and  
 S.B. No. 3255, S.D. 2, H.D. 2, C.D. 1.

Hse. Com. No. 825, returning S.B. No. 788, S.D. 2, which passed Third Reading in the House of Representatives on April 29, 2008.

Hse. Com. No. 826, returning S.B. No. 2482, S.D. 2, which passed Third Reading in the House of Representatives on April 29, 2008.

At 11:46 a.m., on motion by Senator Ige, seconded by Senator Whalen and carried, the Senate stood in recess subject to the call of the Chair to meet in Joint Session with the House of Representatives in accordance with S.C.R. No. 236 for the purpose of appointing the Auditor, Director of the Legislative Reference Bureau, and the Ombudsman and I further move that the Senate reconvene immediately following the adjournment of the joint session.

#### JOINT SESSION

The Joint Session of the Senate and the House of Representatives of the Twenty-Fourth Legislature of the State of Hawai'i, Regular Session of 2008, was called to order at 12:00 noon, by the Honorable Colleen Hanabusa, President of the Senate.

Senator Hooser moved that Carol Taniguchi be appointed Clerk of the Joint Session, seconded by Representative Caldwell and carried unanimously.

Senate President Colleen Hanabusa assumed the rostrum.

President Hanabusa then announced that the purpose of the Joint Session is to appoint the Auditor for the State of Hawai'i pursuant to Section 10, Article VII of the Hawai'i State Constitution; the Director of the Legislative Reference Bureau pursuant to Section 23G-1, Hawaii Revised Statutes; and the Ombudsman pursuant to Section 96-2, Hawaii Revised Statutes.

Senator Hooser then nominated Marion Higa to the Office of Auditor of the State of Hawai'i, for a term of eight years, commencing July 1, 2008.

Representative Caldwell moved that the nominations for the Office of Auditor of the State of Hawai'i be closed, second by Senator Hemmings and carried.

President Hanabusa then announced that the confirmation of each appointee will be taken up in two separate motions, first by the Senate, then by the House.

Senator Hooser moved that the Senate of the Twenty-Fourth Legislature of the State of Hawai'i confirm the appointment of Marion Higa as Auditor for the State of Hawai'i for a term of eight years commencing July 1, 2008, seconded by Senator Hemmings.

Senator Trimble rose to speak in opposition as follows:

"Madam President, I rise in opposition for this reappointment.

"Colleagues, I think that a reappointment deserves closer attention than an initial appointment. I think that a reappointment deserves a public hearing where the private sector, former employees, current employees can weigh in, where the success and failure of the State Auditor can be evaluated dispassionately, and that there can be a conclusion of that public hearing and recommendations be made to both the House and the Senate.

"Next, I think that before we're asked to vote, we should have been given some kind of criteria on how the Auditor should be evaluated in terms of the Auditor's performance. And finally, we should have been furnished with copies of past job performance ratings or approvals. I'm sure you do this on an annual basis but at least these reviews which are done for every other position in state government should be furnished to the members before we are asked to vote. Thank you."

Senator Hooser rose to speak in support of the nominee and stated:

"Yes, I rise in strong support of the appointment of Marion Higa as State Auditor.

"You know, Marion Higa has a long and illustrious career working in the State Office of the Auditor since 1991. I believe her record speaks for itself. Year after year she has taken extreme care—her and her staff—auditing various programs, accounts, and the performance of agencies. The public year after year has had the opportunity to inspect her work, to comment on her work, and I just believe she's doing a bang up job. And I'm really and truly enthusiastic, and gives me great pleasure to recommend to the members to vote in support."

Senator Trimble rose to speak in rebuttal as follows:

"Madam President, I rise in brief rebuttal.

"I hear different things than the good Senator from Kaua'i. I hear that the audits, the management audits are frequently one-sided—only negatives are provided. I hear that conclusions are rewritten at the final moment and the people making these complaints assume that these conclusions are rewritten right before the audit is furnished to grab headlines, to grab publicity. Next, I hear that there has been extensive personnel turnover in the Office of the Auditor. And so what I originally asked for was what criteria do we have to analyze, to evaluate? Where are the annual performance evaluations? I guess none was done. Without that, how can we decide at the end of eight years whether an appointment is merited or not? And there was no public hearing process where members of the public, past employees were invited to come down and weigh in on the reappointment—the process is flawed."

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

“Madam President, I rise in support of this nominee.

“Madam President, since Marion Higa has been Auditor of the State of Hawai‘i, her office has received numerous accolades from national crediting organizations, from the National Conference of State Legislatures Audit Operation. As a matter of fact, there have been a number of states that have come to observe the procedures and policies that our Office of the Auditor has undertaken because she’s done such an exemplary job. I think, Madam President, the work that she’s done, the outstanding performances that she has and her office has received, her audits have received, are testament to the fact that she’s worth all of the votes that the members of this Body can provide. Thank you, Madam President.”

The motion was put by the Chair and carried.

At this time, Speaker Say assumed the rostrum.

Representative Caldwell moved that the House of Representatives of the Twenty-Fourth Legislature of the State of Hawai‘i confirm the appointment of Marion Higa as Auditor for the State of Hawai‘i for a term of eight years commencing July 1, 2008, seconded by Representative Finnegan.

Representative Caldwell rose to speak in support of the nominee as follows:

“Mr. Speaker, I rise to speak in support of the confirmation of Marion Higa as the State Auditor by the State House of Representatives.

“There’s not a person in this Chamber who isn’t familiar with Marion Higa, and her tenacity, fairness, and passion for accountability. With 37 years—37 years—of service in the Office of the Auditor, she exemplifies everything that that office stands for, Mr. Speaker. She’s a guardian of public trust. She fights for the continuous improvement in government and she’s a standard bearer for excellence. In addition, Mr. Speaker, she is a resident of Manoa, and one of my constituents, and I just hope and pray she never audits me. So I hope you all join and support in confirming Marion Higa again as our Legislative Auditor. Thank you.”

Representative Thielen rose to speak in support with reservations of the nominee as follows:

“Mr. Speaker, I am rising with very serious reservations. I would like to adopt first of all the words of the Senator from Waikiki as if they were my own.” (The Chair so ordered, by reference only.)

“Mr. Speaker, I can’t help but contrast this appointment with the way that appointees from the Governor to head departments of the State are treated by the Senate. They go, first of all, to a Senate committee, where the appointee is thoroughly grilled, where the public has the opportunity to weigh in and present their thoughts on that appointment. Then the person comes before the entire Body of the Senate and there is further debate and discussion with of course the public weighing in to individual Senators on that appointment. On this one, what I’m concerned about is the perception to the public is that this is a rubber stamp vote, and I don’t think it’s in the best interest of government. I think there should have been hearings. I think people should have been able to weigh in. And unfortunately today that’s not the case.”

Representative Ward rose to speak with reservations in support of the nominee and said:

“Mr. Speaker, I rise in support with reservations, slight reservations.

“I think the good Senator from Waikiki has a point about the process. I’m not going to speak to the merits of the individual but the process. The public deserves scrutiny, the public

deserves disclosure, the public deserves a chance to weigh in on the decision. Mr. Speaker, that is absent in the same way that when we reformed in the House the GIA process we were not saying that you gave the money to the wrong people. It’s the process of how we gave out GIAs—a one-man committee. We need more openness, we need more disclosure. And I think that’s the point that needs to be emphasized. So the next time that if she wants to go for another eight years, by then we will have reformed our process and we will be a hundred per cent sure on both sides of the aisle that she is the one for another eight years. Thank you.”

The motion was put by the Chair and carried.

The Speaker, on behalf of the Joint Session, announced that Marion Higa has been appointed and confirmed as the Auditor of the State of Hawai‘i.

At this time, Representative Caldwell introduced Marion Higa’s family and staff.

President Hanabusa returned to the rostrum.

Senator Hooser then nominated Ken Takayama to the Office of Director of the Legislative Reference Bureau of the State of Hawai‘i, for a term of six years commencing July 1, 2008.

Representative Caldwell moved that the nominations for the Office of Director of the Legislative Reference Bureau of the State of Hawai‘i be closed, second by Senator Hemmings and carried.

Senator Fukunaga rose to request remarks in support of the nominee be inserted into the Journal, and the Chair so ordered.<sup>1</sup>

Senator Trimble rose to speak in opposition as follows:

“Madam President, I again rise to speak against the confirmation for the reasons I stated earlier. I don’t want the State Auditor to think that I singled her out for special treatment. I think the process is flawed.

The Chair said:

“Senator Trimble, I’m going to move you slightly out of order at this time.”

Senator Trimble responded:

“I apologize.”

Senator Hooser moved that the Senate of the Twenty-Fourth Legislature of the State of Hawai‘i confirm the appointment of Ken Takayama to the Office of Director of the Legislative Reference Bureau of the State of Hawai‘i, for a term of six years, commencing July 1, 2008, seconded by Senator Hemmings.

Senator Trimble rose to speak in opposition as follows:

“Madam President, I stand in opposition because of the process, because there was no public hearing. The public was not given an opportunity to weigh in. We were not furnished with annual evaluations of performance and we were not told the criteria by which this person should be judged. Thank you.”

Senator Hooser rose to speak in support of the nominee and said:

“I rise in support of the appointment.

“Madam President, I urge my colleagues to support Mr. Takayama. The Legislative Reference Bureau is a nonpartisan legislative service agency. It provides a wide variety of services to legislators and legislative committees. The people that are voting today on this appointment are the people who use these services on a regular basis, and those are the people

<sup>1</sup> Request withdrawn at later date

who really, really need to engage in this issue and that's why we're here today. Mr. Takayama has been employed with the Legislative Reference Bureau since 1979. He's done a solid piece of work with the Bureau and it gives me great pleasure to recommend his approval. Thank you, Madam President."

Senator Hemmings rose to speak in support of the nominee and stated:

"Madam President, I rise to speak in favor of the nomination.

"Madam President, speaking from this side of the aisle it's my pleasure to endorse Ken for this position. It's been my experience that this gentleman serves us with blinders on to political affiliation. He's been extremely fair in dealing with the Minority in the Legislature, which is sometimes not always true in other situations. And for that we are grateful. We, I personally wholeheartedly support his nomination to a second term."

The motion was put by the Chair and carried.

At this time, Speaker Say assumed the rostrum.

Representative Caldwell moved that the House or Representatives of the Twenty-Fourth Legislature of the State of Hawai'i confirm the appointment of Ken Takayama to the Office of Director of the Legislative Reference Bureau of the State of Hawai'i, for a term of six years commencing July 1, 2008, seconded by Representative Finnegan.

Representative Ward rose to speak in support of the nomination, stating:

"I rise in support of Mr. Takayama for his long suffering as Acting Director, and commend him for now being fully, Mr. Director. Thank you, Mr. Speaker."

Representative Caldwell rose to speak in support of the nominee and said:

"Mr. Speaker, I rise to speak in favor of the confirmation of Ken Takayama as Director of the Legislative Reference Bureau.

"Ken has an admirable record, Mr. Speaker, in public service stemming from his early years as a VISTA volunteer with the Legal Aid Society of Hawai'i and his many years in the U.S. Judge Advocate's General Corps. We have all been impressed with the team Ken has assembled over at LRB and managed within the Legislative Reference Bureau. We depend on the Bureau to study and analyze government and to help us construct laws that will make government an even more effective servant of the public. In this regard Ken has exceeded beyond all expectations. We look forward to a continued product of excellence from the LRB under the steady hand of Ken Takayama."

The motion was put by the Chair and carried.

The Speaker, on behalf of the Joint Session, announced that Ken Takayama has been appointed and confirmed as Director of the Legislative Reference Bureau of the State of Hawai'i.

At this time, Representative Caldwell introduced Diane Kishimoto, wife of the newly appointed Director.

President Hanabusa returned to the rostrum.

Senator Hooser then nominated Robin Matsunaga to the Office of the Ombudsman of the State of Hawai'i, for a term of six years commencing July 1, 2008.

Representative Caldwell moved that the nominations for the Office of the Ombudsman of the State of Hawai'i be closed, second by Senator Hemmings and carried.

Senator Hooser moved that the Senate of the Twenty-Fourth Legislature of the State of Hawai'i confirm the appointment of Robin Matsunaga to the Office of the Ombudsman of the State of Hawai'i, for a term of six years, commencing July 1, 2008, seconded by Senator Hemmings.

Senator Trimble rose to speak in opposition as follows:

"Madam President, for the third time today I rise to speak against the appointment for the reasons that I've stated earlier. It's the process. We're not talking about the individual. It's the process that needs to be corrected. Thank you."

Senator Hooser rose to speak in support of the nominee and said:

"I rise in support. It gives me again great pleasure to support another fine individual, Mr. Robin K. Matsunaga, to the Office of the Ombudsman. You know, this office probably is the most underappreciated but no doubt one of the most stressful offices we have around here. And it deals with investigating complaints against government agencies. They take calls from frustrated residents and constituents and do a great job dealing with them, helping them to navigate the bureaucracy and settle their problems.

"Mr. Matsunaga was first appointed in 1998. You know, there's a ten-year record. And again, it gives me great pleasure to offer my support and encourage the members to vote in the affirmative. Thank you."

The motion was put by the Chair and carried.

Speaker Say assumed the rostrum.

Representative Caldwell moved that the House or Representatives of the Twenty-Fourth Legislature of the State of Hawai'i confirm the appointment of Robin Matsunaga to the Office of the Ombudsman of the State of Hawai'i, for a term of six years commencing July 1, 2008, seconded by Representative Finnegan.

Representative Caldwell rose to speak in support of the nominee and stated:

"Mr. Speaker, I rise to speak in favor of the confirmation of Robin Matsunaga as the Ombudsman for the State of Hawai'i.

"Mr. Speaker, this is a role that requires deep knowledge of how state government works and deep understanding of basic problem solving. Robin knows this in spades. He brings those assets with him to work everyday along with his own set of people skills, which help him understand the needs of the public we all serve. It does not hurt Robin's candidacy, Mr. Speaker, that he has served as chief of staff for many years, served as staff for many years in the House of Representatives, both as chief of staff for the Speaker of the House, as a committee clerk for the finance committee, both under Speaker Emeritus Joe Souki, and you can't get better training than working under Speaker Emeritus Joe Souki. We all know that.

"Historically, Robin is the third appointed ombudsman for this office, which was established in 1969 as the first classical ombudsman office in the United States. We all know that Robin will continue to carry on the great tradition of the office and ask all the members of this Body to endorse his appointment. Thank you."

The Chair then stated:

"Representative Souki, would you like to insert written comments in support also? No?"

The motion was put by the Chair and carried.

<sup>1</sup> Request withdrawn at later date

The Speaker, on behalf of the Joint Session, announced that Robin Matsunaga has been appointed and confirmed as the Ombudsman of the State of Hawaii.

At this time, Representative Caldwell introduced Mr. Matsunaga's family.

At 12:24 p.m., the Speak declared the Joint Session of the Senate and the House of Representatives adjourned.

#### RECONVENED SESSION

The Senate reconvened at 12:49 p.m.

#### ORDER OF THE DAY

#### ADVISE AND CONSENT

Stand. Com. Rep. No. 3687 (Gov. Msg. Nos. 371, 372, 522 and 523):

Senator Ige moved that Stand. Com. Rep. No. 3687 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Statewide Health Coordinating Council of the following:

TERRI FUJII, term to expire June 30, 2012 (Gov. Msg. No. 371);

KEITH ALAN LEE, term to expire June 30, 2012 (Gov. Msg. No. 372);

S. PETER KIM MD, PHD, MBA, term to expire June 30, 2012 (Gov. Msg. No. 522); and

KEN M. SHIMONISHI, term to expire June 30, 2012 (Gov. Msg. No. 523),

seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3688 (Gov. Msg. No. 379):

Senator Ige moved that Stand. Com. Rep. No. 3688 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of DAVID J.W. CHANG to the Health Planning Council, West Oahu Subarea, term to expire June 30, 2012, seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3689 (Gov. Msg. No. 451):

Senator Ige moved that Stand. Com. Rep. No. 3689 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of DANIEL E. RICK RPT to the Hawai'i Health Systems Corporation West Hawai'i Regional Board, term to expire June 30, 2009, seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3690 (Gov. Msg. No. 380):

Senator Ige moved that Stand. Com. Rep. No. 3690 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Ige then moved that the Senate advise and consent to the nomination of CHRISTOPHER P. SIBLEY to the Health Planning Council, Windward Oahu Subarea, term to expire June 30, 2012, seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3691 (Gov. Msg. Nos. 396, 397 and 450):

Senator Ige moved that Stand. Com. Rep. No. 3691 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Ige then moved that the Senate advise and consent to the nominations to the Hawai'i Health Systems Corporation East Hawai'i Regional Board of the following:

SUSAN B. HUNT, term to expire June 30, 2010 (Gov. Msg. No. 396);

CAROL ANN VANCAMP, term to expire June 30, 2010 (Gov. Msg. No. 397); and

GENEVIEVE A. KINNEY PHD, term to expire June 30, 2009 (Gov. Msg. No. 450),

seconded by Senator Fukunaga.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3692 (Gov. Msg. No. 402):

Senator Taniguchi moved that Stand. Com. Rep. No. 3692 be received and placed on file, seconded by Senator Hee and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nomination of LESLIE ALAN UEOKA to the Civil Rights Commission, term to expire June 30, 2012, seconded by Senator Hee.

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

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

Ayes, 25. Ayes with Reservations, 1 (Kokubun). Noes, none.

Stand. Com. Rep. No. 3693 (Gov. Msg. No. 614):

Senator Gabbard moved that Stand. Com. Rep. No. 3693 be received and placed on file, seconded by Senator Nishihara and carried.

Senator Gabbard then moved that the Senate advise and consent to the nomination of FRANK ALBERT LAVOIE to the Civil Rights Commission, term to expire June 30, 2011, seconded by Senator Nishihara.

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

"Madam President, I rise in support of the Governor's nominee [Gov. Msg.] No. 614.

“We had a very interesting hearing in the Judiciary about this nominee and about his abilities and experience to be on the Civil Rights Commission. And I was a little troubled, Madam President, that the opposition to this nominee came from individuals who did not appear at the hearing and their testimony was exactly the same for actually three people that they objected to. The only thing that was changed were the names there.

“The nominee was there to answer questions and in fact did answer many questions, all questions. The question, issue that came up in the committee was whether or not he met the qualifications of the state requirements to be on the Civil Rights Commission. As was pointed out by his background, this nominee in fact is fully qualified, has had an extensive background and internationally involved with civil rights issues. He was in the Peace Corps. He served with a contingent of United Nations. He has been an employee all of his life until just recently when he and his family opened an ethnic Armenian restaurant in downtown Honolulu, that many of my colleagues are familiar with. He was elected to the Downtown Neighborhood Board, where he comes in contact with all kinds of issues and all kinds of individuals.

“He was very forthright in his description of what he was doing and what his background was, and importantly his passionate interest to be on the Civil Rights Commission at a time when we have seen that the Commission basically was hamstrung and paralyzed for the last year and a half because there was one vacancy and one of the commissioners was serving in Iraq. So the call went out for people to be involved, and for people to volunteer, and Mr. Lavoie did that. He also had been attending hearings in the Judiciary Committee. He was involved with the issues. He was very up to date on the issues of the Civil Rights Commission itself. So how can anybody be opposed to him?

“Well, it was interesting as I say other than the testimony that was all exactly the same from the same people for three different nominees, two of which we just got finished approving a few minutes ago. He is not an attorney. And one of the knocks was that the majority of people on the Commission were attorneys. He’s a small business owner. There was also a complaint that too many members of the Civil Rights Commission represent employers. As I said, Mr. Lavoie was very specific in talking about his many, many, many years as an employee and understanding those issues. He graduated from the Senate harassment and civil rights requirements. He also did so in a private business as an employee. He brings together a lot of past experiences. And most importantly he is independent, he has no agenda, he is a small business person now, he has no legal background, but he has a background which he demonstrated to questions on these very issues.

“So it’s interesting to me that the other criticism—and I thought I was hearing things, Madam Chair—the criticism was, ‘Well, I wouldn’t vote against you but I have to because you’re not a woman.’ That was heard in the committee. ‘I would prefer if you were a person of another race.’ ‘We think that you don’t adequately represent the homosexual and lesbian and transgender communities.’ Madam President, we’re talking about civil rights and civil rights applies to all people, all residents. And it also applies, when you’re talking about background and experience and knowledge, not just to our little town, our little community here. We have here an opportunity to approve someone who has got an international background. But more importantly, answered all of the questions about all of these issues and more, and still wants to serve his community as he has been doing in other capacities.

“So I would urge my colleagues to look at their conscience—and particularly those of us who were in that committee that heard the discussions and met this young man—especially after

we have just, as I say, approved one of the nominees who had no testimony in support, and his particular claim to fame was he was of a particular ethnic group and grew up and thought that he had been prejudiced against. I don’t think that’s good enough for enough the Civil Rights Commission. I think the Civil Rights Commission is really important. I think we need to make decisions and move on. But we need a balanced Civil Rights Commission of individuals, regardless of gender, sex, ethnicity, that have the ability to think and act honestly. And in Frank Lavoie we have that individual. I would urge, I would urge my colleagues to approve his nomination. Thank you.”

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

“Madam President, I rise to speak in opposition to Gov. Msg. No. 614.

“Madam President, the Civil Rights Commission is charged with the important task of enforcing state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. Those servants who serve on the Commission should be seriously considered based upon their knowledge and experience on civil rights matters.

“Mr. Lavoie is a very nice person. He’s a small business owner who runs a small restaurant that employs his wife and himself, primarily, and I believe his mother-in-law. He also indicated that he once worked in the Peace Corps assigned to Armenia. He’s currently working part-time for the good Senator from Hawai’i Kai. I’m sure Mr. Lavoie is highly regarded in the community. However, I must remind members that state law imposes requirements on who may serve on the Civil Rights Commission. Section 368-2 subsection A, HRS, states in part, ‘the commission shall be selected on the basis of their knowledge and experience in civil rights matters and on the basis of a demonstrated commitment to the preservation of civil rights of all individuals.’

