

## FORTY-NINTH DAY

## Wednesday, April 14, 2010

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2010, convened at 12:11 p.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Sam Slom, Hawai'i State Senate, after which the Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Forty-Eighth Day.

## MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 474 to 476) were read by the Clerk and were placed on file:

Gov. Msg. No. 474, informing the Senate that on April 13, 2010, the Governor signed into law Senate Bill No. 2050 as Act 18, entitled: "RELATING TO VOCATIONAL REHABILITATION IN WORKERS' COMPENSATION LAW."

Gov. Msg. No. 475, informing the Senate that on April 13, 2010, the Governor signed into law Senate Bill No. 2340, S.D. 1, H.D. 1 as Act 19, entitled: "RELATING TO KANEOHE BAY REGIONAL COUNCIL."

Gov. Msg. No. 476, informing the Senate that on April 13, 2010, the Governor signed into law Senate Bill No. 2201, S.D. 1, H.D. 1 as Act 20, entitled: "RELATING TO MOTOR VEHICLES."

## HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 565 to 568) were read by the Clerk and were placed on file:

Hse. Com. No. 565, returning S.B. No. 2121, which passed Third Reading in the House of Representatives on April 13, 2010.

Hse. Com. No. 566, informing the Senate that on April 13, 2010, the Speaker made the following changes to the conferees on the following bill:

H.B. No. 2061, H.D. 1 (S.D. 2):

Representative Evans added as a member.

Hse. Com. No. 567, informing the Senate that on April 13, 2010, the Speaker appointed conferees on the part of the House for the consideration of amendments proposed by the House to the following Senate bill:

S.B. No. 2346, S.D. 1 (H.D. 1):

Representatives Takumi, Rhoads, Co-Chairs; Ching.

Hse. Com. No. 568, informing the Senate that on April 13, 2010, the House discharged all conferees to the following bills:

H.B. No. 2085, H.D. 1 (S.D. 2); and

H.B. No. 2086, H.D. 2 (S.D. 2).

## STANDING COMMITTEE REPORTS

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 3145) recommending that the Senate advise and consent to the nomination of PETER H. COOPER to the Environmental Council, in accordance with Gov. Msg. No. 394.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3145 and Gov. Msg. No. 394 was deferred until Thursday, April 15, 2010.

Senator Taniguchi, for the Committee on Judiciary and Government Operations, presented a report (Stand. Com. Rep. No. 3146) recommending that the Senate advise and consent to the nominations to the Defender Council of the following:

JEFFREY ALAN HAWK, in accordance with Gov. Msg. No. 418; and

SHIRLEY MIKI KAWAMURA, in accordance with Gov. Msg. No. 419.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3146 and Gov. Msg. Nos. 418 and 419 was deferred until Thursday, April 15, 2010.

Senator Taniguchi, for the Committee on Judiciary and Government Operations, presented a report (Stand. Com. Rep. No. 3147) recommending that the Senate advise and consent to the nomination of DANIEL KAWAMURA to the Board of Registration of the Islands of Kaua'i and Ni'ihau, in accordance with Gov. Msg. No. 420.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3147 and Gov. Msg. No. 420 was deferred until Thursday, April 15, 2010.

Senator Taniguchi, for the Committee on Judiciary and Government Operations, presented a report (Stand. Com. Rep. No. 3148) recommending that the Senate advise and consent to the nomination of ELENA M.H. CABATU to the Commission on the Status of Women, in accordance with Gov. Msg. No. 421.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3148 and Gov. Msg. No. 421 was deferred until Thursday, April 15, 2010.

Senator Sakamoto, for the Committee on Education and Housing, presented a report (Stand. Com. Rep. No. 3149) recommending that the Senate advise and consent to the nomination of R. ERIC HO'OLULUKAMAKANI BEAVER, ESQ. to the Board of Directors of the Hawai'i Public Housing Authority (PHA), in accordance with Gov. Msg. No. 392.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 3149 and Gov. Msg. No. 392 was deferred until Thursday, April 15, 2010.

Senator Gabbard, for the Committee on Energy and Environment, presented a report (Stand. Com. Rep. No. 3150) recommending that H.C.R. No. 178 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3150 and H.C.R. No. 178, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING OCTOBER AS ENERGY AWARENESS MONTH IN HAWAII," was deferred until Thursday, April 15, 2010.

## ORDER OF THE DAY

## ADVISE AND CONSENT

Stand. Com. Rep. No. 3140 (Gov. Msg. Nos. 396 and 444):

Senator Chun Oakland moved that Stand. Com. Rep. No. 3140 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nominations to the Policy Advisory Board for Elder Affairs (PABEA) of the following:

HERBERT C. SHARP, term to expire June 30, 2014 (Gov. Msg. No. 396); and

F. ADELE RUGG, term to expire June 30, 2014 (Gov. Msg. No. 444),

seconded by Senator Ihara.

