

JOURNAL
of the
SENATE OF THE
TWENTY - FIFTH LEGISLATURE
of the
STATE OF HAWAII

Special Session of 2009

Convened Wednesday, July 15, 2009
Adjourned Wednesday, July 15, 2009

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**THE
TWENTY-FIFTH LEGISLATURE
STATE OF HAWAII
SPECIAL SESSION OF 2009
JOURNAL OF THE SENATE**

FIRST DAY

Wednesday, July 15, 2009

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Special Session of 2009, was called to order at 11:46 a.m., by Senator Colleen Hanabusa, President of the Senate.

At this time, the President made the following announcement:

"Members, this morning we are convening in Special Session for the sole purpose of acting upon any bills returned by the Governor pursuant to Article III, Section 16 of the Hawai'i State Constitution."

The Divine Blessing was invoked by Mr. Jonathan Ching, Office of the Honorable Shan Tsutsui, Hawai'i State Senate, after which the Roll was called showing all Senators present.

MOTIONS TO OVERRIDE VETOES

At this time, the President made the following announcement:

"If there are no objections from the members, we will be taking a Roll Call vote on each of the measures before us."

S.B. No. 266, S.D. 2, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 266, S.D. 2, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 805, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 266, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GLOBAL WARMING," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

S.B. No. 423, S.D. 1, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 423, S.D. 1, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 806, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 423, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," 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, 25. Noes, none.

S.B. No. 695, S.D. 1, H.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 695, S.D. 1, H.D. 1, C.D. 1, as contained in Gov. Msg. No. 817, seconded by Senator Kokubun.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 695, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," 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, 18. Ayes with Reservations, 4 (Bunda, Ige, Nishihara, Tsutsui). Noes, 3 (Hemmings, Sakamoto, Slom).

S.B. No. 912, S.D. 2, H.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 794 was placed on file.

S.B. No. 1058, S.D. 2, H.D. 2, C.D. 1:

By unanimous consent, action on S.B. No. 1058, S.D. 2, H.D. 2, C.D. 1, entitled: A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," was deferred until the end of the calendar.

S.B. No. 1160, S.D. 2, H.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 811 was placed on file.

S.B. No. 1350, S.D. 2, H.D. 1, C.D. 1:

By unanimous consent, action on S.B. No. 1350, S.D. 2, H.D. 1, C.D. 1, entitled: A BILL FOR AN ACT RELATING TO KAKAAKO," was deferred until the end of the calendar.

S.B. No. 1665, S.D. 2, H.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1665, S.D. 2, H.D. 1, C.D. 1, as contained in Gov. Msg. No. 807, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

"You know, during the hearings, I asked the question twice of whether or not Reed Act funds in fact could be used for this purpose, and I was assured that Reed Act funds could be used. It is the Attorney General's opinion that, in fact, Reed Act funds cannot be used. While I support the intent of the bill, I think that there is a substantial question about the issue, about whether or not the funds can be used; and so therefore I will vote to sustain the Governor's veto. Thank you."

Senator Tokuda rose in support of the motion to override and said:

"If the Clerk could also insert my extended Journals, I would just like to clarify the comments just made in regards to this bill. I have worked extensively with the federal government to clarify that the wording in this bill appropriately uses Reed Act funds for the purposes set forward; and we have been given confirmation from both their San Francisco office as well as their D.C. office that the way this bill is written, in its final form, is in fact the appropriate use of Reed Act funding. In addition, if you look at the Governor's veto message, she in no way indicates that this is an inappropriate use of Reed Act funding; and therefore, I would like to see the Attorney General's opinion that this is not in fact the appropriate use of the funds. So I would urge you to strongly support this measure so that we can increase the capacity of our community colleges to assist not just our displaced workers, but our struggling businesses as well. Thank you."

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

"I rise to speak in favor of overriding the Governor's Veto of SB1665, Relating to Higher Education.

"Colleagues, this bill truly reflects the old adage that if you give a man a fish, you feed him for today. Teach him to fish, and you feed him for a lifetime.

"While the Governor is correct, that these federal Reed Act Funds could be used to extend unemployment benefits to workers, the purpose and programs set forth in this bill will stretch those dollars much farther in helping not only our displaced workers, but struggling employers as well. One of the Governor's objections is that the \$2.4 million in Reed Act funding allocated through this bill is needed to pay unemployment benefits. While these funds could be used to pay unemployment benefits, it is important to balance that against the fact that the Department of Labor and Industrial Relations has reported to the legislature that based upon their projections, the UI fund is solvent for FY10-11. In addition, OUR estimates that Hawaii has or will receive an additional \$214.9 million in stimulus funds to pay for such things as an extension in extended unemployment benefits and additional weekly compensation for unemployed workers.

"Given the uncertainty as to how long this economic downturn will last, it is also expected that Congress and the Obama Administration will continue to increase funding to support each state's UI and workforce development programs.

"Reed Act funding was distributed to the states in 2002, with Hawaii receiving \$30.7 million. Currently, roughly half remains in the UI trust fund, and in recent years, portions of this fund have been legislatively directed to the Workforce Investment Boards to assist with employment services.

"Even more than these Boards and the various One Stop Centers established by DUR, our community college system with their 7 campuses statewide are a critical and highly underutilized resource in our efforts not only to get people back to work, but to keep people off the unemployment rolls by helping businesses and non profits stay afloat during these tough times.

"While the Governor has stated that this measure would establish a Skilled Worker and Business Development Center on each island and duplicate services already in existence, this is in fact not the case.

"The Skilled Worker and Business Development Center established by this bill would be housed at the system level, and serve as the umbrella entity for the creation and delivery of programs and services at the various campuses.

"This measure did allocate additional funds separately to each campus to assist them in implementing skills-based programming relevant and appropriate to their individual communities, and as part of the overall Skilled Worker and Business Development Center. This was done as an acknowledgement that each campus and each community faces unique challenges in this changing economy, and ensuring an equitable distribution of resources across our islands was a top priority for your committees and this legislature.