“Despite Mr. Lavoie’s oral testimony that he has seen human rights violations while in Armenia, I do not think this is the type of experience that satisfies the requirements of our state law. As a small business owner, Mr. Lavoie has limited knowledge of employment issues. Because the only employees are his family, it is unlikely he has to deal with employment discrimination issues. Again the statute is very specific. It requires knowledge and experience in civil rights matters.

“For these reasons I urge my fellow Senators to consider the requirements imposed by our civil rights laws and vote against this Governor’s Message. Thank you.”

Senator Slom rose in rebuttal and said:

“Madam President, a brief rebuttal on some of the remarks that were just made.

“The nominee’s had more than a ten-year commitment of continued work on civil rights in the United States and elsewhere as he testified to. He served in the Peace Corps for two years, giving him an opportunity to work with different peoples from around the world and different issues. He served one year with the United Nations international organization of migration dealing with refugee rights. His wife is an immigrant. He has experienced firsthand martial law. Unlike what the good Judiciary Chairman said that he’s a small businessman and has limited knowledge of the issues because his family works for him, let me remind you again as I said and as he said, he has been an employee all of his life. He has seen directly from an employee’s standpoint what these issues are. And anyone that thinks that a small business person does not have the knowledge because only he may have only his family working, is not very familiar with small business issues.



“I don’t care that some people think he is a nice guy because he is a nice guy. That’s not what we’re talking about today. We’re talking about qualifications and responsibilities. As I read the Hawai‘i Revised Statutes, as I read the requirements, Mr. Lavoie not only meets but exceeds these requirements. And again, of the nominees for the Civil Rights Commission, he was the one that came and answered very difficult, very leading, very detailed questions. And at the end of that time I don’t think anyone can honestly say that he was not knowledgeable, experienced, impassioned, or that he could do a good job. And basically, that’s the bottom line of all of this, on any qualifications for any nominee. Do you have confidence in the fact that this individual no matter who he or she is, no matter what the rest of their background is, can they do a good job, particularly for something—we’re not talking about a cabinet level position, we’re not talking about a judiciary nomination, we’re not talking about somebody where maybe even the size of the salary is a lure. This is not the case for the people that serve on the Civil Rights Commission, and specifically and particularly Mr. Lavoie. So I would urge my colleagues to re-think their position on this and again to do the right thing in terms of if you want to broaden the aspects of the Civil Rights Commission.

“I must also say in closing, Madam Chair, the criticism was really difficult, particularly to hear about race, color, creed, and sex, and one more thing. All of the opponents, without exception, all of them mentioned that they were really upset because the Governor did not reappoint a woman who had served on the Civil Rights Commission. That’s not Frank Lavoie’s fault. He should not be held accountable for that. He should be judged on the merits of his qualifications. He had more than fifteen individuals—some very prominent individual in this community—that came, that sent testimony in his support. And what this Body does if they turn him down, they are disregarding those opinions and the opinions of people that actually know him. Not one of the critics, not one of them, had said that they had ever met him, ever talked to him, ever discussed issues with him. They had the same blanket opposition to all of the nominees and yet we just passed and approved two of them before this. Please, colleagues, think about this nomination. Thank you.”

Senator Slom rose and said:

“Madam President, may we have a Roll Call vote.”

The Chair so ordered.

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, 9. Noes, 16 (Baker, English, Espero, Fukunaga, Hanabusa, Hee, Hooser, Ige, Ihara, Kim, Kokubun, Menor, Sakamoto, Taniguchi, Tokuda, Tsutsui).

Stand. Com. Rep. No. 3694 (Gov. Msg. No. 615):

Senator Taniguchi moved that Stand. Com. Rep. No. 3694 be received and placed on file, seconded by Senator Hee and carried.

Senator Taniguchi then moved that the Senate advise and consent to the nomination of JONATHAN LUIS ORTIZ to the Civil Rights Commission, term to expire June 30, 2012, seconded by Senator Hee.

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

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

Ayes, 25. Ayes with Reservations, 1 (Kokubun). Noes, none.

Stand. Com. Rep. No. 3695 (Jud. Com. No. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 3695 be received and placed on file, seconded by Senator Hee and carried.

Senator Taniguchi then moved that the Senate consent to the nomination of ANTHONY K. BARTHOLOMEW to the office of Judge, District Court of the Third Circuit, for a term of six years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Hee.

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

Madam President, I rise to speak in support of the nomination.

“Anthony Bartholomew received overwhelming testimony in support of his nomination to the district court on the Big Island. He also received high praises from noted Honolulu attorneys about his legal work and his integrity. Everyone testified that he will serve with good judicial temperament. I commend the Hawai‘i State Bar Association for its prompt response under short notice to fully interview and assess Mr. Bartholomew’s experience and integrity to serve as a judge. They completed their evaluation just prior to our Committee hearing. At the hearing they testified that Mr. Bartholomew was found to be qualified for the position. For these reasons I urge my colleagues to support the consent of Anthony Bartholomew to the seat of the District Court Judge of the Third Circuit.”

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

Ayes, 25. Noes, none.

At this time, Senator Taniguchi introduced Judge Bartholomew and his wife and family to the members of the Senate.

At 1:07 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:11 p.m.

Stand. Com. Rep. No. 3696 (Gov. Msg. Nos. 607, 657 and 658):

Senator Sakamoto moved that Stand. Com. Rep. No. 3696 be received and placed on file, seconded by Senator Tokuda and carried.

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

ARTEMIO C. BAXA to the Board of Regents of the University of Hawai‘i, term to expire June 30, 2013 (Gov. Msg. No. 607);

HOWARD H. KARR to the Board of Regents of the University of Hawai‘i, term to expire June 30, 2011 (Gov. Msg. No. 657); and

DENNIS I. HIROTA PHD, PE, LPLS to the Board of Regents of the University of Hawai‘i, term to expire June 30, 2012 (Gov. Msg. No. 658),

seconded by Senator Tokuda.

Senator Baker rose to request remarks inserted into the Journal as follows:

“Madam President, may I insert remarks in support of Gov. Msg. No. 607, Stand. Com. Rep. No. 3696.”

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

“I rise in support of the nomination of Artemio Baxa to the University of Hawai‘i Board of Regents. This former Second Circuit judge is eminently qualified for the position based on his credentials, his integrity and his compassion for the ohana of Hawai‘i.

“Born and raised in a small farming village in Teppang, Bacarra, and Ilocos Norte, Philippines, Judge Baxa immigrated to Hawai‘i in 1967. He is the first naturalized American of Filipino ancestry to become a judge of the 2<sup>nd</sup> Circuit Court, State of Hawai‘i. He studied pre-law at the University of Santo Tomas and later obtained his Bachelor of Law Degree in 1960 from the Ateneo de Manila Law School. Later in the United States, he obtained a Master’s degree in Comparative Law from the University of Chicago in 1964, and subsequently went on to get a second law degree from the University of Hawai‘i in 1978.

“In 1967 when Judge Baxa and his brother Arnold joined their father in Hawai‘i they faced much adversity. Even though Artemio had a law degree, he could not find a job commensurate to his educational background. Like many enterprising immigrants before him, he started out doing whatever he could to succeed in his new adopted homeland. His faith in the possibilities offered by America allowed him to see his present employment situation in Hawai‘i as only a temporary setback. Judge Baxa is an inspiration to Hawai‘i’s youth, especially new immigrants.

“His law career in Hawai‘i began in the County of Maui – Department of Human Concerns, Corporation Counsel and Prosecuting Attorney. Prior to being appointed the bench he served as a per diem judge and continued his studies in planning at the University of Hawai‘i. He is a man who believes in the importance of education and has exhibited his commitment to education as a life-long learner.

“Judge Baxa is eminently suited to be a UH Regent as he strongly believes that education is the greatest equalizer in life, especially for immigrants. Because he is a man who started over from scratch he is in a unique position to see what educational opportunities are needed for those new immigrants whose first concern is getting a job and only thereafter higher education for themselves and their children.

“Judge Baxa is truly a man for all seasons and I can think of no one better qualified to serve our great institution of higher learning, the University of Hawai‘i. He understands the importance of higher education to the next generation of Hawai‘i’s citizens. He will add insight, integrity and depth to the Board of Regents. Therefore I am proud to support the nomination of retired Judge Artemio Baxa and recommend his confirmation by the Senate of the State of Hawai‘i.”

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3697 (Gov. Msg. No. 609):

Senator Sakamoto moved that the Senate not advise and consent to the nomination of CATHERINE Y. LAGARETA to the Board of Regents of the University of Hawai‘i, term to expire June 30, 2013, seconded by Senator Tokuda.

At this time, the President made the following announcement:

“Members, pursuant to Senate Rule 37(3), the final question on nominations made by the Governor which require the advice

and consent of the Senate must be stated in the affirmative. Therefore, those casting Aye votes are voting to confirm, and those casting No votes are voting to reject the nomination.

“The recommendation of the Committee on Education on Gov. Msg. No. 609 is that the Senate not advise and consent to the nomination of Catherine Y. Lagareta to the Board of Regents of the University of Hawaii. Therefore, the Chair will first entertain a motion to file Stand. Com. Rep. No. 3697, then we will move on to the final vote on this matter.”

Senator Ige moved that Stand. Com. Rep. No. 3697 be received and placed on file, seconded by Senator Whalen and carried.

Pursuant to Senate Rule 37(3), Senator Ige moved that the Senate advise and consent to the nomination of CATHERINE Y. LAGARETA to the Board of Regents of the University of Hawai‘i, term to expire June 30, 2013, seconded by Senator Whalen.

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

“Madam President, colleagues, I rise to speak in favor of the nominee.

“I’m quite surprised about the committee recommendation in some ways, but not in others, because if we were an objective Body making an objective decision based on the qualifications and the performance of the nominee and most importantly making a decision on what would serve the interest of the University and therefore this community and the State of Hawai‘i, surely the recommendation would have been to advise and consent with our unanimous support here on the Floor of the Senate. I suspect there are other motives in play here, rather than qualifications and doing what is right, fair and just.

“In looking at the nominee we have to judge her by her performance. And one of the criterion that should be used in any performance is peer review. Kitty Lagareta was elected four times by her peers to executive positions on the Board of Regents—twice as chairman and twice as vice chairman. It’s important to note the first time she was elected she was elected by regents predominantly appointed by Governor Ben Cayetano, which says or should say to all of us that she does have bipartisan support and that she does not let petty partisanship interfere with the conduct of the business of the University of Hawai‘i or what’s best for it. When she took office at the Board of Regents, the University of Hawai‘i was under threat of losing accreditation in most of its colleges. They were on warning status, now they are not—a dramatic turnaround. The University, I would say, in my tenure here in the Senate and as a citizen of the State of Hawai‘i, is at its zenith under the leadership of this Board of Regents and with the partial stewardship of Kitty Lagareta. Their achievements in many areas are first. The school of business not only has great financial support from a private sector donor, but it also is nationally accredited. Their school of law has been recognized. The school of medicine is recognized as one of the better ones in the country. This university is getting the job done for our future and our children, and it’s no accident that it’s happening. It’s happening because of the balance and the objectivity and the fine work of the Board of Regents of which Kitty Lagareta has served and been a leader of.

“I’ve heard some criticism that they didn’t mind that she led the charge to fire Evan Dobbelle, but they just didn’t like the way she did it—and that argument is specious and without foundation as a criterion for the vote today. We know for a fact that the good Senator from Moanalua produced a tremendous white paper that showed that Evan Dobbelle as a shyster of the worst sorts. God bless Kitty Lagareta and the other regents who had the courage to do what was best for the University of

Hawai'i. And my opinion aside, the evidence speaks louder than anyone's words.

"This nominee is eminently qualified. This nominee has demonstrated the highest caliber performance in her duties as a regent. And putting aside politics, there's no doubt in my mind she would have unanimous support of this Body. I'm urging my colleagues in considering this vote to not vote politically. For a change let's vote on this particular situation based on merit and what's good for the people we serve. Thank you, Madam President."

Senator Sakamoto rose to speak in opposition as follows:

"Madam President, I rise against the motion.

"Madam President, I think if we look at what the role of the regents is and the regents oversee, appoint, and perhaps, dismiss presidents. The president and regents are above the chancellors and everything else. If we look at issues objectively, as the previous speaker said, and we look at the evidence and judge by performance versus is the person a nice person, has the person done this or that, there are many different parts of the picture that we can look at.

"The regent chaired the Board of Regents from September '03, vice chaired from September '03 through July '05, and from August '05 chaired until September '07. And certainly in her own words, the vice chair and the chair met with the President McClain pretty much weekly. So for her it's clear that she was involved in weekly—and I don't know if it's daily—but certainly issues that came before the University and before the public. She's the only regent that's up for reappointment. Some people say well, why her? Well, she's up for reappointment. Let's judge on the record. And I'll go through some of the issues and certainly there are many issues, but as the previous speaker brought up, the process or the ouster of President Dobelle. So this isn't for or against Dobelle. But this is sort of the process. And we can all remember. Those who don't remember, the newspaper and the media talked about the unceremonious process. So the question is whose role was that? That was the regents' process. There should have been a better process. To say no question, the regents were responsible and to me that's a piece of evidence that in that process a better job should have been done. And that's just one piece.

"Immediately following or in that process, the regents voted on a presidential search. They came up with regents to co-chair and to be on a committee to look at the presidential search, which the public and the university community agreed to do that. Interim President McClain was there and perhaps could have been one of the candidates, but then the regents appointed President McClain without the search, foregoing the nationwide search. And this again is not for or against President McClain, but is this the process that we would like, that the community would like to have in regard to the president of the University? People have questioned the process and the regents at the time Vice Chair Lagareta.

"There are issues relating to audit findings: 'Audit slams UH', 'UH condemns audit', the reports contract problems and show lack of accountability. What role did the regents play? It seemed as though the University was just rejecting and criticizing the findings. Perhaps some of the findings may not have been correct, but for several years—not just one—several years, instead of saying we will effectively respond, it seemed like the regents were making excuses and saying, poohooing audits. 'Open records'. 'Regents cited for secrecy'. 'Regents conceal budget papers'. 'Regents violated open records by concealing documents'. 'UH wants to keep certain settlements secret'. There was a bill that this Body passed relating to salaries because of the lack of openness in the regents' process. Now that's not the chancellor or the president; this is the

regents. So the issue about openness in salaries in addition to other secrets doesn't bode well for open government and transparency. As it relates to salaries, again not related to Coach Mack, when questioned about the \$1.1 million compensation salary or package, Ms. Lagareta said oh, that was delegated down, down to a level below the regents. So I think I myself and I believe many of you should question well, what role do the regents play when you're authorizing or okaying a salary of that magnitude. Now was that proper delegation—delegating that down? I think that raises serious questions of how effective the regents were.

\*\*"A further issue that we articulated on this Floor, the issue Colt Brennan brought up. Some of you were in the hearings when subsequent to that, when Frazier was A.D., people from University came forward, articulating this and that. And that wasn't a good thing, but it raised the flag. It raised it pretty high because the whole state was saying so what's up? I don't know what the regents were thinking, but subsequently the fallout with Frazier, slow to act on all of these existing issues, Coach Jones leaving, perhaps if the regents had acted, and the University had acted, perhaps Jones would still be here. That's here nor there at this point.

"But the library's leaking, college of ed building burned down, Edmonson closed, \$357 million, the new backlog, the plan for using facilities with the public-private partnership for east Hawai'i, west Hawai'i. At a regent's meeting back on the Big Island—some of us were there—the articulation at first was no money from one side to the other side. But a councilmember from the district and many others then said let's go together. This regent said they'll gather all of the regents and let's go push for the release of funding—years and months have gone by and perhaps now something started. But that's not the action we hoped from the regents.

"The candidate advisory committee that this Body floated to go to the voters, the candidate or the nominee had said she had the backing of the regents to go forth and advocate against. In our first hearing, that's what she said. Then we reviewed the record of the Board of Regents looking for a vote of the regents saying they oppose that and go forth and articulate against. The second time she came up, when I raised the issue in fairness saying we didn't find anything, she hands me the minutes of the October 19, 2006 minutes and she says here's the proof. And then it says at the end of it, the motion was unanimously approved. But upon reading it, Madam President and colleagues, this was approving that when it says Chairman Lagareta added that she heard that the same enabling legislation had passed and was vetoed and will be resubmitted if this amendment passes that the enabling legislation, etc. So this motion was to work on the enabling legislation. The board didn't vote, or at least it's not on any record, that she should go and advocate against the amendment to let the people vote to take politics out of the process and to improve the process. Then she backpedaled and said in committee, well, the AGB this, the AGB that, but it's inconsistencies like that raise concerns to me, and I hope it raises concerns to everyone.

"I asked her about the regents' election process currently. She said she had no input. That may be so, but I would wonder why her being an advocate for the University, involved with the regents, vice chair then chair, with these 22 nominees coming down, well, not all have come down. Questionable. And the issue of when she was chair, the vice chair many times becomes the next chair. Some people have told me that she used some pressure or some whatever to, to maneuver the current chair to be chair and the vice chair to sort of be moved off. And perhaps that, there are good reasons but that's not clear and some people felt that process wasn't right.

"Then again, back to the regents' selection. If indeed the regents, including the nominee, were doing an excellent job,

then I would question, and we all should question, what happened to the other regents? Why aren't they re-nominated if indeed we are at the zenith? And if we're at the zenith, compared to Pike's Peak, we're on a little Boot Hill. We have far, far, far higher roads to go before we can say our university is excellent in all regards. And I believe we should continue to work to that.

"Also in an open meeting, this nominee called for the body of regents to rebuke the Legislature. And I'm using the word rebuke, condemn, whatever the word is, and they may have been unhappy with some of the things that occurred here. But in the articulation on her first nomination to the Regent's, she said we will work together with you, we will reach out, we'll do all what we can. But to come in an open meeting and call for a rebuke of the Legislature as well as a rebuke of a certain Senator, that doesn't bode well for a regent. They can say things in private, even can get mad. But in open regents' meeting, I don't think we would like that to be the case.

"Issues like education, nursing, we all know there are major issues. In the questionnaire upon initial confirmation, yes, by all means, education, public schools, teachers, but as we all know here, we in this Body need to augment if anything was added, it's this Body that pushes these issues of statewide concern, continued concerns of graduation rate. Much to do. And I can go on. There are many issues, but I believe I have articulated enough issues for each of you, and for all of us to understand why there are certainly concerns. To me, all of this put together lead me, and I hope each of you, to feel that this nominee is not qualified to be reappointed.

"Open meetings and shared governance. She talked about shared governance and said that the Board of Regents has the ultimate responsibility to provide strong oversight and that making sure that everything is operating as it should. Facilities, salaries, and openness—it's not operating as it should. And yes, there's a lot of room for improvement and all of these concerns raised. The bottom line—should the Board of Regents be run by the chair, the vice chair, and Mr. President making decisions? Or should there be more openness, more transparency, participation of the whole board, the full Board of Regents? We need to do better so with all of those points, and again there are more, but I'll stop there. Thank you very much. And I ask my colleagues to vote 'no.'"

Senator Sakamoto rose to request information inserted into the Journal as follows:

"I'd like to ask for insertion in the Journal on Gov. Msg. No. 609 some of the newspaper and other articles that were referenced in the committee report and in my speech and as well as S.B. No. 3252 additional remarks that was regarding the teachers."

The Chair having so ordered, the newspaper and other articles are identified as "ATTACHMENT A" to the Journal of this day.

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

"Madam President, in the name of bipartisanship I'm happy to rise and speak in favor of the nomination.

"Colleagues, I'm glad that politics is not entering into the consideration today. I'm glad that we treat the Governor's reappointment the same way—oh I'm sorry, we don't treat it the same way—as legislative branches. But the question is really simple. Is the University of Hawai'i better today than it was four or five years ago? I think that unequivocally you can answer yes. I admit that Kitty Lagareta is a person that has, is a mover and a shaker, is willing to express strong opinions. But I think that that makes the Board of Regents and the University

of Hawai'i stronger. So if you can answer that the University of Hawai'i is better today than it was four or five years ago, unlike that of the Board of Education, which we don't confirm, then I think we should confirm Kitty Lagareta for another term. Thank you."

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

"Madam President, I rise in strong support of this nomination.

"As a member of the Senate Education Committee, who attended every minute of the multiple hearings on the nominee, as a proud graduate and alumnus of the University of Hawai'i, I support Ms. Lagareta's reconfirmation. Even though as I've said before the committee and publicly, I have issues with the regents as a whole and with individual regents, things that they have done, but I don't think anyone has worked harder or more diligently than the nominee to support the University of Hawai'i privately and publicly, and financially. I don't think anyone can question the nominee's either integrity or her reasons for supporting and wishing to serve again on the Board of Regents. Now I do admire and respect the Chairman of the Senate Education Committee. I've never seen anybody with so many file folders of news clippings in my life. There's only one problem. That every clipping that he read—and he read more in committee—every clipping that he read said 'the regents did' or 'the regents didn't', which first of all is open to opinion. But secondly, I didn't hear one clipping that said 'Lagareta did not', 'Lagareta did these things'. So let's just examine a couple of them in more detail.

"First of all, open discussion and transparency. No one has been more open than Kitty Lagareta. That's why we're criticizing her today. We know exactly where she stands and we know that she allowed and encouraged her critics on various issues that were brought up—President Dobelle's firing, UARC, money, rehabilitation, West Oahu campus, all of these issues. Everybody had more than a brief opportunity to speak up and certainly Ms. Lagareta spoke up. Now I know there may be some people in this day and age in 2008, I know it seems difficult to believe, but some people may still feel that a woman's place is to keep her place. And she can say things privately or quietly or insert them in the Journal, but for god's sakes don't say them publicly. Don't say them at regents meetings. Don't say them in the community. And whatever you do, don't criticize this Legislature because we are all powerful, all omnipotent. Look at the things that we have done—well, no, don't do that because then Senator would have many more file folders of clippings. Let's look at some of these issues, however.

