

## SIXTIETH DAY

Tuesday, May 2, 2000

The Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2000, convened at 10:15 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Sister Kathleen Marie Shields, CSJ, Diocesan Director of Religious Education, St. Stephen's Diocesan Center, after which the Roll was called showing all Senators present.

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

## HOUSE COMMUNICATION

Hse. Com. No. 721, informing the Senate that the Speaker on April 28, 2000, discharged Representative Halford as a manager and appointed Representative Marumoto as a manager on the part of the House at the conference on S.B. No. 2134, S.D. 1, H.D. 2, was read by the Clerk and was placed on file.

At 10:20 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:22 o'clock a.m.

## ORDER OF THE DAY

## ADVISE AND CONSENT

Stand. Com. Rep. No. 3609 (Gov. Msg. No. 289):

Senator Kawamoto moved that Stand. Com. Rep. No. 3609 be received and placed on file, seconded by Senator Bunda and carried.

Senator Kawamoto then moved that the Senate advise and consent to the nominations to the Commission on Transportation of the following:

JANE N. YAMASHIROYA, term to expire June 30, 2001; and

LESTER T. FUSHIKOSHI and DAVID W. RAE, terms to expire June 30, 2004,

seconded by Senator Bunda.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3610 (Gov. Msg. No. 163):

Senator Tam moved that Stand. Com. Rep. No. 3610 be received and placed on file, seconded by Senator Matsuura and carried.

Senator Tam then moved that the Senate advise and consent to the nominations of DON S. FUJIMOTO and NADINE K. NAKAMURA to the Board of Directors, Housing and Community Development Corporation of Hawaii, terms to expire June 30, 2004, seconded by Senator Matsuura.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3611 (Gov. Msg. No. 301):

Senator Inouye moved that Stand. Com. Rep. No. 3611 be received and placed on file, seconded by Senator Buen and carried.

Senator Inouye then moved that the Senate advise and consent to the nominations to the Board of Directors, Hawaii Tourism Authority of the following:

MILLICENT M.Y.H. KIM and PETER H. SCHALL, terms to expire June 30, 2002; and

KEITH VIEIRA and RON WRIGHT, terms to expire June 30, 2004,

seconded by Senator Buen.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3612 (Gov. Msg. No. 193):

Senator Kanno moved that Stand. Com. Rep. No. 3612 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations to the Board of Trustees, Hawaii Public Employees Health Fund of the following:

HOWENA HIU BLUME, term to expire June 30, 2001;

DOLORES FOLEY, PH.D., term to expire June 30, 2003; and

BRUCE Y. NAKAMURA and JAMES H. YASUDA, terms to expire June 30, 2004,

seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Senator Kanno then moved that the Senate advise and consent to the nomination of MILTON Y. FUKU to the Board of Trustees, Hawaii Public Employees Health Fund, term to expire June 30, 2003, seconded by Senator Taniguchi.

Senator Hanabusa rose in opposition and said:

"Mr. President, please register a 'no' vote for me on Milton Y. Fuku. He is on the Advise and Consent calendar 3612, Gov. Msg. No. 193. Mr. President, I'd like to rise to speak in opposition to this nominee.

"Mr. President and members, the reason why I rise to speak in objection to Mr. Fuku is not because of any specific qualification of Mr. Fuku. I happen to know Mr. Fuku and I've told him myself that I would be rising in opposition to his nomination. The reason why is because the State Health Fund. My colleague from Hawaii Kai has always stated, why do we have reports written by Marion Higa, our legislative auditor; what do we do with it; and why do we just continue to ignore it? The State Health Fund is exactly that situation.

"Chapter 87 of the HRS establishes the Health Fund. You will find a conflict of interest statement hidden in Section 87-12, which says that no one can be appointed who is an employee of a carrier or potential carrier. If you look at the definition of a carrier or potential carrier, it is anyone who

either pays for, or arranges for the payment or the provision of health benefits. When Chapter 87 was first enacted, it is my contention that they did not anticipate that we would permit the porting to the various health fund unions which we do now. But it is because we permit the porting that we have this problem, because each union now becomes a carrier as defined under the law, and because they are carriers there is this inherent conflict.

"Let's step back and let's realize how we operate the State Health Fund. Let's look at why the State Health Fund has the highest premium when the unions do not. Those who have sat through the CPN hearings understand the discrepancies that we're faced with, and the reason is because the State Health Fund has the most inefficient group of people -- in other words, the high risk. We have permitted the unions to take the low risk and as a result of that they can then quote, unquote, 'spread the premium to cover more of the individual members.' That's not a bad thing. However, we as the state, we as the employer, must get the benefit of that.

"I believe that as we appoint people who really are employees of, technically, our competitors in terms of the State Health Fund, to sit on the Health Fund, that makes no sense. It is like letting the fox guard the chicken coop. Not that any of them will do anything, but think about it . . . the more inefficient the State Health Fund is, the higher the premium is that we port out to each respective union. As a result of that, we can have certain union funds that basically require no contribution from an employee, while we require 40 percent. That's not fair. It's not fair to any of the members. The people that it hurts the most are the retirees. And every time we look at costs, we end up saying let's look at cutting the retiree benefits.

"It's been my contention that it is time that we stop. Look at the Health Fund. And we've got to start by looking, first, at exactly who sits there and its structure. For that reason, Mr. President, I must, based on my interpretation of the law, vote against the nomination of Mr. Fuke.

"Thank you very much."

Senator Slom rose to speak against the nominee and said:

"Mr. President, I rise in opposition. I will also be voting 'no' on Mr. Fuke, Gov. Msg. No. 193, for the reasons outlined by the good Senator from Waianae, and I would like those incorporated as if they were my own.

"Thank you."

The Chair so ordered.

Senator M. Ige rose on a point of inquiry as follows:

"Mr. President, I have a point of inquiry to the chairs of the committee, just for the record."

The President responded:

"Would you like to address your question to Senator Kanno?"

Senator M. Ige replied:

"Yes, please."

The President posed the question and Senator Kanno having answered in the affirmative, Senator M. Ige inquired:

"Mr. Chairman, was this conflict raised in the CPN Committee? I don't sit on that committee so I don't really know."

Senator Kanno answered:

"It was, and an opinion from the Attorney General's Office was sought and received, and the AG's Office indicated that it would be appropriate for us to confirm said nominee."

Senator M. Ige continued:

"So, just for clarification, Mr. President -- what you're saying, Mr. Chairman, is that the AG ruled that there is no conflict?"

Senator Kanno replied:

"Yes."

Senator M. Ige then said:

"Okay, thank you."

At this time, Senators Chun and Nakata requested their votes be cast "aye, with reservations," and the Chair so ordered.

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

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

Stand. Com. Rep. No. 3613 (Gov. Msg. No. 287):

Senator Kanno moved that Stand. Com. Rep. No. 3613 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of HERBERT K.M. YEE, P.T., to the Board of Physical Therapy, term to expire June 30, 2004, seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3614 (Gov. Msg. No. 295):

Senator Kanno moved that Stand. Com. Rep. No. 3614 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of RANDOLPH B. AHLLO, GEORGE M. AMIMOTO and HERBERT S.L. CHOCK to the State Boxing Commission of Hawaii, terms to expire June 30, 2004, seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3615 (Gov. Msg. No. 264):

Senator Inouye moved that Stand. Com. Rep. No. 3615 be received and placed on file, seconded by Senator Buen and carried.

Senator Inouye then moved that the Senate advise and consent to the nomination of MICHAEL JAY GREEN to the Stadium Authority, term to expire June 30, 2004, seconded by Senator Buen.

Senator Slom rose in opposition and said:

"Mr. President, please register my 'no' vote on Gov. Msg. No. 264 with reference to Standing Committee Report 3615 for Michael Jay Green.

"Thank you."

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

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

Ayes, 24. Noes, 1 (Slom).

Senator Inouye then moved that the Senate advise and consent to the nomination of EDWARD K. HAMADA to the Stadium Authority, term to expire June 30, 2004, seconded by Senator Buen.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3616 (Gov. Msg. No. 307):

Senator Inouye moved that Stand. Com. Rep. No. 3616 be received and placed on file, seconded by Senator Buen and carried.

Senator Inouye then moved that the Senate advise and consent to the nomination of T. GEORGE PARIS to the Stadium Authority, term to expire June 30, 2004, seconded by Senator Buen.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3617 (Gov. Msg. No. 294):

Senator Kanno moved that Stand. Com. Rep. No. 3617 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of JAMES K. IKEDA and TING PONG MA to the Board of Acupuncture, terms to expire June 30, 2004, seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3618 (Gov. Msg. No. 297):

Senator Kanno moved that Stand. Com. Rep. No. 3618 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations to the Contractors License Board of the following:

RAYMOND S. MORI, term to expire June 30, 2003; and

ANCLETO "LITO" ALCANTRA, BRUCE KUGIYA and EARLE S. MATSUDA, terms to expire June 30, 2004,

seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3619 (Gov. Msg. No. 298):

Senator Kanno moved that Stand. Com. Rep. No. 3619 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of GERALD ADACHI, D.M.D., to the Board of Dental Examiners, term to expire June 30, 2001, seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3620 (Gov. Msg. No. 305):

Senator Kanno moved that Stand. Com. Rep. No. 3620 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nominations of GARY Y. GIBO and RANDAL MORIFUJI to the Motor Vehicle Repair Industry Board, terms to expire June 30, 2004, seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3621 (Gov. Msg. No. 306):

Senator Kanno moved that Stand. Com. Rep. No. 3621 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of ELLEN R. CARINGER, PH.D., to the Board of Psychology, term to expire June 30, 2004, seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3622 (Gov. Msg. No. 308):

Senator Kanno moved that Stand. Com. Rep. No. 3622 be received and placed on file, seconded by Senator Taniguchi and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of ERIC M.F.C. AKO, D.V.M., to the Board of Veterinary Examiners, term to expire June 30, 2004, seconded by Senator Taniguchi.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3623 (Gov. Msg. No. 240):

Senator Kawamoto moved that Stand. Com. Rep. No. 3623 be received and placed on file, seconded by Senator Bunda and carried.

Senator Kawamoto then moved that the Senate advise and consent to the nominations to the Medical Advisory Board of the following:

DAVID MAI, M.D., term to expire June 30, 2002;

STEPHEN M. OISHI, M.D., term to expire June 30, 2003; and

ROBERT L. SIMMONS, M.D., term to expire June 30, 2004,

seconded by Senator Bunda.

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

Ayes, 25. Noes, none.

Stand. Com. Rep. No. 3624 (Gov. Msg. No. 296):

Senator Kawamoto moved that Stand. Com. Rep. No. 3624 be received and placed on file, seconded by Senator Bunda and carried.

Senator Kawamoto then moved that the Senate advise and consent to the nominations to the Civil Defense Advisory Council of the following:

LINDA C. TSEU, term to expire June 30, 2001; and

ALEJANDRO LOMOSAD, term to expire June 30, 2004,

seconded by Senator Bunda.

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

Ayes, 25. Noes, none.

#### ADOPTION OF RESOLUTIONS

S.C.R. No. 143, H.D. 1:

On motion by Senator Nakata, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 143, and S.C.R. No. 143, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION RELATING TO STATE PARK RESTROOM FACILITIES AND FUNDING FOR THE NATURAL AREA RESERVES SYSTEM," was Finally Adopted.

Conf. Com. Rep. No. 127 (S.C.R. No. 204, H.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 127 was adopted and S.C.R. No. 204, H.D. 1, C.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO CONDUCT FOLLOW-UP SOIL TESTS AT VILLAGE PARK AND WEST LOCH FAIRWAYS," was Finally Adopted.