"The focus of this Skilled Worker and Business Development Center is two-fold. First, it would assist displaced workers in accessing affordable training and educational services, and the counseling support they may need to get back to meaningful and gainful employment. Second, it would assist employers who need to change the way they do business in order to keep afloat and their doors open during these difficult economic times. From assisting employers in developing new business models, to considering downsizing, assisting with cross-training, helping them identify efficiencies and looking for ways to utilize new technology, this center has the potential to be a critical component in our efforts to stem the flow of business closures in our state.

"The kinds of counseling and professional and educational services and programs we are advocating through this bill is especially unique and not being to the degree in which we are advocating because it has a built in, well established and highly effective delivery system already in place.

"Through their seven campuses statewide, and network of education centers located in our most rural communities, our community college system is in a position to not only develop the kind of services and programs our employees and employers need, but effectively deliver them as well.

"Working with the Advisory Board established in this bill, the Skilled Worker and Business Development Center would create customized training programs that are tailored to Hawaii's every changing business needs.

"This interaction with the various Chambers of Commerce, business advocate groups, industry leaders and nonprofit organizations would allow the Center to identify and create business training solutions that improve communications, streamline business practices and expand business opportunities.

"While the Center may model the Pacific Center for Advanced Technology Training, it would not be duplicating the specialized services they offer.

"So, going back to that old adage, yes we can keep these funds in reserve to extend unemployment benefits in the future. Or, we can use these funds to effectively get people back to work, and keep new people from entering the unemployment line by helping employers stay afloat.

"Especially in light of our community colleges experiencing record growth, with more than a 25% increase in students, many of whom have been recently displaced from the workforce, I hope you will join me in overriding the Governor's veto."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1665, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," 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, 24. Noes, (Slom).

H.B. No. 31, S.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 31, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 813, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

"You know, we continue to narrow an employer's options and opportunities to gain information about the employees, and we create new sources of action, calling them 'discriminatory practices.' The idea of checking an applicant's credit history—while it is absolutely important for those employees that are going to be working in the financial industry, banking, and so forth (which people can see), it is equally important if someone is working in retailing and still is handling funding. We read about stories everyday about money that has been misused, misplaced, and so forth; and we also find out about people that had prior convictions in terms of misuse of funds. The fact that an employer uses credit history as just one of the considerations does not, in and of itself—and should not, in and of itself—create a presumption of a new cause of action or discrimination. And I think that what we found in our community, and particularly with funding, we have far too many limitations on employers and what they may or may not do. Thank you."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 31, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," 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, 15. Ayes with Reservations, 8 (Chun Oakland, Green, Ige, Ihara, Kidani, Kim, Nishihara, Sakamoto). Noes, 2 (Hemmings, Slom).

H.B. No. 36, H.D. 1, S.D. 2, C.D. 1:

By unanimous consent, action on H.B. No. 36, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was deferred until the end of the calendar.

H.B. No. 343, H.D. 1, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 343, H.D. 1, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 799, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 343, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE TRAINING," 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, 25. Noes, none.

H.B. No. 358, H.D. 1, S.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 358, H.D. 1, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 800, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 358, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRUG TREATMENT," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 690, H.D. 2, S.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 792 was placed on file.

H.B. No. 952, H.D. 1, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 952, H.D. 1, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 814, seconded by Senator Kokubun.

Senator Slom rose in opposition to the motion to override and said:

"You know, we've had many discussions about this bill—the so-called 'union card check bill.' And it still baffles me why my colleagues here are willing to take away the most precious right of voting of employees in this bill to satisfy some union leaders' demands. Even at the federal level, where we were told a year and a half ago that the union card check bill was going to just fly by and be passed. They're having second and third and fourth thoughts. The idea of doing something fundamentally, fundamentally undemocratic—fundamentally—not hurting employers as much as hurting employees is very hard to swallow. This bill may be symbolic and it may be payback for support by the unions, but it is wrong and you know this bill is wrong. It is the single most egregious piece of legislation this year, and again sets Hawai'i as a state apart from the other states as being a 'hostile to business and investment state'. But most importantly—and I want you to remember this message—it is a slap in the face against employees who will be denied the right to a secret ballot and to vote as to whether or not they want monopoly union representation. I urge you to reconsider your vote on this. Thank you."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 952, H.D. 1, S.D. 2, C.D. 1, 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, 18. Ayes with Reservations, 1 (Espero). Noes, 6 (Chun Oakland, Hemmings, Kim, Nishihara, Sakamoto, Slom).

H.B. No. 982, H.D. 3, S.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 982, H.D. 3, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 801, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 982, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 986, H.D. 1, S.D. 1, C.D. 1:

By unanimous consent, Gov. Msg. No. 802 was placed on file.

H.B. No. 989, H.D. 1, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 989, H.D. 1, S.D. 2, C.D. 1, as

contained in Gov. Msg. No. 803, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 989, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN'S HEALTH CARE," 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, 25. Noes, none.

H.B. No. 1405, H.D. 2, S.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 786 was placed on file.

H.B. No. 1479, H.D. 2, S.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1479, H.D. 2, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 815, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1479, H.D. 2, S.D. 1, C.D. 1, 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, 23. Noes, 2 (Hemmings, Slom).

H.B. No. 1504, H.D. 1, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1504, H.D. 1, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 804, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1504, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 1611, H.D. 2, S.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 793 was placed on file.

H.B. No. 1676, H.D. 1, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1676, H.D. 1, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 816, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1676, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 1692, H.D. 2, S.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 810 was placed on file.

At 12:13 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:19 p.m.

At this time, the President made the following announcement:

"Members, the bills listed on this Supplemental Order of the Day are measures vetoed by the Governor pursuant to messages received this morning. If there are no objections from the members, we will be taking a Roll Call vote on each of the measures before us."

