

FIFTY-NINTH DAY

Wednesday, April 28, 2010

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2010, convened at 11:38 a.m. with the President in the Chair.

The Divine Blessing was invoked by Chaplain Larry Kelly, Sheriff's Division of the Department of Public Safety, after which the Roll was called showing all Senators present with the exception of Senator Ihara who was excused.

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

At this time, the following introductions were made to members of the Senate:

Senator Hee introduced a group of students from Kawaihae School who participated with the Committee on Water, Land, Agriculture, and Hawaiian Affairs on the shark finning legislation and tracked the progress of the bill.

Senator Chun Oakland, on behalf of the Senate, introduced and welcomed various community members from AARP and Protecting Hawaii's Ohana, Children, Underserved, Elderly and Disabled (PHOCUSED) who were interested in and helped with legislation this session, particularly S.B. No. 2469.

Senator Kim introduced and congratulated the Kalihi AARP members, especially Barbara Kim Stanton and Alex Santiago, for all their hard work and for all they do within the Kalihi community.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 522 to 532) were read by the Clerk and were placed on file:

Gov. Msg. No. 522, informing the Senate that on April 25, 2010, the Governor signed into law House Bill No. 1985, S.D. 1, C.D. 1 as Act 59, entitled: "RELATING TO TAXATION."

Gov. Msg. No. 523, informing the Senate that on April 25, 2010, the Governor signed into law Senate Bill No. 898, S.D. 2, H.D. 1 as Act 60, entitled: "RELATING TO CIVIL DEFENSE."

Gov. Msg. No. 524, informing the Senate that on April 25, 2010, the Governor signed into law House Bill No. 2058, H.D. 1, S.D. 1 as Act 61, entitled: "RELATING TO PUBLIC PROPERTY."

Gov. Msg. No. 525, informing the Senate that on April 25, 2010, the Governor signed into law Senate Bill No. 2775, S.D. 1, H.D. 2 as Act 62, entitled: "RELATING TO PUBLICITY RIGHTS NAMES AS DISTINGUISHED FROM TRADE NAMES AND SPECIFYING REGISTRATION PROCEDURES FOR PUBLICITY RIGHTS NAMES BY AMENDING CHAPTER 482P."

Gov. Msg. No. 526, dated April 25, 2010, informing the Senate that on April 28, 2010, the Governor allowed the following measure to become law without signature, which reads as follows:

Senate Bill No. 2121 as Act 63, entitled: "RELATING TO THE EARLY LEARNING COUNCIL."

"Dear Madam President and Members of the Senate:

Re: Senate Bill No. 2121

On April 28, 2010, I intend to allow Senate Bill No. 2121, entitled 'A Bill for an Act Relating to The Early Learning Council' to become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to allow the Early Learning Council to conduct meetings by teleconference and sets quorum requirements, public notice requirements, and public participation requirements for teleconference meetings.

This legislative session I introduced Senate Bill No. 2710 and House Bill No. 2557 which would have allowed all boards and commissions to use various forms of audio or audio and visual conference technology, such as teleconference, videoconference, and voice over internet protocol, to facilitate meetings between board members and the public. I believe that expanding the use of available technology by all boards and commissions will increase efficiency in their deliberations and decision making, enhance public access to these deliberations, and reduce administrative costs for travel and meeting expenses.

However, I am concerned that this measure's scope and applicability is too narrow because it only allows one specific entity to use teleconferencing to conduct meetings. The measure fails to explain why this Council's needs are different from other Boards, Commissions and Councils in the State. The legislation fails to provide a rationale as to why it should be held under a different standard than what is applicable to all other boards and commissions that must adhere to the Sunshine Law.

I urge the Legislature to amend this Act in the next Legislative session to allow all boards and commissions to meet by teleconference, video conference, and voice over internet protocol, or equivalent electronic method.

For the foregoing reasons, I intend to allow Senate Bill No. 2121 to become law as Act 63, effective April 28, 2010, without my signature.

Sincerely,

/s/ Linda Lingle
LINDA LINGLE"

Gov. Msg. No. 527, dated April 25, 2010, transmitting the Governor's statement of objections to Senate Bill No. 2159, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ABSTRACT FEE," which was returned to the Senate without approval and reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU

April 25, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2159

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2159, entitled 'A Bill for an Act Relating to Traffic Abstract Fee.'

The purpose of Senate Bill No. 2159 is to increase general fund revenues by raising the traffic abstract fee from \$7 to \$20. Of the \$20.00 to be charged, \$18.00 is to be deposited into the

general fund and \$2.00 is to be deposited into the judiciary computer system special fund.

This bill is objectionable because it is effectively a tax increase on Hawaii drivers and businesses. This bill imposes a nearly two hundred percent increase in the amount of the fee currently charged. Based on the number of abstracts requested each year, this bill would cost Hawaii drivers an estimated \$6.5 million more annually.

This increased fee of \$20.00 would be significantly more than the traffic abstract fee of most other states. This substantial increase will undoubtedly impact businesses operating in Hawaii that regularly need to review traffic abstracts, particularly businesses that operate fleets of vehicles. Further the fee will impact any individual who operates a vehicle and must obtain an abstract for insurance purposes.

This measure, places an additional burden on Hawaii's residents and businesses at a time when existing taxes are difficult enough to bear. Families are prioritizing expenditures and making difficult decisions in order to live within their means. We in the State, have an obligation to do the same.

For the foregoing reasons, I am returning Senate Bill No. 2159 without my approval.

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

Gov. Msg. No. 528, dated April 25, 2010, transmitting the Governor's statement of objections to Senate Bill No. 2650, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HUMAN SERVICES," which was returned to the Senate without approval and reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2650

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2650, entitled 'A Bill for an Act Relating to the Department of Human Services.'

The purpose of this bill is to allow the Governor, through the Department of Human Services (DHS), to establish an eligibility processing operations division (EPOD) pilot project on Oahu. This bill also prohibits the DHS from implementing any transfer of eligibility functions via a reorganization proposed before and during the effective date of the measure, other than the pilot project.

This bill is objectionable because it denies equal access for Hawaii residents living on the neighbor islands to utilize and receive public benefits, such as welfare assistance, Medicaid, and the Supplemental Nutrition Assistance Program services. The reorganization, proposed and approved before the Legislature passed this measure, is designed to increase the convenience with which clients across the State can apply for services and renew their eligibility to retain services through the establishment of a call center and online applications. Residents could also receive in-person assistance at remaining

DHS offices, community-based social service agencies, hospitals, and health clinics statewide.

This measure would provide easier access to the application and renewal process for residents on Oahu only, which is not fair to those living on the neighbor islands, and discriminates against them based solely on the location of their residence.

This bill is also objectionable because it would limit DHS's ability to reduce the backlog of applications and renewals for public assistance, which has increased statewide since 2008 because of the global economic recession. If EPOD cannot be fully implemented statewide, only those applications originating on Oahu will benefit from faster, more responsive, processing. Neighbor island applications are currently delayed for as long as four months, and the processing periods are not within the required federal timelines. The backlog will continue to grow. This does not serve our most needy residents well.

Furthermore, the original state-wide proposal would have improved the quality of service to public assistance recipients statewide while saving the taxpayers of the State an estimated \$8 million annually. There is nothing wrong with improving service and also saving money. The original program should proceed.

For the foregoing reasons, I am returning Senate Bill No. 2650 without my approval.

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

Gov. Msg. No. 529, dated April 25, 2010, transmitting the Governor's statement of objections to House Bill No. 2085, H.D. 1, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," which was returned to the Senate without approval and reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU
April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2085

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2085, entitled 'A Bill for an Act Relating to Health.'

The purpose of this bill is to prohibit a purchasing agency from soliciting proposals for any QUEST contract under chapter 103F, Hawaii Revised Statutes, if the anticipated contract sum exceeds \$100,000,000 and the commencement date of the contract is after the expiration of the term of office of the head of the purchasing agency. The stated purpose of the statutory amendment is to 'ensure continuity of care for Hawaii's neediest population and to make certain that Medicaid contracts reflect expectations outlined in national health care reform by establishing restrictions on the issuance of requests for proposals for QUEST contracts.

This bill is objectionable because it does not achieve the stated goal of ensuring continuity of care for Hawaii's Medicaid population and instead will disrupt care for Medicaid clients.

Requests for proposals (RFPs) for the Medicaid managed care programs are extensive, detailed, and complex. QUEST health plans need sufficient time to prepare to deliver a full

array of health care services to nearly 200,000 individuals who are currently served in the QUEST program. The Department of Human Services must ensure that there are uninterrupted services to these vulnerable clients.