"As I said in the hearing the other day, I criticize the regents too for President Dobelle. I would have fired his sorry behind out of here as quickly as we could. But luckily at least they took action—it wasn't pretty but they took action—to stop him from looting more of the state treasury and lying to those of us in the Legislature, as he did on many occasions. They stood up and they did it. But the nominee didn't do these things alone, she didn't act in a vacuum, she didn't usurp power. At one time she was vice chairman; at one time she was chairman—the rest of the time she was a member of the Board of Regents, and it was the Board of Regents that acted. And if you have criticisms with them, as I do, then it's the Board of Regents. But to single this nominee out is really interesting. I think we're giving her a tremendous amount of power—more power than she deserves, and certainly more power than she exercised. And that's why none of those clippings complain about what Ms. Lagareta did. They talk about the regents. And it's not a question of passing blame. It's not a question of saying well this is the hierarchy and this is a regent issue and this is an administration issue and

this is something else. It's being realistic about how the process and how the system works.

"Five years ago, I doubt that very many people in this community, and even in this Legislature, could name more than two people on the Board of Regents. The Board of Regents and the issue and changes in the selection process have become a major issue for debate in this Legislature. And in fact we have made changes. But Senator Trimble's question about whether or not we are better off now than we were five years ago, despite Colt Brennan and the soap in the locker rooms, despite the backlog of rehabilitation for the University, which by the way she and the other regents inherited, they haven't solved the problem to my liking and at my speed, but it's nothing that they created. And as far as the openness of meetings, as I said earlier, everyone had an opportunity to speak, to criticize, to demonstrate, and they did. Part of the criticism against this nominee focuses on the selection of David McClain as permanent President of the University. Why didn't we do this and why didn't we do that? Well, as Ms. Lagareta said in the hearing the other day, in fact she did and they did. They went to some of the top headhunters locally and nationally and they were told, hey, you've got the best guy right now. Why spend the time which throws the University in more chaos, particularly when some of these departments as Senator Hemmings had mentioned were already under serious review and scrutiny? Why disrupt the University when you've got somebody here? And the press clippings that the good Senator, head of the Education Committee, didn't seem to have in his files, were the laudatory press for President McClain and what he's accomplished since being named President of the University of Hawai'i. Well, if you don't like him, or you don't like the process, that's one thing. But it stands in the face of the facts of what in fact has been accomplished.

"Kitty Lagareta herself has gained national publicity. In fact it was WASC that chose her to join a team advising the University of California System. And the Western Association of Schools and Colleges, WASC, seemed to think highly not only of her as an individual but what she and the regents had done together. Now we all have complaints about the University and about governance, but why are we picking on one individual and placing all of the responsibility and all of the blame on that individual, particularly some of the items that were brought up by the good Senator, Chairman of the Education Committee, that really amounts to cheap hearsay about how certain decisions were made. We know the decisions because they were open and they were reported in the minutes. And to say, well, maybe that's the way it happened and maybe it didn't happen that way, that doesn't do service to any regent or to the University of Hawai'i. We have just recently approved some new regents—and I'm enthusiastic about that. I think that these new regents are going to be great. And I think they listened to us and they heard our criticisms and I hope that we will hold all of their feet to the fire. But with Ms. Lagareta we have continuity and we have somebody who is a fighter—a fighter for the University, someone who is unabashedly pro-development for the University, and I mean development in the academic sense and the financial sense. And she's gone out on a limb, taking some unpopular positions. By the way, the UARC situation, the UARC situation was a decision by the regents and by the administration. Some people still don't like it no matter what, and they would never like it no matter what was done. I had to laugh when I heard the Senate Chairman the other day in committee worry about June Jones—if only Kitty Lagareta would have said or done something, we'd still have June Jones here. Well, good news. We got the \$400,008 debt that he stiffed the University and the taxpayers in the state—we have that in remembrance of June Jones. How are you going to blame her? How are you going to fix responsibility to that nominee for the debacle with June Jones?

Dobelle, Herman Frazier, another individual that was selected not by Kitty Lagareta but by the regents and the Administration. I think Mr. Dobelle had something to do with that—a man that was totally unqualified, who had a checkered past and a poor financial record, and yet he was put on the payroll. And we saw what he did, what he did to this university.

"So I'm all for fixing responsibility and accountability. It's just like if somebody gets up in the Senate or in the community and happens to be a member of the Senate. Do we then blame the entire Senate? Do we blame that individual? It depends on what the issue is and what the responsibility and accountability is. And I stand here to tell you that Ms. Lagareta has accepted the responsibility of leadership. It's not easy and it's not rewarding. And you're always going to say something that's going to make somebody uncomfortable or unhappy. But that's what a leader does. A leader doesn't take his or her finger and put it in the air to find out which way the wind is blowing or what the most popular political poll is. They use their best judgment. And sometimes they're wrong, and we criticize them for that. But do we not reconfirm them on that basis? Was there anything that was mentioned previously that was serious enough to have you say I don't want to support her renomination? I don't think so. I didn't hear anything. Open records? Debate on confidentiality—there were problems with that. The news media picked it up. I supported that because I support total openness, whether we're talking about personnel matters or we're talking about the property or anything else. But again, no one said, oh, yeah, it was that Kitty Lagareta. She had so much power, and she had influence on all of these other community leaders, that she was able to get her way and get her will. And when all is said and done, that's what it's really about. That's what we're talking about.

"There have been questions as to role of the regents. And I think they are legitimate questions that we should help answer. And as I say, I am positive with the influx of the new regents that we're going to make some of these changes. And again I heard at the beginning of the conversation that Ms. Lagareta is a nice person. And I will repeat what I repeated on the nominee for the Civil Rights Commission. I don't particularly care whether the person is a nice person. I want to make sure that that person is qualified. I want to look at their record, their experience, their background, the decisions that they have made. And if you do that, and you look at Ms Lagareta, and you'll find out that those decisions and those positions were made honestly and openly and if you disagree with them individually, that's fine. But don't take her to task for everything that either the President, the executive officers of the University, or the Board of Regents, or the professors or anyone else has done.

"Finally, let me say that we look at a person in their entirety and we give them scrutiny except as Senator Trimble said if they're legislative appointees and that's different—we don't have to do that, don't need a hearing, don't need to have testimony or anything else. By all means be scrutinizing every nominee, from every vantage point. By all means as the Senate Education Chairman said, if you have concerns, voice those concerns. But ask yourself do those concerns rise to the level of saying no, we're going to erase the five years of the contributions of this woman, and five years of the changes that we've had in the University of Hawai'i. As a proud alumnus, I say reconfirm Kitty Lagareta. Thank you."

Senator Hooser rose to speak in opposition as follows:

"I rise in opposition to the nomination, and I'll keep my remarks very, very brief, Madam President.

"Also as a proud graduate of the University of Hawai'i and someone who hopes that my children will one day be graduates of the University of Hawai'i, you know, I hope and plan and am

committed to working for the positive future for the University. And I think that—I'm not going to repeat all the remarks by the Chair of the Education Committee—I think it's really clear and obvious that he has done his homework. He's laid out many, many questions and concerns that aren't being addressed. And I believe that no one in this room in my opinion is more familiar with the issues, challenges, and history facing the University of Hawai'i than the Chair of the Education Committee. And also in my opinion I think there's no one here who cares more about that future and no one more committed to building and supporting a positive future for the University. And because of the reasons and because I'm convinced of the work that he's done, I would like the remarks of the Chair of the Education Committee be inserted in the Journal as if they were my own. (The Chair so ordered, by reference only). Thank you, Madam President."

Senator Trimble rose and said:

"Madam President, may we have a Roll Call vote."

The Chair so ordered.

Senators Ihara, Menor, Taniguchi, and Tokuda requested their votes be cast "aye, with reservations," and the Chair so ordered.

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, 9. Ayes with Reservations, 4 (Ihara, Menor, Taniguchi, Tokuda). Noes, 16 (Baker, Bunda, English, Espero, Fukunaga, Gabbard, Hanabusa, Hee, Hooser, Ige, Inouye, Kim, Kokubun, Nishihara, Sakamoto, Tsutsui).

At 1:49 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:35 p.m.

#### **ADOPTION OF RESOLUTIONS**

##### **MATTERS DEFERRED FROM TUESDAY, APRIL 29, 2008**

Stand. Com. Rep. No. 3683 (S.R. No. 78, S.D. 1):

On motion by Senator Ige, seconded by Senator Whalen and carried, the joint report of the Committees was adopted and S.R. No. 78, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE ESTABLISHMENT OF A VOLUNTARY COMPLIANCE PROGRAM TO ENCOURAGE COMMUNITIES AND BUSINESSES TO CONVERT TO EXPANDED POLYSTYRENE FOAM ALTERNATIVE PRODUCTS," was adopted.

Stand. Com. Rep. No. 3684 (H.C.R. No. 33, H.D. 1):

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and H.C.R. No. 33, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION ACKNOWLEDGING THE MONTH OF SEPTEMBER AS NATIONAL OVARIAN CANCER MONTH AND GYNECOLOGICAL CANCER AWARENESS MONTH," was adopted.

Stand. Com. Rep. No. 3685 (H.C.R. No. 230, H.D. 1):

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and H.C.R. No. 230, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING THE WEEK OF SEPTEMBER 1 – SEPTEMBER 7 AS HAWAII LABOR HISTORY WEEK," was adopted.

Stand. Com. Rep. No. 3686 (H.C.R. No. 231, H.D. 1):

On motion by Senator Ige, seconded by Senator Whalen and carried, the report of the Committee was adopted and H.C.R. No. 231, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE COST OF CONVENING A CONSTITUTIONAL CONVENTION," was adopted.

H.C.R. No. 164:

On motion by Senator Ige, seconded by Senator Whalen and carried, H.C.R. No. 164, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A STUDY ON THE IMPACT OF ACT 226, SESSION LAWS OF HAWAII 2007, ON NURSE AIDES WHO ARE EMPLOYED IN STATE-CERTIFIED OR STATE-LICENSED HEALTH CARE SETTINGS TO PROVIDE A BASIS FOR THE LEGISLATURE TO DECIDE WHETHER TO AMEND ACT 226, SESSION LAWS OF HAWAII 2007," was adopted.

H.C.R. No. 358, H.D. 1:

On motion by Senator Ige, seconded by Senator Whalen and carried, H.C.R. No. 358, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO ESTABLISH A TASK FORCE TO SOLICIT PUBLIC INPUT AND EXAMINE METHODS OTHER THAN THE PUBLIC PROCUREMENT CODE PROCESS TO OVERSEE PUBLIC, EDUCATION, AND GOVERNMENT ACCESS ORGANIZATIONS' EXPENDITURES AND ENSURE PROPER CHECKS AND BALANCES," was adopted.

#### **FINAL READING**

##### **MATTER DEFERRED FROM TUESDAY, APRIL 29, 2008**

Conf. Com. Rep. No. 129-08 (H.B. No. 2978, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 129-08 was adopted and H.B. No. 2978, H.D. 1, 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, 22. Noes, none. Excused, 3 (Hemmings, Nishihara, Taniguchi).

#### **FINAL READING**

Conf. Com. Rep. No. 139-08 (H.B. No. 3377, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 139-08 was adopted and H.B. No. 3377, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Hemmings, Nishihara, Taniguchi).

Conf. Com. Rep. No. 140-08 (H.B. No. 2531, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Baker and carried, Conf. Com. Rep. No. 140-08 was adopted and H.B. No. 2531, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE WEST MAUI TRANSPORTATION ACCESS PLAN," having been read

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

Ayes, 23. Noes, none. Excused, 2 (Hemmings, Nishihara).

Conf. Com. Rep. No. 141-08 (H.B. No. 357, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator English, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 141-08 was adopted and H.B. No. 357, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC SAFETY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 142-08 (H.B. No. 2843, H.D. 2, S.D. 2, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 142-08 be adopted and H.B. No. 2843, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor

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

"Madam President, I rise in opposition to H.B. No. 2843.

"To refresh our memories, this bill is, currently we have an assessment, we have a fee based upon containers coming into the port of, into Hawai'i. This would modify that and in its place pass a charge of 50 cents per hundred pounds or a dollar a short ton on cargo coming to Hawai'i. I'm troubled for several reasons. One is that a concern that it's a tax and not a fee. And the reason why this reason was brought home to us only a couple weeks ago by the intermediate court of appeals when they decided that fees collected, and then where money was transferred and used for a purpose that was slightly outside what the original purpose they were collected for was considered a tax, and it wasn't called a tax.

"This fee is collected to provide for inspections. And that's fine. There's a direct connection there. But it is also going to be used to combat previous things that have gotten by. And it's not clear that those things that would become added were part of a cargo shipment that came in, or came in by the conveyance—the vessel or the airplane. And if it turns out that this money is used for that purpose, it may be invalidated by the intermediate court of appeals. I agree that the invasive species need to be addressed. I think the proper way to do that is for a general fund appropriation—not a weight tax, and that's what this is. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 142-08 was adopted and H.B. No. 2843, H.D. 2, S.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, 21. Noes, 4 (Hemmings, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 143-08 (H.B. No. 3120, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Tokuda, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 143-08 was adopted and H.B. No. 3120, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMAL QUARANTINE FACILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 145-08 (H.B. No. 3352, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Baker and carried, Conf. Com. Rep. No. 145-08 was adopted and H.B. No. 3352, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AN AUDIT OF THE HAWAII DISABILITY RIGHTS CENTER," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 146-08 (H.B. No. 2863, H.D. 2, S.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 146-08 be adopted and H.B. No. 2863, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hee

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. 146-08 was adopted and H.B. No. 2863, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Ayes with Reservations, 1 (Ihara). Noes, 1 (Gabbard).

Conf. Com. Rep. No. 147-08 (H.B. No. 2505, H.D. 2, S.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 147-08 be adopted and H.B. No. 2505, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker

Senator Slom rose to speak in opposition as follows:

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

"This bill is going to increase the tax—the so-called environmental tax—and it's going to be a heavier burden on all consumers. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 147-08 was adopted and H.B. No. 2505, H.D. 2, S.D. 2, 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, 21. Noes, 4 (Hemmings, Slom, Trimble, Whalen).

Conf. Com. Rep. No. 148-08 (H.B. No. 2507, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Menor, seconded by Senator Baker and carried, Conf. Com. Rep. No. 148-08 was adopted and H.B. No. 2507, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GREENHOUSE GAS EMISSIONS REDUCTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 150-08 (H.B. No. 2704, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Tokuda and carried, Conf. Com. Rep. No. 150-08 was adopted and H.B. No. 2704, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HA'IKU VALLEY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 165-08 (S.B. No. 2850, S.D. 2, H.D. 2, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 165-08 be adopted and S.B. No. 2850, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Menor

Senator Tokuda rose to request remarks inserted into the Journal as follows:

“In the interest of time, can I have the Clerk insert my comments into the Journal.”

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

“Madame I rise in strong support of SB2850, Relating to Biosecurity.

“Our fragile island ecosystems are constantly at risk from insects, disease-bearing organisms, snakes, weeds, and other invasive pests. They not only threaten our agricultural products and our indigenous plants and animals, but pose a significant threat to our way of life here in Hawai’i.

“One very clear and present danger to Hawai’i is the Brown Tree Snake. With base movements from Guam in the next few years, our risk for the introduction of the Brown Tree Snake will drastically increase. If this were to happen, the impact on our local economy is expected to be in the hundreds of millions, not to mention the possible extinction of many indigenous bird species, and harms to humans.

“With approximately 20 new species being introduced to Hawai’i each year, we cannot afford to continue with the status quo. An aggressive approach is needed to prevent, contain and eradicate invasive species in our islands.

“SB2850 provides us with an opportunity and a plan of action to prevent and control the importation and spread of pests by establishing the Department of Agriculture’s Biosecurity Program to administer pre-entry measures to minimize the risk of invasive species entering the State; conduct port-of-entry inspections to detect and quarantine or destroy pests upon arrival; and administer post-entry measures to mitigate the establishment of pests in the State.

“This measure also allows the Department of Agriculture to use the Pest Inspection, Quarantine and Eradication Fund to implement their Biosecurity Plan, and puts forwards funds to being the design and construction of an interim Joint Inspection Facility and permanent Joint Inspection Facility on Oahu, our state’s busiest points of entry and exit for cargo.

“The introduction of the coqui frog, *Salvinia molesta*, *Miconia calvescens*, ohia rust, nettle caterpillar, and little fire ant have already disrupting the delicate balance of our ecosystems, crowding out native species, reducing the biodiversity of our islands, and impacted our overall quality of life.

“Other harmful species like the papaya mealybug, erythrina gall wasp, Asian citrus psyllid, and varroa mite have the potential to devastate our environment and agriculture if allowed to become widespread in Hawai’i where they do not have established natural predators.

“SB2850 provides us with the mission and the means to take a serious stand against invasive species in Hawai’i. I strongly encourage all of my colleagues to support this measure.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 165-08 was adopted and S.B. No. 2850, S.D. 2,

H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO BIOSECURITY,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 166-08 (S.B. No. 156, S.D. 2, H.D. 2, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 166-08 be adopted and S.B. No. 156, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker

Senator Trimble rose to speak in opposition as follows:

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

“Colleagues, regardless of the language of the bill, the concern I have is that once you approve a person who applied for an absentee ballot once, to continue to send that person an absentee ballot, regardless of whether the law says that when the person dies, they will no longer be sent by the city clerk—we have no real way of verifying that. And I remember several years ago reading the story about, about a problem that the Social Security Administration had with sending checks to an international address and they kept on sending it because the finger of the person had been kept in a jar of formaldehyde. And so if we have issues of that relating to Social Security, it just points, it should at least open your eyes a little bit of what can be done to our responsibility and rights and other peoples’ the integrity of our election process and the use, misuse, potential misuse of absentee ballots. Thank you.”

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

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

“Madam President, colleagues, this is a measure largely for our kupuna and for our disabled citizens who have difficulty constantly asking for an absentee ballot. It’s an attempt to help enfranchise them. I believe there are a variety of safeguards built into this measure. It’s a good bill. It will help improve our voter turnout. And I think that’s what one of the goals that we would all like to see. So I would urge all my colleagues to vote in favor of this measure. Thank you.”

Senator Trimble rose in rebuttal and said:

“Madam President, I think I qualify for one of them, them folks. And I just want to tell you that when I get to the age and the mental condition where I have problems applying for an absentee ballot, maybe under those set of circumstances it shouldn’t be sent to me?

The motion was put by the Chair and carried, Conf. Com. Rep. No. 166-08 was adopted and S.B. No. 156, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO VOTING,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 167-08 (S.B. No. 3174, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Kokubun, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 167-08 was adopted and S.B. No. 3174, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.



Conf. Com. Rep. No. 168-08 (S.B. No. 3252, S.D. 2, H.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 168-08 be adopted and S.B. No. 3252, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker

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

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

“And just briefly, we have had a 1,600 teacher gap shortage for the last number of years. This measure will help some teachers to take their tests. Also help with professional development schools. But as we go forward, Madam President, colleagues, we need to do more; teachers, and as we know facilities. And Madam President, perhaps if we can insert the cube in the appropriate place in the Journal. Thank you very much.”

The Chair having so ordered, Senator Sakamoto’s cube is identified as “**ATTACHMENT B**” to the Journal of this day.

Senator Sakamoto requested additional comments be inserted into the Journal. The Chair having so ordered, Senator Sakamoto’s remarks read as follows:

“I rise in support of SB 3252.

“Our schools need to hire 1,600 teachers for the next school year. For each of the last four years, our Department of Education needed to recruit and hire 1,600 teachers to fill our classrooms. Some teachers retire, decide to start families, decide that another career choice would be better for them, get burnt out, are not able to cope with or fulfill the requirements to be a highly qualified teacher, and others just leave the profession.

“This bill originally suggested many ways to help Hawaii train and retain our teachers. The Teacher Shortage Omnibus Bill included numerous provisions to help to fill the 1,600 teacher gap. Some of those provisions are as follows: helping teachers pass required PRAXIS preparatory tests, increasing the years of service credit experienced teachers receive upon entering our system, providing national board certified teachers with additional years of credit, establishing a teacher workforce strategic planning committee, establishing professional development schools to train teachers, compensating academic coaches (comparable to the way athletic coaches are paid), providing housing allowances, funding repairs of teachers’ housing, funding the teacher cadet program, expanding the teacher induction and mentoring program statewide, and providing funding of additional teacher education positions.

“The final version of this bill includes funding to helping teachers with the PRAXIS tests and for professional development schools. These will help to prepare our new teachers for the classroom. These two efforts will help to keep more teachers but will only provide a small dent in the 1,600 teacher gap.

“Each one of us needs to thank our teachers for staying in the classroom. Each one of us should encourage our current and future teachers. Our future depends on having highly qualified teachers in every classroom.

“Please support this bill as well as our continuing efforts to eliminate the teacher shortage.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 168-08 was adopted and S.B. No. 3252, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TEACHERS,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Hemmings).

Conf. Com. Rep. No. 169-08 (S.B. No. 644, S.D. 3, H.D. 3, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 169-08 be adopted and S.B. No. 644, S.D. 3, H.D. 3, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga

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

“Madam President, I rise in support of S.B. No. 644, C.D. 2[sic].

“First of all, Madam President, I’d like to extend my special thanks to all who have worked so incredibly hard on this measure these past four years. A special thanks go out to the Senator representing Mililani Town and the Chair of the Energy and Environment Committee and the Senator from Kihei, Maui and the Chair of the Ways and Means Committee, who both played a significant role in bringing this measure to the Floor today.

“Madam President, S.B. No. 644 has traveled a long and somewhat challenging path to arrive at this legislative Body for its final vote. But though it has taken some four years to get here, the bill we have before us is a good one, and appropriately addresses, I believe, the concerns that have been expressed along the way. Requiring the use of solar hot water heaters or other energy efficient technology in all new homes is an idea whose time has come. Four years ago when the proposal first began seriously being discussed here at the Capitol, oil was at \$40 per barrel. This week the price reached \$119 per barrel. We here at the Legislature have discussed, passed, and funded numerous renewable energy initiatives over the past few years. And our state has taken some many meaningful steps toward the large and important goal of a more secure energy future. Passing S.B. No. 644 today would be no small step, but rather a huge leap toward that goal and the public benefits of each and every new home in Hawai‘i reducing its energy consumption by 30 to 35 percent. These benefits are huge. They’re significant and quantifiable environmental benefits, energy security benefits, and economic development benefits. This measure lowers the net cost of home ownership and will cost nothing in terms of the state budget to implement, and will actually increase state tax revenues because of the additional disposal income gained by homeowners and the additional economic activity generated by the approximately 5,000 new solar installations per year that will occur starting in 2010.