#### CONFERENCE COMMITTEE REPORT

Senator Kanno, for the Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House to S.C.R. No. 129, S.D. 1, presented a report (Conf. Com. Rep. No. 162) recommending that S.C.R. No. 129, S.D. 1, H.D. 1, as amended in C.D. 1, be Finally Adopted.

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 162 was adopted and S.C.R. No. 129, S.D. 1, H.D. 1, C.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A STUDY OF UNPLANNED RELEASES OF EMISSIONS BY FACILITIES AT CAMPBELL INDUSTRIAL PARK, A STUDY OF ABOVE GROUND CHEMICAL STORAGE TANKS, AND A STUDY OF THE DEPARTMENT OF HEALTH ENVIRONMENTAL HOTLINES," was Finally Adopted.

#### FINAL READING

Conf. Com. Rep. No. 134 (H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 134 be adopted and H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Ihara.

At 10:30 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:31 o'clock a.m.

Senator Fukunaga rose in support of the measure as follows:

"Mr. President, I rise to speak in support of H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1.

"Mr. President, as I said earlier this session, we have marked the first session of the twenty-first century with a supplemental budget that gives our residents the opportunity to fully realize the benefits of the New Economy. Our initial four objectives in our budget planning have now been met: to position Hawaii for success in the new economy; to develop a literate workforce able to compete in the global marketplace; to preserve needed services at the community level; and to maintain a fiscally prudent approach to executive branch spending.

"Together with measures crafted by our subject matter chairs in education, economic development, health and human services, transportation, judiciary, consumer protection, labor and environment, government operations, and water, land and Hawaiian affairs, we have established a foundation to strengthen families and communities and to develop a technologically literate workforce.

"Finally, although the Senate's positions on such issues as funding for OHA's ceded land claims or fully empowering DAGS to handle school repairs more comprehensively have not been fully realized, we can celebrate the fact that we are at the beginning of a renewed partnership between the Cayetano administration, the House, and the Senate. Let us turn this partnership into an even more productive collaboration for this new century.

"For all of the foregoing reasons, I urge my colleagues to join us in support of H.B. 1900, H.D. 1, S.D. 1, C.D. 1.

"Thank you."

Senator Levin rose in support of the measure with reservations and stated:

"Mr. President, I rise to speak in support of the budget but with reservations.

"I speak in praise of the budget and the work that the Ways and Means Committee members put in, the staff, and the work of my co-chair. The staff and Co-Chair Fukunaga worked incredible hours for the past five months to get out a product that I think the Senate and the state can be truly proud of. There are the old cliches about sleepless nights and working around the clock, and those are phrases that are perhaps used too often in other contexts. In this context, however, I can tell you that they literally apply to the work done by the staff of Ways and Means and the work done by my co-chair.

"And to think, Mr. President, that a woman of her age . . . (laughter) never mind. Please strike that.

"If I can be serious again, I also appreciate the work and support of the WAM Committee members. They worked diligently, their input was invaluable, and their support was much appreciated.

"There is much good in this budget and I am particularly proud of what we have done for education. The budget adds almost \$18 million in lower education. We have also added at least \$3 million to higher education. And although many of us wished we could have been more generous with higher education, the fact is that this Legislature, overall -- including bills separate from the budget which will help with autonomy and other things that the University needed -- I think truly established this session as the education session.

"Mr. President, I also rise to speak about the reservations that I have. Unfortunately, the document in front of us is not entirely the work of the committee or the staff. To be specific, neither the Ways and Means Committee nor the staff ever agreed to a provision that calls for the State purchase of No. 1 Capitol District, better known as the Hemmeter Building. That proviso, as far as I know, is the only item in the budget that was not signed off on by all three Budget Conference chairs.

"So we have a flawed document in front of us, not because I do not agree with all that is in it -- I fully understand that a budget is always a series of compromises -- but it is flawed because it contains an item that circumvented the process, a process that we are sworn to uphold and a process that we should insist upon.

"Throughout the budget process, both when negotiations were being handled by the Conference chairs and when the President and Speaker stepped in to break a deadlock, all items required the unanimous support or at least the unanimous acquiescence of all three Conference chairs before they could be included in the final budget. Only one item was treated differently and that was this proviso for the purchase of Hemmeter.

"I know that the merits of buying Hemmeter can be argued on both sides. To me, the bottom line is this -- although the Hemmeter building may have had humble beginnings as a YMCA, in its current state its opulence fits the lifestyle of the rich and famous. It was built for a captain of industry, not a captain of the ship of state. It perhaps was grand enough to house the ego of Mr. Hemmeter, but it is far too lavish for the mere mortals who work for the state government. And I think it is outlandish to ask the taxpayers of this state to foot the bill for this extravagance.

"You might be interested in some numbers. According to the Department of Accounting and General Services, we are currently paying rent of just over \$2 million for Hemmeter, and the building houses 245 government employees. Now admittedly, it once housed more government workers, but at the current staffing level, do the simple math and you find that we are paying \$8,367.00 in rent per year, per employee. I asked DAGS to give me comparable numbers for a typical office building rented by the state, and they gave me the Haseko Building where we pay \$502,000 in rent and where 140 government people work. Again, do the math -- we're paying \$3,586.00 per employee. That's \$3,600 versus \$8,400. That's 43 percent more to house people in Hemmeter.

"The administration has argued that the money we are currently paying to rent Hemmeter can instead cover the cost of owning it. I am skeptical as I think others are. But even if that were true, what it means to me is not that we should be buying Hemmeter but that we're paying too much rent now and we should be moving out. And that idea is not something that I just thought up. It was WAM's position just last year. And it was also the idea of the Waihee administration back in 1994 when the comptroller of the State of Hawaii proposed to move all employees out of Hemmeter using a plan that 'was conceived in order to reduce millions of dollars in rent payments that DAGS was responsible for maintaining.'

"Originally, I blamed the House for inappropriately using its control over the budget document to circumvent the rule that

there must be agreement before an item goes into the budget. I had no way of knowing that the House had received the concurrence of the Senate President by a decision made early Friday morning. That was quite an eye opener.

"So why do I mention all this now? I fully understand that one proviso, even one of the multi-million dollar magnitude of Hemmeter, is not enough to warrant the defeat of the budget or even justify a 'no' vote. But I think it is important enough to voice concern about so that public light can be shed on our arcane budget process and give us hope that these kinds of procedures will not be repeated.

"In the months ahead, we should be thinking about our institution of the Senate and how it can be changed for the better. There are experts in our national organizations, such as the NCSL and CSG, who would be happy to help us in identifying organizational weaknesses and possible remedies. We ought to think seriously about using them.

"Whether or not you share my concerns on the merits of Hemmeter, the process that was followed is disturbing. The fault does not lie with any one person and the solution will require a change in the culture of this institution that we all must contribute to. The old slogan is true -- that people get the government that they deserve. That's true of a nation; it's true of the state; and it's true of this Legislature. If we do not stand up for the rule of law on behalf of the people who elected us, who in the world can possibly do it for us.

"One last word on Hemmeter . . . the owners of Hemmeter would be well advised to understand the precarious nature of certificates of participation. Under Section 37D-5, Hawaii Revised Statutes, it states that 'No holder or holders of any financing agreement entered into under this chapter shall have the right to compel any exercise of taxing power of the agency to pay such financing agreements or the interest thereon and no moneys other than amounts appropriated or otherwise held in trust for such purpose shall be required to be applied to the payment thereof.' What that legalese boils down to is, the Senate Ways and Means Committee has not endorsed this purchase and the proviso in this budget is good for one year only. Therefore, there is no guarantee that future moneys will be appropriated to pay the certificate holders beyond June 30, 2001.

"Thank you, Mr. President."

Senator Slom rose to support the measure with reservations and said:

"Mr. President, I rise to speak in support with reservations.

"Thank God the two Minority leaders have individual microphones, otherwise it would be a very short session today. And age has never been a barrier with the Republicans, so we don't have any problem there also.

"Let me congratulate the good Senator from Puna/Ka'u, the co-chair of Ways and Means. He just saved you all about 22 minutes of speech making from me.

"I was very disappointed because, as he knows, I attended the Ways and Means Committee a month-and-a-half ago when a presentation was supposed to be made on the Hemmeter Center, and in fact it was not. Nothing was brought to the public. There was no public discussion about this. And the fact that this is included in this budget and the manner in which it's included, to use a quotation and a word from one of my great role models, the governor of this state, it is 'shameless' -- shameless that this was stuck in and was done in this manner. We have no business buying more real estate to give tour duties to the First Lady. •

"We have other priorities and that's my problem with this budget. It is a good budget overall. I do salute the work of the

Committee, the members, the staff, everybody that worked hard on it. But the fact of the matter is, it is a bigger budget. It does call for more government growth. It does call for more expenditures. It does call for adding more people, more benefits, more costs to the state budget, more people in addition to Felix/Cayetano required special ed teachers and in addition to more teachers to lower the class-pupil ratio size -- more people, more money, more burdens on the taxpayers.

"In addition to that, we have a whole slew of emergency appropriations and separate appropriation bills which we are going to approve or discuss today. They add even more millions of dollars. And in addition to that, we have even more special funds that we will create today to make the budgetary process even more difficult for any average or above-average citizen to find out just exactly what the numbers are.

"Yes, it is a good budget bill, but it is flawed in a number of areas, not the least of which also has to do with the shameless exclusion of the language to protect and guarantee the people of Pearl City that the governor will not put his sex offenders in their neighborhood against their overwhelming will. We have to learn not to make these kinds of costly errors. They're costly in terms of money, but more importantly, they are costly in terms of the faith and the trust that people put in each one of us.

"And we can't complain that we didn't have enough time because actually we had more time, more deliberation this year than in past years. There was more of a process that you, Mr. President, and the House Speaker had advocated and which we worked under. It was inconvenient at times, but it allowed us and forced us to do things more in the open and to read and more carefully check. And we have to do a better job because I know that each and every one of you would do a better job if it were your money, if it were your neighborhood, if it was real estate or investment being made in your name.

"And so I will support the budget with these and other reservations. I, too, agree that many things were done in education that are very positive, but let's be realistic and candid about this. We're doing the things that should have been done ten years ago and we're still playing catch-up. We haven't done all the things because we still haven't learned how to prioritize. We still mouth the words -- our keiki, education -- but we haven't demonstrated that that really is number one, because if it were, everybody else, including the purveyors of the Hemmeter Building, would have to take a number and wait at the back of the line. But we try to serve everybody and promise everybody at the same time. So I will support it with reservations.

"One final comment that the good Senator from the Big Island made -- he said that people get the government that they deserve. Believe me, nobody in the State of Hawaii deserves the kind of government and politics on every issue that we hand out all too readily.

"Thank you, Mr. President."

Senator Iwase rose in support of the measure as follows:

"Mr. President, I'm rising to speak in support of the budget.

"Mr. President, the budget we have before us is a very good budget. I am very pleased with it particularly because of its emphasis on education. Whether you have children or not, I think we can all agree that our number one concern and our number one priority must be the children of the State of Hawaii, particularly as we move into the age of information. And it is a budget that plows a lot of money into our education system, both lower ed and higher ed. Over the past few years, and I agree with the Senator from Hawaii Kai, we have cut the University of Hawaii too much, too far, beyond the bone, and we are trying to restore some of that, including the bills on autonomy.

"I would also like to commend the co-chairs for their efforts to be more inclusive of the Committee members. While not totally successful, I think the effort has been made. Progress has been made. Much more progress needs to be made, and I hope that will be done next year. They were also much more timely in transmitting information to Committee members so that we could vote with some information. After all, our necks are on the line as well as the Committee chairs.