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

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

Stand. Com. Rep. No. 3141 (Gov. Msg. No. 454):

Senator Espero moved that Stand. Com. Rep. No. 3141 be received and placed on file, seconded by Senator Bunda and carried.

Senator Espero then moved that the Senate advise and consent to the nomination of EDWARD R. CRUICKSHANK to the Civil Defense Advisory Council, term to expire June 30, 2011, seconded by Senator Bunda.

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

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

Stand. Com. Rep. No. 3142 (Gov. Msg. Nos. 412 and 413):

Senator Chun Oakland moved that Stand. Com. Rep. No. 3142 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nominations to the Early Learning Council of the following:

CHARLES E. LARSON, term to expire June 30, 2012 (Gov. Msg. No. 412); and

CRYSTAL RAY K. NAONE, term to expire June 30, 2012 (Gov. Msg. No. 413),

seconded by Senator Ihara.

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

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

Stand. Com. Rep. No. 3143 (Gov. Msg. No. 443):

Senator Chun Oakland moved that Stand. Com. Rep. No. 3143 be received and placed on file, seconded by Senator Ihara and carried.

Senator Chun Oakland then moved that the Senate advise and consent to the nomination of ELWOOD EDWARD MACHADO to the Commission on Fatherhood, term to expire June 30, 2012, seconded by Senator Ihara.

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

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

#### ADOPTION OF RESOLUTION

#### MATTER DEFERRED FROM TUESDAY, APRIL 13, 2010

Stand. Com. Rep. No. 3144 (H.C.R. No. 64, S.D. 1):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and

H.C.R. No. 64, S.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION RECOGNIZING MARCH AS "ADULT RESIDENTIAL CARE HOME AND ADULT FOSTER HOME OPERATORS MONTH,"" was adopted.

#### FINAL READING

#### MATTERS DEFERRED FROM TUESDAY, APRIL 13, 2010

S.B. No. 2001, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2001, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," was deferred until Tuesday, April 27, 2010.

S.B. No. 2159, H.D. 1:

Senator Taniguchi moved that S.B. No. 2159, H.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Hemmings rose in opposition to the measure as follows:

"Madam President, this may seem innocuous, raising the traffic abstract fee from \$7 to \$20, a \$13 increase. The economic impact, as we compute it, will be about \$6.5 million. In speaking against this, I'd like to speak against all of the things we're doing today with tax increases. We will be taking, with these bills, approximately \$172 million out of the marketplace, out of people's pockets, out of circulation, out of businesses that would create jobs, out of poor people's pockets that need money to pay for their own living—and God bless the ones that work hard every day and are not relying on government for their day-to-day care. They're the ones we hurt the most in this state. This bill and others take money from those sometimes who are least able to afford it.

"Oftentimes in speaking against these bills, Senator Slom and I get accused of being the people that just say 'no.' Well, I'm really proud to have the courage to say 'no' against some of the waste that we find in institutions like the Department of Education, that spends well over \$2 billion a year and produces a 47<sup>th</sup> ranked education system in the nation. I'm so proud to say 'no' to that abuse of taxpayers and our children. I'm most pleased to say 'no' against a union who hijacks our kids on furlough days and says they want to do it for the children when they themselves kept kids out for 21 days on a strike not too long ago. In speaking against this bill on abstracts that will take money out of people's pockets, I'm proud to say 'no' against Hawai'i Health Care System's monopoly hospitals that would be anti-trust if it was done in the private sector. It needs to be subsidized \$80, \$90 million, or more to keep the doors open. I'm proud to say 'no' against the excessive pay and compensation of some of our public workers, and sometimes paying for jobs we don't need or can be done better for less money in the private sector.

"What we should be saying 'yes' to in rewarding are those in our community who make us work and make things happen. We continue to take jobs away and money out of their pocket. This small bill, taking \$6.5 million out of people's pockets, won't be paid by greedy companies or rich people. It will be paid by consumers, as all taxes ultimately are paid for. I think one of the mistakes that the Majority party often makes in producing the fifth worst taxed state in the nation is that, well, the fat cats—the rich guys—can afford it; and ultimately, especially here in Hawai'i, it ends up being the little guy that pays for it. I will remind everybody last year it was revealed that we were second only to Alabama for being the most regressive state in the nation.

"So in passing all of these tax increases, including this abstract fee, we're hurting our consumers. We're hurting jobs. We're hurting the future. And it would be remiss of me not to

speak out on behalf of what the Majority party often calls—and national Democrats call—‘the greedy rich.’ Thank God. Thank God we have people that were smart enough, worked hard enough, to become wealthy in this state. I am so proud of the Castle Foundation, a rich man who passed away and left his fortune in trust; a man who allowed our small district to have a hospital, to have free land to put our churches on, and to have all the other benefits showered on our community. Thank God for the Weinberg Corporation, another rich guy. If you go around this state, you look on many buildings that service the poor, the elderly, and the needy, and it doesn’t say a political label. It has the name of a rich guy and his wife. I’m proud that we have a society where hard work does pay off, but if we continue to punish those who produce and reward those who do not, that will no longer be true.