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

By unanimous consent, Gov. Msg. No. 818 was placed on file.

S.B. No. 19, S.D. 1, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 19, S.D. 1, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 819, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 19, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

S.B. No. 43, S.D. 2, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 43, S.D. 2, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 820, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 43, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PHYSICIAN WORKFORCE ASSESSMENT," 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, 22. Noes, 3 (Green, Hemmings, Slom).

S.B. No. 50, S.D. 1, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 50, S.D. 1, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 821, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 50, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY PRODUCERS," 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, 25. Noes, none.

S.B. No. 387, S.D. 1, H.D. 1, C.D. 2:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 387, S.D. 1, H.D. 1, C.D. 2, as contained in Gov. Msg. No. 822, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

“There are a number of things in this budget bill that really have to do with transference of individuals and departments, either out of their current departments or out of government altogether. And two of them that distress me are: the regulatory review board, which has been kind of a kicking tool for many years since it was adopted. It’s going to be moved from DBEDT to DCCA. And the position of small business advocate is eliminated. For these and other reasons, I’ll be voting to sustain the veto. Thank you.”

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 387, S.D. 1, H.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE STATE BUDGET,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

S.B. No. 415, S.D. 2, H.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 415, S.D. 2, H.D. 1, C.D. 1, as contained in Gov. Msg. No. 823, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 415, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES,” 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, 25. Noes, none.

S.B. No. 420, S.D. 2, H.D. 2:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 420, S.D. 2, H.D. 2, as contained in Gov. Msg. No. 824, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 420, S.D. 2, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO NATUROPATHIC MEDICINE,” 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, 24. Ayes with Reservations, 1 (Green). Noes, none.

S.B. No. 539, S.D. 1, H.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 539, S.D. 1, H.D. 1, C.D. 1, as contained in Gov. Msg. No. 825, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 539, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CORRECTIONS,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

S.B. No. 605, S.D. 1, H.D. 3, C.D. 1:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 605, S.D. 1, H.D. 3, C.D. 1, as

contained in Gov. Msg. No. 826, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 605, S.D. 1, H.D. 3, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO NOISE,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

S.B. No. 777, S.D. 1, H.D. 1:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 777, S.D. 1, H.D. 1, as contained in Gov. Msg. No. 827, seconded by Senator Kokubun.

Senator Slom rose in opposition to the motion to override and said:

“We have discussed this bill and similar bills over the last several years, and what it continues to do is to take away from those institutions that have their own point of view and choice. We have brought them into the public sector and have provided funding from the public sector, and then we use that as a sledgehammer to make them conform to views in the state; thus disallowing their own views. Sexuality and education—whether it be abstinence or anything else—is a very delicate matter and it should be a personal matter, and we’ve injected politics into it. Thank you.”

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

“Madam President, as we discussed when we passed this measure on Final Reading in our Regular Session, this measure really ensures that there’s going to be a balanced approach to health education. It ensures that students in health ed classes are going to receive factual, comprehensive, unbiased information about sexuality matters so they will have the information needed in order to make good decisions. I urge all of my colleagues to continue to support this measure; it was a Women’s Caucus package measure. Thank you.”

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 777, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO COMPREHENSIVE SEXUALITY HEALTH EDUCATION,” 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. Ayes with Reservations, 1 (Gabbard). Noes, 3 (Hemmings, Sakamoto, Slom).

S.B. No. 1005, S.D. 2, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1005, S.D. 2, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 828, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

“You know, I sat through the hearings of this bill, and I think the intent certainly is a worthy one—to protect individual publicity rights, whether we’re talking about written rights or recorded rights, music, and so forth. However, this bill, I believe, is badly flawed. It is very broad, it is very vague, and I think it’s going to cause us more problems. We’re going to have to come back and re-look at it; we should’ve looked at it before. It does not do what the supporters say it will do and

want to do, and so it's just one of those bills that really is a bad bill and we should not be passing it. Thank you."

Senator Fukunaga rose in support of the motion to override and said:

"After the Governor issued her notice of intention to veto this bill on June 30th, we met with Department of Commerce and Consumer Affairs' business registration staff and stakeholders to discuss their concerns with the registry portion of this measure and to determine how best to address the concerns. All parties agree that the deletion of the registry sections of Senate Bill 1005 would be the simplest solution to address the Department's concerns, and corrective legislation was circulated among all stakeholders and among our House counterparts. However, taking corrective action would require a longer session for the legislation to be introduced as a corrective measure, hearings held, and both chambers to vote. Since the Legislature is not meeting in special session to correct vetoed measures, I'd like to urge my colleagues to vote to override the Governor's veto of this measure. We have been in discussions with DCCA and they are comfortable with the Legislature's action in this regard. Thank you."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1005, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLICITY RIGHTS," 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, 22. Noes, 3 (Green, Hemmings, Slom).

S.B. No. 1183, S.D. 2, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1183, S.D. 2, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 829, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1183, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISCRIMINATORY PRACTICES," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

S.B. No. 1206, S.D. 1, H.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1206, S.D. 1, H.D. 1, C.D. 1, as contained in Gov. Msg. No. 830, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1206, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," 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, 25. Noes, none.

At 12:40 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:46 p.m.

S.B. No. 1218, S.D. 2, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1218, S.D. 2, H.D. 2, C.D. 1, as

contained in Gov. Msg. No. 831, seconded by Senator Sakamoto.

Senator Baker rose to request comments in support of the motion to override be entered into the Journal.

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

"Madam President, I rise in support of overriding the veto of S.B. 1218 SD2 HD2 CD1 contained in Governor's Message No. 831. This measure is important in assuring that regulation of mortgage loan originators remains within the purview of the state. Without this measure, regulation will be given to the federal government, in which such actions would not be in the best interest of our state.