"I do wish to express some concern about the comments made by the Senator from Puna regarding what happened with a particular proviso in the budget. I'm not going to talk about the merits of it because that is not of issue for me, it's in the budget. What I do have concerns about is the process that resulted in this happening. I would like to say that there appears to be some confusion over who are the players when these things are put into the budget and when the budget is created. Who makes the decision? Who mediates? Who arbitrates? What if there is a dispute between the co-chairs? What if there is a dispute between the House and the Senate? I do not believe that the Speaker of the House or the Senate President should be arbitrators, and I don't think you believe that either, Mr. President. The role of the leadership is to mediate rather than arbitrate.

"It is a process that apparently was agreed to by the people concerned and we now have a budget before us that has a proviso which people, some, disagree with. Well, we have that budget. I cannot vote against that budget. It is a good budget. It is a result of a process that was acquiesced to. I do not agree with that process because it allows just a few individuals to dictate what the budget should be. And I would hope that as we move into next year, for all of you who are remaining in the Senate or who will return to the Senate, that you will look at this process. Hopefully, it will be more inclusive; it will empower the chairs; it will empower the Committee members.

"And finally, I would hope also that there will be a review of the co-chair system, because I don't think at times two heads are necessarily better than one. In fact, I think at times two heads may cause confusion, dissent and discord. So I hope you review that, Mr. President.

"Thank you very much."

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

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

"I want to extend my thanks also to the co-chairs of Ways and Means and their staff and all of you present.

"I really share the concerns of Senator Levin in regards to the purchase of the Hemmeter in the proviso, but I did want to not dwell on that and highlight the very positive things that have occurred within the budget, thanks to all of you.

"In particular, similar to the previous speakers, I am very pleased with the Department of Education's budget and the amount of dollars that has gone into increasing the number of teachers, the number of support staff to support our children and our teachers in public education. I also am very pleased to see a much larger dollar amount for repair and maintenance of our schools, for capital improvements to our schools and even to the playground equipment that I think many communities would like to see restored at our schools.

"In the area of health and human services we have accomplished so much, and I do want to thank, again, everyone for making it possible. In the area of child and adolescent mental health, adult mental health, and those that are waiting on the wait list for developmental disabilities, we have put in significant dollars into this area.

"We also have, for the first time in many years, the opportunity to make Healthy Start statewide. And as you know, Mr. President, this is a national model that Hawaii started in preventing child abuse and neglect.

"I also wanted to highlight that there is money for the volunteer ombudsman program in an effort to support the caregivers in our community who are experiencing the need for long term care among their family members. And hopefully this volunteer ombudsman program statewide will be able to support the caregivers, but also, hopefully, to prevent elder abuse, neglect, and fraud.

"We also, for this coming year, will be able to start the children's health insurance program. This will be able to help children, including immigrant children at 200 percent of the federal poverty level, to get health insurance. This is a significant, significant step.

"We also have put in money to make sure that those that are medically underserved, those particularly on the neighbor islands and rural areas of Oahu, will be able to get additional medical support as well as to restore funding for the adult dental services.

"There are many other things like peer education that we were able to save that are very worthwhile programs within the Department of Education. There are so many others, but I do want to thank all of you for the support that you have given for many of these projects and programs.

"Thank you."

At 10:53 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:56 o'clock a.m.

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

"Mr. President, I wish to speak in favor of the budget.

"Mr. President and fellow colleagues, this is a very gratifying budget. It emphasizes two highlights. If I may very shortly . . . first of all, the education budget is very strong, especially the repair and maintenance of \$45 million is very welcome to the schools.

"Also included in the budget for education is a budget for \$3 million for playground equipment. This is a greatly needed item. Our schools all have safety problems and we wish to correct them at this time. Also, I believe the schools are going to be asking the federal government for their share, since they added the stronger restrictions in terms of safety. So federal government, please give us some money since you imposed it upon us in the State of Hawaii.

"Lastly, I wish to thank my colleagues for the start off fund on housing. We have public housing within the State of Hawaii, and it is in disrepair right now. Some of the people out there in the community have called government 'slum lords.' Thank goodness we can correct that with the start off money.

"Thank you very much."

Senator D. Ige rose in support of the measure and said:

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

"Mr. President, in this first session of the new millennium we have emphatically made a statement that education, education, education is the number one priority. I would like to thank the co-chairs and the members of the Committee on Ways and Means for making education the number one priority, and for

all of the members of the Senate for their contribution in making this a hallmark session.

"This budget clearly demonstrates our commitment to education. For the public schools we have provided \$4.4 million to ensure that every child counts in our classrooms. In addition, we have added \$2.6 million to reduce class size in kindergarten through grade 2, the most precious years of learning, to 20-to-1. In total, this budget contains an additional 275 teachers to reduce class size statewide. In addition, we have appropriated \$3 million in priority funds, funds that get directly distributed to each and every school in this state to respond to their specific critical needs.

"We have also appropriated \$2.7 million so that the superintendent can complete his work in assessments and implementation of the Hawaii Content Performance Standards. We have also appropriated \$2.8 million to provide equipment and personnel to equip and staff our new schools and more than \$4.6 million to meet the requirements of the Felix/Cayetano consent decree.

"In addition to all of this, Mr. President, we have appropriated \$5.7 million for key priority programs that include additional clerical support to support our schools in meeting the paperwork demands of the Felix consent decree. We also add additional vice principals. We have committed \$800,000 to the Hawaii Network Learning Community's Grant Program. And as stated by others, we made significant investments in repairs and maintenance, as well as \$3 million to correct deficiencies in our playground equipment.

"Clearly, Mr. President, this budget stamps our commitment to education. But our commitment does not stop at the public school system, because we have made strategic investments in the University of Hawaii system, a single system that serves all of our communities. We have appropriated \$1 million for a program in molecular genetics for the John A. Burns School of Medicine. Most importantly, Mr. President, this begins our transformation of the medical school from purely a teaching and learning environment to one that pursues the economic engine of research in health care.

"We've also appropriated \$1 million to the College of Business so that they can re-tool their program to focus and re-energize its needs on e-commerce and the coming age of business in the internet world.

"We've also appropriated \$1 million to the College of Engineering. As Guy Kawasaki has said before, we cannot be a player in the technology economy unless we have a world-class engineering college. I do believe that this million dollars does a lot to advance our engineering college to be world class.

"We've also invested \$1 million in the Pacific Center for Advanced Training Technology. Mr. President, we need to come up with new models for delivering quality educational services in those key strategic sectors and our community colleges have committed to provide a program that will allow us to deliver a trained and educated workforce to any of the new participants in our economy.

"And last but not least, we've committed \$2 million to the University of Hawaii at Hilo to fund their distance learning and technology programs to enhance their programs and their efforts to provide a trained workforce.

"Not all of our discussions have been limited to the real sexy and high profile subject matters. We've also appropriated \$1.3 million to the community college system for key infrastructure, for electricity and staff personnel that is truly needed to support all of the other programs.

"In total, Mr. President, this is the biggest increase in the budget for the University in at least the last five years, although you may want to talk to the president. After a decade of budget

cuts to the University, this is a much, much needed infusion. In addition, we have made a commitment to repairs and maintenance at the university level as well.

"I would just like to take a moment and I do know that many of these issues are really not part of this budget, but really to put this session in context as the education session, let me just mention a few of the other measures that we will be voting on in a few minutes that really stamp and provide an exclamation point to all of our work this session in education:

- For the public school systems -- first and foremost, we have empowered the superintendent to design and implement an accountability system that can really drive performance of our public schools forward. We have committed to safer schools through an expansion of zero tolerance and other measures to provide increased information to the public school system. We have tweaked the new century schools program to ensure that all of these schools can provide a blueprint for change and innovation in the public school system. And for my daughters, we have committed to gender equity to establish a program so that all of our children will have an opportunity to compete.
- We have also made a commitment to the Hawaiian language immersion program, Mr. President. The first Hawaiian language immersion school was at Wai'au Elementary School in Pearl City, and ten years later we are really establishing and putting into the statutes for all time, a program that has been successful in really revitalizing the Hawaiian language community.
- We have also increased the autonomy of the Department of Education. We've empowered the Board of Education to set the superintendent's salary up to \$150,000. We've allowed them to keep any excess impact aid. We've allowed them to keep overhead returns on federal grants that can be reinvested to pursue additional federal programs.
- We have transferred the occupational and physical therapists from the Department of Health to the Department of Education, and responsibilities for school transportation from the Department of Accounting and General Services to the Department of Education. Both of these programs and this responsibility have been long sought by the Department of Education.
- We have provided through our civil service reform full authority and accountability for educational assistance and other instructional personnel to be classified and filled by the Department of Education.
- And finally, we have given the superintendent a seat at the bargaining table so that he has direct input in collective bargaining contracts that affect the myriad of employees in the public schools system.

"Clearly, Mr. President, our efforts in education go far beyond the budget, but the budget was a very, very good starting point. I would just like to add that, as I said before, we did not limit our efforts to the public schools. The University, we have done a lot to clarify autonomy within the University. For the first time we do fund, fully fund, the claims against the University which is a fallout of our efforts to give them more autonomy in regards to their legal matters.

"And finally, we are putting before the people of Hawaii the question of whether the University of Hawaii in the future should receive more autonomy from the Legislature and governor in all of their matters.

"Clearly, Mr. President, this has been a hallmark session, a session that I believe all of us can be proud of and that will be

the measure of future sessions in regards to our actions on education.

"Mr. President, I do have some other remarks that I would like to ask be inserted into the Journal.

"Thank you."

The Chair having so ordered, Senator D. Ige's remarks read as follows:

"As you are aware, Mr. President, the governor's proposal to establish a youth sex offender treatment facility in Pearl City has blind-sided the community and raised concerns about public input and safety.

"I thank you, Mr. President, and the co-chairs of the Committee on Ways and Means, for your full support for including the following proviso in the budget:

'Provided that for child and adolescent mental health (HTH 460) for fiscal year 1999-2000 and fiscal year 2000-2001, no general or special fund money shall be expended for any new sex offender treatment program and/or facility, located outside of an existing correction/treatment facility, and within 6,000 feet of any school campus in the State of Hawaii, and provided that no child shall be relocated from the mainland to Hawaii unless it is determined that relocation is in the best development interests of the child.'

"This proviso is legal and would have protected all the children throughout the state from such a facility. Although the news media has portrayed this as a NIMBY (Not In My Back Yard) issue, our community believes that a youth sex offender treatment facility should not be located in close proximity to any school. I am disappointed that the House opposed this proviso after making public statements to the news media that it would be included in the budget. I hope that the governor will work with the community to achieve a solution acceptable to all."

Senator Anderson rose to speak with reservations on the measure and said:

"Mr. President, I'm going to stand with reservations on the budget. I would like to state a slight remark regarding the remarks from the Senator from Hilo when he said that he couldn't believe the age of the person sitting next to him that crafted the budget bill, he meant the young age. I know that.

"Mr. President, the reservations that I have is that this particular budget represents a \$350 million increase over and above last year. That's \$63 million less than the governor asked for; that's part of the good of it. We did try to make sure that we held it back. I also want to recognize all of the bullets that Senator Ige stated on education. But I do have my reservations as stated by the good Senator from Hilo and the Minority Floor Leader regarding the purchase of the Hemmeter building. There was a reso and there were only two people who voted against that reso in Committee. That was the Representative from Kaneohe and myself. We were hoping it wouldn't go forward, but it did, and then it ended up as a proviso.

"But I looked at the good points of what we're doing because we happen to be State Legislators, ladies and gentlemen. I reviewed the budget and I marked in different colors items for the Big Island, Kauai, Maui, and all state programs. And I figured, you know, Anderson, that's not bad . . . as a State Legislator you did a helluva job. So there's a lot of good that came out of this for our children, for transportation, health and for many issues. For the many issues that we had this session, I did note if it was addressed in the budget. I represent Waimanalo and Kailua. I do have other issues that I look at. I do respect the chairmen that I work with. I try to make sure that I can take credit just as well as anybody else for all the hard



work we each put into producing the budget. And that's the way we should be looking at this bill.