“So these are my comments, although broadened on Senate Bill 2159, but on all of the taxes we’re heaping on the people of Hawai’i in order to pay for oftentimes jobs we don’t need and most assuredly jobs we can’t afford. Last I checked, for instance, benefits for the retired public employees, just paying off their holidays, will cost the taxpayers \$14 million this year. It’s time we bring fairness to the marketplace and put everybody on a level playing field.

“I certainly appreciate, Madam President, your indulgence and my colleagues’ indulgence. This will be my one time speaking about all these issues, and I thought I’d attach my generic comments to this first initiative. 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. 2159, and S.B. No. 2159, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TRAFFIC ABSTRACT FEE,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Green, Hemmings, Slom).

S.B. No. 2401, S.D. 1, H.D. 1:

By unanimous consent, action on S.B. No. 2401, S.D. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE FINANCES,” was deferred until Tuesday, April 27, 2010.

#### FINAL READING

Conf. Com. Rep. No. 2-10 (H.B. No. 1907, H.D. 1, S.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 2-10 and H.B. No. 1907, H.D. 1, S.D. 1, CD 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” was deferred until Tuesday, April 27, 2010.

Conf. Com. Rep. No. 3-10 (H.B. No. 2866, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 3-10 be adopted and H.B. No. 2866, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kokubun.

Senators Slom, Baker, Sakamoto, and Hooser requested that their votes be cast “no,” and the Chair so ordered.

Senators Espero, Ihara, Bunda, Fukunaga, Ige, and Green requested that their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 3-10 was adopted and H.B. No. 2866, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21; Ayes with Reservations (Bunda, Espero, Fukunaga, Green, Ige, Ihara). Noes, 4 (Baker, Hooser, Sakamoto, Slom).

At 12:24 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:28 p.m.

Conf. Com. Rep. No. 4-10 (H.B. No. 2421, H.D. 2, S.D. 2, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 4-10 be adopted and H.B. No. 2421, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Gabbard.

Senator Slom rose in opposition to the measure as follows:

“I want to thank the Senate President and my colleagues for not having these bills yesterday on my birthday, so I was able to enjoy it.

“This bill, the so-called ‘barrel tax bill,’ was shown to the public and discussed early on as relating to food and agricultural security. It was advertised as an environmental bill. It was advertised that it was going to do a lot of things to protect our industry here in Hawai’i and to help us.

“Stripped away of all of the nomenclature, it’s just simply a bad tax bill, and it’s so much worse than the supporters think it is. First of all, what it does is raise the current barrel of fuel tax from 5 cents to \$1.05. As we all know that during the discussions of this bill, there were suggestions to raise it to \$5 a barrel. Then there was a compromise to \$1.50 a barrel; and right now in its present form, it’s \$1, or a total of \$1.05. People tried to negate the impact of this bill by saying, ‘Oh, it’s only going to raise the price of petroleum products, gasoline, for the already beleaguered Hawai’i consumer by 2½, 3½, 4 cents per gallon.’ The estimates that I’ve looked at are 5 to 6 cents per gallon, but you know, we get used to thinking, ‘Oh, it’s only a couple of cents and it doesn’t mean anything.’ Well those cents add up, number one, on the price of gasoline, but more importantly, and what people are not looking at, it’s going to impact the cost of our food. It’s going to impact the cost of everything that we utilize here in Hawai’i because as the fuel prices continue to escalate—as they are already nationally—we find that the delivery of food, the production, any energy, electricity, anything that we use will go up substantially, and we will add 5 cents to 10 cents to 20 cents to 50 cents. And there’s only one group of people that pay that, and that’s the consumers and the taxpayers of this state.

“It’s an unfair bill because it has nothing to do with helping us get to alternative energy faster. It has nothing to do with making us more self-sufficient. And the proof of that is in the distribution of the funds, it doesn’t go for the lofty purposes advertised in the bill; it goes into the general fund to pay for our deficits, to pay for the unions, to pay for the Department of Education that my colleague has waxed poetic about. It includes two special funds. It also, early on from the beginning, had an exemption to try to placate people in the aviation and tourist industry to show them, ‘See it’s not that bad because we’ll give you an exemption.’ But my understanding is that in the current version, that exemption has been removed as well. So what we’re faced with is a major tax increase that’s going to affect all of us, and not just in the energy corridor, but also our food and everything else.

“I think it’s always bad precedence when we tell the public that we’re passing a bill because it’s going to do this, and we know it’s not going to do that. It’s not going to help us with our invasive species. It’s not going to help us with our food supply. It’s not going to help us with our agricultural industry. All it’s going to do is raise money; and if we can raise the barrel from

5 cents to \$1.05 this year, we certainly can go to \$1.55 or \$5.55, \$5.05 next year. It's just a matter of time.