"Contrary to the Governor's assertion, SB1218 SD2 HD2 CD1 complies with the requirements of the federal S.A.F.E. Mortgage Licensing Act of 2008. The purpose of the S.A.F.E. Mortgage Licensing Act of 2008 is to 'increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud' by encouraging the states to regulate the mortgage industry. This measure is based on a model act prepared by the Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators that the United States Department of Housing and Urban Development has approved as compliant with the federal law. SB1218 SD2 HD2 CD1 includes all portions of the model act that are necessary to meet minimum standards under the federal law.

"Let me address the Governor's objections as outlined in Governor's Message No. 831. The Governor's first objection to this measure is that it does not establish a regulatory framework that complies with the S.A.F.E. Mortgage Licensing Act of 2008. Specifically, the Governor's Message states that 'the bill fails to regulate independent contractors and underwriters who initiate and finance mortgages.' This objection is invalid in the face of the bill's definition of 'mortgage loan underwriter' which includes an individual 'who for compensation or gain or in the expectation of compensation or gain: (1) Takes a residential mortgage loan application; or (2) Offers or negotiates terms of a residential mortgage loan.' Any individual, including an independent contractor or underwriter, who performs either of these functions is required to be licensed as a mortgage loan originator. Although an independent contractor or underwriter may not initiate the loan application, the initiator or financier of a loan will certainly be involved in offering or negotiating the terms of the loan and, therefore, will be covered.

"The individuals who are exempted from licensing and regulation as a mortgage loan originator under this measure are: (1) employees and agents of federally insured depository institutions (banks and credit unions) who are already regulated under federal law; (2) individuals who act solely on behalf of themselves or immediate family members; (3) licensed attorneys who perform some functions of a mortgage loan originator as an ancillary matter to representation of a client; (4) loan processors and underwriters who perform mere support or clerical duties under the supervision or instruction of a licensed mortgage loan originator or another person who is otherwise exempt from licensing and who do not represent to the public that they will perform the duties of a mortgage loan originator; (5) licensed real estate brokers who are involved merely in the bringing together of people and property who are not involved in the mortgage financing transaction and who are not compensated by a lender, mortgage broker, or mortgage loan originator; and (6) persons who are involved solely in timeshare transactions.

"Since this measure represents major systemic alterations to the State's regulatory infrastructure for the mortgage loan

industry, the measure allows for a one-year transition period for currently licensed mortgage brokers and solicitors. As stated in an April 22, 2009 email message received by Representative Robert Herkes and me from William W. Matchneer, III, Associate Deputy Assistant Secretary for Regulatory Affairs and Manufactured Housing at the U.S. Department of Housing and Urban Development, 'HUD will not determine that a state's legislation is not in compliance with the SAFE Act merely because the legislation provides for a reasonable period following enactment for loan originators to be licensed under the legislation. As a result, an effective date 'that would delay the implementation date for licensing until July 31, 2010, would be consistent with HUD's guidance and would meet a deadline for having a conforming law in place by July 31, 2009.' The final version of this measure implements new licensing requirements on July 1, 2010; this date is within the time period for which Mr. Matchneer expressed approval.

"A further objection by the Governor is that this measure fails to regulate mortgage brokers. A mortgage broker is defined by Chapter 454, Hawaii Revised Statutes, as a person not subject to statutory exemptions 'who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly makes, negotiates, acquires, or offers to make, negotiate, or acquire a mortgage loan on behalf of a borrower seeking a mortgage loan.' As stated above, any individual who takes a residential mortgage loan application or offers or negotiates the terms of a residential mortgage loan is encompassed by the definition of a mortgage loan originator and is required to be licensed. Since a mortgage broker is by definition involved in the offer of or negotiation for a mortgage loan, brokers are included in the definition and, therefore, the licensure requirement, for mortgage loan originators.

"The Governor points out that a mortgage broker's officers, directors, and administrative staff are exempt from licensing and other requirements under the regulatory system for mortgage loan originators. This is correct. However, individuals working for a mortgage broker who actually perform the functions of mortgage loan originators are not exempt. Further, the federal law upon which this measure is based specifically excludes individuals who perform purely administrative or clerical functions from regulation as mortgage loan originators. While the Governor's point regarding the desirability of regulation and oversight of officers and directors is valid, the lack of such regulation is not fatal to the current measure.

"The Governor's third objection to this measure has to do with its funding structure. Initial funding for this measure comes from the Compliance Resolution Fund established pursuant to section 26-9(0), Hawaii Revised Statutes. Per statute, the fees for licensing, registration, certification, or permits for all persons and entities within the jurisdiction of the Department of Commerce and Consumer Affairs shall be deposited into the Compliance Resolution Fund. The Fund is then used to fund the operations of the Department of Commerce and Consumer Affairs as a whole. While it is true that fee charges from other types of businesses outside of the mortgage loan industry are deposited into this Fund, this is in keeping with the very purpose and structure of the Fund. The Department collects moneys from a broad array of industries and concerns and then uses the aggregated moneys to fund a wide array of activities that affect both specific industries and the operations of commerce within the State as a whole.

"Even if the Governor's objections as discussed above did have merit, technical inadequacies contained within the measure are insufficient for the measure to fail under the provisions of the federal law. 12 U.S.C. 5107(e) states that the Secretary of the U.S. Department of Housing and Urban Development may extend the period for State licensing of mortgage loan

originators where the Secretary finds a 'good faith effort' to establish a state licensing law that complies with the S.A.F.E. Mortgage Lending Act. Even if this measure were to be found inadequate under the federal law, passage of this measure would certainly constitute a good faith effort that qualifies the State for an extended time period to perfect the licensing and regulatory system that it establishes. Finally, the Governor states that without the passage of SB1218, SD2, HD2, CD1, 'the mortgage industry in Hawaii will be regulated, pursuant to the provisions of the S.A.F.E. Mortgage Licensing Act, which balance protections for the public with adequate scope for the industry to provide its lending services.' While this is true, it cannot be overlooked that under the S.A.F.E. Mortgage Licensing Act of 2008, failure of the State to implement conforming legislation would result in abdication of the State's right to regulate the mortgage industry and assignment of that right to the federal Department of Housing and Urban Development. This result would be unacceptable as it is critical that the State retain its right to respond to unique local circumstances in regulating the mortgage industry.