"And the reservations that I have are few. So I would like to congratulate the two chairmen and, most certainly, all of the staff because they worked very hard to craft what we have here today.

"Thank you very much, Mr. President."

Senator Chun rose to support the bill and said:

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

"Mr. President, I support the bill wholeheartedly because I believe a lot of work and thought went into it, but I want to raise a very clear position that I do not support the proviso in there regarding the purchase of the Hemmeter Building. Unlike my colleagues and the co-chair of Ways and Means, I do not believe that the process itself was inherently flawed. As a member of Ways and Means, I distinctly remember voting for the bill in Conference and specifically after hearing that all provisos were going to be worked out between the staff. If I had any serious concerns regarding an inclusion of a proviso of the Hemmeter Building, I should have raised it at that point in time. I did not, so I will take responsibility for that. The process was followed; the process was there. The Committee members voted to approve it. We abdicated, basically, or delegated our responsibility to the chairmen and ultimately to the President, so I do not have any questions on that.

"My concern is I feel that this proviso begins to depart from the priorities that we've raised as the Senate that we concentrate on education. And yes, maybe, maybe the purchase of that building might save us some money in the short run, but I also want to question whether or not investing our monies into educational facilities and repair and maintenance would have given us a better return as opposed to investing into office buildings. But I raise that as a point of question.

"I recognize that we did vote for the budget. I recognize that the Conference Committees did unanimously approve that bill without any reservation, without any 'noes.' So I will stand by my vote and support this bill.

"Thank you."

Senator M. Ige rose in opposition to the measure and stated:

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

"Mr. President, I think my first hardest vote was against a long-time colleague. This is probably my second hardest vote. I need to apologize to Senator Levin. I made some comments in the Majority Caucus yesterday. I believe it was based on emotion and not well thought out.

"Now, in retrospect, looking at what took place in terms of the budget, I guess in all my years in my legislative career I have never seen the President and the Speaker sign a committee report on the budget, and I'm deeply disappointed about that. I, too, was at that WAM hearing with the Senator from Waimanalo and I thought it was over an hour-and-a-half speaking to Mr. Miyahira. There were a number of department heads there talking about the Hemmeter Center purchase, and there was a lack of answers at that time. I guess my interests grew, as one of your former chairs of Government Operations, when we talked about Kapolei and decentralizing what we had here in Honolulu in terms of office space for our employees. And as a result, Hemmeter Center definitely raised a lot of yellow, if not red, flags.

"So Mr. President, I think what took place was very unfortunate. I need to disagree with our Majority Floor Leader who said that we did give leadership or we did give the chairs the right to negotiate the proviso. I was there that evening. So

I think the whole point here, Mr. President, was that Hemmeter Center was never in the provisos. And please, if any of my colleagues believe it was, stop me right here and rule me 'out of order.' But I believe that no proviso in the green pages mentioned anything about Hemmeter Center. And I think that is the problem. Where did it come from?

"Mr. President, doing a lot of soul searching, it's difficult to vote against the budget when you hear your colleagues talk about how important it is in education; how important it is for technology; how important it is for playground equipment. And the list goes on and on. But, Mr. President, when we violate our own rules at the very end, what does that say about us? What does that say about the Senate?

"I was in the House for 16 years and had looked at the Senate, but never had the opportunity to run in terms of a vacant seat. And now that I'm here, I begin to realize that this is really where the action is. I'm sorry to the House, but this is where it's happening. But I'm very disappointed to see the fact that you and the Speaker can overrule all of the hard work of the staff and all of the hard work of the members on the Ways and Means Committee and at the very end put in things that you believe is appropriate. Whether or not we give you that opportunity is beside the point, because I think the bottom line here is the word 'trust' -- my trust in you and your trust in me and our trust for our colleagues. If we don't have that, what are we saying to our people?

"I think all the accolades are great. Everything we said is terrific about what we did, 99 percent. But if we violate our own rules on what we are as a Senate, what does that do to this institution? I think that's where the 'no' vote comes from. We can do all this good, but unless we stand up like the Senator from Puna in caucus and raise the issue, what are we saying? One colleague mentioned to me last night, 'You know, I give the Senator credit. I never saw him like that before.' But, Mr. President, as a leader that's what we should be encouraging -- the Senate to stand up; hold your ground; speak your mind. That's what we're elected to do, not to talk about all the good and all the fantastic things that we're doing, but to talk about the inside, where we come from, what we are, what we believe in. When do we do that? And less we take a stand on these issues, it's very difficult.

"So, my apologies to Mr. Chairman from the Ways and Means Committee from Puna. I was thinking about my re-election, and that was my response -- I've got a re-election; we need the budget; and we need it right now. But in retrospect, Mr. President, we should take the time because, like he said, this is based on principle. This is based on what is right and what is wrong. It's very simple. And my grandmother told me it's very simple -- as long as you know in your heart it's right, you do it; and if it's wrong, you don't -- because that's what integrity is all about.

"So I go back and I say to the Puna Senator -- I apologize. The election is beyond what this whole debate is all about. It's about doing what's right for the people of this State. And in the long run, Mr. President, I sincerely hope that this action never, ever, happens again.

"Thank you."

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

"Mr. President, I'm rising to speak in support of the budget.

"I'd like to commend the Ways and Means co-chairs for their strong support of education in the budget. I'd also like to take a second to thank the hardworking staff members who helped contribute to the end product.

"The needs at our public schools and our university are great. At the beginning of the year, the Senator from Puna boldly set

the goal that this session be known as the Education Session. It is almost reminiscent of President Kennedy setting the goal of putting a man on the moon. The future for our young people in our state is built one step at a time, and the budget bill represents a large step forward.

"On behalf of the children of Hawaii, our thanks to Senator Levin for his leadership in boldly stating and setting a goal for the rest of us. And our thanks again to the Ways and Means co-chairs.

"I urge my colleagues to vote 'aye.'

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 134 was adopted and H.B. No. 1900, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (M. Ige).

At 11:19 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:22 o'clock a.m.

S.B. No. 278, S.D. 2, H.D. 1:

On motion by Senator D. Ige, seconded by Senator Fukunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 278, S.D. 2, and S.B. No. 278, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 568, S.D. 2, H.D. 3:

On motion by Senator Hanabusa, seconded by Senator Nakata and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 568, S.D. 2, and S.B. No. 568, S.D. 2, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 915, S.D. 1, H.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 915, S.D. 1, and S.B. No. 915, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CANDIDATE VACANCIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

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

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2293 and S.B. No. 2293, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2369, S.D. 1, H.D. 1:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2369, S.D. 1, and S.B. No. 2369, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2419, S.D. 1, H.D. 1:

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2419, S.D. 1, and S.B. No. 2419, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL ACCESS PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2535, H.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2535 and S.B. No. 2535, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROBATE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2574, S.D. 1, H.D. 1:

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2574, S.D. 1, and S.B. No. 2574, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2607, S.D. 1, H.D. 3:

On motion by Senator Chun Oakland, seconded by Senator Fukunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2607, S.D. 1, and S.B. No. 2607, S.D. 1, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO THE COMMISSION ON THE STATUS OF WOMEN," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2621, S.D. 1, H.D. 2:

On motion by Senator Chun Oakland, seconded by Senator Kawamoto and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2621, S.D. 1, and S.B. No. 2621, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2667, H.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2667 and S.B. No. 2667, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NO CANDIDATES FILED FOR AN ELECTIVE OFFICE,"

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

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

S.B. No. 2731, S.D. 1, H.D. 2:

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2731, S.D. 1, and S.B. No. 2731, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2758, S.D. 1, H.D. 2:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2758, S.D. 1, and S.B. No. 2758, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 2924, S.D. 1, H.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2924, S.D. 1, and S.B. No. 2924, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OPEN MEETINGS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 3079, H.D. 1:

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3079 and S.B. No. 3079, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS IN THE FIRST DEGREE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 3129, H.D. 2:

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3129 and S.B. No. 3129, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN HEALING PRACTICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 3201, S.D. 1, H.D. 2:

On motion by Senator Kawamoto, seconded by Senator Buen and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 3201, S.D. 1, and S.B. No. 3201, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO A SCENIC HIGHWAYS SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

**MATTER DEFERRED FROM  
WEDNESDAY, APRIL 26, 2000**

**FINAL READING**

Conf. Com. Rep. No. 2 (H.B. No. 2514, S.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Chun and carried, Conf. Com. Rep. No. 2 was adopted and H.B. No. 2514, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

**MATTER DEFERRED FROM  
THURSDAY, APRIL 27, 2000**

**FINAL READING**

Conf. Com. Rep. No. 3 (H.B. No. 1955, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 3 was adopted and H.B. No. 1955, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CORRECTIONS POPULATION MANAGEMENT COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

**MATTERS DEFERRED FROM  
FRIDAY, APRIL 28, 2000**

**FINAL READING**

Conf. Com. Rep. No. 5 (H.B. No. 2530, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Nakata, seconded by Senator Ihara and carried, Conf. Com. Rep. No. 5 was adopted and H.B. No. 2530, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AIR POLLUTION CONTROL PUBLIC NOTIFICATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 6 (H.B. No. 2406, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Buen and carried, Conf. Com. Rep. No. 6 was adopted and H.B. No. 2406, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

**FINAL READING**

Conf. Com. Rep. No. 7 (H.B. No. 1902, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Tanaka and carried, Conf. Com. Rep. No. 7 was adopted and H.B. No. 1902, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE WATER CODE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 8 (H.B. No. 1773, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 8 was adopted and H.B. No. 1773, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR CARRIER LAW," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 9 (H.B. No. 2521, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 9 was adopted and H.B. No. 2521, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL HEALTH REQUIREMENTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

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

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 10 was adopted and H.B. No. 2469, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SUBPOENAS ISSUED BY THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 12 (H.B. No. 2701, H.D. 3, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Nakata and carried, Conf. Com. Rep. No. 12 was adopted and H.B. No. 2701, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOLS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 13 (H.B. No. 1984, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 13 was adopted and H.B. No. 1984, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 14 (H.B. No. 2480, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 14 was adopted and H.B. No. 2480, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITED LIABILITY PARTNERSHIPS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 15 (H.B. No. 2484, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 15 was adopted and H.B. No. 2484, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE CORPORATIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 16 (H.B. No. 2797, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 16 was adopted and H.B. No. 2797, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE CODE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 17 (H.B. No. 284, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 17 was adopted and H.B. No. 284, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 18 (H.B. No. 2092, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 18 was adopted and H.B. No. 2092, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 19 (H.B. No. 2095, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 19 was adopted and H.B. No. 2095, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 20 (H.B. No. 2490, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 20 was adopted and H.B. No. 2490, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 22 (H.B. No. 2574, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 22 was adopted and H.B. No. 2574, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SPECIAL LAND AND DEVELOPMENT FUND," having been read throughout,

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

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

Conf. Com. Rep. No. 23 (H.B. No. 2405, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Nakata, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 23 was adopted and H.B. No. 2405, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PESTICIDES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 28 (H.B. No. 2160, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 28 was adopted and H.B. No. 2160, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRAUMATIC BRAIN INJURY TRUST FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 29 (H.B. No. 1983, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 29 was adopted and H.B. No. 1983, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE LAND COURT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 30 (H.B. No. 1938, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 30 was adopted and H.B. No. 1938, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REVISED UNIFORM COMMERCIAL CODE ARTICLE 9--SECURED TRANSACTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 31 (H.B. No. 2472, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 31 was adopted and H.B. No. 2472, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 32 (H.B. No. 2585, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 32 was adopted and H.B. No. 2585, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM ELECTRONIC TRANSACTIONS ACT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 33 (H.B. No. 1874, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Nakata and carried, Conf. Com. Rep. No. 33 was adopted and H.B. No. 1874, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATIONAL ACCOUNTABILITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 36 (H.B. No. 2017, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 36 was adopted and H.B. No. 2017, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTION AGENCIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 39 (H.B. No. 2418, S.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 39 was adopted and H.B. No. 2418, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CERTIFICATES OF IDENTIFICATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 40 (H.B. No. 2653, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 40 was adopted and H.B. No. 2653, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 49 (H.B. No. 2492, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 49 was adopted and H.B. No. 2492, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