“I don’t believe many will disagree that the absolute best, cheapest, and most efficient time to install a solar hot water heater is when a home is first designed and built. And because of the economies of scale, the cost of a new system, when constructed and installed in many homes as part of a new housing development, will even further reduce the costs. For new homeowners, the additional benefit of having the system included in the overall cost of your home means there is an immediate, an immediate net positive impact from the reduced energy costs. From the very first day homeowners will have an additional \$30-\$75 net monthly in their pocket that otherwise would have been money shipped offshore to purchase imported oil to generate electricity. For a family of four, this means \$576 of new disposable income per year. Multiply that by the expected 5,000 new homes and that means a cumulative savings per year of \$3.3 million. After ten years, that’s \$33 million each and every year, circulating in our economy that otherwise would have been exported offshore for imported oil. The jobs created by the manufacturing and installation of 5,000 new solar systems every year will add an additional \$30 million of economic activity to our state.

“While many would argue that the economic and energy security benefits alone would warrant the implementation of this measure. The positive impacts on the environment are also huge. After the first year, we will have prevented the disbursement of over 10,000 tons of greenhouse gas emissions and saved or avoided the purchase of over 30,000 barrels of oil. And because this impact is cumulative, after ten years that’s 100,000 tons of greenhouse gas emissions avoided and 300,000 barrels of oil saved every year, year after year after year. The countries of Israel and Spain already require solar hot water heaters in all new homes. The military housing now being built and refurbished here is following suit. Yes, the public benefits that will result from passage of S.B. No. 644 are significant and quantifiable. The measure as written also allows for variance if for some reason solar hot water is impractical or excessively expensive. Energy efficient gas systems and photovoltaic systems are also allowed. Provisions to ensure high standards and quality control are in place and the existing tax credit remains in place for homes constructed prior to January 1, 2010. Nothing changes for existing homes. The existing tax credit remains in place for homes constructed prior to January 1, 2010 and includes retrofits of those homes. Given the significant public benefits and the significant public risk associated with our continuing dependence on imported oil, requiring solar hot water heaters in all new residential construction only makes sense. And I urge my colleagues to join me in support of this very important measure. Thank you, Madam President.”

Senator Trimble rose to speak in opposition as follows:

“Madam President, colleagues, I rise in opposition to S.B. No. 644.

“Until now I have voted for this piece of legislation, but after hearing the previous speaker’s remarks, I felt compelled to stand and talk to you. We have two markets in Hawai’i. We have a new housing market. We have a retrofit market for existing homes. So, let’s look at the after-purchase market. If this bill passes and all new homes are required to have hot water heaters installed, then these solar water heaters won’t be made and produced in Hawai’i. They’ll probably be made in China by the cheapest bidder. That will decrease the income to existing vendors in Hawai’i and I would expect their numbers will dwindle. This means that when existing homeowners seek to retrofit their home, they will have fewer choices and higher costs. The next thing is what will happen 15, 20, 30 years down the road when the existing hot water heaters come up to be repaired? There will be fewer vendors and it is entirely possible that there will be some kind of tie-in between the person that made the original solar water heater that got installed and a requirement that somehow he or his parts will have to be used for the repair. This, too, would tend to decrease the level of competition.

“Now, the other hand in looking at the bill—S.B. No. 644—is that it’s a rather old bill and perhaps its need has come and gone. When the price of a barrel of oil has gone from \$40 to \$120, homeowners have three times as much incentive to install a solar water heater. So why are we trying to eliminate choice, eliminate competition in the marketplace and say the increase in solar hot water heater use was because we mandated it? It would occur because of economics, circumstance, with or without the mandate.

“Finally, I want to call you attention to a graph that was prepared by Hawaiian Electric and showed a very close correlation between the tax incentives and the rebate program and the number of solar water heaters that were installed. If we only are willing to wait a few more months, we will see that the marketplace is functioning well, and that the number of solar water heaters that are being installed in new and existing homes is dramatically increasing and will continue to increase.

“The need for this bill has come and gone. Let’s let the marketplace work. You know, this type of legislative mandate kind of reminds me of the attitude that governments behind the Iron Curtain took with its citizens 20 to 30 to 40 years ago. We don’t need to do that in Hawai’i. We want an informed citizenry opting to the rational choice instead of mandating it. Thank you.”

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

“Madam President, briefly in opposition to the bill.

“In addition to the remarks of my colleague from Downtown-Waikiki, let me just say, as a solar water heater owner of many years, that a lot of the figures and data that were given you just are not right. They’re not accurate. The savings has not been as great as many people would like to think. If we really want to do something for the people of Hawai’i that are suffering, then we would reduce the general excise tax on energy, we would reduce the gasoline taxes, the fuel taxes, and so forth. The argument about the marketplace is still the best one. The marketplace operates most efficiently and most economically and, more importantly, most fairly. Here in Hawai’i, we’ve always prided ourselves on solar energy and the abundance of the sun, and yet we have a very low rate of participation. Why is that? We can ask and we can answer many reasons for that but the point is, if we can’t convince our friends and neighbors as to the economic efficacy of taking a certain action, then the strong willed fist of the government through mandates is not the answer. It shows that we have not been diligent in our economic education or that again some of the data is missing. Finally, the bill requires that no permit be issued after January 1, 2010 unless the solar system that’s to be included in the house—the residential structure—meets the standards prescribed by the PUC. But in fact, there are no standards. The PUC has yet to develop those standards. So I think that we’re the cart before the horse. We should get the standards first, we should examine those, and we could see what happens afterwards. And on that issue of retrofitting, we’re not talking rocket science here. It is much easier to retrofit a house for solar water heater than it is for, say, central air conditioning. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 169-08 was adopted and S.B. No. 644, S.D. 3, H.D. 3, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ENERGY RESOURCES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 170-08 (S.B. No. 871, S.D. 2, H.D. 2, C.D. 1):

Senator Menor moved that Conf. Com. Rep. No. 170-08 be adopted and S.B. No. 871, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Ige

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

“Madam President, I rise in favor of S.B. No. 871, C.D. 1.

“Madam President, this is a three-year pilot project for one or more schools but the funds—\$25,000—will probably allow for only one school to be part of this pilot project. But, you know what? This is a step in the right direction. I cannot believe that it’s taken over six years for us to get to this point to get our learning institutions, who generate the most wet waste, to at least do a pilot project. All of our schools should be recycling. This is where we teach our young people to do all sorts of things. And certainly in this time of our age, we should be recycling all that we can. We need to be doing all that we can

to keep the wet waste out of our landfills, to keep our environment greener and certainly to look at global warming. The City has been mandating that businesses recycle for over eight years now and there's really no excuse why the State shouldn't be following in their footsteps. And I really urge our schools to not wait until the Legislature has to mandate recycling. I really look for them to take the lead and to do recycling on their own. And I hope that this pilot project will set them in that direction. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 170-08 was adopted and S.B. No. 871, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FOOD WASTE RECYCLING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 171-08 (S.B. No. 2082, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Baker and carried, Conf. Com. Rep. No. 171-08 was adopted and S.B. No. 2082, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 172-08 (S.B. No. 1804, S.D. 2, H.D. 2, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 172-08 be adopted and S.B. No. 1804, S.D. 2, H.D. 2, 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:

"Madam President, I rise in support of this measure and have remarks that I'd like inserted in the Journal in support."

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

Madam President, I rise in support of SB 1804 CD 1.

"Colleagues, this measure provides an additional funding mechanism for the trauma system special fund. SB 1804 allows the courts to impose higher penalties and fines on irresponsible and dangerous drivers – drivers that are apt create the need for additional trauma services. This special fund subsidizes trauma centers statewide thus ensuring that proper trauma services are available to everyone in our communities, without regard to a person's ability to pay. It is also my hope that stronger consequences for drunk, inattentive, or reckless driving will make people think twice before endangering lives on our roads.

"I urge all my colleagues to support the passage of this bill.

Senator Slom rose to speak in opposition as follows:

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

"And I'll be very happy to give you my remarks now, so you don't have to wait. Thank you."

The President replied:

"I don't mind waiting."

Senator Slom then said:

"No, no. I know, but I don't want to keep you waiting.

"I just want to tell you, you know, this is a very interesting bill. First of all, it established the Trauma Special Fund. And now to plump up this special fund, there are surcharges on a wide and broad variety of incidents. And I think that the surcharges, which can be court determined, go anywhere from a de minimis amount up to \$500 per surcharge. Most of the surcharges have nothing to do with the trauma system. And as the President knows, and my colleagues know, I vote against all special funds creations as I did about this one. And what's going to happen is now we'll be able to put even more money into this special fund, and then my colleagues will raid it later on and it won't be used for the purposes that it was set up for. But to add these surcharges for all of these different effects really there is no nexus between them. Thank you."

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

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

"I believe it's important to get on the record now that this is not a new special fund. This special fund was created when we raised the cigarette tax. The special fund is populated part with the cigarette tax that being the increase that's being collected. And additionally there is a nexus because many of if not all of the surcharges that are on offenses are those offenses that help contribute to the population in our trauma centers. And as we know we need assistance. Our trauma centers here at Queen's and establishing some on the neighbor islands so that we don't have to overburden Queen's. We need help with physicians on call. We need to be able to recruit additional. We need to be able to harden our trauma centers and make sure that they have all of the most up-to-date equipment. This kind of fund can help with that. And that's one of the reasons I urge all my colleagues to support this measure. Thank you."

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

"Madam President, I rise to speak in favor of this legislation.

"I want to reiterate a couple of points that were made before and also underscore another point that I think should be made. It is no secret that many of us who are conservative when it comes to crime and punishment recognize that increased fines and penalties act as a deterrent, and I believe that this bill would put that situation into play. It's an additional risk and additional cost to people who in fact do break the law, so it would serve as a deterrent to crime. It also, as the good Senator from Maui pointed out, it puts the burden on the violators—the people that possibly were going to cause trauma through their errant behavior on the road or where ever the case may be, for whatever they're being cited for and penalized for. They will have to pay for what could be the results of their illegal behavior, such as creating trauma through accidents or related problems.

"And regarding raiding funds, I believe that the good Senator from Hawai'i Kai is exactly right. But he's also correct when he pointed out the recent ruling of the court. As time goes on I think the courts are going to rule further that raiding special funds and turning fees into taxes is indeed unconstitutional. So that dilemma will be solved anyway.

"But the best thing for us to do now is to put the burden on the perpetrator and to help underwrite the cost of trauma and trauma centers and medical services that relieve trauma by passing this bill. And I urge my colleagues to support it."

Senator Slom rose in rebuttal and said:

"Madam President, it's just a very brief rebuttal. First of all, for the good Senator of Maui, I did acknowledge that the special fund was already there. I said that I had voted against it when it

was created, but it was already there. Secondly, I absolutely agree with the Senator from Kailua that if someone is responsible for something, they should be accountable and responsible. However, when you look at this long, long list of items here—for example, failure to give information about an accident; striking an unattended vehicle or other property—we're not talking about trauma that's been created. We're talking about a wide range of other traffic offenses which we're now going to get a surcharge to put into this fund which will later be raided. If Queen's Medical Center or any of the other good facilities require funds, then we should do it honestly and we should appropriate funds out of the general fund for those specific purposes which we can look at, examine, and have a hearing on. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 172-08 was adopted and S.B. No. 1804, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAUMA SYSTEM SPECIAL FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Slom, Trimble, Whalen). Excused, 1 (Nishihara).

Conf. Com. Rep. No. 173-08 (S.B. No. 2083, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 173-08 was adopted and S.B. No. 2083, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SUPERVISION OF ADULT OFFENDERS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 3:07 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:28 p.m.

Conf. Com. Rep. No. 174-08 (S.B. No. 2423, S.D. 2, H.D. 2, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 174-08 be adopted and S.B. No. 2423, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker

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

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

"I would like to, before making comments specific to the bill, thank the members for allowing me the opportunity to work as a member of the Governor's working group in pursuit of the opportunity to preserve open space at Kawela Bay and at Kahuku Point. I'm sure that as all of us look back at this Session, one of the things that may have appeared most surprising to all of us was the unanticipated announcement by Governor Lingle at her state-of-the-state of her intention to keep open space at Kawela Bay and Kahuku Point. You may recall that there was no vehicle at the time, and that she made the comment after, clearly after, bill introduction deadline had passed. And it was only with the cooperation and generosity and agreement of President Emeritus that his bill was used as the vehicle that we are evaluating at this time.

"It's no secret to any of us here that during our lifetime we have seen an unquantified and exponential urbanization of nearly every island. Where once residents of Maui looked at Kihei as the end of the road on Maui, it is merely a segue to a larger resort destination at Wailea. Where Kapalua may have been pineapple plantations and a hub of plantation workers,

today it is the end of the road for the super rich. So much and so many places that we know as country have become urbanized to the point where we find ourselves in a situation today that all of us at one time or another have tried to figure out how is it that we can make life affordable for our children. How is it that we can make life affordable for our grandchildren and their children? How is it that we can keep them in Hawai'i, to give them a choice to live in Hawai'i if they choose to do so. We have seen in our own lifetime a massive exponential development and pouring of concrete that no one could have imagined when we were younger.

"So this measure, as imperfect as it is, attempts to send a strong signal that with respect to the Executive's desire to keep a bit of old Hawai'i for future generations, it's a strong statement that while the end is not yet before us that she should continue with the collaboration of the 17-member working group, which includes labor of Local 5, and community organizers of the North Shore and of Kahuku and other areas throughout the island of Oahu. It is a diverse group of which some of them have very strong feelings that the unilateral agreement should be held in place, and other feelings that the North Shore and other areas should be kept in open space for future generations. It is a group that believes that this issue is merely the beginning and not the end of keeping other areas in open space—areas on other islands in open space—with one goal in mind, and that is to give the residents of this state places to rest, places to recreate, places to be. That is the goal of this legislation.

"The opening prayer by Norma Wong spoke of seven generations before us and seven generations to follow. This legislation allows the executive, with the collaboration of the working group, to leave open space for seven generations to follow. If we as Legislators do not take a harder look at where we're headed, if we do not look at the past in the context of the future, it is not difficult to predict. What is difficult is to be bold. What is difficult is to be courageous. What is difficult is to look at the bill with its imperfections in the context of knowing that this is not a done deal—that in fact to do the deal the Governor will have to call us back into Special Session. She will have to defend her actions. She will have to convince all of you. That is the time that she will ask all of us to fish or cut bait. This bill, as imperfect as it is, is a House draft, and not a conference draft. That was the agreement of our Leadership. It was not mine. It is, however, a bill, although imperfect, which sends a message that resonates with all of the residents of Hawai'i because it is a dramatic step forward in policy. I hope that as we move forward that at that opportunity when we are called back into Special Session, that we will have the privilege of working on a better bill, a perfect bill to the extent that it is possible.

"Before closing, I want to thank each and all of you who have allowed me to speak to you. I want to thank each and all of you who have been flexible enough to give me the time to speak, not so much about the virtues of the bill, but the imperfections of the bill. For that, I bear some responsibility. I would ask all of you to look beyond that and at the bigger statement, and would ask all of you to be mindful that this is not the day to fish or cut bait on saving Kawela Bay and saving Kahuku Point for seven generations to follow. That day will come during interim. Thank you, Madam President."

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

"Madam President, colleagues, I rise in strong opposition to this bill.

"Calling this an imperfect bill I think is being very gracious and very thoughtful. You know, I'm a little confused. We had a resolution which we debated a couple of weeks ago that was

strongly supported by the supporters of these negotiations. And then after we did not support the resolution, we were told we really don't need the resolution anyway. We need the bill. And then we were told in the last couple of days, well, we really don't even need the bill because we are going to go ahead with negotiations anyway; but it would be nice to pass the bill to show legislative support.

"I think we've got to recognize here we're not talking about keeping country country. What the real issue is in this particular piece of legislation is whether or not the state government should come in and be involved in private property negotiations without being asked, without being invited, without being encouraged. It's kind of like, Madam President, if a group of us formed a committee and said, we'd like to take over the President's house. Now, she may be having trouble with the mortgage. We're not going to talk to her though. Let's come up with a plan. And let's get the Legislature to stand in ready to support it financially. And after we've got everything, then we'll go and tell her we've got this plan and you should listen to it. And if you don't listen to it, guess what. We've got eminent domain and we'll take your house. And that is what this is all about.

"The negotiations have gone on in secret, behind closed doors. We don't know what kind of plan there really is. We're told that in this bill, oh, it's not for money. In fact there's only \$250,000 in this bill—only \$250,000—and that will probably only be used for naps, snacks, and consultants; it's not going to be used for real negotiations. But the main thing is we don't know what really is behind the taking of Turtle Bay.

"Now three decades ago, I remember going to hearings and hearing the labor unions beg the City Council to allow the development of Kuilima, as sugar had gone out on the North Shore and we needed jobs, and we needed opportunities, and we needed economic choices for the people. And now we're hearing that one of the same unions is saying oh, no, now you've got to have the state involved and you've got to take the hotel and take the properties. The good Senator who just spoke, he and I had talked about workers. He's gotten calls from workers that said we want the Legislature to take over the hotel and take over the properties and all of that to save our jobs. And I told the good Senator that I've gotten calls from workers at that hotel who said exactly the opposite—please don't do this because we're afraid we're going to lose our jobs and not have opportunities. And don't get me wrong. If this were about undeveloped lands only, that would be a different thing. But this is the State coming in and trying to take over a profitable operating hotel property right now that hasn't asked for the State to come in to do that.

"Now Oaktree Development—who I have no contact with, no knowledge of and all that—has been painted as the villain. They've been described as a nasty developer, and not even a developer, but I think the term that is being used by supporters is 'an opportunity fund,' as if that in and of itself is a bad thing. But wait a minute, wait a minute. Oaktree Development put in millions of dollars for renovation of this property to turn it around from losing money to making money and keeping those jobs. And wait a minute, wait a minute. The state administration hired an economic consultant. And what did the economic and fiscal consultant say? He said that there's no way that this hotel can even continue going if there isn't some modicum of additional development to support it.

"So if we saying—and the people that are supporting this bill think—we're going to turn this back into plowshares and keep it entirely open and not have any activity or economic development, then somebody is going to be on the hook for the cost. And that somebody is going to be the taxpayers of this state because if the administration does not need a resolution, and if the administration does not need this bill, then there's

only one thing that they need the support of the Legislature for, and that is so that we reach our hands into the taxpayers' pockets and make them pay for this property down the road.

"We have had so many economic emergencies in the last two months. We have more looming on the horizon. And yet this Legislature seems to have been driven by this shadowy Turtle Bay bill, which has had many resurrections during the past three-and-a-half months. To some, it reminds them of the ceded lands negotiations because who has been at the table? Oh, yeah, there's been an advisory committee put together, but that advisory committee does not have the very people that have an interest and a direct responsibility in this property.

"And the bottom line, again, on all of this is how did it get started? It got started because a lot of people were upset, including me, with promises that were made in 1986 by the then property owners to do certain things, and they haven't done them. And then the specter of development which showed five new hotels and 3,500 new rooms, which everybody threw up their arms and said, oh my god, that's terrible—including me. But somewhere between 3,500 rooms, five hotels, and zero development and a takeover by the state and payment by the taxpayers is a lot of negotiating room. So I'm saying let people negotiate. That's fine. But don't put the stamp of approval of this Legislature, which means the stamp of approval of the taxpayers—who have had no part in this whatsoever. And the real issue is the City and County of Honolulu because they hold the zoning key. And if we want to stop all hotel development, all other development, or we want to have some development—that should be a city and county matter—not the state.

"How many times have we heard in here, oh, we believe in home rule. But we're very selective in home rule. Taxation for a train to go nowhere—that's home rule, especially when we say which county can do it. How much the rate will be, what the dates will be, what kind of technology it will be and all that—that's not home rule. It's not autonomy. So if we really believe in that then let's let the county, who has the primary responsibility for this, work it out. And if we really believe, as the Senator, the good Senator said, this is not the day to fish or cut bait, that's fine. But cut this bill loose.

"This is a bad bill and it's a bad precedent and it will not serve the purposes of those people that are telling us to buy a pig in a poke without a plan that we can get our hands around and ask questions about. Thank you."

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

"Madam President, I rise to speak in favor of this legislation.

"It's moments like this when I'm most proud of this Senate. You would say that one of the proponents of this bill, whose Turtle Bay land is in his district and I might not necessarily agree on many things. When I speak in favor of this bill it would make the Senator from Koolauloa and I strange bedfellows indeed. The point is that in moments like this when we gather together around the merits of an issue, rather than political labels and what separates us, is when we shine the most.

"I support this bill because it's noncommittal. It leaves the door open. And as the good Senator said from the Windward side, we're not fishing or cutting bait. We're negotiating. On this legislation, what we have to do is partially make our decision based on prior experiences. Eminent domain was mentioned by the previous speaker. Many of the people in the district I share next to the previous Senator did not mind when eminent domain was used to condemn Bishop Estate land for private ownership. It was deemed quite a triumph at that point. I would say giving people private ownership of their own land is good for the residential use. No one seemed to have

complained when a diverse group got together to buy and purchase, in spite of the owner's attempt to extort a high price from us, Waimea Falls Park. That was good. It took a very wonderful part of Hawai'i, a whole ahupua'a, and put it into conservation and preservation.

"So this is a bill that I think is necessary. But to be honest with all of you, I had my apprehensions about it because quite frankly there are some areas in all our districts that we want preserved. Which leads me to a point I'd like to leave you with, and that is, if you look through it all, this bill, Madam President, really is addressing an issue that you and I spoke of on Opening Day. You called it sustainability. I call it conservation and carrying capacity. Really, what we have to look at over the long term, in order to protect all of these islands and our precious resources, is what is the carrying capacity of the travel industry in Hawai'i and stabilize it. I think most of our constituents will agree that we've already hit the saturation point. This bill addresses that issue at Turtle Bay. Let's keep the door open for negotiations. We don't have to commit any state resources at this time. But we do have the opportunity to talk. And I might add that I have not heard Oaktree lobbying too hard against this bill. I think quite frankly they might want to look for an opportunity to get out from under this situation themselves.