This bill ties the solicitation of bids to the expiration of the term of the head of the purchasing agency. This language would seem to require that all QUEST contracts be scheduled so that they never expire within the last one and one-half to two years of any appointed director's term. This is the length of time needed to allow for the complete procurement of a complex contract, including any delays caused by appeals and challenges to the contract award.

Thus, if a contract cannot be solicited before the end of a director's term, there is a high probability that any existing contract would end before a new one is in place during the next director's term. Such a scenario will require extension of the existing contract beyond its original terms, which circumvents the protections in state procurement laws. Extensions would delay the State's ability to structure a new contract in a way that strengthens its oversight of the health plans, drawing on the experience of the previous contract. Extensions would also delay efforts to improve the contract provisions to ensure better quality health care for Medicaid clients, and maximum efficiency, transparency, and value to Hawaii taxpayers.

For the foregoing reasons, I am returning House Bill No. 2085 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 530, dated April 25, 2010, transmitting the Governor's statement of objections to House Bill No. 2086, H.D. 2, S.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH CARE DATA," which was returned to the Senate without approval and reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU

April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2086

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2086, entitled 'A Bill for an Act Relating to Health Care Data.'

The purpose of this bill is to allow clinical laboratory test results to be provided to authorized persons or a covered entity for a purpose permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This bill appears to be intended to expedite patient care by broadening the definition of who may have direct access to laboratory data. However, the legislation lacks safeguards that will ensure the protection of patients' privacy rights.

Section 11-110.0-16, Hawaii Administrative Rules, states, 'The result of a test shall be reported only to the authorized person who ordered the test and the designee(s) of the person who ordered the test.' The administrative rules list the specific individuals and entities that may access laboratory data in such a way that ensures licensed health care providers use information for direct diagnosis, treatment, and health care evaluation purposes.

This measure is a significant departure from what is currently permissible, because it provides for a much broader array of people and entities, that do not have a direct role in a patient's health care, to access laboratory data. I am also concerned that once an entity or its associated businesses obtain laboratory data, they can forward that information to any other HIPAA entity or associate without limit. This could lead to the wider dissemination of sensitive patient information.

I believe that this issue requires and deserves further review. Additional safeguards should be developed before this bill is enacted. I strongly urge the Legislature and Department of Health to discuss with stakeholders the potential impacts of expanding access to clinical laboratory data. They should also evaluate national discussions currently underway and allow pending federal rules changes to be promulgated before proposing State legislation that may not meet new federal guidelines.

For the foregoing reasons, I am returning House Bill No. 2086 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 531, dated April 25, 2010, transmitting the Governor's statement of objections to House Bill No. 2421, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," which was returned to the Senate without approval and reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU

April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2421

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2421, entitled 'A Bill for an Act Relating to Government.'

The purported purpose of Senate Bill No. 2421 is to provide a source of funding to support government programs, personnel, task forces, and grants-in-aid intended to promote energy and food security in the State. The funding will be generated by instituting a \$1.00 increase in the tax imposed on each barrel or fractional part of a barrel of oil sold by a distributor to any retail dealer or end user in the State. However, over half of the money raised by the tax would not be used for the stated purpose.

This bill is objectionable because it raises taxes on Hawaii residents and businesses by an estimated \$22 million per year at a time when the community cannot afford these taxes, and deceptively implies these funds will be used to address the state's dependence on imported fuel and food.

This tax will impact virtually everything we do or use in Hawaii including electricity, gasoline, trucking, shipping, retail goods, food, and even the propane for our backyard barbecues. The impacts will ripple through our entire economic system. I am particularly concerned that the tax increase occurs at a precarious moment when the State economy is beginning to stabilize and progress out of the slump created by the global recession.

It is worth noting that the Legislature was willing to exempt from this barrel tax aviation fuel used by commercial airlines, thereby shifting the burden of the tax to consumers. It should be recognized that higher energy prices discriminate against poor families more than any other group in our society. Energy costs comprise a higher percentage of family expenses for those at the lower income levels. This taxing policy runs counter to a progressive tax structure.

As I noted last year when I vetoed this measure's predecessor, energy and food security have been top priorities of my Administration. In 2006, I signed groundbreaking legislation known as Energy for Tomorrow that laid the foundation to wean Hawaii off imported oil. In 2008, my Administration signed a historic, one-of-a-kind agreement with the U. S. Department of Energy intended to decrease energy demand and accelerate the use of renewable energy resources in Hawaii. In 2009, we enacted legislation drafted by members of the Hawaii Clean Energy Initiative that will help Hawaii meet our goal of 70 percent clean energy by 2030. I am proud to share these accomplishments with members of the Legislature, federal officials, and the community who are committed to making Hawaii a cleaner, greener, and more secure place to live.

I believe we can continue to make significant progress in this arena without this tax and the bureaucracies it will fund. Further, I am concerned that some of the money in this bill would be used to fund entities that have no direct relationship to the stated purposes of the legislation.

In sum, we must be willing to make tough choices and work together to prioritize the public programs that have the potential to genuinely address the State's dependence on imported oil and imported fuel without burdening our families, our businesses, and our economic recovery.

For the foregoing reasons, I am returning House Bill No. 2421 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

Gov. Msg. No. 532, dated April 25, 2010, transmitting the Governor's statement of objections to House Bill No. 2866, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," which was returned to the Senate without approval and reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU

April 25, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2866

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2866, entitled 'A Bill for an Act Relating to Taxation.'

The purpose of this bill is to reestablish the Hawaii estate tax on property, holdings, and assets of persons who pass away after April 30, 2010. This measure also taxes non-citizen and non-resident assets in Hawaii.

The bill is objectionable because it would effectively increase taxes on those most likely to invest in businesses and properties in Hawaii. It would also impose a tax on families

with valuable land holdings who may not be wealthy, but whose estate meets the statutory thresholds.

Hawaii has not had an estate tax since 2005, when the federal credit for state death taxes was eliminated by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Moreover, there is also no federal estate tax for tax year 2010 as a result of the EGTRRA. This measure targets individuals who are most capable of stimulating Hawaii's economy, and provides a disincentive for residents and non-residents looking to accumulate capital in the State or invest in the State.

Moreover, it is unfair to apply this estate tax to persons who die after April 30, 2010 with little notice or time to inform the public. This measure does not provide enough time for individuals to adequately plan their estate or modify their current estate plan. It would be unfortunate if a person who passes away on May 1, 2010, who may or may not know of the estate tax's existence, cannot distribute his estate as planned to his heirs and charities.

For the foregoing reasons, I am returning House Bill No. 2866 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 627 to 631) were read by the Clerk and were placed on file:

Hse. Com. No. 627, informing the Senate that on April 27, 2010, the House discharged all conferees to H.B. No. 921, H.D. 1 (S.D. 2).

Hse. Com. No. 628, informing the Senate that on April 27, 2010, the House agreed to the amendments proposed by the Senate to the following House bills and said bills passed Final Reading in the House of Representatives:

H.B. No. 840, H.D. 1, S.D. 1;
H.B. No. 2003, H.D. 3, S.D. 2;
H.B. No. 2083, H.D. 1, S.D. 2;
H.B. No. 2129, H.D. 1, S.D. 1;
H.B. No. 2708, H.D. 1, S.D. 1; and
H.B. No. 2721, H.D. 1, S.D. 1.

Hse. Com. No. 629, informing the Senate that on April 27, 2010, the House agreed to the amendments proposed by the Senate to the following House concurrent resolutions:

H.C.R. No. 21, S.D. 1;
H.C.R. No. 22, S.D. 1;
H.C.R. No. 23, S.D. 1;
H.C.R. No. 24, S.D. 1;
H.C.R. No. 25, S.D. 1;
H.C.R. No. 26, S.D. 1;
H.C.R. No. 27, S.D. 1;
H.C.R. No. 28, S.D. 1;
H.C.R. No. 29, S.D. 1;
H.C.R. No. 30, S.D. 1;
H.C.R. No. 31, S.D. 1;
H.C.R. No. 32, S.D. 1;
H.C.R. No. 33, S.D. 1;
H.C.R. No. 34, S.D. 1;
H.C.R. No. 36, S.D. 1;
H.C.R. No. 45, S.D. 1;
H.C.R. No. 51, S.D. 1;
H.C.R. No. 62, S.D. 1;
H.C.R. No. 68, S.D. 1; and

H.C.R. No. 212, S.D. 1.