**MATTER DEFERRED FROM  
FRIDAY, APRIL 28, 2000**

**FINAL READING**

Conf. Com. Rep. No. 54 (S.B. No. 185, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 54 was adopted and S.B. No. 185, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### FINAL READING

Conf. Com. Rep. No. 56 (S.B. No. 2480, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 56 was adopted and S.B. No. 2480, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANNULMENT, DIVORCE, AND SEPARATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 57 (S.B. No. 3073, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 57 was adopted and S.B. No. 3073, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IMPAIRED DRIVING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 58 (S.B. No. 3038, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 58 was adopted and S.B. No. 3038, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 59 (S.B. No. 2779, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator D. Ige and carried, Conf. Com. Rep. No. 59 was adopted and S.B. No. 2779, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 62 (S.B. No. 2982, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 62 was adopted and S.B. No. 2982, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD SUPPORT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 65 (S.B. No. 2254, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Chumbley and carried, Conf. Com. Rep. No. 65 was adopted and S.B. No. 2254, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVACY OF HEALTH CARE INFORMATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 66 (S.B. No. 2655, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 66 was adopted and S.B. No. 2655, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 70 (S.B. No. 2711, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 70 was adopted and S.B. No. 2711, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADMINISTRATIVE PROCEDURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 74 (S.B. No. 2741, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Inouye and carried, Conf. Com. Rep. No. 74 was adopted and S.B. No. 2741, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE WATER CODE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 75 (S.B. No. 2843, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 75 was adopted and S.B. No. 2843, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 77 (S.B. No. 2283, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 77 was adopted and S.B. No. 2283, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 81 (S.B. No. 3190, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 81 was adopted and S.B. No. 3190, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPTIVE INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 83 (S.B. No. 2152, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 83 was adopted

and S.B. No. 2152, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 84 (S.B. No. 2115, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 84 was adopted and S.B. No. 2115, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FALSE CLAIMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 88 (S.B. No. 3045, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Conf. Com. Rep. No. 88 was adopted and S.B. No. 3045, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE AUDITOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 90 (S.B. No. 2056, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 90 was adopted and S.B. No. 2056, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDIVIDUAL DEVELOPMENT ACCOUNT CONTRIBUTION TAX CREDITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 91 (S.B. No. 2074, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 91 was adopted and S.B. No. 2074, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 92 (S.B. No. 2533, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 92 was adopted and S.B. No. 2533, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME VICTIM COMPENSATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 95 (S.B. No. 1276, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 95 was adopted and S.B. No. 1276, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SUPERINTENDENT OF

EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 97 (S.B. No. 2448, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator D. Ige and carried, Conf. Com. Rep. No. 97 was adopted and S.B. No. 2448, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AUTISM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 99 (S.B. No. 2490, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Buen and carried, Conf. Com. Rep. No. 99 was adopted and S.B. No. 2490, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LONG-TERM RESIDENTIAL CARE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 108 (S.B. No. 3179, H.D. 3, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 108 was adopted and S.B. No. 3179, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOBACCO," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 109 (S.B. No. 2716, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Conf. Com. Rep. No. 109 was adopted and S.B. No. 2716, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 110 (S.B. No. 2946, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Conf. Com. Rep. No. 110 was adopted and S.B. No. 2946, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION APPEALS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 112 (S.B. No. 539, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 112 was adopted and S.B. No. 539, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 6, OF THE HAWAII CONSTITUTION, TO PROVIDE THE UNIVERSITY OF HAWAII WITH AUTONOMY IN ALL MATTERS RELATED TO THE UNIVERSITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 116 (S.B. No. 2221, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Chun and carried, Conf. Com. Rep. No. 116 was adopted and S.B. No. 2221, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ETHANOL," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 117 (S.B. No. 2781, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 117 was adopted and S.B. No. 2781, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 119 (S.B. No. 2409, S.D. 1, H.D. 2, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 119 and S.B. No. 2409, S.D. 1, H.D. 2, C.D. 1, was deferred until later on the calendar.

Conf. Com. Rep. No. 123 (S.B. No. 2218, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 123 was adopted and S.B. No. 2218, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO NEW CENTURY CHARTER SCHOOLS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 124 (S.B. No. 2475, S.D. 1, H.D. 3, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 124 was adopted and S.B. No. 2475, S.D. 1, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENDER EQUITY IN SPORTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 138 (H.B. No. 2314, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 138 was adopted and H.B. No. 2314, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 140 (H.B. No. 2556, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Nakata, seconded by Senator Kawamoto and carried, Conf. Com. Rep. No. 140 was adopted and H.B. No. 2556, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL

FOR AN ACT RELATING TO SAFETY INSPECTION FREQUENCIES FOR REGULATED EQUIPMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 153 (H.B. No. 2062, H.D. 2, S.D. 1, C.D. 2):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 153 was adopted and H.B. No. 2062, H.D. 2, S.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 156 (H.B. No. 2023, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Levin and carried, Conf. Com. Rep. No. 156 was adopted and H.B. No. 2023, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL INFRASTRUCTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

#### MATTER DEFERRED FROM EARLIER ON THE CALENDAR

#### FINAL READING

Conf. Com. Rep. No. 119 (S.B. No. 2409, S.D. 1, H.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 119 be adopted and S.B. No. 2409, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator D. Ige.

At 11:23 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:28 o'clock a.m.

Senator Sakamoto rose in support of the measure and said:

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

"Mr. President, this measure does two things -- one is tax credits for call centers, but also more importantly for the upgrade of our resorts, upgrade of our physical plant that may not be our new economy, Mr. President, but it may be half of our current economy. It's difficult to draw capital for any business. We've done tax credits for new economy measures and this is one of the two tax measures related to hotel tax credit, Mr. President.

"Obviously there are concerns where we as a state invest; where we as a state give tax credits. I believe serious thought needs to be placed on this measure. This is not a measure just to help investors, Mr. President. This is a measure to draw capital to our state with a very, very old tourist plant . . . that there are glimmers of hope, Duty Free and others, Hilton and others have started to put money in our system. But certainly, Hawaii has to compete globally, so my hope is that the powers to be would take a second look at this measure, and really look at the numbers, not just for construction jobs, but jobs for many of the people coming off welfare who don't currently have a job. For many people who are in the industry that fluctuates up and down, we need to have a physical plant for our tourist industry that's first class, Mr. President.



"This can draw much more capital so that we, indeed, can have a first class tourist industry.

"Thank you, Mr. President."

Senator Slom rose in support of the measure and said:

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

"You know, last year we embarrassed ourselves and embarrassed the Legislature by trying to provide a construction boost and an industry boost, and at the last moment the bill was not passed properly. It was flawed and the governor had a field day in attacking the Legislature for its ineptness.

"This year we took extra care and we listened to the industry and what we tried to do was to provide two alternatives to make sure that in fact we continue our growth, expand our growth, and at the same time create jobs. And that's what this bill is all about. As the good Senator from Moanalua said, it is a bill about jobs, not only for the construction industry, not only for the visitor industry, but it is direct and indirect jobs, employment, income, and wealth for the people of this state.

"The fact is that we listened to all the people in the industry and investors and everyone else and they told us over and over again that 4 percent was not a significant figure, and that 4 percent was not going to really help and provide the kind of impetus and investment and jobs that we so desperately need. And so this Senate worked very hard and the chair of the Economic Development Committee worked extremely hard to make sure that we were able to raise the bar or raise the limit, but we put additional conditions in it and a great deal of flexibility, and we gave the decision making to the governor based on the idea that an increase, a substantial increase, was going to help and benefit everyone including, as the Senator from Moanalua said, those on welfare as well as those on minimum wage.

"For the governor of the state to come out and attack the Legislature and individual legislators as he did last night and to talk about shamelessness and to talk about taking care of the rich . . . frankly, Mr. President, I'm a little tired that the chief executive of this state continues to try to pit people against each other and makes ad hominem arguments that do not make sense for political purposes only. The fact of the matter is, this is not for the rich unless you consider construction workers rich; it's not for the rich unless you consider those that have no jobs the rich. This is a bill to benefit the state and, like it or not, our only major primary industry at this time. And as we are transitioning to the so-called new economy, we've got a lot of old government and old economy to deal with. And this is the way in which to do it.

"If the governor doesn't like the bill on its merits, that's one thing. As I said, the bill provides the governor the greatest amount of flexibility. But to attack us, to attack individuals, and as I say to bring in income and wealth and to divide people, I think does a great disservice to this community and this state. So I vote proudly and in full support of this measure and urge all my colleagues to do likewise.

"Thank you."

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

Senator Anderson rose in support also and said:

"Mr. President, I'd like to say a few words in favor, please.

"I'm just a little concerned. I believe, like the Minority Floor Leader, that the administration gets upset when we pass a measure something like this. And yet we make a lot of hoopla

when we go out of state to try to get people to come here to invest their money and create new businesses. There is nothing wrong with legislation that will give tax breaks to our own people. We're creating jobs. We're putting our people back to work. We're taking care of our own island residents. I think that this is fair. It's just and it's something that we have been trying to do for a few years but have had no guts to do it.

"I think that if we pass this bill, the governor can decide whether or not he will veto it. Let the monkey be on his back. But I believe it's a good measure and I think you folks have done a creditable job to pass it.

"Thank you, very much."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 119 was adopted and S.B. No. 2409, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### FINAL READING

S.B. No. 2301, S.D. 2, H.D. 1:

Senator Kawamoto moved that S.B. No. 2301, S.D. 2, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senator Kawamoto rose in support of the measure and said:

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

"Mr. President, this used to be two bills at one time. Now it's one bill, and the bill defines the maritime lands and it provides the opportunity where we can say that Piers 1 and 2, as it's being planned and being worked on, are to be used by the maritime community but it will still be under the HCDA.

"So Mr. President, I urge all my colleagues, as far as efficiency is concerned, to please vote for this bill. 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. 2301, S.D. 2, and S.B. No. 2301, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2311, S.D. 1, H.D. 1:

Senator Kawamoto moved that S.B. No. 2311, S.D. 1, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun.

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

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

"Mr. President, this bill not only will provide for the safety of our young people, it will save lives. As a by-product, as we have tagged along this bill, we call it the 'Tanya Bill' in remembrance of the girl that died a couple of years ago, Tanya Shirai. So this bill not only provides the opportunity to save lives, but now it provides an opportunity for the Shirai family to again encourage a livelihood that their daughter has meant a lot to this bill.

"Thank you."

Senator Matsunaga rose in opposition to the measure and said:

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

"Mr. President, first let me commend the chair of the TIA Committee for consistently always pushing safety, safety, safety upon us. I commend his efforts. Just so there's no misunderstanding, I do strongly support safety measures and strongly encourage all parents to teach their children to buckle up, both in young childhood and as they grow into adulthood.

"One of the basic principles of our safety laws is that up to a certain age children need to be required by law to protect themselves because they can't make those decisions for themselves. And I would have and continue to support requiring, say, a 14- and 15-year-old to buckle up in the back seat, however, I cannot support this state mandate requiring all minors in the back seat to be buckled up. It simply is not consistent with the way we treat minors under existing law.