"So I think it's in everybody's best interest to vote in favor of this bill and keep the door open for future negotiations. Thank you, Madam President."

Senator Kokubun rose to speak in opposition as follows:

"Madam President, I stand in opposition to this bill.

"First I want to start by saying my colleague from Ahuimanu has done a remarkable job in trying to work with the administration. I know at times he has had a hard time seeing eye to eye in bringing this about. I share also with him and with the previous speaker this idea about the future of Hawai'i and how we need to plan for that and how we need to take action so that our future generations will have a Hawai'i that they will enjoy as we do today.

"But Madam President, my concerns rise from the very statements coming from both my colleague from Ahuimanu as well as the previous speaker, the good Senator from Waimanalo. And that's that there are no details in this measure. And for us to make a decision now when we know that we're going to have to come back in Special Session to deal with those specifics, I think this is very, very premature. Why is this needed? If in fact the negotiations are ongoing, if in fact there are still more questions that need to be answered, that's fine. I have no problem with that, and I would like to see the negotiations continue. But why do we need to affirm this now when we have no details of how this is going to come about? What will be the future of Turtle Bay Resort? What additional buildings may be needed to make that a marketable commodity so that we can get our money back, or even make a profit as has been alluded to as well.

"So yes, I believe the time is right to take action, but it's not action that the Legislature needs to take. It's action that the administration needs to take. They are welcome to do that and have us come back into Special Session with the details, so that when we make a decision we will know exactly what we are doing. Thank you, Madam President."

Senator Trimble rose to speak with reservations as follows:

"Madam President, I rise with reservations.

"I'm not sure whether this truly is a Nancy Reagan bill. You know, something where you just say no. From my perspective it sort of feels like Sammy Amalu, God bless him, had a part

and role in this. Instead of trying to sell a hotel to somebody at a bar in Waikiki, he approached the fifth floor. I don't understand the business now. I don't understand how it can be done without significant commitment in terms of state resources. But do we have enough information right now just to say no, don't talk, don't deal. You know, I think the property and the resource certainly merits a Special Session should the Governor and this negotiating committee be able to weave some magic and produce something that will benefit everybody in Hawai'i going forward. And because there's hope, and while most of the time I'm a cynic—which is a disillusioned optimist—occasionally there are moments where I'd say, ah, let's give the parties a chance and see what they can produce. Thank you."

Senator Kim, rose to speak in opposition as follows:

"Madam President, I rise in opposition to the measure.

"Madam President, my opposition to this measure does not mean that I'm opposed to open space. It does not mean I'm opposed to us preserving the Turtle Bay area. My concern, and I share it with some of my colleagues that have spoken previously, is that there are not enough details for this plan, and that we need to be responsible in how we are going to do this and at what price.

"My concern lies in the bill on page 4, and if members will follow—and I don't know how many members have actually read the bill—but if you look on page 4, starting from line 11 on section 5, it says, 'If an agreement to acquire the property is not reached within a reasonable time, as determined by the governor,' nobody else, 'or the governor's designee,' and I don't know who that might be, 'the governor, or the governor's designee, shall exercise,' shall, not may, not depending upon the negotiations, not coming back to this Legislative Session, shall exercise 'the power of eminent domain to acquire the unimproved property.' It doesn't say how we're going to pay for it. We just shall do that. So when they say this bill is noncommittal, and just leaves the door open, this part of the bill does not say that.

"It goes on to say, 'For the purposes of this Act, condemnation of the property shall not be subject to legislative disapproval'—shall not, meaning she can enter into eminent domain and we cannot disapprove, and then we're stuck with the bill. How are we going to pay for the price tag of eminent domain? That's what I ask. The proponents of this bill, please, tell me how are we going to do this and at what expense. Whose budget are we going to take the millions and millions and millions of dollars from?

"If there is a plan in which it's not going to take state dollars, fine. And from what I've read in the papers, the Governor said they do not need this bill. And so that's not going to stop the negotiations. It's going to allow the negotiations to continue. They can come back and call us into Special Session, and we can do something then when we have the details. But to allow section 5 of this bill means we are giving up all oversight, all legislative decisions on this matter. Thank you, Madam President."

Senator Hee rose in rebuttal and said:

"Madam President, I rise in brief rebuttal to some of the comments made by previous speakers.

"I want to be clear if nothing else that there is no money in this bill. One of the previous speakers indicated there's \$250,000. Well either there is or there isn't, and the fact is there isn't. In fact the \$250,000 is to raise the ceiling. So if you vote against the bill, vote against it for the right reason and not the wrong reason.

“The previous speaker said that it is wrong for the state—of the previous speakers said—it is wrong for the state to exercise eminent domain on private property. If the state had not exercised this authority, Waiahole-Waikane would not be farms as it is today, but more a resemblance of Hawai‘i Kai. And it was pressure from the community of Waiahole-Waikane in 1973 and the broader statewide support for farmers that that valley today remains in agriculture, and the state exercised its authority, absent of legislative approval—absent.

“This Governor a willingness to take advantage of the perfect storm. The subprime floor has dropped out from existence. Bear Stearns went belly up. The economy is in the tank. Credit Suisse, the holder of the note to Oaktree Capital, has 15 investors that are suing each other. The perfect storm has arrived. And that is why we are asked to be a part of the leadership for the next seven generations of those who would follow us so that Kawela Bay and Kahuku Point would be enjoyed by the children of our children’s children and beyond.

“This is not about money. There is no money. And the details will follow because if indeed the Governor expects this Senate—this Senate—to embrace her proposal, there’s no doubt in my mind that that would only come after the toughest and most excruciating detailed review by those far more expert than me. But let us be clear. There is no money in this bill. And there are times when it is proper for the state to exercise its authority for the betterment of its people. Thank you.”

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

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

“I’m not an attorney and I think issues of eminent domain are legal matters. Understanding, Madam President, if the Supreme Court ruled on an issue *Kelo* (I’m not sure who vs. who), but that was when one government jurisdiction chose to use eminent domain for the purpose of bettering a property but the beneficiary ended up being a private entity that the government determined would be a better use of the property. And the Supreme Court said that would not allowable.

“If indeed we buy this property, and part of the property—whether it’s 5 percent, 25 percent, or at least a meaningful percent—gets turned over to a hotel operator and the golf course gets turned over to a hotel operator or another private operator for a private purpose, I believe that leans on the *Kelo* decision and the whole thing comes subject to challenge based on the eminent domain portion. So I don’t believe we should even go that route.

“Now should it be the other route—how do we fund it, how do we buy it—I don’t believe we should say the state should acquire, because this says the state should acquire. The state facilitating a deal and if one party says we buy the hotel, another property says we buy stables, we buy the golf course, we want to run a recreational venture—I think the state can be part and is part and I’m glad the Senator from the area is part of the discussion. But I cannot be in favor of this measure, in part, as the Senator from around my district, Moanalua/Kalihi, has articulated eminent domain and we don’t have any chance. But I believe that’s very legally problematic, especially knowing we the state don’t want to own the parts of this that’s going to be income-producing. So it’s very problematic in more than one way.”

Senator Slom rose in rebuttal and stated:

“Madam President, just a brief rebuttal on a couple points that I think are important.

“As far as no money in the bill, I would refer my colleagues to page 4, line 17, section 6 of the bill which says, and I quote,

‘There is appropriated out of the special land and development fund the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2008-2009 for the purchase of the property commonly known as the Turtle Bay Hotel and Resort and the surrounding unimproved property, as identified in this Act or to commence the condemnation process of those lands.’ The money is there. That’s where it comes from. That’s the purpose it’s being used for.

“I also find it kind of amusing that the good Senator would invoke the Governor’s name and support of the Governor when this Body has been so active in the last Session and this Session to strip the Governor of her powers, her choices, her emergency effects, and everything else. But all of a sudden for this land deal and this condemnation, let’s listen to the executive branch—even though we don’t have a plan, even if we don’t have costs, even though we don’t have direction as to what’s going to happen, even though the negotiations are behind closed doors—let’s go ahead and do it. I get back to one of my original points. I absolutely support the preservation of the undeveloped lands, but in terms of the undeveloped lands and the hotel property itself, that is the purview of the City and County of Honolulu and the zoning changes thereto, and we still have opportunities to do that. Why the rush and why all of the excitement during this Session when we had so many other issues which we have not attended to? Thank you.”

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

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

“I think it’s important to clarify because perhaps, as some of our other measures, this one isn’t artfully crafted. But the \$250,000 that the previous speaker referred to is a ceiling increase. That’s how we do it in bills. We would do it a little differently were this a budget item. But it is just a ceiling increase. And for the good Senator from Hawai‘i Kai’s information, the amount that is a balance in this fund is approximately \$5 million.

“My understanding from discussions with the Governor—and I’m not one to just give the Governor carte blanche, as all of you know—she’s looking for a zero sum game. If she can pull that off, more power to her because it will give the state an opportunity to keep some of our country country. You might ask, well what does a Senator from Maui care about what happens on the North Shore of Oahu. Well, we have some areas in other parts of the state that if we’re able to put together a public-private partnership to acquire those lands and preserve them for future generations, I think that would be a really good deal. And although this is a little bit more complicated—and I think our discussion would have been advanced if the Governor and her team had come down and briefed the entire Senate and the entire House—I do think that we have perhaps a short window of time and a unique opportunity. And that’s why I’m supporting this measure. Thank you.”

Senator Hemmings rose in rebuttal as follows:

“Madam President, I rise on a point of rebuttal.

“Once again, Madam President and colleagues, I think this has been a very healthy debate where we’ve aired the pros and cons of the issue. But we’ve also found out that oftentimes we make decisions on very important matters based on ill-founded information. I think that the good Senator from Maui just set the record straight regarding appropriations, which affirms the good Senator from the Windward side’s position on appropriation of money. Once again I want to set the record straight on what I think is another misunderstanding on the *Kelo* decision.

“The *Kelo* decision was the Supreme Court ruling on a case that allowed government to condemn private land for private use. This bill does not necessarily do that. In fact, raising the specter of condemnation is a possibility but not certainly a necessity, as this bill leaves an opportunity for open and free negotiations. And I also believe that the Supreme Court affirmed *Kelo* not denied it. So for the record, I think we should take the facts into consideration when making our decisions.”

Senator Menor rose to speak with reservations as follows:

“Madam President, I just wanted the record to note the fact that I will be voting in favor of this measure but with very strong reservations. My reservations and concerns stem from the fact that I fear that the passage of this bill may ultimately result in the state having to bear a huge price tag that we ultimately may not be able to afford. Nevertheless I will defer to the interpretation and judgment of the subject matter Chair with respect to the legislative intent behind this measure that eventually, legislative approval will be required in order for any deal or agreement that is negotiated between the Governor and a prospective purchaser in order for that deal to become final. And of course this bill would also further the very laudable and important objectives of preserving an open space, the beautiful and natural and pristine areas in the North Shore.

“So therefore I will be voting with strong reservations. Thank you.”

Senator Hooser rose to speak in opposition and said:

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

“Madam President, members, like many of us, if not most of us here, I fully support the dream of preserving the open space and coastline in the area of what the public is generally referring to as Turtle Bay. I, too, want to save Turtle Bay, save Kawela Bay, and save Kahuku Point. But I have many, many reservations about the wording and content of this measure.

“The description states clearly it directs the governor or the governor’s designee to acquire lands owned by Kuilima Resort Company, Oaktree Capital LLC and their successors. I have no idea what the price is, no idea what the terms are, no idea where the money’s coming from. And while I cannot support this particular bill, I will continue to support the dream until details, which are far too sketchy, have been presented. For the record, my future support will definitely be contingent upon the review and approval of all those details, hopefully, that will come forward. And again for the record, I want to say clearly that I cannot support any proposal whatsoever that negatively impacts funding for existing services and programs. And I see no guarantee that this may not occur within this measure.

“Many areas in our community need help and support and we must focus our limited financial resources first and foremost in these areas. It is my understanding also that the Governor, in order to make this deal work, intends to suspend chapter 343—the environmental protection laws—and suspend other important land use laws. And again for the record, I am not and will not be supporting any future proposal to purchase this area if that purchase requires the suspension of these laws. And I’m hopeful that the Governor does not intend to use her emergency powers to also do this.

“Finally, I would say that I applaud the efforts of those citizens working to achieve this dream. I especially applaud the focus, effort, and commitment that have been put into this by the good Senator from Kahuku, as the goal and the dream of securing open space and pristine coastlines for the benefit of present and future generations is a noble and worthy one that I share with him. But on this measure, I have serious reservations about the details of the proposal and thus will be

voting ‘no’ on the measure and encourage my colleagues to do the same. Thank you.”

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

“I rise in opposition with a clarification. And the Senator from Lanikai is right. I forgot to look it up on the web. But if we believe Wikipedia in here, *Kelo v. City of New London*, the case was decided by the U.S. Supreme Court of the United States involving the use of eminent domain to transfer land from one private landowner to another to further economic development. The case arose from the condemnation by New London, Connecticut, of a privately owned real property so that it could be used as part of a comprehensive redevelopment plan. The court held in a 5-4 decision that the general benefits of a community enjoyed greater economic growth qualified such development plans as permissible on their public use under the takings of the Fifth Amendment. The decision was widely criticized by American politicians and the general public. Many members of the general public viewed the outcome as a gross violation of property rights and a misinterpretation of the Fifth Amendment, the consequences of which would benefit large corporations at the expense of individual homeowners and local communities. Some in the legal profession construed that the public’s outrage was being directed not at the interpretation of the legal principles involved in the case but to the broad moral principles and general outcomes.

“So Madam President, perhaps I viewed it going the other way because most local governments, including ours, said if that’s what the Supreme Court ruled, that is wrong and we need to change our laws to prevent eminent domain for the benefit of private entities.”

Senator Espero rose to speak with reservations as follows:

“Madam President, I’d like to rise in support of this measure with reservations.

“I, too, believe that this measure is about keeping the country country and maintaining the tranquility and beauty of the North Shore. But I’d also like to ask those supporters as we preserve open space, and the demand for growth and development are directed along the urban core in Central Oahu and West Oahu, that we remember the infrastructure and the projects that those areas will need in order to maintain and preserve the tranquility of the North Shore. Thank you.”

Senator Trimble rose and said:

“Madam President, a Roll Call vote is requested.”

Senator Kim rose in rebuttal and said:

“Madam President, I rise in short rebuttal.

“Madam President, I agree with our good Senator from the Kahuku area that this bill is not about the money and that there is no money in this bill. But it doesn’t have to have money, Madam President? The reason it doesn’t have to have money is because the Governor shall exercise the right of eminent domain. And the Legislature shall not have the opportunity to disapprove. Shall not disapprove. And so then this doesn’t have to have any money in it. We’re going to be stuck with the bill. As our good Senator from Mililani is with reservations that maybe we are going to be stuck with the bill, and we’re going to have to find a way to pay for it.

“And so I urge my colleagues to really think hard about this because when we come back next Session, please, tell me, how are we going to pay for it if she goes ahead with eminent domain without coming back before us? Thank you.”

Senators Ige and Tokuda 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. 174-08 was adopted and S.B. No. 2423, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND ACQUISITION," having been read throughout, and Roll Call vote having been requested, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 14. Ayes with Reservations, 5 (Espero, Ige, Menor, Tokuda, Trimble). Noes, 11 (English, Hooser, Ihara, Inouye, Kim, Kokubun, Nishihara, Sakamoto, Slom, Taniguchi, Tsutsui).

Conf. Com. Rep. No. 175-08 (S.B. No. 2915, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Tokuda, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 175-08 was adopted and S.B. No. 2915, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TARO," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 177-08 (S.B. No. 2646, S.D. 2, H.D. 2, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 177-08 be adopted and S.B. No. 2646, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker.

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

"Madam President, I rise to speak in support of S.B. No. 2646.

"Poamoho on the North Shore of Oahu, the Kulana subdivisions on Kauai, parts of Upcountry Kula and the Olowalu areas on Maui, and parts of S. Hilo and the Hamakua Coast on the Big Island. These communities are prime examples of a subject that we have all heard much about over the past week: farmland urbanization. As a result of our inability as a state to protect our most important agricultural lands as set forth in our constitution in 1978, and begin the designation of Important Ag Lands, we have lost over 40,000 acres of our best agricultural lands to development and this will continue to be the case if we do nothing.

"SB2646 is a representation of the best efforts of many agricultural stakeholders, from the Farm Bureau to the Department of Agriculture to the Land Use Research Foundation and countless farmers and ranchers who came together since the enactment of Act 183 that required that a comprehensive package of incentives be provided prior to triggering the designation of Important Agricultural Lands. The incentives laid within the bill reflect the three critical components needed to sustain and grow our state's agricultural industry: Access to land, water, and capital. Without all three, we will not be able to ensure that active agricultural operations can be maintained on our agricultural lands.

In terms of access to capital, this bill provides incentives that would establish a \$7.5 million Agricultural Land Qualified Agricultural Cost Tax Credit. This would allow agricultural businesses on IAL, farmers, to take advantage of a 50 percent refundable tax credit for a number of critical expenses such as equipment, processing facilities, infrastructure improvements for their irrigation systems and roadways, and legal services that result from threats to their Right to Farm rights as well as access to water. Some have said this tax credit would be subject to abuse by large landowners. The bottom line is that it is clearly spelled out in this bill that the Department of Agriculture must

certify these credits, and it is clearly defined as to what a legitimate agricultural business is and that all qualified costs must be tied directly to an agricultural activity.

"In addition to the tax credit, this bill also establishes a \$2.5 million loan guaranty that would assist agricultural producers, such as many of the taro farmers that we have seen testify before us in the Legislature this year in meeting their financial needs for projects that are located on Important Agricultural Lands. Getting a loan to build your capacity may not seem like quite a hurdle for some businesses, but I assure you that this can be a very difficult task for many of our farmers.

"Another incentive that is extremely capital intensive relates to agricultural processing facilities. By establishing a priority processing procedure for permit applications and renewals for these facilities, we will be assisting our farmers in obtaining the competitive advantage they need to compete with mainland producers. Our lack of processing facilities here in Hawaii results in a waste of a significant amount of agricultural product and cuts deep into our producer's bottom line.

"An additional incentive included that directly ties to the profitability of a farm is the ability for farmers and their workers to live and work nearby. We have tightened and amended this section based upon concerns raised and would allow only 5 percent or 50 acres, whichever is less, to be used for farm dwellings and employee housing. This section specifies that these units will be exclusively occupied by farmers, their immediate family, and employees and their immediate families, all of who must be working on that parcel of important agricultural land. All plans for these dwellings must be supported by ag plans approved by the Department of Agriculture and it clearly states that no residential subdivision shall be planned or developed on these lands.

"To ensure access to water, which is a critical component for agriculture, Part Six of this bill calls upon the Department of Agriculture to include as part of their State Agricultural Water Use and Development Plan an inventory of public and private irrigation systems, requires them to identify sources of water used by agricultural operations, and current and future water needs for agricultural operations, particularly on Important Agricultural Lands. In addition, it calls upon each county water use and development plan to include an inventory of existing water uses for agriculture on Important Agricultural Lands.

The third critical component is probably the most important, and yes, probably the most contentious as well—land. This bill includes provisions that would require the Department of Agriculture and the Department of Land and Natural Resources to identify public lands that should be designated as IAL by December 31, 2009 and begin the designation of these lands by January 1, 2010. To ensure that these lands are actively engaged in agriculture and farmers can receive long term leases from the State, this section would also turn over jurisdiction of all State Important Agricultural Lands to the Department of Agriculture.

"The main land incentive in this bill deals with the simultaneous designation of IAL with the reclassification of 15 percent or less of lands. Much has been said about this section, some accurate and some not entirely accurate, and I will do my best to explain what we have done to tighten and to provide safeguards for this provision.

"First of all, it is important to understand that the declaratory order process becomes a contested case hearing if anyone intervenes in the reclassification. This could be a neighbor, a nonprofit organization, or even a state agency. While the main difference between a declaratory order and a district boundary amendment is that it is 30 days shorter, a declaratory order can be just as long if not longer than a boundary amendment

process if the contested case hearing results in an EIS requirement.

“The safeguards we placed in this section in regards to the 85 percent of lands to be designated IAL is that it must meet two of the most critical criteria for IAL, ensuring that the land being protected is among the best lands available. This is more than is required for those who voluntarily designate their lands, where they need to meet only one of the criteria. To ensure that 100 percent of these lands are true important ag lands that are ready to farm, the Department of Agriculture must also certify as to the quality of these lands.

“In order to un-designate any part of the 85 percent of IAL declared in this process, we have also established a more stringent standard than statute currently allows. Rather than going back to the LUC for a vote to un-designate any of these Important Ag Lands they must receive legislative approval in the form of a concurrent resolution with a two-thirds majority in each house. As many of us know, passing a concurrent resolution is not an easy process and would allow multiple opportunities for the public to come forward and provide testimony against the removal of these lands from IAL.

“In regards to the 15 percent that would be seeking reclassification, all lands must be in the same county and if reclassification is to urban, it must be consistent with county general plans and community development plans. The reason this land classification must specifically conform with the county plan is because urban falls under the jurisdiction of the counties, whereas rural and conservation fall under the jurisdiction of the Land Use Commission and the State.

“Whether rural, conservation, or urban, the LUC must determine suitability of the land for reclassification, and again, if any objections are raised this would become a contested case hearing. To further safeguard what happens on these 15 percent of lands, we have included in this bill the ability for the LUC to impose conditions on these lands, and it is important to remember that ANY development on these lands must still go through the County Zoning Process, which include public hearings and are subject to administrative requirements and additional conditions. We have also clearly stated in this measure that the LUC can effectuate rules to implement this section, and it is important to note that the LUC is currently reviewing their Declaratory Order process to increase its utilization.

“The bottom line is that without land incentives like this 100 percent of our best agricultural lands will remain under threat of development. We have a chance to safely protect 85 percent of lands under this provision, which is 35 percent more than the State would have been able to designate if designation were triggered without any land incentives.