"The prudent thing to do is not to pass this legislation. The prudent thing to do is as we approach the deadline for paying our federal taxes tomorrow, the prudent thing to do is to listen to the plight of the taxpayers and try to pass legislation that is going to remove or reduce that burden, not enhance or increase it; and that's what this bill would do. I urge my colleagues to rethink their support for this bill. Thank you."

Senator Hooser rose in support of the measure as follows:

"You know, we passed a similar measure last year and this year's a slightly different situation, but this is still a huge start and a big step toward our state becoming more sustainable with regards to food and energy. It's certainly not everything I would hope for, but it's a big step and a significant start down that pathway.

"We export billions and billions of dollars every year for food and energy. It's time that we begin taking serious growing our own food and getting off of fossil fuel. The public benefits to this measure—more specifically the public benefits to the end result, getting off of fossil fuel and growing our own food—are huge. They're significant, but this is a long journey and we must have the resolve to start now by taking this significant step. The economic development benefits are significant. The food and energy security benefits are significant. The land use benefits, keeping Hawai'i green, keeping the country country are significant. And of course, the environmental benefits and the jobs that it will create, ultimately, are huge.

"This is an important first step. Is it big enough for me? No, it's not. I'd like to take a much larger step. Are coal and imported biofuels included? No, but I'm hopeful that we can include those later. I also wish there were more funds directed toward the core food and energy programs; I absolutely believe that. But I also know we have to face the reality of our budget situation, and we have important needs for many other programs, including taking care of our elderly, agricultural inspection, and yes, supporting our public school system. We need to fill these needs, but we need to step out and aggressively support food and energy programs; and with time, I'm confident that more money can be focused on this core mission: food and energy. Again, an important step, a significant step.

"We need this measure. We need it now. We cannot delay it another year, another two years to move our state's sustainability agenda forward. This is important, and I encourage my colleagues to vote in strong support of this measure. Thank you, Madam President."

Senator Baker rose in opposition to the measure as follows:

"Madam President, I appreciate the conference committee listening to some of us who had concerns last year and took out the tax levied on aviation fuel; and yes, that exemption is there. It's on page 11, lines 11 and 12. So this bill will not affect, adversely, air transportation, but unfortunately, and the reason I'm standing to oppose this measure is because it affects other methods of moving people and goods. And as such, it falls disproportionately on the neighbor islands and people who have to travel great distances. Yes, it will impact the cost of food, the cost of every product we have. As my colleagues know, I prefer, if we're going to generate tax dollars for the general fund, that we do it in the fairest, broadest manner possible by using an increase in the general excise tax coupled with tax reform to mitigate the GET's regressivity. Unfortunately, this measure does not contain a more positive approach to revenue generation. The barrel tax is a flat tax and it is regressive with no mitigating or offsetting provisions. Therefore, I ask my

colleagues to join me in voting 'no.' Thank you, Madam President."

Senator Green rose in opposition to the measure as follows:

"I stand in opposition, and I'd like to enter the senator from Maui's comments into the record as my own." (The Chair so ordered, by reference only.)

Senator Kim rose in support of the measure as follows:

"The extra dollar that this bill will increase will break down as such: 15 cents will go to the energy security program, which is approximately \$3.3 million; 15 cents to the agriculture security program, \$3.3 million; and to the energy development, \$2.2 million for a total of approximately \$8.8 million, and depending upon how many barrels used, it could go up.

"And yes, the balance we'll dump into the general fund. We're looking at approximately \$12 to \$13 million, but what exactly does the general fund do? You know, we're just raising money. What are we raising money for? We're raising money for the programs that have been talked about. We're raising money in our food security program that uses general fund dollars—\$21.7 million go for that program of general fund dollars. In our energy programs, in BED, in Water-Land, in all of these other programs, the energy program—\$11.6 million of general fund dollars. So whether it's a 1 percent GET tax or whether it's a barrel tax, those have to be funded. And then we have the solar tax credit: \$6 to \$8.5 million and growing of general fund dollars. So, if you're saying that we're going to raise the barrel tax and that only a small portion is going to go for these programs; not true. And if we were to raise a 1 percent GET tax, it's going to raise the gasoline even more; it's going to raise food more. And so I don't know how you can on one hand support a 1 percent regressive tax across the board and not support the barrel tax. Thank you, Madam President."

Senator Hemmings rose in rebuttal as follows:

"Thank you, Madam President. What we're saying, I was hoping would be heard loud and clear, not necessarily by the people on this floor who hear it all so often. What we're saying is raising taxes hurt the economy, will lead to less income, and reduce tax revenue. What we're saying is reduce spending. It's quite simple. Get rid of what the Stroudwater report said the close to \$100 million a year we're losing in Hawai'i Health Care Systems. Privatize those institutions.