"And Mr. President, just to give an example of some of the inconsistencies -- if we pass this measure, with this bill a 13-year-old can legally ride in the back of a pickup truck but cannot ride unbuckled in the back seat of a car. A 15-and-a-half year old can get a learner's permit and later a driver's license, but the same teen must be dictated to when riding in the back seat as a passenger. With respect to 14-year-olds the state considers that teen close enough to an adult to be able to decide whether to ride with a drunken driver, to get a state ID card, to act on his or her own behalf in court, to take a job and not just as a child actor, and even to have juvenile records open to the public in some instances, yet Mr. President, this bill says that the same 14-year-olds are not old enough to decide for themselves whether to wear a seatbelt in the back seat of a car.

"Mr. President, we have tried to ensure consistency in our state laws and this bill does the opposite."

Senator Kawamoto rose and said:

"Just a slight rebuttal, Mr. President. I just want to make it known that if I had my way, all the minors would be up to 17 as far as safety is concerned. We need to protect our young people, protect our young people so that they can live a normal and healthy life.

"Thank you."

Senator Chumbley rose to speak against the measure and said:

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

"Mr. President and colleagues, I first want to say that I do also appreciate the work of the TIA chair in the area of safety. He has steered us down a path, but clearly, Mr. President, in this case that path is not one I believe that we should be headed down. The Senator from Palolo has identified all of the inconsistencies within this measure and the inconsistencies with other existing laws that we worked so hard to put into place for the protection of people.

"And Mr. President, the other portion of the bill that I think draws attention is the fact that we are more than doubling the fine in this area. The current fine for this violation is \$20. This bill will raise that fine to \$45. And Mr. President, if that 14- or 15-year-old is in the back seat of the car, it's not the parents that's responsible. It's that 14- or 15-year-old that has to pay the \$45 fine.

"Mr. President, in respect to the good Senator from Waipahu and to the individual, Tanya, for whom this bill is so named, I do hold compassion for the family and I hope that over time they will be able to heal, and that I do grieve the loss of Tanya also.

"Thank you, Mr. President."

Senator Slom rose to oppose the measure and stated:

"Mr. President, I, too, rise in opposition to the bill. This may be a historic day when the co-chairs of Judiciary and myself are in total agreement on something.

"I would reiterate that this is not a question of safety and it is not a question of lack of compassion for an individual, but it is a question of consistency as the good Senator from Palolo very clearly pointed out. We look at all of our laws and we look at all of the things and you can't tell whether somebody is in violation at age 18, 17, 12, 14, 15. We have to do something about that. That's what we have to do. We cannot have poorly drafted legislation or legislation which conflicts with other parts of it.

"I also was glad that the item was brought up about more than doubling the fine because there's no justification in doing that.

"And finally, I would say that if you refer back to HSCR 921 it says the bill requires back seat passengers under the age of 18, but if you look at HSCR 1357 it says between the ages of 4 and 17. I think there's going to be legal problems with this bill.

"Thank you, Mr. President."

Senator Matsunaga rose and said:

"Mr. President, just a short rebuttal. I just wanted to remind the Senator from Hawaii Kai that actually we were in total agreement with him on the doobie bill, medical marijuana. (Laughter.)

"Thank you, Mr. President."

Senators Iwase and Bunda then requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2311, S.D. 1, and S.B. No. 2311, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MANDATORY USE OF SEATBELTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 6 (Chumbley, Fukunaga, D. Ige, Levin, Matsunaga, Slom).

S.B. No. 2670, H.D. 1:

Senator Chumbley moved that S.B. No. 2670, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

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

"Mr. President, I rise to speak in favor of the bill with reservations.

"I'm a little concerned here because this has to do with the placement of names on the election ballot and it says that the name can either go to the left or it could go to the right and I'm very concerned about that, as you might understand. But then it also says that it could go anywhere that the equipment or the software determines. And I'm concerned that my colleague, the Minority Leader, the name Anderson might be somewhere between the P's and the Z's, particularly if Mr. Yoshina is allowed once again to contract unilaterally with the ES&S failed Machine Corporation, so I register my reservations.

"Thank you."

## FINAL READING

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2670 and S.B. No. 2670, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2766, S.D. 1, H.D. 1:

Senator Kawamoto moved that S.B. No. 2766, S.D. 1, H.D. 1, having been read throughout, pass Final Reading, seconded by Senator Tam.

Senator Chun rose and said:

"Mr. President, I would like to request if the lead chair would yield to a point of inquiry?"

The President posed the question and Senator Kawamoto having answered in the affirmative, Senator Chun continued:

"Mr. President, the proposed bill requires condominium property regimes to comply with all county zoning and 'development ordinances and rules.' My point of inquiry is what do the counties have to do to avail themselves of this authority?"

Senator Kawamoto replied:

"Currently, no county has enacted any development ordinance or rules specifically covering the condominium property regimes. If the counties were to avail themselves of the authority under this bill, they would have to adopt new development ordinances and rules covering the condominium property regimes."

Senator Chun then said:

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2766, S.D. 1, and S.B. No. 2766, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUM PROPERTY REGIMES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**MATTER DEFERRED FROM  
FRIDAY, APRIL 28, 2000**

**FINAL READING**

Conf. Com. Rep. No. 4 (H.B. No. 1947, H.D. 2, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 4 be adopted and H.B. No. 1947, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Hanabusa.

Senators Iwase, Slom and Anderson requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 4 was adopted and H.B. No. 1947, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FISHERIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 21 (H.B. No. 2491, H.D. 1, S.D. 1, C.D. 1):

Senator D. Ige moved that Conf. Com. Rep. No. 21 be adopted and H.B. No. 2491, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

Senator M. Ige rose in opposition to the measure and said:

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

"Mr. President, as long as I've been here I've always spoken against increase in any kind of school lunch fees. I believe it is part of our Democratic platform in terms of free education, equal opportunity, equal education for everyone. It does not depend upon where you live or what your religion is.

"Mr. President, this is one of the measures that define us. This is a tax, a tax on working people, not necessarily our age, but the generation that's right below us, our children who have children in school. I believe that school lunch prices should be allocated through the general fund and not from individual families. The A-plus program is on the increase; school lunch is on the increase. The argument at first was -- oh, it's just 5 cents or it's just 10 cents. Now Mr. President, it's one-third of the cost based on some formula based on three years ago -- 'The price for the school lunch shall be based on average cost of preparing the school lunch over the three years preceding the second year in the fiscal biennium.'

"Mr. President, my opposition is, as Democrats we need to form our philosophy, our platform, and I think we're getting lost because if it's 5 cents this year, a third this year, next year, why not the whole cost in five years. And A-plus, we can pay for the whole program. Let the people that are using it pay for the entire program. Pretty soon we'll be charging for library books. Pretty soon we'll be charging just to go to school. Going against everything that we as a party believed in back in the time of the Revolution. This is what I believe defines us. These are the issues, the small issues, the working people, the young people, the people who choose to live in Hawaii, that's their choice. And we should make it easy for them because they do have a future here. There is hope. But these are the issues that eat away at the fabric of who we are.

"And for that reason, Mr. President, I do not believe it is appropriate to raise the school lunch fees. Thank you."

Senator Slom rose in support of the bill with reservations and said:

"Mr. President, I rise to support the bill with reservations.

"Interestingly, I have to vote with reservations in a totally opposite manner from my good friend and colleague from Kaneohe, and that is I think just the opposite. We should require people to pay more than just one third of the actual cost. The reason we are so economically illiterate in Hawaii is because we think there is such a thing as a free lunch. And we're mixing up education and instruction and knowledge with food. We're adding more and more people to the food programs. We're subsidizing more and more people all the time. Now we have lunches and we have breakfasts; then we have A-plus, then we have after-school snacks. We have all these other things.

"If we're going to, as I said earlier, prioritize, then the priority should be on education, on the classroom instruction itself. And then let's talk about nutrition and let's talk about food from another manner, but it doesn't belong in the educational part of the budget. And in addition to that, as I said, the fact that we're only paying one-third of the actual cost

and complaining about that is an indication of what's wrong with our economy.

"Thank you."

Senator M. Ige rose and said:

"Rebuttal, Mr. President. This is my point exactly. This is the bright line between a Republican and a Democrat.

"Thank you."

Senator Anderson rose with reservations and said:

"Mr. President, I have the same reservations the Minority Floor Leader did. I attended public schools and I feel sorry for Mr. Kaneshiro who has to try to work out a budget. And there's nothing wrong with paying for your lunch. What's happened over the years is everybody has voiced different food preferences. My child is a vegetarian; my child doesn't like tuna fish sandwiches; my child wants hamburgers or Mexican food. School lunches have evolved into a fast food type of service for the school kids. For information for the good Senator from Kaneohe, I've had to get up in the morning and cook breakfast for my kids or make a lunch. I've seen other parents go down and buy a doughnut and a soda because they didn't get up early enough.

"The responsibility for children lies with the parents. And if cost increases, then it should be passed on to the consumers. I paid for school and I went to a public school. There's nothing wrong with paying for what you get. I recently visited a school that badly needs books. I went into an empty classroom with a whole bunch of books and during this interim I'm going to find out why.

"We must realize that there is a cost to everything; nothing is free. There's no such thing as a free lunch, ladies and gentlemen. So I agree with my colleague and I hope that Mr. Kaneshiro can find some way to get more than one-third because our budget dollars are scarce. Every time somebody comes here, they say you good people don't understand; we need more for human services; we need more for this. We need people to come here and fight to help the economy so that we can put more money into our general fund to fund other projects.

"Thank you very much, Mr. President."

Senators Buen and Tam then requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 21 was adopted and H.B. No. 2491, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL LUNCH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 3 (Hanabusa, M. Ige, Matsuura).

Conf. Com. Rep. No. 24 (H.B. No. 1763, H.D. 2, S.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 24 be adopted and H.B. No. 1763, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Buen rose in support of the measure and said:

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

"This bill was introduced last year at the request of my constituent on Lanai. Like S.B. No. 2311, relating to mandatory use of seat belts, named the 'Tanya Bill,' I'd like to call this bill 'Jennifer's Bill.' In this case, little Jennifer lived.

"She and her dad flew to Oahu from Lanai at their expense to tell the legislators in committee hearings about how the helmet saved her life. As a 12-year-old, Jennifer Ornellas' parents insisted that Jennifer wear a bicycle helmet. Whenever Jennifer took her bicycle out it became automatic that she put on her helmet. It's like buckling up with a seat belt. It's the law.

"Mr. President, fellow colleagues, Jennifer collided with a cement truck and that helmet saved her life. Today at age 17, Jennifer is an athlete scholar. She and her team on Lanai won the MIL Basketball Championship and this past weekend Jennifer qualified to participate in the state track and field meet.

"If we can save just one child's life like Jennifer's and put the safety of our children first, then as lawmakers we can say we have done a good job in protecting our keiki.

"Thank you."

Senator Slom rose in opposition to the measure and said:

"Mr. President, I'll be voting 'no' on this bill as well, for some of the same reasons that I gave on the mandated seatbelts. Here, we're talking about the age of 16 years of age. I'm concerned about who will enforce this law and how it will be enforced, as well, and the fact of the \$25 fine.

"Thank you."

Senator Anderson rose to speak in opposition as follows:

"Mr. President, I'm afraid I also will be voting 'no.'

"I feel that it's a very emotional bill. I listened to the people that came in. I did state in committee that we do pay for insurance for welfare recipients. Will the state need to pay for a helmet? If we don't pay for that helmet and the child gets hurt, we will be liable.

"I have two granddaughters that are riding bicycles right now. The parents bought them knee pads, elbow pads and helmets. I encourage the use of safety devices, but I believe that's our individual responsibility. But we should not mandate it by law.

"I think that we have to look at what we are doing. Because you put it into law, everybody is going to start saying I deserve this and the state should pay for it.

"Thank you very much, Mr. President."

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

"Mr. President, I rise in support with reservations.