"On final reading, the Senate voted unanimously in support of this bill. Colleagues, I urge your continued support of this measure and respectfully request an affirmative vote to override the veto of this bill."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1218, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATORS," 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, 24. Noes, none. Excused, 1 (Kidani).

S.B. No. 1224, S.D. 1, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1224, S.D. 1, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 832, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1224, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AIRPORT CONCESSIONS," 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, 25. Noes, none.

S.B. No. 1250, S.D. 1, H.D. 1, C.D. 1:

By unanimous consent, Gov. Msg. No. 833 was placed on file.

S.B. No. 1345, S.D. 1, H.D. 1, C.D. 1:

By unanimous consent, Gov. Msg. No. 834 was placed on file.

S.B. No. 1678, S.D. 3, H.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1678, S.D. 3, H.D. 1, C.D. 1, as contained in Gov. Msg. No. 835, seconded by Senator Sakamoto.

Senator Fukunaga rose to request comments in support of the motion to override be entered into the Journal. The Chair so ordered.¹

Senator Slom rose in opposition to the motion to override and said:

¹ Request withdrawn at a later date.

"This is the famous, so-called 'streamlining tax' bill, which is not streamlining at all. It is a new and additional tax; it is an additional burden on the already overburdened taxpayers of the State of Hawai'i. It is a way of giving away our tax sovereignty to a not yet established federal entity, and it is a way of, again, keeping businesses and their products out of the State of Hawai'i as we had already seen with Amazon.com and Overload.com and a number of other businesses as well. So, I will continue my opposition to this tax and I now wait to hear the comments of the Chair; she will de-insert her comments. Thank you, Madam President."

Senator Fukunaga rose in support of the motion to override and said:

"This session, the Legislature sent the Governor two approaches for collecting taxes on out-of-state sales. The first approach—embodied in House Bill 1405, the so-called 'Amazon-nexus' bill—caused Amazon.com and other online retailers to cancel their affiliate accounts with Hawai'i businesses before the bill became law. Governor Lingle vetoed House Bill 1405 on July 2nd, and neither the House nor the Senate is seeking to override this veto. Effective today, I hope that Amazon.com will reinstate its affiliates so that hard-working Hawai'i residents can continue to make a living during these difficult economic times.

"The second approach—embodied in Senate Bill 1678, the Streamlined Sales and Use Tax compliance bill—is one whose time has finally come.

"It calls for Hawai'i to join 23 other states in using modern software to collect existing sales and use taxes on out-of-state purchases. It calls for us to enforce Hawai'i's tax laws fairly, so that Hawai'i-based retailers who pay their 4.5 percent GET taxes on O'ahu are not discriminated against in favor of out-of-state retailers who do not collect existing taxes that are due.

"This bill also addresses Governor Lingle's comments in her July 10th veto message, when she vetoed ten bills that appropriated \$17.5 million in funds that were not part of the Governor's financial plan.

'We cannot enact legislation using money we simply do not have,' Governor Lingle said. 'Once we regain our financial footing I am willing to work with the Legislature to fund projects that help the public.'

"Well here's our response to Governor Lingle: *The Legislature gave you two choices for collecting taxes that are on the books today. You rejected the first approach, and the Legislature applauds that decision. This second approach is one that clearly helps Hawai'i regain its financial footing.*

"This approach is one that 22 participating states have used to collect over \$350 million in taxes from out-of-state retailers on a voluntary basis. According to the April 2009 study conducted by Drs. Bruce and Fox for the SST Governing Board, Hawai'i is losing upwards of \$36.6 million in 2009, \$45.4 million in 2010, \$53.4 million in 2011, and \$60 million in 2012 in uncollected taxes if we fail to act. Isn't it time, Governor, for us to insist that we enforce all of Hawai'i's tax laws fairly?"

"For these reasons, I urge my colleagues to vote to override the Governor's veto of Senate Bill 1678. Thank you."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1678, S.D. 3, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 128, H.D. 1, S.D. 1, C.D. 2:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 128, H.D. 1, S.D. 1, C.D. 2, as contained in Gov. Msg. No. 836, seconded by Senator Sakamoto.

Senator Ihara rose in opposition to the motion to override and said:

"With all due respect to the Senate Majority, I must oppose the veto override of this campaign finance bill. I join Hawai'i's good government groups in supporting the veto of House Bill 128 in its current form. We believe that those seeking elected public office in Hawai'i should aspire to high ethical standards reflected in our state campaign finance laws. However, I believe House Bill 128 lowers standards already in place.

"Instead of closing the pay to play loophole that allows donations from grant-in-aid contractors, House Bill 128 allows all but non-bid contractors to make campaign donations. This is a retreat from our effort to limit the pay to play system. Instead of further limiting ceding the community donations to non-profits, House Bill 128 doubles the allowable amount.

"House Bill 128 also eliminated the declaration of policy for the state's campaign finance law. The deleted policy would have stated: 'The purpose of this part is to ensure the integrity and transparency of the campaign finance process. Integrity is essential to promote the public's confidence in government. Transparency provides disclosure of contributions and expenditures to ensure the public is fully informed.' This is deleted language.

"I support the recodification language contained in the bill, but cannot support a retreat from existing ethical standards for campaign finance. I ask that the veto be sustained. Thank you, Madam President."