"What we're saying is get rid of the waste and abuse and unaccounted for tens of millions, if not hundreds of millions or more, in the public education system education bureaucracy. If throwing more money at public education was going to make the system better, it would be. But we hear the same tired speeches every year about, 'It's for the kids. It's for the kids. It's for the kids,' and we continue to get the miserable results. And the excuse the following year is, 'Let's raise more money, so we can throw it at public education.'

"What we're saying is bring parity to public workers' compensation and fringe benefits with those in the private sector who don't get 21 days sick leave, and then when they retire get tens of thousands if not more in payouts for the sick leave they didn't use. Bring parity with the private sector in the amount of compensation where public workers, the vast majority of them, get paid more than their counterparts in the private sector. Let's be fair. Let's be fair.

"What we're saying is that the \$10 billion plus budget that gets all the money from the taxpayers of this state in some shape, form, manner or not has to be reduced. As I said previously, we're spending just \$14 million to pay for vacation days for the average retirees. And in defense of public workers, most of them, most of them who do a good job, there's no



reason why anyone could lose their job if we'd embark on an effort to reduce public employment through attrition, but the labor unions have made it so difficult we can't even transfer people from one position to another without going through holy hell to get the paperwork done. They make it hard on themselves and their own people.

"We are saying something: We're paying too much gourmet prices for government, and in some instances via the audits and everything else, we're getting served the bologna sandwich. So there is an alternative to increasing taxes, and the alternative is to reduce spending and privatize many of the services that could be done better and less expensively than this gourmet government. Thank you, Madam President."

Senator Hooser rose in rebuttal as follows:

"Madam President and colleagues, I resisted speaking earlier when the Minority Leader, I believe, assured us that he was just going to talk about this subject once and that was it for the day. But it's clear that that's not the case, and too often, Madam President, colleagues, I sit here and I think others too, and we listen to the same tired talking points, the same tired speeches, the same bashing and looking for scapegoats, and I guess we're going to have that again today.

"We're going to have the courage to say 'no' when I think all of us know here the real courage today is to say 'yes.' None of us enjoy raising fees or taxes, but we have a responsibility here today to fund our essential services. So the courage here today is to say 'yes,' not to say 'no.' But it's really easy to look for scapegoats. It's really easy to bash public workers, bash our public education system, bash teachers, bash hospitals. I'm just surprised that the tourism industry has been left out, the high tech industry has been left out, and among others that I'm sure will come out later.

"It's easy to bash the public workers. It really is. You know, bash the public workers for negotiating with management and accepting a job based on the terms of their contract. Don't bash management. Don't bash the Lingle administration who doubled the benefits for the public workers union during her first year. Bash the public workers. Blame public workers, blame teachers, blame hospitals for the condition of our economy today. Don't blame Lehman Brothers, the big banks, the big insurance companies, the big investment houses who caused these problems. Don't blame Exxon Mobile, who made a \$40 billion profit in 2009. But let's bash public workers.

"Madam President, we live in a wonderful, wonderful place. We live in a state we should all be thankful that we're here. We're surrounded by a diverse culture. We're surrounded by nice, good weather, quality of life. We can do much better, but we're not going to do much better, Madam President and colleagues, unless we stop bashing, unless we stop the ongoing onslaught of negativity that we're surrounded by on the radio, on the television, and on this floor. It's beyond time, it's beyond time to start working together, to start speaking positively about the good things in our community, and move forward to make our state a better place. Thank you, Madam President."

Senator Slom rose in rebuttal as follows:

"First of all, let me correct myself and thank the good senator from Maui on the correction about the aviation fuel exemption in the bill. I'm glad that that's still in.

"You know, I listen very carefully to the words of the Minority Leader, and the only complaint I have with him is his bashing of bologna. And I think bologna serves a great purpose, particularly in this Legislature, so I would admonish my colleague not to do that.

"When the good Senator from the Garden Island talks about the same tired talking points, I thought perhaps he was talking about the same speech that we've heard him give six times this session thus far, but maybe I'm wrong. And when the good Senator talks about courage and the fact that none of us enjoy raising taxes here—we'll wait a minute, that's all we've done this session and the last session. The Majority has raised taxes. So if they don't enjoy it, they sure could fool the rest of us.

"And as far as the tired talking points of us talking about waste and excessive spending in government, we continue talking about it because we don't do anything about it. We continue to waste. We continue the spending. Nothing gets done except our financial picture gets worse.

"And I think it's really interesting that we can talk about 'bashing.' Nobody's bashed public school teachers. Nobody's bashed health care workers. The criticism is aimed at the union leaders who have brought us to this condition to the state-run hospital system, which is always near bankruptcy and always requires emergency funding, while defeating any kind of alternative private investment to solve the problem.

"And I don't ever remember either my colleague or I standing up in behalf of bankers and Lehman Brothers and investors. I do remember people within the national administration, however, who engineered the bailouts for these very companies and still do.