"Mr. President, I used to ride a bike a lot and I believe I crashed and a helmet may have saved my life. I highly recommend all children and all people who ride bicycles wear a helmet. However, I feel we should pass laws that will be enforceable, Mr. President, and I feel laws like this are not enforceable because would you want to be the police officer that stops a three-year-old saying, I'm arresting you because you don't have your helmet. Would you be the police officer who speeds down the highway, along Kalaniana'ole Highway, following some bicyclist just to pull him over and say I'm arresting you or charging you for not wearing a helmet.

"So Mr. President, I believe awareness is great and, sadly, people get hurt, but I would not want to pass laws that are not enforceable and have the public just say, you can obey it if you like, they're not enforcing it."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 24 was adopted and H.B. No. 1763, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BICYCLES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 25 (H.B. No. 1881, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 25 was adopted and H.B. No. 1881, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO USE OF INTOXICANTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 26 (H.B. No. 2572, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Hanabusa and carried, Conf. Com. Rep. No. 26 was adopted and H.B. No. 2572, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO KANEOHE BAY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 27 (H.B. No. 749, H.D. 3, S.D. 2, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 27 be adopted and H.B. No. 749, H.D. 3, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose to speak against the measure and said:

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

"I have supported the dietitians licensure process; I support everything that they have stood for and asked for. There's only one thing, as you know, that I cannot support, and that is the creation of a special fund. And I'll make my remarks for this special fund which will apply to all the others that I will be voting 'no' on today.

"Again, special funds are an aberration to the budgetary process for understanding truly how the money is taken in and taken out. We have watched over the last several years the disregard of special funds which are earmarked funds for a special purpose. Money is put in there for beautification, for safety, or for something else, and then that money has been drained out of there and put into the general fund to pay for salary increases or to pay for other general matters. Thus it robs the people who believe that they were paying for something and supported what they were paying for, the right to know exactly where that money goes.

"And then when the special funds are drained, as is the current situation with the highway special fund, the department comes back and says we don't have enough money and therefore we have to raise the taxes. So because of this and other reasons, I consistently try to oppose any and every newly created special fund.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 27 was adopted and H.B. No. 749, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

DIETITIANS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

At 11:59 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:55 o'clock p.m.

Conf. Com. Rep. No. 34 (H.B. No. 1925, S.D. 1, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 34 be adopted and H.B. No. 1925, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Matsunaga rose in support of the measure and said:

"Mr. President, I know there was some concern expressed about this measure with respect to limiting charitable contributions. I just want to clarify that we did make the limit for donations per election cycle tie to the individual contribution limit, which means that a Senator can get \$4,000 in charitable contributions per election cycle. This amount should easily allow for contributions to school huli huli chicken fund raisers, Christmas tree sales, etc. A Senator can also lend his or her name or prestige to help a charity for fund-raising and to have the money go straight to the charity instead of being diverted through the Senator's campaign funds.

"I thought I'd just give you a little poem about this bill (laughter):

Campaigns are fun, we all love to win  
But diverting your funds is really a sin  
Ads, brochures, or buttons are fine  
But seeding the community leaves some sighing  
Timon and Pumbaa, say Hakuna Matata  
And campaign spending has Bob Watada.

"Thank you, Mr. President." (Laughter.)

The motion was put by the Chair and carried, Conf. Com. Rep. No. 34 was adopted and H.B. No. 1925, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 35 (H.B. No. 1912, H.D. 1, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 35 be adopted and H.B. No. 1912, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kanno.

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

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

"Mr. President, this measure clarifies what our rental car companies may recover in the event the rental vehicle is damaged. I understand this measure attempts to create fairness to protect the consumer, however, I'm uncomfortable with the section that allows the rental company to charge the customer for lost income while the car is being repaired. I believe there should be parameters as to how much that should be in relationship to the damage. For example, if the claim for a minor dent is \$200, can the car company charge the consumer \$400 for loss of income while the car is being repaired? If it's a major repair, can the car rental company charge the consumer

for a month of lost income? And obviously the consumer is not in control of how long this lost income goes on.

"I would hate for people from Kauai, Maui, or the Big Island to come for a vacation or work and find that they are faced with high lost income charges for a vehicle that's damaged. And obviously some of us have insurance, but most people do not have the coverage for lost income and will have to pay this themselves unless they have a special rider on their insurance policy.

"We should therefore make this law as clear as possible, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 35 was adopted and H.B. No. 1912, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 37 (H.B. No. 2476, H.D. 1, S.D. 2, C.D. 1):

Senator Nakata moved that Conf. Com. Rep. No. 37 be adopted and H.B. No. 2476, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kanno.

Senator Slom rose to oppose the measure and stated:

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

"The bill mandates that the provider conducting an independent medical exam, an IME, under no-fault, be of the same specialty as the treating provider whose treatment is being reviewed. And IMEs are important, helping to manage very complex cases in which a patient is not improving from his or her medical condition or injury under workers' comp or under the no-fault system. And IMEs also serve an important cost saving function in that they help to discourage unnecessary and inappropriate care.

"This legislation will limit the ability of the employers and insurers to obtain expert opinions on the medical care given to a patient. And for these and other reasons, I think it is a bad bill and I think it will harm a lot of people. I'm voting 'no.'

"Thank you."

Senators Sakamoto and Matsuura requested their votes be cast "aye, with reservations," and the Chair so ordered.

Senator Anderson rose in opposition and said:

"Mr. President, I'll be going 'no' for the same reasons as the Minority Floor Leader.

"Thank you."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 37 was adopted and H.B. No. 2476, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, 4 (Anderson, Bunda, D. Ige, Slom). Excused, 1 (Iwase).

Conf. Com. Rep. No. 38 (H.B. No. 2774, S.D. 1, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 38 be adopted and H.B. No. 2774, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chumbley.

Senator Slom rose to support the measure with reservations and said:

"Mr. President, I rise to speak in support of the measure with reservations.

"I'm all for breastfeeding. I'm all for the rights of women and mothers to feed their children as the case may be. However, there was a great deal of time and effort put into this bill to try to make it a civil rights violation to confer the civil right of breastfeeding and to have initial heavy fines and penalties. And I think the way it is right now, it still authorizes penalties of not less than \$1,000 or treble damages.

"I think that we are going too far in managing the workplace and also public places in terms of trying to carve out special niches for special considerations. I certainly think that we should all be much more tolerant and understanding, but the way to do that is not through the penalty phase as this bill implies.

"Thank you."

Senator Chumbley rose in support of the measure and said:

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

"Mr. President and colleagues, with regard to the comments from the Senator from Hawaii Kai, I do want to clarify that the amendments proposed in this bill are not in any way connected now to the Civil Rights Commission. While the measure amends and creates a new Part 2 to Discrimination in Public Accommodations, Section 5 and Section 6 of the bill entirely disconnect this measure from any oversight by the Civil Rights Commission and no longer provides the remedies generally associated with the Civil Rights Commission. It simply allows for a private cause of action and a maximum fine of \$100 with reasonable attorney fees that can be taken to the Small Claims District Court provided in Chapter 604.

"So colleagues, this measure no longer has the teeth that some feared."

Senator Anderson rose to speak with reservations as follows:

"Mr. President, I do have reservations on this bill.

"I am really concerned about the reasons for initiating this bill. A woman believed it was her right to breastfeed if she wanted to and no one could tell her otherwise. It concerned me that we legislate what a few believe is their right and yet ignore anybody else's right as to what they do, moreover, to allow a person to sue if they so feel just to do it. And that concerns me because I don't have any qualms about breastfeeding, but yet if somebody felt that I objected in some way in my business, they might sue me. For that reason I will have reservations.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 38 was adopted and H.B. No. 2774, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISCRIMINATION IN PUBLIC PLACES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 41 (H.B. No. 2429, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Tam, seconded by Senator Chun and carried, Conf. Com. Rep. No. 41 was adopted and H.B. No. 2429, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 47 (H.B. No. 2506, H.D. 1, S.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 47 be adopted and H.B. No. 2506, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chumbley.

Senator Slom rose to support the measure with reservations and said:

"Mr. President, I rise to support the bill with reservations.

"It seems that this session is not only the education session but also the background check session. I'm not sure why we actually need this bill, as a matter of fact, because we seem to have enough requirements, restrictions in place right now making it extremely difficult for adoption to take place. And the background checks that are talked about in this bill, it's my understanding that we're already doing it right now. This and the kinship bill, I think, involves more of an overkill than anything else.

"I'm just wondering if this kind of bill is going to do anything to find Peter Boy or anyone else who's missing at this point.

"Thank you."

Senator Chumbley rose in support of the measure and said:

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

"Mr. President, colleagues, just to clear up another misunderstanding . . . prospective adoptive parents and the background checks that are being mandated through this bill are federal requirements. If we do not adopt and allow the Department of Human Services the statutory authorization to be able to do these background checks, then the children of our state will lose out because they will not be able to be placed under adoption.

"So therefore I urge all my colleagues to support this measure. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 47 was adopted and H.B. No. 2506, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROSPECTIVE ADOPTIVE PARENTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 48 (H.B. No. 2098, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Chumbley and carried, Conf. Com. Rep. No. 48 was adopted and H.B. No. 2098, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

## MATTER DEFERRED FROM THURSDAY, APRIL 27, 2000

### FINAL READING

Conf. Com. Rep. No. 51 (S.B. No. 2513, S.D. 1, H.D. 1, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 51 be adopted and S.B. No. 2513, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Nakata.

Senator Slom rose to speak against the measure and said:

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

"Several years ago we doubled the conveyance tax and the explanation given at that time was that the bureau needed additional computer hardware and software. They needed to catch up and they needed to become more efficient. And then we talked about raising the tax again. Now, what we're talking about doing is broadening the use of that tax which was to pay for the actual recordation process itself.

"Now we're getting into environmental and non-recording areas and issues. And I'm afraid that right now what happens, I think that the department is generating, according to my notes, \$21 million but it is required to provide funds for other than the recording process and I'm afraid that what we're going to see in a number of years is that the bureau is going to come back and say that they need additional money because the money is being diverted into other functions. So I see this as a potential tax increase and away from the original purpose of the tax in the first place.

"Thank you."

Senator Anderson rose to speak with reservations on the measure and stated:

"Mr. President, I, too, have some concerns. I'm going to go 'WR' primarily because the department needs to stay afloat. But exactly what the Minority Floor Leader said is true. They do generate some \$21 million from their document fees. And since we passed the last increase, they now have some 30-odd percent going for other uses than their own. If we continue to do this, then they're going to have to come back and start charging the consumer more for the documents that we're going to need.

"So I have a deep concern about this bill because it's not for the needs that we normally do. It's for environmental purposes that we do have in different departments for the environment that they could get that money from, rather than go to the Bureau of Conveyance. That's not what it was there for.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 51 was adopted and S.B. No. 2513, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

## MATTER DEFERRED FROM FRIDAY, APRIL 28, 2000

### FINAL READING

Conf. Com. Rep. No. 55 (S.B. No. 2837, S.D. 1, H.D. 2, C.D. 1):

Senator D. Ige moved that Conf. Com. Rep. No. 55 be adopted and S.B. No. 2837, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Nakata.

Senator D. Ige rose in support of the measure and said:

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

"Mr. President, a few months ago this session opened with everyone calling for increased educational accountability as a cornerstone of this session. I am glad to report that we have achieved this measure.

"Senate Bill 2837 fully empowers the superintendent of education to design and implement a comprehensive educational accountability system that will provide a foundation for greater student achievement.

"The superintendent has stated that an educational accountability bill must provide four key elements:

1. It must be collaborative, including all stakeholders in the discussion for the design and implementation of the system;
2. It must provide for multi-party conversations and get away from the paired (quid pro quo) negotiations of collective bargaining;
3. It must be separate and apart for the ongoing contract negotiations of each of the labor units; and
4. It must be innovative and provide support for innovation for changes, necessary changes in our education system.