“Colleagues, this is truly a case that illustrates the old saying ‘The perfect is the enemy of the good.’ After 30 years of watching our most important agricultural lands disappear, this is the closest that we have come to protecting these lands, and we are only at this point after years of discussion and careful scrutiny and deliberation over each and every section of this bill during this legislative session. Before you make your final decision, I ask that you think about those communities I referenced at the beginning of my speech. I also ask that you think about Kunia right here on Oahu, Kealanani on Kauai, Kaunaola Ranch on Maui, and the Waimea-Lalamilo Farm Lots on the Big Island. In talking with farmers and Department of Agriculture Officials, these are Important Agricultural Lands that are in critical danger of farmland urbanization right now. This bill would trigger the designation of Important Agricultural Lands and help our state protect these very lands, and so many other communities under threat of encroachment and development.

“Colleagues, I want to thank you for seriously considering this measure, and I hope I have clearly articulated to you why I feel we have done the very best we could on this bill in an effort to protect our most important agricultural lands from the threat of farmland urbanization. Thank you.”

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

“Madam President, I stand in opposition to the bill.

“You know, I first want to commend the good Senator, the Chair of the Agriculture and Hawaiian Affairs Committee because I think she’s done a remarkable job, particularly with sections 1 through 9 of the bill. I have no argument with those. In fact I think those were part of packages developed last year and fine tuned for this Session and I think they are very good and they’re important in terms of being incentives for the Important Agricultural Land program.

“However I do take issue with Section 10, and that is with respect to the ‘automatic’ reclassification of 15 percent of the lands being designated as IAL. In my opinion, utilizing the IAL incentives is strictly a ruse here. The point is people want to be able to develop their agricultural lands—big landowners do, in particular. I don’t have any gripes with the small guys. Most of them are pretty ardent farmers but also under a lot of pressure with respect to their lands. But the large landowners have been in a pickle in terms of trying to have their lands reclassified, particularly by going through the normal route, because it’s a very, very high standard that they have to meet. This idea about providing an incentive, I think, for the 15 percent that would be considered for urban or rural, is a misnomer. That is what’s driving this entire bill, in my opinion, and in fact their utilizing incentives as a means, as a subterfuge to get this through.

“I would just like to point out for my colleagues, for all of you that there’s really a comparison being drawn here between the land use boundary amendment process and the declaratory order. So let’s start, let’s start with the land use boundary classification. That’s a very specific part of our statute. That’s chapter 205—and in particular 205-2, the districting and classification of lands. And this talks about the rural district in particular. I want you to pay attention to this because I think this is the scenario that’s going to be played out.

“‘Rural districts shall include’—I’m quoting here 205-2(c)—‘rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre.’ In other words the density here is a half-acre. You don’t need zoning. You go in and you get rural, you can develop a half-acre residential subdivision. You don’t need zoning.

“The other interesting aspect about rural districts that I’d like you to focus on is also found in that section—it’s the last sentence. We made this change previously because what was happening was—and this is in respect to golf courses—golf courses were being developed on agricultural lands and we felt that that was wrong. It really didn’t, it should not be considered as agricultural use, and in fact should be taken out of that category because that’s what was really driving a lot of the residential development on agricultural land. So in the statute, it says rural districts shall also include golf courses, golf driving ranges, and golf-related facilities. So my concern is this, you allow rural designation to occur through a declaratory order and you allow half-acre development with golf courses. That’s the scenario here.

“I also want to point out that the fact that amendments to district boundaries—now this is a process that we have in state law now—amendments to district boundaries involving lands greater than 15 acres—because less than 15 acres is the purview

of the counties—I quote again, 205-4, this is the key implementing legislation. This section applies to all petitions for changes in district boundaries of lands within conservation districts, lands designated or sought to be designated as important agricultural lands, and lands greater than 15 acres in agricultural, rural, and urban districts.

“What we’re saying is, what this law says is that’s how you change the classification of land. Not through declaratory order. And that’s what we need to pay attention to. Essentially what we’re going to have is two ways of doing land classification now. And I think that’s going to be confusing and in my opinion it will water down our land use designation process.

“The other thing I want to point out in 205-4(b)—oh, I’m sorry—(h)—is that no amendment of a land use district boundary shall be approved unless the commission finds upon the clear preponderance of the evidence that the proposed boundary is reasonable, not violative of Section 205-2 and part 3 of this chapter. In other words, this is the ruling chapter in our statutes regarding land use designation. So I think that’s important to keep in mind as we now consider what is being proposed with declaratory orders.

“There’s one paragraph in our statutes with respect to declaratory rulings by agencies, and this is by all kinds of agencies. Any interested person—this is 91-8—any interested persons may petition an agency for declaratory ruling, declaratory order as to the applicability of any statutory provision or any rule or order of the agency. Each agency shall adopt rules prescribing the form of the petition and the procedure for the submission, consideration and prompt disposition. There are no rules now with respect to declaratory orders for this change to, in place of the land use boundary amendment.

“The concern also with declaratory orders is whether or not there will be the ability for the public to participate. Yes, it’s been stated that as long as somebody objects, as long as somebody says I want a contested case hearing, then they would get one. But I would point out to you in the Hawai’i Administrative Rules for the Land Use Commission, 15-15-98(b), it states that ‘notwithstanding the other provisions of this subchapter, the commission, on its own motion or upon a request but without notice of hearing, may issue a declaratory order.’ In 15-15-103 Declaratory orders; request for hearing, again it states ‘the commission may, but shall not be required to, conduct a hearing on a petition for declaratory order.’ The difference between a land use boundary amendment reclassification process and a declaratory order are night and day. Do not confuse that. These are not the same things, and in my opinion do not provide that level playing field for the public.

“So, what’s been going on with this bill, particularly with this section 10? You know, it’s been going through roads. Somehow it appeared, was advocated for, and now the feedback that I’m getting is nobody’s going to use it. Either it’s created too much controversy or it’s been amended to the point where it’s not of any use. Well, if that’s the case, then we don’t need it.

“A further issue was the relationship to lands here in the state with respect to how this could possibly be used. Yes, there are many, many lands that are threatened by development—agricultural lands—that are threatened by development. I would also point out to all of you that there are existing projects or projects that are on the books that would do exactly that. As you all know, Mililani was developed on some of the best agricultural lands in the State of Hawai’i. Yes, there were a need for homes; obviously it was a very successful development. Will this be, will this new ability to designate 85

percent and get 15 percent for another designation result in another Mililani in a way that does not go through the land use designation process—the appropriate process. Pearlridge was another project on agricultural lands. Additionally this failed to meet the test of the Land Use Commission. Yet, if this bill is adopted with this so-called incentive, what will that do for projects like that?

“So, colleagues, this is a very serious issue. Important agricultural lands are something we’ve been striving for a long time. I know that patience is running thin. I think that many people feel, for whatever reason, that if you don’t do it now, you’ll never do it. I don’t, I don’t take that perspective. We’ve been at it for this long. We don’t need to compromise ourselves with respect to how we bring it about. This is something that we need to do carefully. We need to be sure that when we approve a measure that it’s not going to have those unintended consequences. Again, I applaud the good work of the Chair of the Agriculture and Hawaiian Affairs Committee. I think this bill goes too far, particularly with respect to Section 10. I know it’s a difficult thing but I ask you to vote this down because in my opinion this will not enhance agricultural land. In fact, it’ll nibble away at it, and nibble away at it—exactly what’s going on today. Thank you very much.”

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

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

“Madam President and colleagues, today there are 1.9 million acres of land classified as agriculture—1.9 million. Five hundred thousand of those acres are grazing lands; 1.4 million acres are for crops and farming—1.4 million acres. Let me put this in its proper context. Sugar cane in its heyday at its peak utilized 250,000 acres; pineapple in its heyday at its peak, 85,000 acres. These two crops put Hawai’i on the map agriculturally. We were known globally for our sugar cane and pineapple. Yet these two crops utilized less than 400,000 acres of our agricultural land. We do not have a shortage of agricultural land. As a matter of fact, much of our agricultural land today is underutilized and is not being used to its maximum usage.

“So what do we do with all this land? My guess is in the future, research will even allow higher yields on crops. And with hydroponics, we’ll be able to grow crops, vegetables in buildings, on rooftops. Now let’s fast forward in 30 to 40 years when projections have approximately 300,000 more people living on Oahu. Where will these people live? Likely west Oahu and central Oahu. This is a measure that has been debated for 30 years plus. This is a measure that is supported by the Hawai’i Farm Bureau and LURF—Land Use Research Foundation funded by developers. It is not a perfect bill, but it is a bill which we need to consider. If no one utilizes it, as one of the speakers says, then we can revisit it. But this is a measure that certainly deserves our consideration. I foresee this measure as one of the significant measures we will be voting on this Session, and I hope all of you have the wisdom to vote ‘yes’ on it. Thank you, Madam President.”

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

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

“Madam President, I would love to support this measure if not for Section 10, which is a source of the problem for many of us. I would be able to support it but for the Section 10, which the Chair of the Consumer Protection Committee from the Big Island went through at length, I cannot support this measure. You know, I live in an area that could be changed forever if we make a mistake today. And forever is a long, long time. We cannot take back the changes. If this bill goes into place and the

provisions are utilized, we cannot say oh, we made a mistake; we're going to take it back. There is no going back if we make a mistake today. The ideas and concepts I believe are good and worthwhile, worthy of discussion and worthy of moving forward. But this bill in my opinion is not ready for passage. It's not ready and it's too big a risk to take at this point. I urge my colleagues to vote in opposition to this bill, and I would like the comments of the Chair of the CPH Committee—the Senator from the Big Island, Volcano—inserted into the record as if they were my own. (The Chair so ordered, by reference only.)”

Senator Tokuda rose in rebuttal and said:

“I just rise in some brief rebuttal.

“You know, I know that we have a number of arguments, very good arguments and I also appreciate the thoughts and the wisdom of the previous agriculture chair and what he had to share with us today. I shared his concerns as well over our rural classification. I think that's why went ahead and inserted in the 85:15 provision that conditions could be imposed upon the reclassification of these lands. It was very important to us that we make sure that whether it was going into urban, rural, or conservation, that we protected these 15 percent of lands. We protected them from urbanization and from the threats of subdivisions and whatnot and that's why we specifically as I just stated put in there that conditions could be directly applied to those 15 percent of lands. If individuals are unsatisfied with an LUC decision, they also have the ability to obtain judicial review, as stated in section 15-15-75 in the LUC's administrative rules. So there are additional processes available to them if they are not satisfied with the decision put forward by the Land Use Commission.

“And finally, in closing, we've talked today about nibbling away and nibbling away at what agricultural lands we have left. But the bottom line is right now, with no designation process, with nothing being done for important ag lands. We're not nibbling away. We're losing great big chunks of agricultural land, sections by sections by sections. And that threat will continue until we start to trigger this process and begin the designation of important ag lands. So I respectfully request that you would support this bill today. Thank you.”

Senators Bunda, Nishihara, Taniguchi, and Trimble requested their votes be cast “aye, with reservations,” and the Chair so ordered.

Senator Kokubun rose and said:

“Madam President, may we have a Roll Call vote.”

The Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 177-08 was adopted and S.B. No. 2646, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS,” having been read throughout, and Roll Call vote having been requested, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 14. Ayes with Reservations, 4 (Bunda, Nishihara, Taniguchi, Trimble). Noes, 10 (English, Fukunaga, Gabbard, Hee, Hooser, Ihara, Kim, Kokubun, Menor, Tsutsui). Excused, 1 (Ige).

At 4:43 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:47 p.m., with the Vice President in the Chair.

Conf. Com. Rep. No. 178-08 (H.B. No. 1412, H.D. 1, S.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 178-08 be adopted and H.B. No. 1412, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Baker

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

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

“Well, while I certainly appreciate what the Department of Taxation has done, and I want them certainly to be more efficient and cost effective, I cannot support the establishment of yet another special fund—the tax information management systems special fund—in an amount of \$2.9 million into that fund. In addition, this is a backdoor approach to one of our favorite bills, and that's the streamlined tax, integrated tax bill, which of course has not passed but we're going to spend money to have the tax department do software and be prepared for this, which is again, as I keep telling everyone in this Senate Body, is a backdoor approach to increase taxation, particularly on the internet. And finally, during the hearings when we talked about this, about more efficiency in tax collections, it was brought up that basically while we have a lot of large taxpayers or corporate taxpayers who are in arrears, it's a lot easier to go after smaller taxpayers, small businesses and individuals for collection and for penalties. So for these reasons I stand opposed. Thank you.”

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

“Madam President, I rise to speak in support of this measure and to rebut some of the comments made by the prior speaker. I would note for the members' edification that Department of Taxation did testify and provided us with information showing that, if you were to provide for some of the preparations for streamlined sales tax implementation as part of your regular software upgrade, it would be a lot cheaper than pursuing the implementation as a stand alone, one-time cost (which would be more than triple the cost of this software upgrade). I would also note that this particular software upgrade is being implemented as part of a benefits funded performance contract, which means that the vendor who is implementing the contract will be paid as new tax revenues are collected. Therefore, it represents a very efficient and a cost-effective way of both saving taxpayer dollars as well as making sure that we proceed in a manner that does not impact the general fund. For those reasons I urge my colleagues to vote in support of this measure. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 178-08 was adopted and H.B. No. 1412, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF TAXATION'S BENEFITS-FUNDED REVENUE-GENERATING COMPUTER INITIATIVES,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Slom, Trimble). Excused, 2 (Hanabusa, Ige).

H.B. No. 2293, H.D. 1, S.D. 2, C.D. 2:

On motion by Senator Tokuda, seconded by Senator Hee and carried, the Senate agreed to the amendments proposed by the House to H.B. No. 2293, H.D. 1, S.D. 2, and H.B. No. 2293, H.D. 1, S.D. 2, C.D. 2, 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, 1 (Slom). Excused, 2 (Hanabusa, Ige).

H.B. No. 2872, S.D. 2, C.D. 2:

Senator Hee moved that H.B. No. 2872, S.D. 2, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Baker.

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

“Madam Vice President, I rise in opposition to H.B. No. 2872.

“Colleagues, first note this only applies to counties with less, with population of less than 100,000. Second, that it applies to not all leases, but leases that are used for recreational or residential use. And what it does is it directs the Department of Land and Natural Resources to come up with a special preferential way of allowing somebody that has occupied and enjoyed the property for x-number of years to continue using it in the future. What that means is that it is denying the use to everybody else that has not had access to the property. It’s taking public property that is intended for recreational use and denying the general public the general, the same right to bid on that land and to use it for that recreational purpose going forward. And I think that that is a form of taking a public property and it is not something that we should do. Thank you.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to H.B. No. 2872, S.D. 2, and H.B. No. 2872, S.D. 2, C.D. 2, 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, 20. Noes, 3 (Hemmings, Slom, Trimble). Excused, 2 (Hanabusa, Ige).

S.B. No. 2198, S.D. 2, H.D. 2, C.D. 2:

Senator Hee moved that S.B. No. 2198, S.D. 2, H.D. 2, C.D. 2 having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2198, S.D. 2, H.D. 2, and S.B. No. 2198, S.D. 2, H.D. 2, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO LAND CONSERVATION,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Ayes, 23. Ayes with Reservations, 1 (Kokubun). Noes, none. Excused, 2 (Hanabusa, Ige).

S.B. No. 2499, H.D. 1, C.D. 2:

On motion by Senator English, seconded by Senator Gabbard and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2499, H.D. 1, and S.B. No. 2499, H.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO TARO,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 4:54 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:55 p.m.

S.B. No. 6, H.D. 2, C.D. 2:

Senator Hee moved that S.B. No. 6, H.D. 2, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Gabbard.

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

“Madam Vice President, I rise in support.

“I would like to thank the members for allowing me the opportunity during caucus to discuss this measure and would like to share with you some of my strong feelings why this bill should be supported. This bill to me is at the epicenter of much that we have been talking about for many years, and that is sustainability. The ‘opihi is a victim of greed. It is like so many other natural resources been over harvested to the point where a year does not go by when people lose their lives because of the quest for profit. It is a victim of profiteers. It is, this bill is the embodiment of all that is wrong with human greed when it interacts with our natural resources. This measure, though symbolic for so many other natural resources that we enjoyed as youngsters—the kūpe’e, the pūpū, the pipipi and all other shells, the wana, the Samoan wana—it is the embodiment of why our natural resources are out of balance today.

“This bill is the result of a collaboration of scientists from the Hawai’i Institute of Marine Biology—specifically Dr. Rob Toonen and Dr. Chris Bird, acknowledged as the preeminent experts of ‘opihi. While in my own mind a moratorium should have been placed, they were the ones that convinced, convinced me as well as our staff attorney as well as Guy Tamashiro of Tamashiro’s Market, and as well as the chief of staff for Rep. Ken Ito in a meeting. While this bill is not exactly as they would like it to be, it is as close to what they believe will be the proper implementation to allow the ‘opihi to regenerate itself naturally while allowing human beings to continue to harvest the limpet. I want to point out that at the suggestion of Drs. Toonen and Bird and with the agreement of Guy Tamashiro, they have indicated their strong belief that with a 6-month open season and a 6-month closed season, where people will be allowed to harvest during the open season, that the ‘opihi is able to regenerate itself. They also have concluded that by allowing the taking of ‘opihi only above the waterline, it will regenerate the endangered kō’ele, the largest of the species.

“This bill, there are some of you who may feel that this bill goes too far. I would say to you that this bill, with the collaborative effort, rule-making effort of the DLNR can establish limits on taking, although the size of the ‘opihi to be taken is written in the bill. I would ask my colleagues to consider the ‘opihi as opposed, as opposed to the people who take it. That is what the bill is intended to do—bring back the ‘opihi. And I will say again, for seven generations to enjoy, that are yet unborn. Thank you.”

At 5:00 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:11 p.m.

By unanimous consent, action on S.B. No. 6, H.D. 2, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO OPIHI,” was deferred to the end of the calendar.

S.B. No. 2262, S.D. 1, H.D. 2, C.D. 2:

Senator Taniguchi moved that S.B. No. 2262, S.D. 1, H.D. 2, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Baker.

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

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

“This VEBA bill we gave it an opportunity for a pilot program. It’s supposed to end, sunset. This bill would extend it, and what it does, it does that at the expense of the state-run EUTF fund which has been running quite efficiently. But

having the VEBA trust takes away from that and increases costs for other state employees.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2262, S.D. 1, H.D. 2, and S.B. No. 2262, S.D. 1, H.D. 2, C.D. 2, 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, 20. Noes, 3 (Hemmings, Kokubun, Slom). Excused, 2 (Ige, Whalen).

S.B. No. 1491, S.D. 1, H.D. 2:

On motion by Senator Espero, seconded by Senator Tsutsui and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 1491, S.D. 1, and S.B. No. 1491, S.D. 1, H.D. 2, 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, 23. Noes, none. Excused, 2 (Ige, Whalen).

S.B. No. 1720, S.D. 1, H.D. 2:

Senator Menor moved that S.B. No. 1720, S.D. 1, H.D. 2, having been read throughout, pass Final Reading, seconded by Senator Tsutsui.

Senator Trimble rose to speak in opposition as follows:

“Madam Vice President, I stand in opposition to this measure.

“Colleagues, this again is another special purpose revenue bond. Again, it doesn’t, we’re authorizing the sale of tax free bonds, which according to a deputy attorney general doesn’t qualify for tax free treatment. It is for an activity and a technology that has not shown that it is viable anyplace in the world. And somehow between those two things, I kind of wonder why this firm is coming to us and asking for tax free bond or the permission or authorization to sell tax free bonds. Does it qualify for tax free treatment?”

“Perhaps they’re looking for something else. And the only that can come to my mind that they’re looking for is some kind of endorsement by the Hawai’i State Legislature that they can use to convince potential investors outside of the State of Hawai’i to participate in the ownership of their company through some kind of equity sale. I don’t think that we should be participating in that process. Therefore, I’ll be casting a ‘no’ vote. Thank you.”

“Madam Chair, I rise to speak against this measure.

“This bill calls for the State to authorize \$100 million worth of special purpose revenue bonds. But I must question the merits of this bill for several reasons. First and foremost I believe that this is a home rule issue. Requests for revenue bonds to fund such projects should be initiated by the counties, or at least with their participation in the process. It is the county governments that manage the flow of trash. It is the county governments that can best gauge the potential for success or failure. I question the State’s reasons to issue this SPRB. Municipal budgets depend on revenues derived from tipping fees, yet there is no evidence of any discussion between Jacoby and the County of Honolulu regarding trash being directed to a proposed incineration site. So if there are no discussions to move trash to an incineration site, why do we need this bill?”

“In its testimony before the House Finance Committee, the President of Geoplasma, a subsidiary of Jacoby, requested that the scope of the bill be broadened beyond Oahu. He stated that his company is interested in exploring a plant on one of the

neighbor islands. Although he did not identify the Big Island, we know that it is now under consideration. Just last week the Hawai’i County turned down a proposal—the Council turned down the proposal of a \$126 million waste-to-energy plant. Citing cost as a major problem, the County Council voted 6-3 against Wheeler Brader Technology’s proposal to design, build, and run the island’s first incinerator plant.

“Colleagues, this is a flawed bill. While a \$100 million plant might work on Oahu, it is unlikely that the trash flow on any of the neighbor islands would sustain a profitable operation in the long run. Every day 233 tons of trash is dumped into the Hilo landfill. Here on Oahu we haul 833 tons of trash to Waimanalo Gulch daily, probably more than all the neighbor islands combined. So because the neighbor islands’ trash flow is far below that of Oahu, \$100 million is just way too much money. This is exactly why Hawai’i County voted down on their proposal.

“When speaking of the potential for success of a \$450 million project in Florida, Mike Ellis, the COO of Jacoby, said that trash flow and energy prices must be high to make these facilities profitable. An adequate trash flow, he said, is crucial. And Jacoby claims the technology will virtually solve the County’s landfill problem. However, Ms. Monica Wilson of the Global Alliance for Incinerator Alternatives disagreed. She said ‘we found projects similar to this being misrepresented all over the country.’ She also said that other companies have tried to produce such results and failed. She cited two similar facilities run by different companies in Australia and Germany that closed after failing to meet emission standards. By the way, the \$450 million project for the St. Lucie project in Florida will be completely paid for by Geoplasma—completely paid for by Geoplasma. The company planned to sell industrial bonds to pay for its construction. Let me repeat again, Geoplasma is absorbing the entire cost of the project. Moreover the Florida County asked for assurances that it would have no liability for the bonds, regardless of what happens—in other words, they were not asked to issue any special purpose bonds and they acquired no liability.