"So let's set the facts straight, and let's say that there's no courage in raising other people's taxes and picking their pockets. And let's say that there's no courage in adding 50 cents here, a dollar there, 25 cents there—and by the way, I bristle every time I hear anybody talking about a general excise tax increase of 1 percent. It's 25 percent; that's the increase. The rate change may be 1 percent. The increase is 25 percent—and I learned that in public school.

"Yes, we may be on a journey, but the journey is going to be longer and is going to be more difficult if we continue to tax and to punish people. We have had opportunity after opportunity to attract new capital, new investment to this state, and that's what we should be doing: looking for new revenue from outside sources and from people who believe that it's okay to invest in Hawai'i. But we continue at best to save the best for this Legislature by raising taxes and giving them mixed signals. We're all on the journey together, but we all have different visions of how to get there and what's most beneficial; and no one has shown me yet an example of any state or any country that has pulled themselves out of economic difficulties by raising the taxes even more on the people who can least afford to pay for those taxes and those costs. And every day as we watch businesses and organizations and cultural benchmarks in our community not only having difficult times but shutting down, and we say, 'Why is that,' and we dismiss the actions that we take in terms of taxes. We are responsible. We don't have to look for scapegoats. We are the ones that make the decisions. We are the ones that pass the bills. We are the ones that create the laws; and we are the ones that are increasing the taxes, the cost of living, and reducing the standard of living for the people of the State of Hawai'i, and we could and should be doing a better job.

"So yes, I concur it is significant what we have done this session, but it's not positively significant. And anybody knows if you're talking about prudent action, anybody knows if you want alternative energy or you want more locally-grown food or you want more local employees that you get to that stage first before you cut off the bridges behind you; and that's what we're doing right now. All of us in this room have supported alternative energy. All of us have supported agriculture and the growing of local foods and more sustainability and less dependence. But we're not there yet, and we're not taking the

actions that will get us there; and in the meantime, we are harming our citizens every day. And that's what's significant, and the courage would be to face up to it and to do the things that we should do for all of the people of Hawai'i. Thank you, Madam President."

Senators Espero and Ihara requested that their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 4-10 was adopted and H.B. No. 2421, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18; Ayes with Reservations (Espero, Ihara). Noes, 7 (Baker, Bunda, Fukunaga, Green, Hemmings, Ige, Slom).

Conf. Com. Rep. No. 5-10 (H.B. No. 1985, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 5-10 be adopted and H.B. No. 1985, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure as follows:

"This bill clearly is aimed at denying any change in how we provide human services in this state—oh, I'm sorry, Madam President, I skipped ahead. Save that for the next bill. Thank you."

Senators Ihara, Baker, Fukunaga, Ige, and Espero requested that 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. 5-10 was adopted and H.B. No. 1985, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23; Ayes with Reservations (Baker, Espero, Fukunaga, Ige, Ihara). Noes, 2 (Hemmings, Slom).

Conf. Com. Rep. No. 51-10 (S.B. No. 2650, S.D. 2, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 51-10 be adopted and S.B. No. 2650, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Baker.

Senator Slom rose in opposition to the measure as follows:

"I do rise in opposition to this bill, and I apologize to my colleagues. It must be a function of old age.

"As I started to say about this bill: This bill really is in opposition to any changes, improvements, or creativity in the delivery of welfare and human services. And it's interesting to me—again, another example, if we need any more examples—that the President of the United States keep talking about hope and change, and we in Hawai'i really don't want to change. We hope everything will be fine if we don't change, and we just hunker down.

"There was a provision to not only reduce costs, but also to make it easier on those people that access human services here. The idea of closing down certain offices and enhancing the use of technology and online services was to make it easier for the people that did not have the time to journey to the offices or to wait in line or to go through all of that—to make it easier.

"Now I understand that there are people that may be technologically challenged—some people have accused me of doing that in some areas—and there certainly are ways of overcoming that, and I think the Department of Human Services has recognized that. But to categorically say, 'You can't make

any changes and you can't go in this direction,' where we are in every other area trying to go online, trying to make it easier for people to access services and government operations through their home and their computer and their iPhone and their iPad and all of that. It just doesn't make sense.

"So you know, I understand the idea of trying to keep employees, but we have to make a decision as to who we're really trying to aid here; and if we're really trying to aid those people dependent on human services, we should indeed try to explore every opportunity to make it easier for them. Thank you."

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

"Thank you very much. Your Committee on Human Services, as well as the House Human Services Committee, had held briefings on the proposed EPOD program statewide, and we were able to hear from hundreds of people. Three groups: the employees of the Department of Human Services, the advocates of clients, as well as the clients themselves, speaking about their concerns, as well as the positive aspects, of this proposal.