Senator Slom rose in opposition to the motion to override and said:

"I share many of the comments of my colleague from Kaimuki and I think it's interesting and I think the public finds it interesting that first of all we provide legislation so that we can raise our own salaries and now we are providing legislation in the name of campaign reform that really does not reform the campaign process but makes it easier for incumbents, and particularly those that receive outside funding. To call this campaign financing reform is an outrage and it really is campaign funding deform. Thank you."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 128, H.D. 1, S.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," 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, 22. Noes, 3 (Hemmings, Ihara, Slom).

H.B. No. 541, H.D. 1, S.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 541, H.D. 1, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 838.

At 1:00 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:02 p.m.

Senator Hooser withdrew the motion to override.

By unanimous consent, Gov. Msg. No. 838 was placed on file.

H.B. No. 183, H.D. 1, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 183, H.D. 1, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 837, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 183, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," 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, 22. Noes, 3 (Bunda, Hemmings, Slom).

H.B. No. 590, H.D. 1, S.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 839 was placed on file.

H.B. No. 754, H.D. 1, S.D. 1, C.D. 2:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 754, H.D. 1, S.D. 1, C.D. 2, as contained in Gov. Msg. No. 840, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 754, H.D. 1, S.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY," 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, 22. Noes, 3 (Bunda, Hemmings, Slom).

H.B. No. 975, H.D. 1, S.D. 1, C.D. 1:

By unanimous consent, Gov. Msg. No. 841 was placed on file.

At 1:06 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:07 p.m.

H.B. No. 1271, H.D. 3, S.D. 2, C.D. 1:

By unanimous consent, action on H.B. No. 1271, H.D. 3, S.D. 2, C.D. 1, entitled: A BILL FOR AN ACT RELATING TO GOVERNMENT," was deferred until the end of the calendar.

H.B. No. 1471, H.D. 2, S.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1471, H.D. 2, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 843, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

"This bill would establish a so-called state food certification pilot program. It's not clearly defined as to what that certification is going to mean, how it's going to be administered. Originally, the Department of Agriculture was even required to have a minimum of 100 farms per year in this certification; that provision has been taken out. The most egregious part of this bill, however, is that the funding comes from the Tourism Special Fund, and I want to know where the

nexus is between tourism and a food safety certification pilot program and also how the expenditure of this money—which is clearly earmarked in the special fund—is going to increase and sustain our tourist industry. Thank you."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1471, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FARMS," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 1525, H.D. 1, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1525, H.D. 1, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 844, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1525, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAID," was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 1538, H.D. 1, S.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1538, H.D. 1, S.D. 1, as contained in Gov. Msg. No. 845, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

"These days, we're all trying to be environmentally-sensitive. However, this bill is unabashedly crafted for one particular company, one particular set of products. It does not meet the smell test. It is a situation where somebody is going to get rewarded and they—and only they—will be allowed to supply products to the public schools. In addition to that, while everyone is worrying about disease and everything else, there will be no additional support for disinfectants or those kind of chemical agents which have proven to be superior in trying to keep down germs and unhealthy environmental situations. So, I would urge my colleagues to take a re-look at this bill because it really is a bill that is special interest for someone in the community. Thank you."

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

"House Bill 1538 was a product of a number of students at Ala Wai Elementary School looking and asking the question about why we're not more careful about the chemicals that we use at our public schools. It makes reference to the Environmental Protection Agency site, which has established a standard set of procedures for products to be certified. Any product can undergo the certification process to ensure that it is safe for use in our public schools. I also would like to note that the mandate is permissive in the fact that it doesn't require the Department. Clearly if there's only one product that meets the requirements and the cost of the product is excessive, the Department has assured me that they would not proceed to mandate the use of that product. For those reasons, I encourage all of you to vote in support of the veto override."

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1538, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

ENVIRONMENTALLY-SENSITIVE PRODUCTS,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

Ayes, 23. Ayes with Reservations, 1 (Green). Noes, 1 (Slom).

H.B. No. 1544, H.D. 1, S.D. 1, C.D. 1:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1544, H.D. 1, S.D. 1, C.D. 1, as contained in Gov. Msg. No. 846, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

“We’ve already discussed the bills that are introduced to conform Hawai‘i’s tax laws every year with the federal IRS; and every year I get up and make a speech that the one provision of that bill that we don’t make to conform is the amount that’s given to an individual taxpayer for a personal exemption. In Hawai‘i, we are one-third of a person because the amount given for personal exemption on the 1040 federal IRS form is three times what we allow here. Now, what this bill seeks to do is make the disparity even greater. It’s going to take an amount of greater income to further reduce the personal exemption, but as I’ve talked in the prior sessions about what happens on 1040 forms—particularly as it involves small businesses—the amount of the money is not the important thing. The source of the money, the source of the income is; and what we’re going to do is further tax because that’s what this does by reducing the exemption—further tax our overburdened taxpayers. We should not be passing this bill. Aloha.”

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1544, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAX EXEMPTIONS,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

H.B. No. 1552, H.D. 2, S.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai‘i State Constitution, Senator Hooser moved that the Senate override the veto of H.B. No. 1552, H.D. 2, S.D. 2, C.D. 1, as contained in Gov. Msg. No. 847, seconded by Senator Sakamoto.

Senator Slom rose in opposition to the motion to override and said:

“We’re talking about Kahana Valley. We’re talking about public lands. We’re talking about a situation where we’re going to increase the time period for people that are not supposed to be on those lands to continue to live there. You know, every day we worry about the homeless and the homeless grows because we tax people more, because we have more restrictions on business and everything else; and we find that the so-called public lands are no longer available generally to the public. We are creating special entities for special people and allowing them to be residents there. Many of the people have not abided by the requirements of the original agreements, leasehold and so forth. It’s become a very emotional issue and a very political issue, but the point is that if we’re going to have public lands that are available for everyone—because everyone is supposedly paying for them—then in fact we should not carve out these special provisions. Thank you.”