Hse. Com. No. 630, informing the Senate that on April 27, 2010, the following bills passed Final Reading in the House of Representatives:

H.B. No. 347, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 415, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 865, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 869, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 979, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 1190, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 1212, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 1665, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 1684, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 1808, H.D. 3, S.D. 1, C.D. 1;
 H.B. No. 1818, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 1854, S.D. 2, C.D. 1;
 H.B. No. 1863, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 1978, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 1987, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 1992, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2000, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2020, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2061, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2077, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2084, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2133, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2157, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2200, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2239, S.D. 2, C.D. 1;
 H.B. No. 2266, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2283, H.D. 2, S.D. 1, C.D. 1;
 H.B. No. 2288, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2289, H.D. 2, S.D. 1, C.D. 1;
 H.B. No. 2318, H.D. 2, S.D. 1, C.D. 1;
 H.B. No. 2349, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2376, H.D. 3, S.D. 2, C.D. 1;
 H.B. No. 2397, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2441, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2450, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2497, S.D. 1, C.D. 1;
 H.B. No. 2503, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2505, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2533, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2542, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2575, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2583, S.D. 2, C.D. 1;
 H.B. No. 2594, H.D. 2, S.D. 1, C.D. 1;
 H.B. No. 2595, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2604, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2631, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2644, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2661, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2676, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2688, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2692, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2698, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2725, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2775, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2831, H.D. 2, S.D. 2, C.D. 1;
 H.B. No. 2832, H.D. 1, S.D. 2, C.D. 1;
 H.B. No. 2845, H.D. 1, S.D. 1, C.D. 1;
 H.B. No. 2919, H.D. 1, S.D. 2, C.D. 1;
 S.B. No. 466, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 506, S.D. 1, H.D. 3, C.D. 1;
 S.B. No. 532, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 633, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 910, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 930, H.D. 2, C.D. 1;

S.B. No. 950, S.D. 2, H.D. 3, C.D. 1;
 S.B. No. 1059, S.D. 2, H.D. 3, C.D. 1;
 S.B. No. 1062, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1105, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 1230, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2019, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2020, H.D. 2, C.D. 1;
 S.B. No. 2045, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2054, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2068, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2105, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2115, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2116, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2150, H.D. 1, C.D. 1;
 S.B. No. 2154, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2165, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2169, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2173, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2220, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2231, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2256, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2257, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2324, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2346, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2371, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2385, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2386, H.D. 1, C.D. 1;
 S.B. No. 2395, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2399, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2400, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2434, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2449, H.D. 1, C.D. 1;
 S.B. No. 2454, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2461, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2472, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2473, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2491, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2534, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2545, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2548, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2563, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2565, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2566, H.D. 2, C.D. 1;
 S.B. No. 2599, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2600, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2601, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2603, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2610, H.D. 1, C.D. 1;
 S.B. No. 2643, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2661, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2691, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2697, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2702, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2716, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2729, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2745, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2806, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2807, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2809, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2811, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 2817, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2825, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2828, S.D. 1, H.D. 3, C.D. 1;
 S.B. No. 2831, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 2842, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2849, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2859, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2883, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 2885, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 2897, S.D. 2, H.D. 3, C.D. 1;
 S.B. No. 2919, S.D. 1, H.D. 1, C.D. 1;

S.B. No. 2937, S.D. 1, H.D. 1, C.D. 1; and
S.B. No. 2951, S.D. 2, H.D. 2, C.D. 1.

Hse. Com. No. 631, informing the Senate that on April 27, 2010, the House agreed to the amendments proposed by the Senate to H.B. No. 2152, H.D. 1, and H.B. No. 2152, H.D. 1, S.D. 1 passed Final Reading in the House of Representatives.

STANDING COMMITTEE REPORTS

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 3238) recommending that H.C.R. No. 199, H.D. 1 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3238 and H.C.R. No. 199, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO CONSIDER CERTAIN FACTORS BEFORE ENTERING INTO CONTRACTS WITH MANAGED CARE ORGANIZATIONS THAT PROVIDE MEDICAID BENEFITS UNDER QUEST MANAGED CARE PLANS," was deferred until Thursday, April 29, 2010.

Senators Espero and Chun Oakland, for the Committee on Public Safety and Military Affairs and the Committee on Human Services, presented a joint report (Stand. Com. Rep. No. 3239) recommending that H.C.R. No. 162 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3239 and H.C.R. No. 162, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE PROVISION OF EDUCATION TO INCARCERATED PARENTS TO ENSURE CHILD SUPPORT ISSUES ARE ADDRESSED WITHOUT DELAY AND UPON RELEASE, TO PREPARE THEM FOR REINTEGRATION WITH THEIR CHILDREN AND FAMILIES, INCLUDING GRANDPARENTS WHO HAVE RAISED THEIR CHILDREN," was deferred until Thursday, April 29, 2010.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 3240) recommending that H.C.R. No. 13 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3240 and H.C.R. No. 13, entitled: "HOUSE CONCURRENT RESOLUTION EXTENDING THE DEADLINE FOR THE HOME FOR LIFE TASK FORCE TO REPORT ON ITS FINDINGS AND RECOMMENDATIONS FOR REDUCING BARRIERS TO AGING IN PLACE AND FACILITATING MULTIGENERATIONAL LIVING," was deferred until Thursday, April 29, 2010.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 3241) recommending that H.C.R. No. 19 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3241 and H.C.R. No. 19, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO CREATE A DATABASE RESOURCE WEBSITE TO HOUSE REAL-TIME AVAILABILITY OF ALL JUVENILE SERVICES FROM THE LOWEST LEVEL OF CARE TO THE HIGHEST LEVEL OF CARE FOR THE APPROPRIATE PLACEMENT OF JUVENILES IN HAWAII," was deferred until Thursday, April 29, 2010.

Senator Chun Oakland, for the Committee on Human Services, presented a report (Stand. Com. Rep. No. 3242) recommending that H.C.R. No. 256 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3242 and H.C.R. No. 256, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF

HUMAN SERVICES TO EXAMINE AND EVALUATE THE VERACITY, EXTENT, AND EFFECT OF CERTAIN ALLEGATIONS OF SHORTCOMINGS OF PROGRAMS FOR ADULTS WITH SPECIAL NEEDS," was deferred until Thursday, April 29, 2010.

Senators Chun Oakland and Ige, for the Committee on Human Services and the Committee on Health, presented a joint report (Stand. Com. Rep. No. 3243) recommending that H.C.R. No. 158 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3243 and H.C.R. No. 158, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF HUMAN SERVICES, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH, TO DEVELOP A PROGRAM TO ENCOURAGE BREASTFEEDING AMONG MOTHERS WHO RECEIVE MEDICAL ASSISTANCE FROM MEDICAID," was deferred until Thursday, April 29, 2010.

ORDER OF THE DAY

FINAL READING

MATTER DEFERRED FROM THURSDAY, APRIL 8, 2010

S.B. No. 2544, S.D. 2, H.D. 1:

Senator Gabbard moved that S.B. No. 2544, S.D. 2, H.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in support of the measure with reservations as follows:

"As I've said previously, I support the project. I think it's a doable project and all of that. However, this Legislature authorized \$48 million in special purpose revenue bonds five years ago in 2005. We haven't seen any activity or any action. We understand now that the company says that they'll begin construction in the fourth quarter of this year, but the bill is extending the SPRB for another five years until the year 2015. The point that I'd like to make, Madam President, is that when we authorize these special purpose revenue bonds, number one, there should be a much closer date and oversight; and number two, we should follow up with that and not have the public believe that we're authorizing something that's going to take place when in fact there's going to be no construction for 10 or 15 years. 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. 2544, S.D. 2, and S.B. No. 2544, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HONOLULU SEAWATER AIR CONDITIONING LLC PROJECTS ON THE ISLAND OF OAHU," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24; Ayes with Reservations (Slom). Noes, none. Excused, 1 (Ihara).

ADOPTION OF RESOLUTIONS

MATTERS DEFERRED FROM TUESDAY, APRIL 27, 2010

Stand. Com. Rep. No. 3235 (H.C.R. No. 86):

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the report of the Committee was adopted and H.C.R. No. 86, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE COUNTY OF KAUA'I TO RESTORE PRINCE KUHIO PARK TO ITS FORMER CONFIGURATION," was adopted.

Stand. Com. Rep. No. 3236 (H.C.R. No. 174):

Senator Sakamoto moved that Stand. Com. Rep. No. 3236 and H.C.R. No. 174 be adopted, seconded by Senator Slom.

Senator Slom requested that his vote be cast "no" and the Chair so ordered.

Senator Hemmings rose in opposition to the measure as follows:

"Thank you, Madam President. Relating to the provincial pride, H.C.R. No. 174, I understand it urging President Barack Obama to select a location in Hawai'i as a site for his library. I think it's much more appropriate for him to select Chicago as that is where he honed his skills politically, and I think it's much more indicative of who he is as President of the United States. So, I'll be voting 'no' on the resolution.