"What this bill before us does is exempts, at this point, all neighbor islands from this program. What it does allow is for a pilot program on O'ahu to take place. In this way, we can actually look methodically at how it is implemented to make sure that the negative concerns that were expressed—the impacts potentially that would be negative in nature for our customers, our clientele—is ameliorated before proceeding with EPOD on a statewide basis. We are taking a very prudent step. I do hope that the Department of Human Services and the Governor looks at this proposal and sees the benefit in doing a pilot. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 51-10 was adopted and S.B. No. 2650, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HUMAN SERVICES," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 52-10 (S.B. No. 2405, S.D. 2, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 52-10 be adopted and S.B. No. 2405, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure as follows:

"Gosh, it's the streamlining tax that will never die. Ha! It's back again in a gutted version of this bill.

"There are actually some positive factors in this bill, but there are some negative tax consequences as well. I guess the major positive tax factor is the elimination of taxes on businesses owned by the disabled. But the negative tax impacts far exceed that, and the streamlining tax—which is again a misnomer because it's a tax on all of our efforts in the new technology—it's a back-end tax. It is not just trying to recoup what is due us. It is a tax we've talked about again and again and again and again. It is negative. It will not help us. It will not save money for consumers in this community, and again, punishes the very people that have adopted the idea of change and technology. Thank you."

Senator Fukunaga rose in support of the measure as follows:

"Thank you, Madam President. I rise to speak in support of this measure and partly to rebut the remarks of the prior speaker. I would simply note that this measure is intended to level the playing field, so all of the local brick-and-mortar

retailers who pay their GET can compete fairly with those who are located in jurisdictions outside of Hawai'i. Thank you."

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

"My understanding is, in 1969, the State Legislature passed the use tax. This is a tax on products that we purchase outside of the state that are brought into the state. This measure would collect the taxes that are already owed to the State. In speaking with many people in the public, they are not aware that, if they purchase something through a catalog or via the internet, they are already required to pay taxes, and so this is one way of being able to comply with the existing law. Thank you very much."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 52-10 was adopted and S.B. No. 2405, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Hemmings, Sлом).

Conf. Com. Rep. No. 53-10 (S.B. No. 2402, S.D. 1, H.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 53-10 and S.B. No. 2402, S.D. 1, H.D. 1, C.D. 1 be recommitted to the Committee on Conference, seconded by Senator Tsutsui.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 53-10 and S.B. No. 2402, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," were recommitted to the Committee on Conference.

At this time, the Chair made the following announcement:

"Referrals and re-referrals are made in accordance with the referrals listed on the Order of the Day and the Supplemental Order of the Day that may be distributed to your offices this afternoon."

**RE-REFERRAL OF HOUSE CONCURRENT RESOLUTIONS**

The Chair re-referred the following House concurrent resolutions that were received:

H.C.R. No.:	Re-referred to:
H.C.R. No. 21	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 22	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 23	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 24	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 25	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 26	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 27	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 28	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 29	Committee on Water, Land, Agriculture, and Hawaiian Affairs

H.C.R. No. 30	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 31	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 32	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 33	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 34	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 36	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 44	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 45	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 46	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 47	Committee on Water, Land, Agriculture, and Hawaiian Affairs
H.C.R. No. 320	Committee on Water, Land, Agriculture, and Hawaiian Affairs

**MISCELLANEOUS BUSINESS**

**RECONSIDERATION OF ACTIONS TAKEN**

S.B. No. 898, S.D. 2 (H.D. 1):

Senator Espero moved that the Senate reconsider its action taken on March 4, 2010, in disagreeing to the amendments proposed by the House to S.B. No. 898, S.D. 2, seconded by Senator Taniguchi and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 898, S.D. 2, on the following showing of Ayes and Noes:

Ayes, 4 (Bunda, Espero, Hemmings, Taniguchi). Noes, none. Excused, 1 (Takamine).

Senator Espero then moved that the Senate agree to the amendments made by the House to S.B. No. 898, S.D. 2, seconded by Senator Taniguchi.

Senator Espero noted:

"This measure supports the State Civil Defense shelter-in-place initiative by exempting civil liability for care homes and schools, in addition to hotels, during officially designated emergencies. The amendments are basically technical, non-substantive, Madam President. 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. 898, S.D. 2, and S.B. No. 898, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL DEFENSE," was placed on the calendar for Final Reading on Thursday, April 15, 2010.

S.B. No. 2775, S.D. 1 (H.D. 2):

Senator Fukunaga moved that the Senate reconsider its action taken on April 8, 2010, in disagreeing to the amendments proposed by the House to S.B. No. 2775, S.D. 1, seconded by Senator Taniguchi and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2775, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 2 (Fukunaga, Taniguchi). Noes, none. Excused, 1 (Slom).

Senator Fukunaga then moved that the Senate agree to the amendments made by the House to S.B. No. 2775, S.D. 1, seconded by Senator Taniguchi.