Senator Hee rose in support of the motion to override and said:

“It’s no secret that Kahana Valley was the vision of Governor Burns, and was created as special legislation during the administration of Governor Ariyoshi. It was Burns’ vision that saw an overpopulated state of which, as it is today, the majority of the residents who live here have joined us from elsewhere beyond the shores of Hawaii. It was Burns’ vision that saw this state one day would become overpopulated and natural resources would be strained and therefore there needed to be places where visitors and residents could enjoy the culture that existed prior to the overabundance of people this state is in today. It was his vision and enabling legislation that started the idea of a cultural living park, and it is the failure of state government that the vision has not come to fruition – not the residents of Kahana, and the mean-spiritedness of the Lingle administration to unilaterally move in October 2008 to evict six families, all of whom are lineal descendants of the ancestors who once lived in the ‘ahupua‘a of Kahana is but one example of the failure of the government to implement the living park concept envisioned forty years ago.

“I might add at this point it is unusual that the unilateral action of meanness was taken by the Department of Land and Natural Resources when the record clearly shows that at least one of the six families was approved for a lease and negotiations were continuing so that that particular family could acquire financing. Governor’s Message 847 ambiguous. It is not specific other than, ironically she commits to leaving them on the land. She commits. The first time she sent out a public message it was that it was special legislation. Ironically, just a year ago she was arguing the opposite on Superferry.

“And then her second message was well, the problem with the bill was that if they committed a crime, you couldn’t evict them. Well hello—if they commit a crime, you arrest them. Hello? And if it’s a drug-related crime, the drug forfeiture kicks in. It’s a federal law that’s buttressed by state law. Is anybody home? Persons committed by this law may lose their possessions.

“This is a bill where the previous governor, under the same circumstances, when the bill sunset, the previous attorney general had said the spirit of the law should continue and negations continued. This present attorney general, in a mean-spiritiness, said the law sunset and therefore the State has the right to move in and evict families. This is nothing more than an inconvenient effort on a state government that allegedly has no money to operate, so let’s go pick on some people. And this is the legislative response when Laura Thielen herself said we won’t evict; we’ll let the Legislature give us the direction. HB 1552 is the legislative direction.

“Now the Governor has said, in two different sentences and two different thoughts, ‘It’s special legislation—yes it is, it is—and you can’t convict them if they commit a crime.’ Well, lawbreakers can be arrested and if they commit a crime that calls for forfeiture of property they may lose their possessions. This veto message is a fear thing. It is to make the legislature afraid of the legislation as incomplete and inoperable. I’m not sure why we even have this legislation other than to re-state the values of the First Nation, the indigenous people, and the native people. So I urge my colleagues to send the message to the fifth floor that we will stand with the native people of Kahana. Thank you.”

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of H.B. No. 1552, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC LANDS,” was overridden by not less than two-thirds vote of all members to which the Senate is entitled, on the following showing of Ayes and Noes:

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

At 1:25 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:40 p.m.

**MATTERS DEFERRED FROM
EARLIER ON THE CALENDAR**

S.B. No. 1058, S.D. 2, H.D. 2, C.D. 1:

In accordance with Article III, Section 17 of the Hawai'i State Constitution, Senator Hooser moved that the Senate override the veto of S.B. No. 1058, S.D. 2, H.D. 2, C.D. 1, as contained in Gov. Msg. No. 795, seconded by Senator Sakamoto.

The motion was put by the Chair and carried, Roll Call vote having been requested, the veto of S.B. No. 1058, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," 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, 25. Noes, none.

S.B. No. 1350, S.D. 2, H.D. 1, C.D. 1:

By unanimous consent, Gov. Msg. No. 812 was placed on file.

H.B. No. 36, H.D. 1, S.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 798 was placed on file.

H.B. No. 1271, H.D. 3, S.D. 2, C.D. 1:

By unanimous consent, Gov. Msg. No. 842 was placed on file.

SENATE RESOLUTIONS

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

S.R. No. 1 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THIS SPECIAL SESSION OF 2009."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Sakamoto, seconded by Senator Slom and carried, S.R. No. 1 was adopted.

S.R. No. 2 "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 Sakamoto, seconded by Senator Slom and carried, S.R. No. 2 was adopted.

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

"Madam President, today in The Honolulu Advertiser, the article notes that the Governor has determined that Hawai'i's Healthy Start program is not valuable any longer. This program had its roots on Maui with the inspiration and leadership of Senator Mamoru Yamasaki, and it is a proven model for child abuse and neglect prevention not just in Hawai'i, but around the nation. It is the template for a very successful program. The Legislature, in its wisdom, determined because of the financial situation not to fund this program with general funds but to take tobacco money. The Legislature clearly recognized that Healthy Start was a very important program, recognized that it

was much needed at a time when families are hurting and the stress is great. We've seen an increase in domestic violence; we've seen an increase in stress on individuals who are having to cope with the potential of layoffs, some already laid off, not being able to work at their normal jobs. And sometimes, unfortunately, this stress plays out on our children. At a time when these services are needed the most, this Administration continues to take it out on our kids, on people with special needs, those with mental health conditions, on the poor, by taking away the adult dental benefit. This is the wrong approach. I know our state has financial issues, but this is not the way. You don't take it out on people who are the most vulnerable and in the most difficult situation in our community. I'm appalled that this is what the Governor has chosen to do; she doesn't need to do this. I would urge her to reconsider her actions. Let's figure out a way to get out of this. The Governor could come to the table, bargain with the unions. She could work with the Legislature. She could propose some solutions that would not take the tobacco settlement money away from this very excellent program. We're talking about \$3 million; it's not like this is going to break the bank. But, once more, the will of the Legislature—policy created by this body and our colleagues across the way—is being thwarted because we have somebody sitting on the fifth floor who is stubborn, who is obstinate, who does not seem to care about long term consequences of her actions and who doesn't seem to care about the needs and concerns of our community. I'm disappointed in the Governor. I thought that she had compassion and empathy; and I'm very disappointed in the Department of Health director, who is not standing up to the fifth floor. It is truly a sad day in Hawai'i nei, when excellent, efficacious programs like Healthy Start are cast aside. Our keiki and our people deserve better. Thank you, Madam President."