“Colleagues, let me reiterate. This is a home rule issue. We should not be authorizing a venture that is out of our purview and beyond our jurisdiction. We do not control the landfills or incinerators, tipping fees or trash flows. If the County of Honolulu or the County of Hawai’i wants to pursue this technology, let them ask for it and do their own due diligence. At this point, we certainly haven’t done that and I think it is, it is for them—the counties—they should be the ones to do the due diligence. Why in the world would we commit \$100 million in bonds to fund the project with inadequate information or supporting data on variables that would affect the total cost or potential revenues? We don’t even know where the project will be located. Think about it. Ask yourself if you have enough information to make a decision now. If you have any questions at all, you should not vote for this measure. 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. 1720, S.D. 1, and S.B. No. 1720, S.D. 1, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST JACOBY DEVELOPMENT, INC., A PROCESSING ENTERPRISE,” having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 4 (Bunda, Hemmings, Slom, Trimble). Excused, 2 (Ige, Whalen).

S.B. No. 2034, H.D. 2:

On motion by Senator Menor, seconded by Senator Tsutsui and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2034, and S.B. No. 2034, H.D. 2, entitled: "A BILL FOR AN ACT AUTHORIZING THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST OCEANLINX HAWAII LLC," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Ige, Ihara, Whalen).

S.B. No. 2040, S.D. 1, H.D. 2:

On motion by Senator Baker, seconded by Senator Fukunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2040, S.D. 1, and S.B. No. 2040, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CANCER SURVEILLANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Ige, Ihara, Whalen).

At 5:20 p.m., the Senate stood in recess subject to the call of the Vice Chair.

The Senate reconvened at 5:21 p.m.

S.B. No. 2169, S.D. 1, H.D. 1:

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2169, S.D. 1, and S.B. No. 2169, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIQUOR LICENSES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Gabbard, Ige, Whalen).

S.B. No. 2263, S.D. 2, H.D. 1:

On motion by Senator Sakamoto, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2263, S.D. 2, and S.B. No. 2263, S.D. 2, H.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 (Gabbard, Ige, Whalen).

S.B. No. 2433, S.D. 2, H.D. 1:

On motion by Senator Fukunaga, seconded by Senator Tsutsui and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2433, S.D. 2, and S.B. No. 2433, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IOLANI PALACE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Gabbard, Ige, Whalen).

S.B. No. 2584, S.D. 2, H.D. 1:

On motion by Senator Tokuda, seconded by Senator Kokubun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2584, S.D. 2, and S.B. No. 2584, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HONEY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ige, Whalen).

S.B. No. 2808, S.D. 2, H.D. 1:

On motion by Senator Menor, seconded by Senator English and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2808, S.D. 2, and S.B. No. 2808, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ige, Whalen).

S.B. No. 3019, S.D. 1, H.D. 2:

On motion by Senator Kokubun, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3019, S.D. 1, and S.B. No. 3019, S.D. 1, H.D. 2, 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, 23. Noes, none. Excused, 2 (Ige, Whalen).

S.B. No. 3190, H.D. 1:

On motion by Senator Menor, seconded by Senator Tsutsui and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3190, and S.B. No. 3190, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST SOPOGY INC., IN THE DEVELOPMENT OF RENEWABLE ENERGY ON THE ISLAND OF OAHU," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 3 (Hemmings, Slom, Trimble). Excused, 2 (Ige, Whalen).

At 5:24 p.m., the Senate stood in recess subject to the call of the Vice Chair.

The Senate reconvened at 5:54 p.m., with the President in the Chair.

#### FINAL READING

##### MATTER DEFERRED FROM EARLIER ON THE CALENDAR

S.B. No. 6, H.D. 2, C.D. 2:

On motion by Senator Ige, seconded by Senator Hooser and carried, S.B. No. 6, H.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO OPIHI," was recommitted to the Committee on Conference.

#### RECONSIDERATION OF ACTIONS TAKEN

S.C.R. No. 210 (H.D. 1):

Senator Hee moved that the Senate reconsider its action taken on April 23, 2008, in disagreeing to the amendments proposed by the House to S.C.R. No. 210, seconded by Senator Taniguchi and carried.

Senator Hee moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 210, seconded by Senator Taniguchi.

On motion by Senator Hee, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 210, and S.C.R. No. 210, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION APPROVING THE ACTION OF THE BOARD OF LAND AND NATURAL RESOURCES RELATING TO A LAND EXCHANGE," was Finally Adopted.

#### MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 694 to 702) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 694, informing the Senate that on May 1, 2008, she signed into law Senate Bill No. 3185 as Act 52, entitled: "RELATING TO CANCER," was placed on file.

Gov. Msg. No. 695, informing the Senate that on May 1, 2008, she signed into law Senate Bill No. 2782 as Act 53, entitled: "RELATING TO METAL," was placed on file.

Gov. Msg. No. 696, informing the Senate that on May 1, 2008, she signed into law Senate Bill No. 3006 as Act 54, entitled: "RELATING TO BUSINESS REGISTRATION," was placed on file.

Gov. Msg. No. 697, informing the Senate that on May 1, 2008, she signed into law House Bill No. 2559 as Act 55, entitled: "RELATING TO THE UNIFORM UNCLAIMED PROPERTY ACT," was placed on file.

Gov. Msg. No. 698, informing the Senate that on May 1, 2008, she signed into law Senate Bill No. 2900 as Act 56, entitled: "RELATING TO PUBLIC LANDS," was placed on file.

Gov. Msg. No. 699, dated May 1, 2008, transmitting her statement of objections to House Bill No. 7 which she has returned to the House of Representatives without her approval and which reads as follows:

"EXECUTIVE CHAMBERS  
HONOLULU

May 1, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 7

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 7 entitled 'A Bill for an Act Relating to the I-SaveRx Prescription Drug Program.'

This bill requires the Governor to enter into a written agreement with the state of Illinois or another state to participate in the I-SaveRx prescription drug program. That program would allow the reimportation of drugs from Europe and Canada by allowing individuals to fill prescriptions from pharmacies in these foreign countries.

This bill is objectionable because it violates the Federal Food, Drug, and Cosmetic Act (21 USC (a), (c), and (d)). This federal act is specifically designed to protect the American public from receiving unsafe, ineffective, and poor quality medications, by prohibiting the importation of prescription drugs from other countries. Enactment of this bill would place Hawaii residents in violation of federal law.

For the foregoing reason, I am returning House Bill No. 7 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii,"

was placed on file.

H.B. No. 7, H.D. 1, S.D. 1:

In accordance with Article III, Section 17, of the Hawaii State Constitution, Senator Hooser moved that the Senate

override the veto of H.B. No. 7, H.D. 1, S.D. 1, as contained in Gov. Msg. No. 699, seconded by Senator Ige.

Senator Hemmings rose to speak in opposition to the motion to override and stated:

"Madam Chair, I rise to speak against the move to override.

"I could give a long and embroiled speech about it, but according to the Governor's Message and common sense the bill is objectionable because it violates federal law and will not be sustained in federal court. Therefore, it doesn't make sense for us to pass a bill that the federal government clearly has jurisdiction over and dominance over. This bill will not work no matter how good the intentions are. Therefore, I urge my colleagues to sustain the Governor's veto and come back and do this right the next time."

Senator Ige rose to speak in support of the motion to override and stated:

"Madam Chair, I rise to speak in support of the override.

"In support of the override, I just would like to note that five other states have taken similar action and the citizens of their states have the benefit of lower prescription drugs for there."

Senator Ige rose and said:

"Madam President, may we have a Roll Call vote."

The Chair so ordered.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 7, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE I-SAVERX PRESCRIPTION DRUG PROGRAM," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Hemmings, Slom). Excused, 2 (Menor, Whalen).

Gov. Msg. No. 700, dated May 1, 2008, transmitting her statement of objections to Senate Bill No. 2129 which she has returned to the Senate without her approval and which reads as follows:

"EXECUTIVE CHAMBERS  
HONOLULU

May 1, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2129

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2129, entitled 'A Bill for an Act Relating to Elder Affairs.'

The purpose of this bill is to authorize the Policy Advisory Board for Elder Affairs to testify before the Legislature on any matter related to its duties and responsibilities rather than having its communications with the Legislature go through the Executive Branch, including the Executive Office on Aging and the Director of Health, pursuant to section 26-35(a)(1), Hawaii Revised Statutes.

I believe communication between persons at all levels of the legislative and executive branches is vital to our ability to fulfill



the responsibilities each of us is assigned by the Constitution and laws of the State.

It is my understanding that individual members of boards and commissions, including this Board, testify regularly and respond to requests from individual members and committees of the Legislature. Boards and commissions also take official positions on bills pending before the Legislature and, when doing so, coordinate this testimony through the appropriate department and agency to which they are attached.

This Board and its members are clearly already able to testify in their individual capacities on matters before the Legislature. Because procedures are already in place for all commissions to communicate, including the Policy Advisory Board for Elder Affairs, and, more importantly, are being used regularly, this bill is not needed. It would be inappropriate to allow one Board, out of over 160 existing boards and commissions, to bypass the existing statutory process.

For the foregoing reasons, I am returning Senate Bill No. 2129 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii,"

was placed on file.

Gov. Msg. No. 701, dated May 1, 2008, transmitting her statement of objections to Senate Bill No. 2779 which she has returned to the Senate without her approval and which reads as follows:

“EXECUTIVE CHAMBERS  
HONOLULU

May 1, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2779

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2779, entitled ‘A Bill for an Act Relating to Labor.’

The stated purpose of this bill is to clarify the types of circumstance under which the Governor, by executive order, may suspend the statutes relating to prevailing wages and hours for public works projects.

Current law provides that during a national emergency declared by the President or the Congress of the United States, or a state of emergency declared by the Governor, the Governor by executive order may suspend the provisions of chapter 104, titled, ‘Wages and Hours of Employees on Public Works,’ of the Hawaii Revised Statutes. Under this bill, the circumstances under which a state of emergency may be declared by the Governor appear to be limited to circumstances designated in section 127-10 or 128-7, Hawaii Revised Statutes.

This bill is objectionable because if this bill is intended as a mere clarification of the existing powers of the governor, it is unnecessary. The current law already provides the necessary provisions that enable the Governor to act quickly in addressing the needs of our people during times of emergency.

This bill is also objectionable because it adds unnecessary and confusing wording that may restrict a Governor’s ability to

suspend rules that protect the health and safety of Hawaii residents. I cannot allow our residents to be jeopardized if delays are encountered in emergency repairs and construction. Finally, this bill is redundant in the manner in which it is worded and obfuscates a section of the statutes where there should be unquestioned clarity--the powers of a Governor during times of emergency.

For the foregoing reasons, I am returning Senate Bill No. 2779 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii,”

was placed on file.

S.B. No. 2779, S.D. 2, H.D. 1:

In accordance with Article III, Section 17, of the Hawaii State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 2779, H.D. 2, as contained in Gov. Msg. No. 701, seconded by Senator Ige.

Senator Ige rose and said:

“Madam President, may we have a Roll Call vote.”

The Chair so ordered.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 2779, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO LABOR,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 20. Noes, 3 (Hemmings, Slom, Trimble). Excused, 2 (Menor, Whalen).

Gov. Msg. No. 702, dated May 1, 2008, transmitting her statement of objections to Senate Bill No. 2828 which she has returned to the Senate without her approval and which reads as follows:

“EXECUTIVE CHAMBERS  
HONOLULU

May 1, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2828

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2828, entitled ‘A Bill for an Act Relating to Disaster Relief.’

The purpose of this bill is to confine the Governor’s power to provide relief for disasters caused by events other than acts of nature, enemy attack, or acts of terrorism, solely to the period immediately after a man-made disaster occurs until the Legislature acts to provide further relief in a regular or special session. It also limits the extent to which the Governor may suspend laws to provide relief for man-made disasters only until the next occurring regular session of the Legislature is adjourned sine die, unless the suspension of laws is extended by a concurrent resolution or legislative enactment.

Unless the Legislature is already sitting in a regular session, the Legislature will have to be called into special session every

time a disaster occurs that falls outside the narrow scope of this bill.

This measure is particularly onerous because the substantial restrictions placed on the State's ability to respond to disasters in the future, are also imposed on disaster relief efforts that are currently underway, unless the Legislature permits them to continue by concurrent resolution. Allowing this measure to become law could prevent us from completing on-going efforts to shelter and provide needed health and social services for the homeless on Oahu.

This bill also creates substantial potential legal issues for the several emergency proclamations pursuant to which disaster relief for the homeless is currently being provided. This bill terminates those proclamations immediately--creating significant uncertainty. This immediate termination is inappropriate.

The full panoply of the State's resources should be available to respond to every disaster that may threaten the community. The Governor should not be precluded from utilizing those resources until the Legislature gives its permission to act.

For all of these reasons, therefore, I am returning Senate Bill No. 2828 without my approval.

Respectfully,

/s/ Linda Lingle  
LINDA LINGLE  
Governor of Hawaii,"

was placed on file.

S.B. No. 2828, S.D. 2, H.D. 2:

In accordance with Article III, Section 17, of the Hawaii State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 2828, S.D. 2, H.D. 2, as contained in Gov. Msg. No. 702, seconded by Senator Ige.

Senator Hemmings rose to speak in opposition to the motion to override and stated:

"Madam Chair, I rise to speak against the motion to override the Governor's veto on this bill.

"This bill was debated at length during session and it does just, the bill does just what the Governor is worried about—it takes away her power to react to emergencies that have a direct impact on the health and welfare of our citizenry. Why would we want to do anything to restrict the executive branch of government from moving quickly and expeditiously to take people out of harm's way when they're living on the beach or being thrown off out of a park such as they were at Ala Moana park or in any other situation that would directly imperil their health and welfare, especially the children that had been saved and protected by the Governor's action on these things, these problems.

"It is rather ironic that in the wake of Aloha Airlines freight company folding that we heard from several leaders including a rather cantankerous member of Congress that the Governor should use her full powers, including emergency powers, to provide emergency cargo lift capabilities by declaring an emergency. I guess that particular Congressman forgot to check with his colleagues back here that were passing this bill to curtail her abilities to call for emergency powers in situations that don't involve the acts of Mother Nature. Colleagues what are we doing? I thought we were here to try to protect the people that need our help in dire straights in the most expeditious manner possible. Are we more interested in thwarting the executive branch of government because the current Governor does not have the same political label as you do? Or are we here to try to pass laws that give the Governor

and the executive branch of government and us full capabilities to react in these situations in our community that help save the lives and welfare of the least amongst us—those people do not have the resources to care for themselves properly. I don't understand it. I would ask my colleagues to sustain the veto and continue to allow the Governor to be able to help the people as she has done so effectively in times of need. Thank you."

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

"Thank you Madam President. I rise in support of the override of the Governor's veto.

"Madam President, colleagues – when we first considered this measure, I rose on the floor to remind everyone that the measure does not curtail her ability to deal with real emergency situations, whether they're man-made, terrorist, or natural disasters. We had amended the bill to make sure that we were not thwarting any of the efforts to deal with the kinds of natural disasters that sometimes can befall our state. But by the same token, those regular, societal ills like homelessness, like abandoned cars, can and should be dealt with in the regular order of business or calling us into special session. This measure does not tie the Governor's hands in a way that would keep her from responding to real emergencies. It does say that for other things that are ongoing regular problems that you need to engage the Legislature in a thoughtful and a collaborative way. I urge all my colleagues to vote to override."

Senator Hemmings rose to speak in rebuttal as follows:

"Madam Chair, I rise in rebuttal to the previous statements.

"If this legislature had responded in a responsible way to the homeless problem the people on the beaches on the Wai'anae Coast, your district Madam President, and had responded to the mayor and the City and County of Honolulu throwing homeless out of the park and therefore putting them on the streets in harm's way, maybe the previous remarks could be justified. The point is the Legislature did not, and the Governor, with all the best of intentions, did, and God bless her for doing so, and I am rather ashamed that we did not. Why would we take away her powers, especially when we're not in session to deal expeditiously with matters of this nature?"

"In the course of debating this bill you did hear the statistics of over 6,000 people being assisted through this initiative and many of them children who could not take care of themselves and are subject to extreme risk in their own health and welfare even though they were not hit by a hurricane or natural disaster. It just doesn't make sense if we are really interested in helping people to take away the Governor's ability to do so, especially in view of the fact that we as a Legislature had failed to do so. Thank you Madam President."

Senator Baker rose to speak in rebuttal as follows:

"Madam Chair, I rise in brief rebuttal.

"I just want to remind my colleagues that when dealing with the homeless issue on the Waianae Coast, the Governor chose not to come to the Legislature and seek our assistance, rather she waited until we were gone and then proclaimed an emergency. We were also back in Session in the Regular Session of 07, she had ample opportunity to report to the Legislature on the use of those emergency powers—but she didn't seek legislative approval to continue them or even come down and discuss it with the Legislature on how we might be able to assist. Rather she waited until after the 07 Regular Session had adjourned and then extended the term of the original emergency proclamations for an additional year.

"What concerned those of us who dealt with this in subject matter even more is that throughout the three special sessions

that the Legislature was in working on matters in 2007 and even throughout this entire 2008 Regular Session, the Governor did not seek approval for continuing this endeavor. She did not come and engage the Legislature in any way, shape or form. Through the use of the powers provided under existing emergency proclamations and extended through June 30 of 2008, the Governor will have circumvented the provisions of at least eighteen state laws and county ordinances for a period of two years. We had ample opportunity, the Governor had ample opportunity to come and engage the Legislature and did not. I think this measure needs to be overridden. Thank you.”

Senator Ige rose and said:

“Madam President, may we have a Roll Call vote.”

The Chair so ordered.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 2828, S.D. 2, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO DISASTER RELIEF,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Hemmings, Slom, Trimble). Excused, 1 (Whalen).

#### MOTIONS TO OVERRIDE VETOS

S.B. No. 868, S.D. 2:

In accordance with Article III, Section 17, of the Hawaii State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 868, S.D. 2, as contained in Gov. Msg. No. 660, seconded by Senator Ige.

Senator Ige rose and said:

“Madam President, may we have a Roll Call vote.”

The Chair so ordered.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 868, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO BOARDS AND COMMISSIONS,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Hemmings, Slom, Trimble). Excused, 1 (Whalen).

S.B. No. 2898, S.D. 1:

In accordance with Article III, Section 17, of the Hawaii State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 2898, S.D. 1, as contained in Gov. Msg. No. 661, seconded by Senator Ige.

Senator Hemmings rose to speak against the motion to override and said:

“Madam Chair, I rise to speak against the motion to override the Governor’s very astute veto of S.B. No. 2898.

“I don’t believe that there are any super delegates involved in this bill, but nevertheless there is a profound history that harkens back to the wisdom of the founding fathers in the electoral college. And quoting the Governor’s veto message ‘Under this bill Hawai’i’s four electoral votes would be awarded to the presidential slate that receives the most votes as determined by the national popular vote regardless of which candidate won the popular vote in Hawai’i. Had this compact been in effect since statehood, in four elections Hawai’i’s electoral votes would have gone to a candidate whom the majority of the voters in Hawai’i did not want—Richard Nixon

rather than Hubert Humphrey in 1968, Ronald Reagan rather than Jimmy Carter in 1980, George Bush rather than Michael Dukakis in 1988, and George W. Bush rather than John Kerry in 2004.’

“Is this really what you want? I don’t think so. I think the Majority party is having an argument about this very type of issue in its own primaries in the national elections right now. I think overriding the Governor’s veto of this is foolhardy and shortsighted and will not serve the best interests of the people of Hawai’i and therefore I urge my colleagues to put aside the partisanship on this and sustain the Governor’s veto. This system has worked for well over 200 years and it should continue to work as it is designed to. Thank you.”

Senator Slom rose to speak against the motion to override and said:

“Madam President, I rise in opposition to the bill in support of the Governor’s veto.

“You know we debated this last year, we debated it this year—this bill is not in the majority interest of the people of Hawaii or any small state. We are the ones that will be disenfranchised and for the life of me I can’t understand where the support for this bill has come from. I would challenge anyone in this room to tell me that a constituent actually came to them, wrote to them, emailed them, telephoned them, and said ‘boy, the number one thing that we want or anything that we want is to change the national popular vote.’ It has come from lobbyists who have gotten money from a financier in California who believes that he wants to overturn the electoral college.

“You can vote to overturn the Governor’s veto tonight; you are not going to overturn the electoral college. No other state has passed this type of bill to join the compact. Yes there have been single houses of a couple of states, but no state has done it. So they’ll look to Hawaii and again we’ll be the laughing stock of the nation because they’ll say why are you giving away the rights to your people, where is the political demand for this type of bill, and what really is behind it, what does Hawaii have to gain? Its people have nothing to gain, democracy has nothing to gain, and you know, the outline of our forefathers in the construction of the Constitution has withheld many challenges because they have been proven right. And the particular part of the Constitution which established the electoral college was simply and directly and specifically to protect small states and to give equal rights to the voters and taxpayers of those states.

“If in fact this compact were to become a reality, then what we would do is we could forego all of our elections here and just wait for the four, five or six major metropolitan areas in the largest, most popular states to vote because that will absolutely determine national elections. So I would ask my colleagues to vote, although I guess it’s probably, to vote their conscience I guess it’s too late for that because once you go behind that closed door there you come out and all of the votes seem to be almost identical. But, think of who you are serving and who you are helping by this bill and I don’t see anybody. If somebody can correct me or bring me later information I would welcome it at this time. Thank you.”

Senator Trimble rose to speak against the motion to override and said:

“Madam Chair, I rise to sustain the Governor’s veto.

“Colleagues, I guess the Senator to my right and I grew up in large states and it was common when we were in high school, and I presume that we were in high school about the same time, to debate this very issue. I went to high school in southern California, I think the Senator to my right went to high school in Pennsylvania—those were states who had a lot of large

populations and they and three or four other states could determine the outcome of a national election if it were done by popular vote. I used to infuriate some of my high school classmates because I argued that the large states should not control the outcome of an election to the disadvantage of the smaller states. As luck would have it, I am now in one of those smaller states whose rights I argued about some fifty years ago and I am surprised, like the Senator to my right, because I have not heard from a single constituent that says that they wanted a popular vote, that a popular vote would improve the outcome of a national election from their perspective. So if what the Senator to my right alluded, then this issue is being promoted by an outsider who seeks to benefit outsiders at our expense. It just doesn't seem to make sense. Thank you."