Senator Fukunaga noted:

“Madam President, the House amendments were primarily technical in nature. The Department of Commerce and Consumer Affairs has advised us that they are able to implement this change with considerably greater ease.”

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2775, S.D. 1, and S.B. No. 2775, S.D. 1, H.D. 2, entitled: “A BILL FOR AN ACT RELATING TO PUBLICITY RIGHTS NAMES AS DISTINGUISHED FROM TRADE NAMES AND SPECIFYING REGISTRATION PROCEDURES FOR PUBLICITY RIGHTS NAMES BY AMENDING CHAPTER 482P,” was placed on the calendar for Final Reading on Thursday, April 15, 2010.

Senator Hee, Chair of the Committee on Water, Land, Agriculture, and Hawaiian Affairs, requested a waiver of the notice requirement pursuant to Senate Rule 21 for the following resolutions:

H.C.R. No. 21;  
H.C.R. No. 22;  
H.C.R. No. 23;  
H.C.R. No. 24;  
H.C.R. No. 25;  
H.C.R. No. 26;  
H.C.R. No. 27;  
H.C.R. No. 28;  
H.C.R. No. 29;  
H.C.R. No. 30;  
H.C.R. No. 31;  
H.C.R. No. 32;  
H.C.R. No. 33;  
H.C.R. No. 34;  
H.C.R. No. 36;  
H.C.R. No. 44;  
H.C.R. No. 45;  
H.C.R. No. 46;  
H.C.R. No. 47;  
H.C.R. No. 50, H.D. 2;  
H.C.R. No. 292, H.D. 1;  
H.C.R. No. 320; and  
S.R. No. 12.

Senator Hee noted:

“Your Committee received these House concurrent resolutions yesterday, and would like to hold a hearing on them tomorrow in order to meet Friday’s filing deadline. We would like to add S.R. No. 12 to this notice so that we can take testimony on it at the same time.”

The Chair granted the waiver.

At this time, the Chair made the following announcement:

“Conferees will be named in accordance with the Action Sheets to be distributed to your offices later today.”

Senator Hee rose on a point of inquiry as follows:

“Let me provide some background for my point of inquiry. I was inspired by the Higher Education confirmation hearing yesterday, and particularly the nominee from Maui was particularly inspirational. It reminded me that at a time when only native Hawaiians were here that that did not stop native Hawaiians from saying things about other native Hawaiians, much like today’s cosmopolitan population may say things about the Chinese people or the pakes, or the pukīkī or the kepanī. The native Hawaiians were not isolated from saying things about others; and watching the entertainment of the Higher Education confirmation hearing, it reminded me, on this Maui nominee, it reminded me that native Hawaiians had a saying for Maui people. They said Maui people were people that ‘ai ule lio because of their proclivity and appetite for the sea cucumber.

“So, I thought maybe this is a Maui thing. So, I want to ask the Majority Caucus Leader from Maui if he knew what an ‘eco-preneur’ was. Will you so ask him?”

The Chair asked Senator Tsutsui if he wished to respond to the question.

Senator Tsutsui responded:

“You know, I don’t know what an ‘eco-preneur’ is, but if you could ask the Senator from Kahalu’u to use it in a sentence, then I might be able to assist him.”

The Chair then said:

“Members, this is the Senate floor; this is not spelling bee. Senator Hee? There’s been an inquiry reversed back to you; would you wish to respond to that inquiry?”

Senator Hee responded:

“I’m not sure what ‘eco-preneur’ is, but when I hear it yesterday in the deliberations of the Higher Education Chairman, I thought maybe it was something that in the morning, while doing my morning constitution and letting the horse out of the stall, that it reminded me perhaps of the Senate Vice President, who was there, and hearing his melodic voice saying, ‘Hey there. What are you doing and what is that you’re putting in the wheelbarrow?’ And I would say, ‘Eco-preneur.’ I’ve heard, and it makes the flowers bloom. Madam President, the point of my inquiry is I have heard a lot of ‘eco-preneur’ on the floor; so with that inquiry, I want to thank you and thank my members who are ‘eco-preneurists’ in the act of ‘eco-preneurism.’”

#### APPOINTMENT AND DISCHARGE OF CONFEREES

H.B. No. 865, H.D. 1 (S.D. 1):

The President discharged Senator Kim as chair and Senator English as co-chair, and appointed Senator Kim as co-chair and Senator English as chair on the part of the Senate at the conference to be held for the consideration of amendments proposed by the Senate to H.B. No. 865, H.D. 1.

H.B. No. 2267, H.D. 1 (S.D. 1):

The President discharged Senator Kim as chair and Senator Sakamoto as co-chair, and appointed Senator Kim as co-chair and Senator Sakamoto as chair on the part of the Senate at the conference to be held for the consideration of amendments proposed by the Senate to H.B. No. 2267, H.D. 1.

#### ADJOURNMENT

At 1:10 p.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Thursday, April 15, 2010.