ADJOURNMENT

Senator Sakamoto moved that the Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Special Session of 2009, adjourn Sine Die, seconded by Senator Slom and carried.

At 1:48 p.m., the President rapped her gavel and declared the Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Special Session of 2009, adjourned Sine Die.

**HOUSE COMMUNICATIONS RECEIVED AFTER THE ADJOURNMENT
OF THE FIRST SPECIAL SESSION OF THE LEGISLATURE SINE DIE**

Hse. Com. No. 1, transmitting H.R. No. 3, entitled: "HOUSE RESOLUTION INFORMING THE SENATE AND THE GOVERNOR THAT THE HOUSE OF REPRESENTATIVES IS READY TO ADJOURN SINE DIE," which was adopted by the House of Representatives on July 15, 2009.

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1 RELATING TO OPIHI.									4		
S.B. No. 19 RELATING TO PROCUREMENT.									4	17	
S.B. No. 43 RELATING TO PHYSICIAN WORKFORCE ASSESSMENT.									4	18	
S.B. No. 50 RELATING TO RENEWABLE ENERGY PRODUCERS.									4	19	
S.B. No. 266 RELATING TO GLOBAL WARMING.									1	20	
S.B. No. 387 RELATING TO THE STATE BUDGET.									4		
S.B. No. 415 RELATING TO HOME CARE AGENCIES.									5	21	
S.B. No. 420 RELATING TO NATUROPATHIC MEDICINE.									5	22	
S.B. No. 423 RELATING TO HEALTH.									1	23	
S.B. No. 539 RELATING TO CORRECTIONS.									5	24	
S.B. No. 605 RELATING TO NOISE.									5	25	
S.B. No. 695 RELATING TO WORKERS' COMPENSATION.									1	26	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 777 RELATING TO COMPREHENSIVE SEXUALITY HEALTH EDUCATION.									5	27	
S.B. No. 912 RELATING TO PERMANENCY HEARINGS.									1		
S.B. No. 1005 RELATING TO PUBLICITY RIGHTS.									5	28	
S.B. No. 1058 RELATING TO CONTROLLED SUBSTANCES.									1 11	29	
S.B. No. 1160 RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.									1		
S.B. No. 1183 RELATING TO DISCRIMINATORY PRACTICES.									6	30	
S.B. No. 1206 RELATING TO COUNTIES.									6	31	
S.B. No. 1218 RELATING TO MORTGAGE LOAN ORIGINATORS.									6	32	
S.B. No. 1224 RELATING TO AIRPORT CONCESSIONS.									7	33	
S.B. No. 1250 RELATING TO EDUCATION.									7		
S.B. No. 1345 RELATING TO AGRICULTURE.									7		

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
S.B. No. 1350 RELATING TO KAKAAKO.									1 11		
S.B. No. 1665 RELATING TO HIGHER EDUCATION.									1	34	
S.B. No. 1678 RELATING TO TAXATION.									7		

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
S.R. No. 1 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE FIRST DAY OF THE SPECIAL SESSION OF 2009.	11			11
S.R. No. 2 INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE.	11			11

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 31 RELATING TO EMPLOYMENT PRACTICES.									2	1	
H.B. No. 36 RELATING TO HEALTH.									3 11		
H.B. No. 128 RELATING TO ELECTIONS.									8		
H.B. No. 183 RELATING TO EDUCATION.									8	2	
H.B. No. 343 RELATING TO HEALTH CARE TRAINING.									3	3	
H.B. No. 358 RELATING TO DRUG TREATMENT.									3	4	
H.B. No. 541 RELATING TO CIVIL SERVICE PERSONNEL.									8		
H.B. No. 590 RELATING TO RENEWABLE ENERGY FACILITIES.									9		
H.B. No. 690 RELATING TO INSURANCE.									3		
H.B. No. 754 RELATING TO THE HAWAII TOURISM AUTHORITY.									9	5	
H.B. No. 952 RELATING TO LABOR									3	6	
H.B. No. 975 RELATING TO AGRICULTURAL WATER SYSTEMS.									9		

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 982 RELATING TO FAMILY LEAVE.									3	7	
H.B. No. 986 RELATING TO PUBLIC SCHOOL FACILITIES.									3		
H.B. No. 989 RELATING TO CHILDREN'S HEALTH CARE.									3	8	
H.B. No. 1271 RELATING TO GOVERNMENT.									9 11		
H.B. No. 1405 RELATING TO THE GENERAL EXCISE TAX.									4		
H.B. No. 1471 RELATING TO FARMS.									9	9	
H.B. No. 1479 RELATING TO LABOR.									4	10	
H.B. No. 1504 RELATING TO HEALTH.									4	11	
H.B. No. 1525 RELATING TO MEDICAID.									9	12	
H.B. No. 1538 RELATING TO ENVIRONMENTALLY-SENSITIVE PRODUCTS.									9	13	
H.B. No. 1544 RELATING TO TAX EXEMPTIONS.									10	14	
H.B. No. 1552 RELATING TO PUBLIC LANDS.									10	15	

NUMBER AND TITLE	Received Referred	First Reading	Second Reading	Third Reading	Action of House	Conference Committee	Final Action	Action of Governor	Further Action	Act No.	Vetoed
H.B. No. 1611 RELATING TO LABELING OF MEAT AND FISH PRODUCTS.									4		
H.B. No. 1676 RELATING TO PUBLIC WORKS.									4	16	
H.B. No. 1692 RELATING TO HOUSING.									4		