Senator Ige rose and said:

"Madam President, may we have a Roll Call vote."

The Chair so ordered.

Senator Nishihara rose to request information inserted into the Journal as follows:

"I'd like insert comments into the Journal on some legislation we passed this session. Thank you"

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

"Madame President, colleagues:

"I speak against this bill for the following reasons: In the course of our republic, there have been only 4 individuals who became President who had lost the popular vote. Hardly a case for change when considering it's 5 out of 51, and out of that only 2 were not reelected.

"Of the states that currently have passed or enacted this legislation, 5 of the 11 are states with fewer than 10 electoral votes. Of the remaining 6, only California with 55 would be considered a significantly large state. This would not be advantageous to states such as ours if California and the other states with much larger populations would determine our future.

"The basis of our electoral college is rooted in the political history and realities of compromise. It was devised by our founding fathers to address the process of electing our presidents not wholly by popular vote or by the Congress. The interests of the many at the expense of a few are often balanced by the wise discretion of our respective legislatures to protect the rights of our minorities. This is not simply a one-man, one-vote formula.

"Finally, we believe that our state is unique in its character and people. We are proud of our history of tolerance and diversity. Also, perhaps we have more liberal philosophies than most. We went with President Jimmy Carter even knowing the outcome of the popular vote on the mainland. If what we in Hawai'i believe and value in our President becomes subsumed by the mood of the many as expressed in this bill, I express my regret. We will have cancelled out and suppressed our voice as a state by the formula devised in this measure.

"I ask my fellow senators to reject this ill considered measure."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 2898, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

At 6:21 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:26 p.m.

### SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 139 to 144) were read by the Clerk and were disposed of as follows:

Senate Resolution

No. 139 "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 139 was adopted.

No. 140 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTIETH DAY."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 140 was adopted.

No. 141 "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 141 was adopted.

No. 142 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 142 was adopted.

No. 143 "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE TWENTY-FOURTH LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 143 was adopted.

No. 144 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 144 was adopted.

Senator Inouye rose on a point of personal privilege and said:

"Thank you Madam President, I'll try not to take too long because I know it has been a long day but I didn't realize that you all wanted me to stay longer and extended the session until this evening. But as you all know, today is the last day of my last session as Senator representing the First District of Hawai'i. With the counsel of my family, I have decided not to run for reelection to the Senate in order to stay closer to home in Hilo and work more directly on the Big Island of Hawai'i. It has been my pleasure to serve both the residents of my district and

the people of Hawai'i and I will remember with fondness my time here at the Capitol.

"How quickly time flies—amazingly it was ten years ago that I moved into my office at the Capitol, and how times have changed. When I first arrived, replacing Senator Malama Solomon, I was one of five women Senators, now we are seven and we all chair a committee or serve in leadership positions. Although my departure marks the first time in twenty-five years that my district may not be represented by a woman, although the deadline for filing is still a few months away so who knows, I am proud to have served in a time when opportunities for women in politics are growing locally, nationally and internationally.

"Madam President, from the class of '98 only you and I survived. Also, as some of you may remember, in my earlier years sessions and conferencing were pretty exciting events with lobbyists hanging over the rails as we used to say and planning their next strategy and smoking away. On a serious note, this has been an incredible and rewarding period for me both personally and professionally. I wish to extend my thanks and aloha to those with whom I have worked, including our House counterparts and state, city and county agencies, and to all of our Senate support staff both Majority and Minority personnel. I would also like to take this opportunity to especially thank my family, my children, my brothers and sisters, my mother and father-in-law and my ohana here on Oahu. And some of you remember I was the one that said I have family on all islands—believe me, Moloka'i and Lanai as well. Finally, a special, a very special thanks goes out to my husband Vernon Inouye who for the past twenty-two years has stood by me and supported me a 110 percent. Finally, I would like to thank to my staff sitting patiently in the gallery—Viola Goings who has been with me for seven years; Maigee Chang who departs for Germany in a few weeks to join her husband, to be her home for the next four years; Trina Ishii, Ayumi Maltby and Arlina Agbayani. Mahalo to my former staff members as well who are here in other Senate and House offices—Carl Miura, William Kikuchi, Ken Best and Kaliko Chun.

"Madam President and colleagues, over the years we've worked together to pass legislation in the interest in the people of Hawai'i. I am proud of the work we have done. We all have our strong opinions and our differences have been at times quite stark, but I what I will always remember is that we managed, in my opinion, to resolve them professionally at least most of the time. It has been my distinct privilege to work with each and every one of you and I know our paths will cross again and that our relationships and friendships and good memories will last for the rest of our lifetimes. Aloha and to those who are running—good luck to you. Mahalo and god speed."

Senator Espero rose on a point of personal privilege and said:

"Madam President, just for the record, in 19XX Lorraine Rodero Inouye was born on the Big Island where she was raised and graduated from Hilo High School. Following high school, for twenty years she worked in the visitor industry, hotel industry and in 1974 she began her public service—being appointed to the Hawai'i Planning Commission. In 1980, Governor George Ariyoshi appointed her to the Hawai'i State Plan Policy Council and in 1993 she started her first tenure in elected office, winning a seat to the County Council. In 1990, due to special election, she was elected Mayor of the Big Island and in 1998 she began her term in the State Senate. We will miss Lorraine as she ventures onto her next endeavor. I know I speak on behalf of all of us that we wish her the best of luck and it's very, very, quite possible that next Session she will be testifying in front of many of our committees. So on behalf of the State Senate, we do have a certificate that we would like to present to you for your service to our state, to your district. Aloha and mabuhay."

Senator Slom rose on a point of personal privilege and said:

"I am going to miss Senator Inouye. We spent many hours together when I served on her committee. She worked very hard and I was very appreciative to be part of that. My question is who is going to provide us with fresh flowers now? That's the question. The other thing is I made a speech two years ago when I claimed an honor which I guess I really didn't deserve—that honor was I proclaimed myself as the oldest member, the most senior member, the wisest member of this body and Senator Inouye, a woman, got up and said 'oh no you're not, I'm older than you are.' What woman has ever, ever done that? You have to respect her for that. So, we're going to miss to you Senator Inouye. We wish you god's speed and wish you the best. And remember as you take this with you, 'don't cry for me Puerto Rico, take the coqui frogs with you and good luck to you.' Aloha Lorraine, we love you."

Senator Hemmings rose on a point of personal privilege and said:

"I'd like to add my warm aloha to the good feelings and tidings when we say adieu to Senator Inouye. I've had the distinct pleasure of serving with her this year on the Intergovernmental and Military Affairs Committee and she is an adroit leader and during her tenure in the Legislature, I have always felt very comfortable in working with her—feeling that she has always made her decisions in a fair and impartial way, based on the merits of the issues at hand. We know the sun is rising on a better day for her and we know that we will see her in the future in a new capacity helping lead the Big Island. We send her, from the Minority's point of view, from our shores with much aloha and gratitude for all the work she has done on behalf of the State of Hawai'i.

"I would also like to at this time say aloha to our colleague Senator Whalen, who's true to form tonight. I am trying to think of the right word—enigmatic maybe? I will tell you in serving with this gentleman that he's probably one of the more astute and erudite members of the Legislature, though his appearance is sometimes wanting in committee and on this floor. I can assure you that he is a voracious reader and oftentimes in our caucuses, and I think you in the Majority party likewise have sometimes looked to him to get his opinion on legislation because he seems to have this wonderful ability to really digest in his mind the pros and cons of all the legislation we deal with. He is a hard working man. He's going to be returning to his four children and his family on the Big Island and we did have a resolution in honor of him, certificate from the Senate, which I am grateful that all twenty-five members signed. We are likewise sending him from our shores with aloha and best wishes.

"In closing Madam President and colleagues, I think we've done a good job this year. Not only in the substance of some of the things we have done—though we don't agree all the time—I think our efforts have been sincere and well thought of; and though we do bicker, the good news is we've oftentimes made decisions, as I said earlier, on the merits of the issue rather than the petty politics that sometimes mires down the process—although in some of the other areas we have been true to form. Once again it has been our pleasure to serve with you and the Majority party. We admire your power and we hope that you respect our efforts to hold it check sometimes. It's been a fruitful, beneficial session. One of the, probably the best things that the public can say about it is we didn't do much and sometimes that's the best thing we can do. But in areas that things needed to be done we did them and we did them well, and for that I think we can be proud. Madam President and colleagues, thank you very much for this opportunity to serve with you again this year."

Senator Hooser rose on a point of personal privilege and said:

“You know I know it’s been a long, long day and getting to be a long night and I just wanted to add my comments to those of the others—and first and foremost thank you Madam President for the leadership you’ve shown this session, and to the members, the committee chairs, we’ve did a lot of hard work, a lot of heavy lifting, and I think we’ll look at this session and see it as a productive one.

“On behalf of all the members, Senator Inouye, I want to offer you our fond aloha. It’s been an honor and privilege knowing you these past few years and thank you for all the contributions you’ve made to the Senate, to our community, to the State. I will never forget the warm smile and the good disposition that you brought to the hallways of this building. So I wish you well on behalf of all of us. Thank you very much.”

The President then delivered her closing remarks as follows:

“I thought that it would be appropriate for us to acknowledge Senator Whalen even if, as the good Minority Leader pointed out, he is true to form. Senator Whalen I think has shown all of us what it really is like to be bipartisan. Sometimes I’m sure the Minority party felt he spent much too much time with us, but you know that just shows you how bright he is and I hope the rest of you members will learn from Senator Whalen. And to Senator Inouye, you are correct—we are the only, I guess remnants, of the class of 1999 and it has been an honor to serve with you. I must say that in retrospect as we look at what this Legislature, what we as a Senate and what the Legislature went through from sine die last year to now, it’s almost phenomenal.

“You sit back and you think about three special sessions, one being the very contentious Super Ferry, and how we as a body literally, in my opinion, led the way. Our other vacant seat there, Senator Taniguchi, had to take on the task of going to all the neighbor islands so that the public would understand. They may not have agreed with us, but I think the one thing that they did recognize is that we cared and we wanted to be sure that they understood why we were doing what we were doing. They may not have agreed with us, they may not say in the end that you did the right thing, but the opportunity was there. We have shown, I believe, as a body that you can have twenty-five very independent minds and twenty-five very special people, whether we agree with each other, we get along with each other or not, that’s all irrelevant. What matters is that we can show how we can pull together and tackle those critical and major issues as we have. Because think about it, who would have thought that we would have been able to execute Super Ferry. We would have been able to pull together in that short period of time to try and address, as best as we could, Aloha Airlines, Moloka’i Ranch, ATA and the recent crisis of the Aloha Air Cargo—and how do we meet those needs with the rest of the public looking upon us, believing that we just can’t get our act together.

“And I will tell you it has been an honor for me to serve as your President for the past two years and Senator Ige, I still believe that we owe you a great deal of gratitude for bringing us, some of still resisting, but you know he can’t help himself, the rest of us into the 21<sup>st</sup> century with the wireless. I mean I can’t tell you how great it is to look upon us on the final day of this legislative session and see only one person with a folder. The rest of us—oh yes, I saw somebody drop something right away—but for the rest of us we come like good little school kids with our little computers in hand and it shows, it shows the commitment and the buy-in that we have had. I know it has been difficult, I know for the two committees that took the lead—Ways and Means and of course Senator Ige’s Health Committee—that it was not easy and I know that it has been very trying for almost everyone. But the fact that we come to

the Third Reading and the Final Reading with the computers, most of us anyway, it tells me that we are, we have really adopted the whole thought that we will do our share and we will go paperless.

“All of the committee chairs, we collectively owe every one of you a great deal of gratitude for seeing us through this. And to single every single one of you out, you all want to go home so I won’t do that. But again, thank you. And to Senator Whalen and Senator Inouye, it has been a great honor to serve with the both of you and I am sure that when a couple of years from now, you’ll only remember all the good things about us, and that’s the best part. Because remember, remember, bottom line, we all had one thing in mind and that is there is no doubt in my mind that we were all here to serve the people of the state of Hawai’i as best as we could. Differences in opinion and diversity is good, because it is only through that that we get the best work product that we can. So members, thank you very much.”

Senator Inouye rose on a point of personal privilege and said:

“Thank you very much for your kinds words and to my colleagues, thank you very much. Your kind words are very much appreciated. But I do have to add though when my, our Minority colleague from Hawai’i Kai sings ‘Don’t Cry for Me Argentina,’ it only that he remembers that unfortunately, I am the last of the Latinos in the House and the Senate. Upon my election here, Senator, I mean Representative Alex Santiago and I were the only Puerto Ricans. He’s gone and I’ll be leaving as well at the end of the year, so, and that’s why I guess he decided to sing that to us. Thank you, thank you, god bless, love you all.”

#### ADJOURNMENT

Senator Ige moved that the Senate of the Twenty-Fourth Legislature of the State of Hawai’i, Regular Session of 2008, adjourn Sine Die, seconded by Senator Hemmings and carried.

At 6:47 p.m., the President rapped her gavel and declared the Senate of the Twenty-Fourth Legislature of the State of Hawai’i, Regular Session of 2008, adjourned Sine Die.

**ATTACHMENT A****CITATIONS**

Creamer, Beverly. "Regents' minutes reveal concerns about Dobelle." HonoluluAdvertiser.com 13 Aug. 2004. 22 Apr. 2008 <<http://the.honoluluadvertiser.com/article/2004/Aug/13/ln/ln07a.html>>.

Dayton, Kevin. "UH condemns audit findings." Honolulu Advertiser 28 Dec. 2007: B1+.

DePledge, Derrick. "Poor facilities a reason June Jones left Hawaii." HonoluluAdvertiser.com 8 Jan. 2008. 28 Apr. 2008 <<http://the.honoluluadvertiser.com/article/2008/Jan/08/ln/hawaii801080343.html>>.

Gima, Craig. "Dobelle and regents settle." Star-Bulletin.com 30 Jul. 2004. 29 Apr. 2008 <<http://starbulletin.com/2004/07/30/news/story1.html>>.

Gima, Craig. "Fired president Dobelle speaks." Star-Bulletin.com 17 Jun 2004. 29 Apr. 2008 <<http://starbulletin.com/2004/06/17/news/story1.html>>.

Gima, Craig. "Lingle is at best No. 474 in salary." Star-Bulletin.com 4 Feb. 2008. 29 Apr. 2008 <<http://starbulletin.com/2008/02/04/news/story01.html>>.

Gima, Craig. "Neglect of UH campus appalls senators." Star-Bulletin.com 11 Jan. 2008. 29 Apr. 2008 <<http://starbulletin.com/2008/01/11/news/story01.html>>.

Gima, Craig. "UH regents cited for secrecy." Star-Bulletin.com 26 Mar. 2006. 29 Apr. 2008 <<http://starbulletin.com/2006/03/26/news/story05.html>>.

Gima, Craig. "UH regents conceal budget papers." Star-Bulletin.com 25 Aug. 2007. 29 Apr. 2008 <<http://starbulletin.com/2007/08/25/news/story05.html>>.

Gima, Craig. "UH sites crumble as funds fall short." Star-Bulletin.com 27 Apr. 2008. 29 Apr. 2008 <<http://starbulletin.com/2008/04/27/news/story01.html>>.

Joaquin, Tanya. "Warriors' Million Dollar Man." 16 Jan. 2008. KHON2. 28 Apr. 2008 <<http://www.khon2.com/sports/local/13855842.html>>.

Keever, Beverly Ann Deepe. "The Dobelle Debacle." Star-Bulletin.com 25 Jul. 2004. 29 Apr. 2008 <<http://starbulletin.com/2004/07/25/editorial/special.html>>.

Moreno, Loren. "Faculty, students to vacate UH hall." Honolulu Advertiser 10 Dec. 2007: B1+.

Moreno, Loren. "UH regents want to trim repair backlog." Honolulu Advertiser 29 Sep. 2007: B1.

Reardon, Dave. "Facilities fight continues with Brennan in the ranks." Star-Bulletin.com 15 May 2007. 28 Apr. 2008 <<http://starbulletin.com/2007/05/15/sports/story01.html>>.

Reardon, Dave. "Jones heads for Dallas, likely for good." Star-Bulletin.com 6 Jan. 2008. 29 Apr. 2008 <<http://starbulletin.com/2008/01/06/news/story02.html>>.

Reyes, B.J.. "Fire highlights need for fixes at UH." Star-Bulletin.com 23 Oct. 2007. 29 Apr. 2008 <<http://starbulletin.com/2007/10/23/news/story08.html>>.

Tsai, Stephen. "Brennan fires away at UH facilities." HonoluluAdvertiser.com 4 May. 2007. 28 Apr. 2008 <<http://the.honoluluadvertiser.com/article/2007/May/04/sp/FP705040360.html>>.

Vorsino, Mary. "Audit slams UH budget." Star-Bulletin.com 31 Dec. 2005. 29 Apr. 2008 <<http://starbulletin.com/2005/12/31/news/story02.html>>.

Wangrin, Mark. "Jones close to leaving Hawaii before." Star-Bulletin.com 6 April 2008. 29 Apr. 2008 <<http://starbulletin.com/2008/04/06/sports/story02.html>>.

"Brennan criticizes conditions at Hawaii athletic facilities." 4 May 2007. ESPN. 28 Apr. 2008 <<http://sports.espn.go.com/espn/wire?section=ncf&id=2860691>>.

"Regents violated open-records law by concealing documents." Star-Bulletin.com 29 Aug. 2007. 29 Apr. 2008 <<http://starbulletin.com/2007/08/29/editorial/editorial01.html>>.

"UH repairs need both private, public funds." Editorial. Honolulu Advertiser 17 Jan. 2008: A12.

**ATTACHMENT B**

**Education  
Committee (EDU)  
Final Decking  
April 25, 2008**

	<p><b>ADMINISTRATION</b></p> <p>SB2663 SD2 HD2 CD1 Hawaii Teachers Standards Board (\$) SB2449 SD2 HD1 CD1 DOE Employees; Probationary Period SCR72 SD1 DOE: Longer School Day/Year SCR74 SD1 DOE: Truancy Working Group SCR83 SD1 HTSB; Accountability Study SCR88 SD1 DOE: Shaded play areas SCR114 SD1 DOE: Office of Human Resources; Advisory Group SCR115 SD1 HD1 DOE: Model School Complex SCR118 SD1 HD1 DOE: Working Group HCR71 HD2 DOE: School bus seatbelts</p>		<p>For further information: Please visit <a href="http://www.capitol.hawaii.gov">http://www.capitol.hawaii.gov</a> and go to bill status and documents; the bill information can be obtained. <b>Senator Norman Sakamoto</b> Chair, Senate Education Committee Phone: 586-8585 Fax: 586-8588 <a href="mailto:sensakamoto@capitol.hawaii.gov">sensakamoto@capitol.hawaii.gov</a></p>
<p><b>FACILITIES</b></p> <p>HB2972 HD1 SD2 CD1 Facilities Alignment Commission (\$) SCR158 SD1 DOE: Kinei HS construction HCR265 DOE: Kapa'a Public Library; Relocation <b>Special Purpose Revenue Bonds (SPRBs)</b> HB2547 SD1 Maui Prep (\$) HB2614 SD1 Island Pacific (\$)</p>	<p><b>STUDENTS</b></p> <p>SB2879 SD2 HD1 CD1 SPED; Transfer of Rights (\$) HB2369 After School Program Revolving Fund (\$) (Act 033) HB2441 DOE Worker's Comp for Students (Act 024) SCR84 SD1 DOE: Vegan/vegetarian school lunches SCR220 DOE: Project Graduation HCR126 HD1 SD1 Anger Management; BOE Programs</p>	<p><b>LEARNING</b></p> <p>SB2004 SD2 HD2 CD1 DOE: SPED Due Process HB2971 HD1 SD2 Online Learning Task Force <b>COMMUNITY</b> SB2878 SD2 HD2 CD1 Early Learning System; Early Learning Council (\$) SCR57 Pahoa HS Gymnasium to "Helene Hale Gymnasium" SCR134 SD1 HD1 Buy Local; Sustainability; DOH; DOE HCR280 HD1 Agricultural Revitalization; Corrections Facility inmates</p>	<p><b>UNIVERSITY OF HAWAII</b></p> <p>HB2978 HD1 SD2 CD1 UH Outcome-Based; Financial Performance SB2668 SD2 HD1 CD1 UH Regents Candidate Advisory Council (\$) SB2263 SD2 HD1 UH; BOR; Disclosure SB2482 SD2 UH; Hawaii Institute of Marine Biology (\$) HB2045 SD1 UH; BOR; Disclosure HB2163 HD2 SD1 Global Youth Center HB2164 HD1 SD1 UH; Preaudit (Act 037) HB2245 HD1 SD2 CD1 UH; Cancer Research Center UH; Commercial Enterprise SCR70 UH; Sports &amp; Entertainment Mgmt. Program SCR94 UH; Public Health SCR120 UH; DOE; Philippine Language Courses SCR180 UH Revenue Maximization HCR116 SD1 Hawaii Agricultural Information Center HCR138 HD2 SD1 Health; Telemedicine HCR226 SD1 Health Professional Shortage; JABSOM HCR276 HD1 UH School of Social Work; Myron Pinky Thompson HCR277 HD2 Center for Nursing HCR312 SD1 High Tech Devel. Corporation; Land Lease HCR314 UH; Grad School Loan programs HCR357 HD1 Agricultural Processing Facility; Study</p>
	<p><b>TEACHERS</b></p> <p>SB3252 SD2 HD2 CD1 Teacher Shortage Omnibus (\$) SB2652 SD2 HD2 CD1 Substitute Teachers; Wage Adjustment (\$) SB2080 SD2 HD2 CD1 Teacher Licensure; Sexual Offenses SB2163 SD1 HD1 CD1 Emergency Hires; Teacher Licensure Requirements SCR111 DOE; Highly Qualified Teachers</p>		

4/30/2008