"Regarding H.C.R. No. 282, 'requesting Congress to propose an amendment to the United States Constitution to permit Congress and the states to regulate the expenditure of funds by corporations engaging in political speech', I take serious umbrage with that. Free speech is free speech, no matter who it's coming from.

"More importantly, as far as I can see, relating to the Constitution, possibly this resolution should address Congress to propose an amendment to the Constitution to propose a balanced budget amendment for the United States Constitution. The 310 million people that will be alive in America at the end of the close of fiscal year 2010 will owe the federal government, because of their wanton spending, \$14.5 trillion. For the average family of four, including the elderly people sitting in this thing, you all owe individually \$46,000; family of four owes about \$182,000 that paid for the wasteful spending of the Congress of the United States, and what they want to do with this resolution is attack free speech and people willingly and independently of congressional dictates to spend their money as they please. So, I'll be voting 'no' against the two resolutions."

The motion was put by the Chair and carried, the report of the Committee was adopted and H.C.R. No. 174, entitled: "HOUSE CONCURRENT RESOLUTION URGING PRESIDENT BARACK OBAMA TO SELECT A LOCATION IN HAWAII AS THE SITE FOR HIS PRESIDENTIAL LIBRARY," was adopted with Senators Hemmings and Slom voting "No".

Stand. Com. Rep. No. 3237 (H.C.R. No. 282, H.D. 1):

Senator Sakamoto moved that Stand. Com. Rep. No. 3237 and H.C.R. No. 282, H.D. 1, be adopted, seconded by Senator Slom.

Senator Slom requested that his vote be cast "no," and the Chair so ordered.

Senator Hemmings rose in opposition to the measure as follows:

"Thank you, Madam President. Relating to the provincial pride, H.C.R. No. 174, I understand it urging President Barack Obama to select a location in Hawai'i as a site for his library. I think it's much more appropriate for him to select Chicago as that is where he honed his skills politically, and I think it's much more indicative of who he is as President of the United States. So, I'll be voting 'no' on the resolution.

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The motion was put by the Chair and carried, the report of the Committee was adopted and H.C.R. No. 282, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PERMIT CONGRESS AND THE STATES TO REGULATE THE EXPENDITURE OF FUNDS BY CORPORATIONS ENGAGING IN POLITICAL SPEECH," was adopted with Senators Hemmings and Slom voting "No".

H.C.R. No. 155:

On motion by Sakamoto, seconded by Senator Slom and carried, H.C.R. No. 155, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO AUTHORIZE THE JOINT LEGISLATIVE COMMITTEE ON AGING IN PLACE TO CONTINUE TO MEET AND CARRY OUT THE WORK OF THE COMMITTEE," was adopted.

H.C.R. No. 165:

On motion by Sakamoto, seconded by Senator Slom and carried, H.C.R. No. 165, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING AN AUDIT OF THE EFFICIENCY AND EFFECTIVENESS OF THE CHILD WELFARE SERVICES PROGRAM IN PROCESSING AND INVESTIGATING COMPLAINTS OF CHILD ABUSE AND NEGLECT AND MISUSE OF CHILD SUPPORT," was adopted.

H.C.R. No. 237:

On motion by Sakamoto, seconded by Senator Slom and carried, H.C.R. No. 237, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ECONOMIC STIMULUS OVERSIGHT COMMISSION TO EXPAND ITS MONITORING OF FEDERAL STIMULUS FUNDS AVAILABLE TO HAWAII," was adopted.

H.C.R. No. 288, H.D. 1:

On motion by Sakamoto, seconded by Senator Slom and carried, H.C.R. No. 288, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE UNIVERSITY OF HAWAII PROCUREMENT INSTITUTE TO REVIEW THE POLICIES AND REQUIREMENTS IN THE AWARDED OF STATE ENERGY SERVICE CONTRACTS," was adopted.

At 11:50 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:51 a.m.

FINAL READING

Conf. Com. Rep. No. 154-10 (H.B. No. 1015, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Kim and carried, Conf. Com. Rep. No. 154-10 was adopted and H.B. No. 1015, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OBLIGATIONS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS TRUST FUND," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 155-10 (H.B. No. 2377, H.D. 3, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 155-10 be adopted and H.B. No. 2377, H.D. 3, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure as follows:

"While I definitely think that we should have an appointed board rather than an elected board, and that one person, the chief executive, should be responsible so that we don't continue to finger point between the Board of Education, the Department of Education, HSTA, and the Governor—I certainly believe that—but you know, this proposes a candidate advisory council, a selection council. We have that for the Judiciary, we have it for the Board of Regents, we have it for a number of other situations, and I don't think it's proven its merit. If you're going to give the responsibility someone, particularly the chief executive (it's going to be the next governor of this state), then give that responsibility.

"Also, we talked early, and all three former Democrat governors and the current Republican governor all were in favor of having the superintendent of education as part of the cabinet and also being responsible for that. So, this bill goes a little way but not far enough and doesn't make the systemic changes that we need if we're going to improve our educational system and accountability. Thank you."

Senator Sakamoto rose in support of the measure as follows:

"First, brief comments on previous speaker's concerns: Certainly this measure, should the voters approve the constitutional amendment, would improve the accountability when we improve the connection between the future governor and governors with the Board of Education because the ultimate appointment comes from that person. Regarding the discussion about a cabinet member, I believe currently the governor can invite the superintendent to be part of the cabinet meetings, so there's no bar in terms of that measure.

"But I hope, as the members look at this chart that's on their desk, it simplifies the many pages in the bill. Should the voters approve of this constitutional amendment, there would be nine members: one from the Big Island, one from Maui, one from Kaua'i, six from O'ahu. They'll have staggered terms. The advisory council is to be made up of: one member appointed by the Governor, just as in the Regents Advisory Council; one by the Senate President; one by the Speaker of the House; and we've struggled on how we get parent representatives, educator representatives, and a community representative on the Council. This bill tasks the P-20 council to look at the school community council, and other groups to choose appropriate people to bring forth nominations. We believe this good measure would improve accountability, would enable people who would otherwise not run for office—because of sign waving, asking for dollars or not—would bring a pool of people that all of us hope would improve accountability and ultimately our

educational system. So, I ask all my colleagues to vote in favor. Thank you very much."

Senator Slom rose in rebuttal and said:

"Thank you, Madam President. Just a brief rebuttal: It may have been a communications problem between the Education Chairman and myself. I wasn't talking about the governor having the ability to invite the superintendent over to talk sports or to have tea. I was talking about the executive having the ability to hire and/or fire the superintendent of education. That's quite different. That's not allowed now. That's not part of this bill.

"But I do want to compliment the Education Chairman. I love his artwork here and the engineering skills that go into taking a very simple situation and making it more complex."

Senator Hee rose in support of the measure with reservations as follows:

"I don't think anybody should kid themselves if they're under some impression that this is somehow the panacea to the problems of the Department of Education. If that is the thinking, then you're thinking is, respectfully, misplaced by voting for this measure. I happen to agree with one of the previous speakers. I truly believe that the governor should appoint the superintendent, and if the superintendent cannot improve education in four years, the governor ought to be voted out of office.

"The reason I don't believe that this is the panacea is that when you look at an appointed board and presume that somehow all things will be made right, all one needs to do is look at the University of Hawai'i Board of Regents. On the other hand, when you look at an elected board, all one has to do is look at the Office of Hawaiian Affairs. The problem with this particular Board of Education—and I've said it publicly and I'll say it again—is that they somehow—the leadership, the chairman of whom used to work for me—the leadership has forgotten that they represent the employer, not the employee. That is the problem with this Board of Education. And I don't mean to broadly brush every member with the paintbrush because I know full well that one former member of the Senate understands that she is the employer and not the employee. Unfortunately, she is no longer the chairman of the Board of Education.

"As far as I'm concerned, it doesn't matter whether it was an elected board or an appointed board because this doesn't address the crux of the issue, and that's accountability. It changes the complexion of the issue by making it appointed, but as far as I'm concerned, anything is an improvement over the present system, and that is why I will vote 'with reservations.' Thank you."

Senators Taniguchi, Chun Oakland, Bunda, Green, Baker, Kidani, Nishihara, and Takamine 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. 155-10 was adopted and H.B. No. 2377, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22; Ayes with Reservations (Baker, Bunda, Chun Oakland, Green, Hee, Kidani, Nishihara, Takamine, Taniguchi). Noes, 2 (Espero, Slom). Excused, 1 (Ihara).

Conf. Com. Rep. No. 156-10 (S.B. No. 2589, S.D. 2, H.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 156-10 be adopted and S.B. No. 2589, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kim.

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

Senator Sakamoto rose in support of the measure as follows:

“On people’s desks again, I’ve summarized some of the chronology from 1999, 2000, 2001, on forward, showing that this body, the Senate and the House together have worked on charter school issues for an inordinate amount of time. It’s not done yet, but the current measure before us helps charter schools deal with facilities whether it’s vacant facilities or those currently in use, removes a numerical cap of 25 on start-up charter schools with just 1 for each new start-up. It creates a new mechanism to say three new start-ups charters for each one that is accredited and talks about a clear process for rigorous organizational and educational criteria, including student achievements as a significant factor in reauthorizing or allowing charters in. It doesn’t deal too much with the funding issues before us that we got bombarded with in the sense of equity or equal funding, but thankfully your Senator from Hamakua and others are working with the department and charter proponents to deal with the funding issue. And I think your Ways and Means Chair and others, under the current circumstances, are doing what we can in terms of general funds and other funds, but the funding issue will continue.

“In summary, we’ve made some significant improvements, helped improve the State’s competitive position in Race to the Top, and we hope that we’re successful in the next round of that. This bill is just part of that conversation. I ask my colleagues to vote in support.”

Senator Slom rose in support of the measure as follows:

“I just wanted to say that I think that the Education Chairman has done an excellent job of summarizing, outlining, and showing us the trends of charter schools, which we all should be fully supportive of because that is the best that we have in public education in Hawai‘i. Thank you.”

Senator Hemmings rose in support of the measure as follows:

“I, too, I think it’s important as a member of the Minority party to echo the sentiments of the previous speaker regarding the illustration we received on this. It is something that’s easily understood and shows the history of it. But more importantly is, in my estimation having been close to the subject of education in Hawai‘i for most of my Senate career, is that this chairman, I think, recognizes and has demonstrated, not through idle words but through deeds, his support of the charter school system by what he is doing this session to pass this bill and lend the much needed support to what in the past had been a beleaguered part of public education. And I do believe that legislation like this and the open-minded support as demonstrated by the Chairman of the Education Committee will lead to spreading educational opportunity in the marketplace of public education, and therefore provide for more mobility on the part of our parents and teachers and better outcomes ultimately. So I laud him for his efforts and support this legislation.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 156-10 was adopted and S.B. No. 2589, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Aye with Reservations, 1 (Taniguchi). Noes, none. Excused, 1 (Ihara).

Conf. Com. Rep. No. 157-10 (S.B. No. 2124, S.D. 2, H.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 157-10 be adopted and S.B. No. 2124, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Baker.

Senator Hemmings rose in opposition to the measure as follows:

“We all know what austere financial times we’re experiencing, probably the worst in the history of Hawai‘i and certainly since statehood. It’s important when we look at legislation like this to follow the money, and where does this money come from? This money was paid into an insurance fund by homeowners, homeowners that, for the most part, would have been left without mortgages or the ability to get a mortgage, and in the case of having a home, without hurricane insurance, after the terrible, devastating hurricane in Kaua‘i.

“It’s important for us also to understand why that happened. Well, in part it’s because Hawaiian Insurance Company defaulted and left people holding good policies with the inability to collect. It’s interesting to note that that particular insurance company was a for-profit subsidiary of Hawaiian Electric Company, one of our state’s most favored monopolies who charges on the average three times, in hard times, the electric rates of the national average, and this is what we get for it.

“This bill takes \$67 million out of homeowners’ insurance protection and does not speak to the problem of what happens if we have another default or another hurricane. What’s particular egregious about this is this being brought about—and I want to use the strongest of words—as a result of extortion. That is a strong word, but I think that the people that should have been representing the interests of the taxpayers of Hawai‘i, of the children, and I might add, of the teachers in the classroom, the Board of Education, the Department of Education, should have worked out a deal with the union that would have allowed them to preempt keeping our kids out of school. And it’s been demonstrated all session long. There were whole hosts of opportunities to do so: using teacher enrichment days, using teacher enrichment hours, possibly even cutting some of the fat out of the huge bureaucracy in the DOE. I’d like to tell you exactly how much fat there is in there, but no one knows, including the DOE by their own admission. I’d also like to tell you that we could find out because we could do an audit. Since a management audit has not been done since 1973, we don’t know that either.

“My point is it’s nauseating to have people in education system who are holding our kids hostage say to ‘give us more money because we’re doing it for the keiki.’ How disingenuous and exploitive can you get? This has nothing to do with the keiki. This has to do with money, money, and money; and unfortunately, in many instances the money does not end up in the teacher’s pocket in the classroom. It ends up shuffling around, subsidizing the bureaucracy because we really don’t know where it all goes. Also, how disingenuous can labor lunas be when they say, ‘Give us the money because it’s for the keiki,’ because these are the same labor union leaders, or represent the same union, that had no problem keeping our kids out of school 21 days in 2001 during the strike. What’s changed? Well, now they can leverage their kids, our kids, in financial hard times for their own personal gain.

“There’s a much more serious underlying problem here that I’m hoping that you’ll address in the future years, and I’m making this charge now with this bill that we—state legislators, elected to make budgets and represent the best interests of the

people of Hawai'i, elected to make laws, not execute them as executive branch of government, not judge them, actually make them—we have lost control of that ability to collective bargaining. And it's even written into legislation such as this. The C.D.'s draft says, 'The appropriation made by this bill shall not be construed to mean that the legislature, in any way, intends to interfere with the process of public sector collective bargaining as authorized under Hawaii Constitution in HRS Chapter 89.' Well, the Constitution's pretty broad on that subject but HRS 89 is not. But more importantly, common practice by this body is to yield to collective bargaining dictates and rubber stamp pay increases, benefits, and other perks that far surpass the private sector counterpart. That's not my opinion; that has been researched both here in Hawai'i and at the national level. It's this type of fiscal management of redistribution of wealth from poor beleaguered taxpayers, and even the poor and the sick and the hungry that pay excise tax on their very sustenance, to the new privileged class in America and in Hawai'i: government labor unions. They make more, their fringe benefits are more than their counterparts in the private sector for the most part, and for the most part—because of collective bargaining laws that I just quoted something and civil service—are immune from accountability. I've heard often that if there's a problem with an employee in one of the departments, it's much more cost effective to not give that employee any responsibility and sit him in the corner than it is to move him or give him an early retirement. It's a shame that we have to take money from homeowners, oftentimes who have a difficult time paying their mortgage, put it into an insurance fund that's supposed to protect them for future calamity, and then steal it from them because we've been hijacked by a union. It's just not fair, and I hear that word so often about 'fair.' Well, let's give the unions parity and ask them to accept the same pay, compensation, and fringe benefits as their counterparts in the private sector; and if we did that, we'd have no deficit. Those facts can be borne out; they're not opinion, and they're certainly not bashing. They're just the numbers as they pencil out.

"You're not going to change your mind on this vote. This is a slam dunk, but I hope my sincere words will fall upon a few open minds because if we continue on this path, we'll follow California, and hopefully we won't follow the nation although there is a nation in the world that has a similar problem that went bankrupt. It's called Greece. These are perilous times because we've lost control of our government to a special interest group, a privileged special interest group, that no longer works for us. We work for them. I'd urge my colleagues to give this future consideration in future deliberations on how we as managers and elected officials manage what should have been our employees rather than having them manage us. Thank you, Madam President."

Senator Hooser rose in support of the measure as follows:

"I think most of us, hopefully all of us, will agree that the situation that currently exists in our schools is a travesty. To close our schools for 17 days to balance the budget is not just an embarrassment, but has real, significant, tangible, negative impacts on our community and our children and our families' reputation in the world and in the nation, and we as a legislative body need to take the leadership to end it within our constitutional ability to do so.

"You know, we can sit here and bash public workers. We can blame the unions. We can blame the Governor. We can even blame the parents and the students, but all the blame in the world will not send the students back to school. And this issue I think fundamentally stems to a lack of leadership in our state, and it's time for us as a legislative body, I believe, to exert that leadership, and I believe that's what we're doing today. We could point to who was wrong and who was right. You know,

the bottom line is that the students are not in school. The bottom line is our Governor agreed to the collective bargaining agreement, along with the public worker unions, and in fact it's my understanding the Governor's agreed to all the various collective bargaining agreements which resulted in the pay and the benefits. So if we're going to be bashing people, let's do it: Give equal time to the administrative branch because they are the managers.

"But again I don't want to spend my time any more than we already have done placing blame. I think it's time to exert leadership, Madam President. I think it's time to send the students back to school, and then work out solutions to some of these systemic problems; and I'm very proud that the legislative body this year has done that. We passed a bill requiring a certain number of school days and hours so this issue will not be repeated in the future. I think that shows leadership. I think putting the money on the table and leaving it up to the Governor and the public worker unions to come to an agreement shows leadership, and I'm very proud of the members here in the House and the Senate for doing so.

"As someone who's been through several hurricanes—I lost my home in Hurricane Iniki, almost lost my business—I do not take this step lightly, taking money from this hurricane relief fund, but I believe it's money that we need to spend to get our students back to school. And should another hurricane hit, which everyone knows is inevitable, that really is not the issue. The issue is will insurers fail to stop covering Hawai'i homeowners in the future, and that has happened one time in the past and it may very well happen one time in the future, but when it happened after Hurricane Iniki, we had no hurricane relief fund. That fund was started from scratch and was built up to provide the insurance if necessary; and I'm confident that if we have a similar disaster, we also will do the same.

"So I encourage all of us to come together, show leadership which is sorely lacking on this issue, vote these funds, send a strong message to the Governor and to the public worker unions and to the parents and students that this is a priority for us. It's essential that we get our students back to school, and I urge all to vote in support.

"And I would also like inserted into the record, Madam President, an op-ed piece I wrote in October that was published in the *Honolulu Advertiser*. I'd also like inserted into the record a petition spearheaded by the Senator from 'Ewa Beach and signed by 18 senators, also in October-November, which showed leadership at that time—called for a special session, called for the very same solution that we're entering into now, but many, many months ago. I'd like those items entered into the record, and I encourage support of this issue. Thank you."

The Chair having so ordered, the op-ed piece is identified as "ATTACHMENT A" to the Journal of this day.¹

Senator Baker rose in support of the measure as follows:

"My only regret is that this was not the very first bill that we passed and it's already law and applied to this session, but I appreciate the fact that we're trying to take care of the next school year, and I would ask that some of my prepared remarks be inserted into the Journal. Thank you."

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

"Madam President, I rise in support of SB 2124.

"Despite our repeated efforts to address educational needs in our community our schools continue to rank as the lowest in the nation. Too often fiscal shortfalls are born by the children of our community. This measure will address the needs of our keiki and get them back in school.

¹ Request to insert petition withdrawn at later date

“The purpose of this bill is to ensure that Hawaii’s students receive the education they deserve by restoring public school instructional days in the 2010-2011 school years that would otherwise be lost to furloughs. Specifically, this bill appropriates \$67 million out of the Hawaii Hurricane Relief Fund (HHRF) to the public schools, including charter schools. The intention is to return all DOE personnel who are in the classroom and support the classroom are returned to work.

“Some colleagues are concerned that the Hawaii Hurricane Relief Fund is being inappropriately tapped to pay for furlough days. Let’s examine the purpose and function of the fund. The HHRF closed its doors at the end of 2001. According to HRS 431P-4(a) and the Insurance commissioner’s own testimony, the purpose of the remaining HHRF funds is to redeploy the HHRF if there is another market scarcity in property insurance in Hawaii. Its purpose is to function as reinsurance for the private market. Therefore, the HHRF funds will not be used to cover individual property losses if we have a hurricane. These funds will not cover homeowners for their loss. Those losses are covered by private insurance companies from whom the homeowner has purchased insurance. The HHRF money is held, like an insurance policy, in the event that insurance companies pull out of Hawaii after a hurricane as they did after Iniki. Your Committee on Commerce and Consumer Protection believes that there are sufficient funds remaining to satisfy initial reinsurance needs and recommends that the funds used by this bill be replaced with bond funding or cash when economic prosperity returns. Since the closure of the program in 2001, the fund has functioned as a savings account. It can continue to serve that function and its reserves can be bolstered by future legislatures.

“The chance of a hurricane hitting Oahu cannot bear more weight than the reality of our children missing school. The HHRF is the most reasonable vehicle to address school furloughs. Furthermore, the suspension of the mortgage fee in 2001 that went toward funding the HHRF, can be reactivated if we are worried about the depletion of the funds. The Insurance commissioner has that mechanism to address any shortfall that he foresees in the HHRF.

“One of the tools we can give our school system is the funding it needs to go forward. We ask that the bar be raised, we passed a bill for more instructional days and hours; we ask for better test scores, but due to lack of judgment all around we have kept the children out of school. We have the shortest instructional year in the county – 163 days. That cannot go forward for another year. This measure will provide children with what they need to succeed, more time in the classroom.

“This bill will ensure that needed funding is provided. I urge all my colleagues to support this important step to show the world that Hawaii cares about education and we are willing to put our money where our mouth is. Mahalo.”

Senator Sakamoto rose in support of the measure as follows:

“I think everyone agrees there’s dysfunction in the education system; it’s just where we’re at. I think there is no need to articulate further on the problem, but we the Legislature, both the House and Senate, were waiting for a solution. Now that session is ending, this measure is on the table to help fund that solution. This doesn’t solve the problem, but I believe we’re closer today than we were a month ago, than we were last year.

“The earlier speaker from Lanikai talked about some of the challenges with collective bargaining. It’s my understanding that our Governor and the Governor of California are the leaders in bargaining on the side of the State, this state and that state. I think people need to understand where collective bargaining starts and a solution can be reached. I would hope that at this point we’re very close to a solution, that at least we

can cure the 17 days next year, and there’s an opportunity to do so now after having passed this measure.

“As far as the hurricane relief fund, there’s no question that it is a question of priority. To those who would choose to lock up food in a storage locker for a future famine can say, ‘Well, this is locked up for a future famine. The struggling hungry today can’t access it.’ But that would be foolish. We have funds locked up for a future crisis and as the Senator from Kaua’i mentioned, there will be hurricanes. That is not the question. The question is: Can we use the resources we have now? And we need to use them now because this is a priority for today, for this year. Thank you very much.”

Senator Slom rose in opposition to the measure as follows:

“The raiding of the state Hurricane Relief Fund is truly symbolic. It’s symbolic of our economic crisis. It is symbolic of the crisis and lack of leadership.

“I’m one of those homeowners that paid into the Hawai’i Hurricane Relief Fund. I’m also one of the few legislators that introduced legislation year after year to refund that money to the people that paid it, to let them make decisions and take care of their own economic needs. That didn’t happen. We had the real estate industry begging the Legislature: Don’t touch that money because when there is the next hurricane, and we’re all in total agreement with that, we very well may need that money and more.

“Again, I rise and speak against the creation of every new special fund because as I’ve said over and over again, and I know you’re tired of it, there’s no such thing as a special fund in Hawai’i. Nothing is special. We get it up to a certain level and then we raid it. We stick it in the general fund. But I think this is insidious.

“While I can agree with the good senator from Kaua’i that our reduction in instructional days and the furlough scam is a travesty, the travesty, real travesty, is how we in the Legislature manipulate the people’s money. We tell them we’re going to use the money for one thing, and we turn around and use it for something else. And let’s make no mistake, as the good senator from Kailua mentioned, this is all about money. It’s not about the children. The children were long ago thrown under the bus. We’re not going to get any furlough days back from this current school year, and in fact the only way that we’re going to get any of the days back is by throwing more money at the unions. This is not union bashing. This just happens to be the fact.

“The negotiations and all of the suggestions of the citizens and the parents and everybody that wanted their children taken care of and wanted their contract honored, they paid taxes. There is a contract that the State will deliver education, and the State has violated that contract—the government schools. We don’t have that problem with the private schools. We didn’t have the same kind of problem with the charter schools; and that’s why, as a matter of fact, this bill was amended and amended and amended again to the conference version so that there are no funds for the charter schools. Everything is for the Department of Education and the HSTA union schools that ask for more money. This is on top of the \$2.7 billion a year that we give to public education. Our education has not gotten better. The children have not learned more. The instructional days have been reduced so that we are the laughingstock and the shame of the nation, but that is not because of lack of money.

“And the good senator from Kailua did mention the portion in the preamble that says that giving this money is not to be construed as being involved with or interfering in collective bargaining process. Then, what is it? Why are we doing it? We’re doing it because the unions have stonewalled and demanded more money. They would not move unless there’s

more money; and so now we're saying, 'We'll give you more money.' We lost one school year. We don't know when the instructional days will be increased. I supported the bills to raise the number of instructional days to 180 and then eventually to 190, but what difference does that make if we've got 167 now?

"Everybody says how important public education is in Hawai'i. And guess what? It's just words. We haven't prioritized it; or if we did, we would have helped solve this problem. Now it's true that the Legislature by law is not part of the collective bargaining process, but aside from the law this Legislature tries to involve itself in everything that we do, every decision we make: who business hires, what time leaf blowers go on, the condition of sharks, the monk seal. Everything, we get involved in; and we certainly have been involved in the process of trying to influence the solution to the instructional days. But I'm sorry, I've seen most of the emphasis from members of this party, this body, attacking the Governor and telling the Governor, 'Give them the money. Give them more money. Give them what they want.' I didn't see anybody sitting in at the HSTA or the BOE or the DOE. They're telling the Governor who has a constitutional responsibility for allocation of funds, particularly in a crisis, for us not to spend beyond our means, and yet we still say, 'More money, more money.' And as the good senator from Maui said, she would have like to have seen us do this on the first day. We might as well have done it on the first day. There's just been political bargaining back and forth by the Majority party. Hey, you got 23 out of the 25 members here. You can do anything you want. If you really wanted to give them money and solve the problem back in January, it could have and should have been done, but it wasn't done and we've dragged this through the political process. To me, that's not leadership.

"And those of my colleagues that say, 'Well yeah, we're going to get another hurricane, but yeah, the hurricane season is starting in a month, but don't worry about that because we'll get the money for that.' Where are we going to get the money for that? Where's that additional money going to come from? We've already raised taxes. We've raised fees. We've raised surcharges. We've cut itemized deductions and other benefits to the taxpayers. We've further separated out those who pay the taxes and those who receive the taxes. Where's the extra money going to come from? How are we going to protect our infrastructure? How are we going to keep faith with people when we tell them, 'This is for hurricanes.'

"If we didn't want to get involved in collective bargaining and influence the outcome of the instructional days, then in fact we should not other than to set broad policy such as the status and the structure of the Board of Education (which ultimately the public will decide in their vote) and things like number of instructional days and details of that nature. But make no mistake: We're hands and feet and fists and legs and fins involved in the collective process on one side and one side only: the side that keeps clamoring for more money. There's never enough. There's no accountability and no transparency and no requirement that the more money we give, we should get more results. The more money we give, the less results we've gotten; and we've got less people in the classroom, less actual teaching going on and more bureaucracy, and that's what we're paying for.

"And it is just amazing that we've tried year after year after year to get a financial and management audit of the Department of Education and can't seem to do it as the good Senator from Waikiki showed us yesterday with the last audit—1973. That is unacceptable. When somebody is clamoring for more money, you find out if they're telling the truth. You document that information. That's our responsibility as legislators—the oversight, the fiscal responsibility—because if we don't do it,

who's going to do it? Not the DOE. Not the BOE. Not the HSTA. That's our responsibility, and we've shirked our responsibility.

"So, leadership? I don't see it. End of instructional day losses? I don't see that either. There's no guarantee that we provide \$67 million out of this fund and that will be the end of it. And even if it is and were to be for next school year, what happens the next school year, 2012? And the next, 2013? And 2014? We don't know because this is not a solution. This is a patchwork. We have not made the systemic changes to public education and to accountability that we need to make. That is our responsibility. That is leadership. Everything else is raiding public funds."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 157-10 was adopted and S.B. No. 2124, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HURRICANE RELIEF FUND," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Hemmings, Slom). Excused, 1 (Ihara).

Conf. Com. Rep. No. 158-10 (S.B. No. 2469, S.D. 2, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 158-10 be adopted and S.B. No. 2469, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Ige.

Senator Hemmings rose in support of the measure as follows:

"I hope I don't incur the wrath of someone sitting next to me, but in my reading of the Old Testament, there was a young son of Israel in Egypt who convinced the pharaoh to put away resources during the seven years of plenty and save for the hard times of the vision he had of seven years of hardship, which was done, and it sustained Egypt through a famine.

"The Emergency and Budget Reserve Fund is just that. It is a fund, for lack of better words that may seem blasphemous to some, it's there to be raided. It's there to be utilized in times of want, not only by natural disaster but man-made political disasters such as our economic ill fortunes are now.

"There's a silver lining also to taking these funds from the reserve fund, and it is in who we're giving it to, colleagues. We're giving it to the most cost-effective organizations in our society in taking care of the hungry, the sick, the aged, and the needy. We're giving it to the organizations recognized by the author of the book we spoke of yesterday, *Democracy in America*. Our nation's greatness was born from the hearts, the character, and the minds of the charitable institutions and churches of this country. They're the ones who don't think of themselves first, but think about helping the needy. They are extremely cost effective. Most institutions whose name is on the list of recipients of these moneys: respite services, healthy start, kupuna care, Age and Disability Resource Center, mental health services, partnerships in community living program, substance abuse treatment, meals for elderly and kupuna care, Windward Oahu Spouse Abuse Center, immigrant health initiative program, Hale Mahaolu, and the list goes on and on. These organizations, as a matter of practice, use only between 10 and 20 percent of the money they receive to administrate their programs. For the record, government is just the opposite. We all know that just our labor overhead is about 70 percent of the cost of administering government programs.

"So speaking in favor of this, this is money well spent. It's spent wholly with the consistency of the legislative purpose of the Emergency and Budget Reserve Fund, and it will help these worthy organizations continue to deliver much-needed services to those who are generally in need in our society; and I laud the

Majority party and those involved in making the decisions to do this. Thank you, Madam President.”

Senator Kim rose in support of the measure as follows:

“Thank you, Madam President. Of all the bills and everything we did this session, this one bill I am most happy about. We have helped so many people in need and what it amounts to: over \$23 million, less than four furlough days—\$23 million, less than four furlough days, and we were able to help so many groups and so many individuals. And I am very pleased that this body did not raid this fund because in the beginning we were saying, ‘Use the rainy day fund for furloughs,’ and this is the only fund that was available for all those in need. And so, with that, I thank my colleagues, I thank our Chair of Human Services, so that we were able to put this list together and we will fund those that need it the most. Thank you.”

Senator Slom rose in opposition to the measure as follows:

“Gee, how could anybody stand up and be opposed to this bill? Well, I am. It doesn’t mean that I disagree with my colleague from Kailua in terms of the value and worth of most of these organizations. But here’s the thing: This bill, and it was a really neat deal, we’ll raid the hurricane fund for the furlough days, and then we’ll raid this fund for social service programs that normally are in the budget.

“The fact of the matter is if we add all of the money together, it equals real bucks. We’ve got 39 different organizations in this bill, some of whom have lobbied us for weeks and months, many of whom, as I say, do a wonderful job and they provide a service that government cannot provide and does not provide. It’s not just a question of the administrative expenses; it’s a question of the one-on-one care, and that’s a good thing. But the problem is that over the years, this list has grown and grown so that there are more organizations more dependent on government. And as we tax our people more and reduce their standard of living, then they are more hard-pressed to give as much as maybe they used to to these very same charitable organizations because in the end, the source of money comes from the same origin—the people of this state and particularly those people that work for a living. They’re called upon more and more to support additional programs. We know already that the people of Hawai‘i are probably the most generous people of all these United States. No matter how they suffer, when they learn about a specific problem—a little girl, a baby, an abused mom, or someone else—they immediately rush to the aid of that person even though they have already downsized within their own family.

“The common denominator of all this is government. Government has continued to grow. It’s continued to expand. The debt increases. We won’t even go into the national situation which is just horrendous, and we really don’t care about our keiki because they’re the ones that are going to be spending all of their income to pay off the debt that we’re incurring now. But because government has continued to grow here, because government has continued to tax and otherwise harm local families, these organizations who do worthwhile things have come to the government for even more money and more support. And we’ve heard all the stories about if we don’t get the subsidy we’ll have to lay off people, take care of fewer beneficiaries or clients, or ultimately to shut down, and nobody wants that to happen, least of all me. But there are 39 agencies here, and when we talk about prioritizing, we haven’t done that because of all the people that have come to see me—and I welcome their visits and I’ve listened to them—but of all the people that have come to see me, everyone of them is most important—to them. Their program is the most important. Their constituency is the most important. Their abused or malnourished or problem clients, they’re the most important.

But see, the problem is not everybody can be the most important. And then we have the problem of even if the administration is low or lower than government (which would not be a hard trick at all), the administration of these programs is still a major cost driver. The argument is: If you don’t have the people, then you can’t help the clients and so forth, and there’s a lot of truth to that. But again I go back to the private sector where private sector has had to make changes that they did not want to make in order to save the business and save those employees, those vendors, those customers, and all of that, and we don’t see the same priority and we don’t see the same energy in government and government related programs. And so yes, we’re in an emergency and this is an emergency fund.

“My problem is, as I say again, we have so many agencies, so many people dependent on this government, and meanwhile the government has done nothing to change its direction substantially. Why is it, do we think, we have more people homeless every day? Why is it, do we think, that more people have to go to the Food Bank than ever before, including people that maybe a short period of time ago were working, were paying a mortgage, were taking care of their children’s educational needs and all that. Why is it that our people are suffering? It’s because of this government and because of the expenditures and because of the debt and because we’ve allowed programs to expand and we’ve allowed programs to become dependent on the State. It’s just like a private business that gets its first government contract and that’s like found money to it. But then it may get lulled into the idea of having more and more of its revenue and sales dependent on that state contract until it gets to the point where 30 percent, 40 percent, 50 percent of its revenues are dependent on a government contract or a government program; and then if that government program shrinks or is ended, that business is ended, too, because they have relied too much on that government.

“So please don’t think ill of me for voting against this bill and standing up and saying, ‘We’ve got to make these changes or we’re going to have more organizations, more homeless, more hungry, more people that can’t make it.’ And as you destroy the working families in this community, whether they’ve stopped working, can’t work because their employers are paying too much in additional costs and fees and mandates, or they decide to move away, then what do we do? Because this Legislature and this State government have shown in times of crisis, you don’t change. We don’t listen to our President who always talks about hope and change. We talk about stonewalling and the status quo. We want to keep the status quo, and we’ll raise taxes and we’ll raid funds and we’ll do whatever we have to do to maintain that. These tough economic times give us an opportunity to make the changes, and that’s what leadership is about: to make the tough decisions, but we shy away from that. And so, it’s easy when you see a fund that’s got a lot of money in it. Take the funds. Again, the vote won’t even be close on this, so why didn’t we do it six months ago? Why do we drag it through the political process? Why do we have people begging us to give them money to save their programs and save their clients? There’s got to be a better way, and I for one will support that better way and vote for it. Thank you.”

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

“This measure appropriates moneys to maintain levels of programs essential to the health and well-being of our children, kupuna, disabled, and working families. Eleven years ago, the State had the foresight to establish the Emergency and Budget Reserve Fund. This fund, also known as the ‘rainy day fund,’ was established to be a temporary supplemental source of

funding in times of emergency, economic downturn, or unforeseen reduction in revenues. Moneys in the fund were intended to, among other things, maintain levels of programs determined to be essential for the public health, safety, welfare and education of our people.

“Today, the emergency, we anticipated would come and that the rainy day fund was created to address, is upon us. The national and global economic crisis has resulted in unprecedented declines in state revenues, budget cuts, layoffs, and reductions in workforce and essential services. Colleagues, your Committees on Human Services, Health, Judiciary, Labor, and Ways and Means heard from many people in the community, providers, State agencies, and counties. The economic crisis has left many of our most vulnerable members of our society in jeopardy. There are many critical public services that will continue to help people with the passage of this bill.

“This measure identifies and restores programs that preserve public health, safety, welfare, and education for all of our families. In this bill, we are supporting persons with developmental disabilities. We are supporting our kūpuna. For example, \$3 million is additionally allocated for kūpuna care which helps many of our seniors with long term care needs to stay safely in their homes. There is a half a million dollars allocated for meals to be delivered to our elderly throughout the state. This is something I know the community has been very supportive of. This bill supports services to our mentally ill, services for those that need a place to be when there’s domestic violence or sexual assault that occurs. We have helped to restore adult dental services, which was the highest priority for our health care community. And we are supporting our children in various ways.

“I think we have a lot to be proud of, and I thank my colleagues and the community for making this a top priority. Thank you, Madam President.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 158-10 was adopted and S.B. No. 2469, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Slom). Excused, 2 (Ihara, Takamine).

At 12:50 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:52 p.m. with the Vice President in the Chair.

Conf. Com. Rep. No. 159-10 (H.B. No. 2774, H.D. 2, S.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 159-10 be adopted and H.B. No. 2774, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Ige.

Senator Green requested on Thursday, April 29, 2010, that remarks in support of the measure be entered into the Journal and the Chair so ordered.²

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

“I submit these comments in support of H.B. 2774, HD2, SD2, CD1, Relating to Human Services. I commend the chairs, committee members and stakeholders who worked extremely hard on the bill.

“I am pleased that the conference draft addresses the immediate needs of consumers. We recognize and appreciate

that in cases where there are prior authorization requests, the resolution of those requests should be to the physician’s satisfaction. This ensures that the needs of the consumers are met as the physicians are best qualified to address their needs.

“Thank you for the opportunity to comment on this bill.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 159-10 was adopted and H.B. No. 2774, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HUMAN SERVICES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 2 (Hemmings, Slom). Excused, 4 (Bunda, Hanabusa, Ihara, Takamine).

At this time, Senator Hee rose on a point of inquiry and said to the Chair:

“Did you read the Journal and approve the same?”

The Chair responded:

“That was the President that did that; I was just filling in for her on this last part.”

Senator Hee interjected:

“Is that a yes or a no?”

The Chair responded:

“That is a no.”

At this time, Senator Hee yielded the floor to the Majority Caucus Leader who had a follow-up question.

Senator Tsutsui rose and said:

“Are we supposed to be addressing you as Mr. President or Mr. Vice President?”

The Chair responded:

“Either. Your choice.”

At this time, Senator Tsutsui yielded the floor to the Chair of the Committee on Ways and Means.

Senator Kim rose and said:

“We would like to request an accounting from you as to all the money bills that was passed yesterday and today, if you have a total for us.”

The Chair responded:

“That will be forthcoming from the Ways and Means Committee and will be delivered to all of your offices shortly.”

ADJOURNMENT

At 12:54 p.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 9:30 a.m., Thursday, April 29, 2010.

² Request made on Day 60

ATTACHMENT A

A Take on the Hurricane Fund from the Senator from the
Hurricane Island – Why We Need a Special Session of the
Legislature Now

Senator Gary Hooser

(Originally published in the October 12, 2009 Honolulu Advertiser)

Revised October 19, 2009

Losing 17 days of classroom instruction in our public schools is unacceptable.

While today's budget crisis is temporary, the negative impacts of cutting 17 days of classroom instruction this year will last forever. No one will disagree that as a direct result of this action student achievement will suffer, test scores will fall and the future of an entire generation of young people will be impacted. The disruption to our families as they scramble with the added burden, further multiplies the adverse impacts.

When I speak to community groups around the state, I like to repeat a truism I have learned serving in the legislature: "When they tell you there is no money, what they are really saying is that it is not a priority."

The future of our children must be our top priority. While we can complain about the quality and bemoan the historical low ratings of public education in Hawai'i, losing 17 days of classroom instruction will reverse years of effort and plunge our state deeper into educational mediocrity.

It does not have to be this way. We can avoid teacher furloughs and keep our schools open by having the political will and foresight to use a portion of the \$180,000,000 sitting now in the Hawai'i Hurricane Relief Fund.

As someone whose life was shaken by Hurricane Iwa in 1982 and then losing my home and almost losing my business to Hurricane Iniki in 1992, I do not make this suggestion lightly. The physical damage wrought by a hurricane would be rebuilt, with or without the hurricane fund in place. Insurance companies have returned to Hawai'i since their post-Iniki departure and federal disaster agencies are also ready to help.

With our budget in dire straits funding options are limited. Every state program has already been drastically cut and all public workers face pay cuts, furloughs and even layoffs. The additional funds needed to make our schools whole are too great to achieve guarantees the rights of public workers to bargain collectively.

Neither the legislature nor the Governor can dictate to teachers or other public workers specific contract provisions or wage cuts.

Although the hurricane fund can provide immediate relief, long term answers must come in the 2010 legislative session. We must make the hard decisions with regards to streamlining and restructuring all government services, and face head-on the question regarding possible tax increases. If the public supports increasing taxes to support education, we must approach the topic cautiously with the clear goal of improving the status quo, not simply piling on more tax increases.

To be clear, we cannot continue to rely on tourists and high income residents to carry the brunt of the load. Possibilities include reforming the General Excise Tax (GET) by removing this regressive tax from supermarket food, medical services/supplies and rents under \$1,000 – while earmarking a modest net increase for education. Other possibilities include what some are calling the "new sin taxes" – a "sugar tax" on soda, a "fat tax" on fast and/or processed food and a "carbon tax" on oil – all of which would serve the dual purposes of raising much needed funds while deterring inherently unhealthy behavior.

In the coming weeks there will be many meetings and briefings where the pros and cons of various ways to deal with this issue will be debated. These discussions are important, but we must speed the process in restoring our children's access to education. If others have ideas that would resolve the issue in a realistic and bi-partisan manner, I would love to hear them.

The long-term remedies demand an extensive community discussion and thorough evaluation. The short-term solution however I believe is clear. We need to convene a five day special session, utilize hurricane funds for education, cancel the 17 days of furlough and send both parties back to the bargaining table.

Losing 17 days of classroom instruction is just unacceptable.

661 words (not including title)