"Mr. President, there has been much comment about this bill in the press and I would just like to set the record straight. This measure is a result of collaboration without compromise. Chairman Ito and I called all those involved and basically said, we will be working to draft a measure that meets all of the superintendent's requirements with no compromise. This is the only measure drafted this session that meets all of the requirements of the superintendent in what he needs in an accountability system.

"Features of Senate Bill 2837 include:

1. It fully empowers the superintendent to design and implement an accountability system;
2. It requires a collaborative process involving all stakeholders to design and implement the system separate from collective bargaining;
3. It limits negotiations and collective bargaining to the impacts on personnel arising from the implementation of the accountability system. Surely, Mr. President, each and every one of our public employees are entitled to due process when it comes to sanctions;
4. It establishes a firewall between negotiations involved with accountability and the ongoing contract negotiations. Issues will only be allowed to cross the line upon mutual agreement; and
5. It requires annual assessments in core subject matters for all students.

"For many years, we have said that we need to know where we stand in order to measure progress. This measure assures that we will get progress reports on each and every child in the core subject matters, each and every year.

"Mr. President, I would also like to publicly thank Chairman Ito and the superintendent and representatives from UPW, HSTA, and HGEA for their willingness to put the children of Hawaii first.

"I think this is a measure that we can all be proud of and I urge all of you to vote in support.

"Thank you."

Senator Slom rose in support of the measure and said:

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

"I just want to say that I think it too is a good bill and I compliment the Conference chairs although I do look at it a little bit differently. I think that firewall could be a barrier as well as a protection.

"I would just like to repeat what I repeated earlier on the floor of the Senate, and that is, this was a buzz word for this year, accountability, and we should not think or let other people believe that we are just singling out one group -- teachers or anyone else. If we're talking about true accountability, then the governor must be accountable, both houses of the Legislature must be accountable, and the cabinet level officials and appointees all must be accountable to the public, to the taxpayers that pay all of the bills and bear all the burdens.

"I think that is the message that we have to get across loud and clear. Thank you."

Senator Anderson rose in favor of the measure and said:

"Mr. President, I, too, rise in favor.

"I did promise the teachers and others that we would most certainly watch this bill and make sure that they weren't the only ones we should expect accountability from. As legislators, I think there's a group over the years that has not been accountable, and that's a shame because we are not accountable to the constituents and we're not accountable to those very people that we should.

"I remember when running for a particular political office, candidates were asked by constituents what we would do for them. Each candidate stated he or she would give them a budget if they could. I wrung my hands because I knew that's what the constituents wanted to hear. I told them I wouldn't promise monies during these tough economic times. There's no way in the world I could have promised any group money when the state's treasury is barren. Consequently, I lost and somebody else won, and they didn't get a budget anyway.

"And that's the problem that exists. You go out; you talk to people; you tell them what they want to hear. You don't tell them facts. You don't tell them the truth, and that's not being accountable, my colleagues.

"There's a whole group of us running this year for different offices. When you talk to the different people, you'll be talking to teachers, attorneys and whatever it may be. And I think you should tell them exactly what the facts are and not what they want to hear. You may or may not get elected, but there's nothing better than being able to look in the mirror and say, 'Well I did the damn best I could.'

"So for that reason, I think it's a good bill, and I think the teachers have done everything they can. I strongly believe our public school teachers are accountable to the students that they are taking care of.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 55 was adopted and S.B. No. 2837, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATIONAL ACCOUNTABILITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

**FINAL READING**



Conf. Com. Rep. No. 61 (S.B. No. 2121, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 61 was adopted and S.B. No. 2121, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO OBSOLETE LAWS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 63 (S.B. No. 680, S.D. 1, H.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 63 be adopted and S.B. No. 680, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chumbley.

Senator Kawamoto rose in support of the measure and said:

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

"I don't know what I can say from what we haven't said about this. To do it justice, I need to say something about the effort that was put into this bill, so I will say a few words here.

"We took a stand on the desire to look at fireworks as a health and safety issue. We went forth and we proceeded to look at trying to limit some fireworks. Therefore, we used fireworks, non-aerial fireworks, only for cultural purposes, specific dates, and banned the general use of aerial fireworks. When we say cultural purposes, we included the arts, customs, traditions, mores, and history of all various ethnic groups of Hawaii.

"We particularly were interested in ensuring that we had a statewide control. We clearly defined where and when non-aerial fireworks can be used, allowed the purchase of five days prior to use, and limited the use to a maximum of 5,000 firecrackers. We did increase the penalties for violations.

"Mr. President, we also wanted to ensure that aerial fireworks were banned. We agreed to ban the general use of aerial fireworks, allowing only licenses and only for authorized displays. We made sure that the penalties are strict enough to ensure this.

"We made sure that possession was a concern. Anything below 25 pounds of aerial fireworks was a misdemeanor, possession of 25 pounds or more was a Class C felony, \$10,000 fine, five years in jail.

"We attached significantly high fees for importers, wholesalers, retailers and special fireworks because we felt that the harbors was an area we could look at. Previously, \$110 was the fee. Now we have an importer fee of \$3,000; a wholesale fee of \$2,000; retail for each site, \$500; storage, \$1,000; a permit fee of \$25; and special displays fee of \$110. Counties will issue the permits and keep the permit fees.

"We clearly defined shipping, licensing, storage requirements and spelled out accountability of all parties concerned. The state and counties will have the joint responsibility to enforce the new law, and distribution of the fines will be an 80/20 formula -- 80 percent going to the counties, 20 percent to the state fund.

"Mr. President, this bill has been three years in the making. We have agreed on details for this very important issue, the effects of health and safety for the well-being of the entire island community. I'd like to thank all those involved with it, especially the SMA staff who probably drafted this bill about ten times. I'd like to thank the Conference chairs and also the House members who worked on this bill, and you, Mr. President, and the Speaker.

"I urge all my colleagues to vote 'aye' on this bill.

"Thank you very much."

Senator Tam rose in favor of the measure with reservations as follows:

"Mr. President, I stand to speak in favor of this bill with reservations.

"Before relaying my reservations with this C.D. 1 of S.B. No. 680, I wish to acknowledge the efforts of the Senate conferees to make the use of fireworks safe throughout the State of Hawaii. It is a tough task when conferees must respect Hawaii's multi-cultures and religious practices, deal with health and safety concerns, and deal with people who are emotionally, emotionally against fireworks. Thus, the fireworks bill before us today needs to be amended again next year because of some errors in the proper use of fireworks, especially for the Chinese culture and religious uses.

"The errors in the fireworks bill are as follows:

1. There's no provision for burning fireworks for Chinese religious occasions -- the bill is silent.

"Although there is permissible burning for culture under the restricted guidelines, Chinese religious practices are not considered culture. For example, one would not consider singing religious songs in church as culture. Thus, there will be illegal burning of fireworks in accordance to the way the bill is written and many, many Chinese, as it currently stands, will be arrested because of the faults of some of the laws.

"Laws cannot be established in observance of religious practices in accordance to the Constitution of the United States and the State of Hawaii. Let me read the definition of religion according to the **Black's Law Dictionary** -- religion: man's relation to divinity, to reverence, worship, obedience and submission to mandates of supernatural and superior beings. Let me also read, at this time, from the Constitution of the United States which reads in Article I, dating back to 1791: Congress (in this case) shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or of the right of the people peaceably to assemble and to petition the government for a redress of grievances. Let me also take hand of the Constitution of the State of Hawaii (it's very similar). It's under the heading of Freedom of Religion, Speech, Press, Assembly and Petition, Section 4 of the Constitution of the State of Hawaii: No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

"The second reason why we have an error in this bill . . . and once again, I cannot fault the conferees. It takes time to learn about the culture and religious practices of any ethnic group. The second reason for the flaw is:

2. The bill is restrictive in accordance to the Chinese cultural practices.

"The limitation in fireworks purchase, quantity, and the requirement of a fee for all permits encourage the illegal buying and burning of fireworks. Thus, a growing black market -- a black market -- will be encouraged in Hawaii.

"Let me give you an example of what I had experienced. I belong to a Chinese society called Kit An Society. It so happens that I am the president this year. It's a mason society, a religious organization. Every other month, in the clubhouse located on Maunakea Street in a two-story building, we have religious practices and we burn about six packs of firecrackers.

We use a furnace to burn it in. We do it in front of an altar, so we have three alters there and we burn it. What's going to happen with the passage of this bill? Hopefully the police force will not take it into consideration, because many of the Chinese religious organizations would be arrested. Thus, because of these two problems, the police will have difficulty in enforcing the new law.

"During next year's Legislative Session, if you don't mind our sincerity, please expect proposed legislation from the Chinese community to correct the errors. We want to work hand in hand with the legislature and the governor. I have been requested by the Chinese community to organize a legislative committee to correct the errors. The Chinese community would have preferred this bill to sanction a committee of representatives from various multi-culture and religious organizations to formally relay to the legislature and the governor in the usage of fireworks for culture and religious practices.

"Quite frankly, I understand in terms of the emotions out there. Many of you feel like you are up against the wall and in a corner by those who are screaming and yelling and writing letters, making phone calls. So I can't blame you, truthfully. But please, if you don't mind, be patient and we'll correct the law.

"On the positive side, I want to thank all of you for correcting a long, long outstanding error in our Hawaii Revised Statutes. I tried to do it before, but this is a very emotional issue on fireworks. The error was in the proper time the Chinese observe the burning of fireworks for Chinese New Year. The Chinese burn fireworks on Chinese New Year's Day before the first meal and before the family dinner -- not on new year's eve like the American eve.

"I want to especially thank the Senator from Waipahu, God's country, for the burning of fireworks on Chinese New Year at the right times as indicated in the current proposal before us. In fact, the Chinese community thanks you, Senator Kawamoto, for this.

"Thank you."

Senator Chun Oakland rose in support of the measure and said:

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

"I wanted to extend my appreciation to the chairs of the Senate as well as the House on this Conference Committee in coming up with a very good bill. I did want to express the hope that next session we do look at the provision with regards to Chinese New Year. Unlike my colleague who previously spoke, there are many in the Chinese community who observe the burning of firecrackers prior to the start of the Chinese New Year, and if you understand the practice, it is to ward off certain evil spirits prior to the new year starting so that the new year is a good year.

"So I hope that next session there will be consideration to either revisit this particular part of the law or to expand it back to what was originally identified from 9:00 p.m. to 1:00 a.m., or to extend it from what is now in this bill, 7:00 a.m. to 7:00 p.m., to accommodate what is usually practiced in the New Year's Eve so it would be from 9:00 p.m., Chinese New Year's Eve until what I believe my colleague is expressing as during the New Year's Day.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 63 was adopted and S.B. No. 680, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 1:29 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:30 o'clock p.m.

Conf. Com. Rep. No. 67 (S.B. No. 2850, S.D. 1, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 67 be adopted and S.B. No. 2850, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chumbley.

Senator Slom rose to support the measure with reservations and said:

"Mr. President, I rise to support the bill with reservations.

"My reservations are similar to those of the foster parents bill. I believe that in some ways this bill is ambiguous and it infringes on the rights of families and erodes various cultural family practices with more government involvement here. And I'm just wondering -- if we continue this trend of criminal background checks in this matter, that we soon might get to the point where we have childless married couples forced to undergo criminal background checks before the state will permit them to procreate.

"Thank you, Mr. President."

Senator Anderson rose to speak on the measure with reservations as follows:

"Mr. President, I will vote with reservations. I'd really like to vote 'no,' but this is almost like the breastfeeding bill.

"In the Hawaiian culture, the 'ohana' would 'hanai' a child. Now, the bill requires you have to have sworn statements. It's now called kinship and if you for any reason have a background that doesn't satisfy anyone, you can't take a child into your home. It's getting to the point where people are afraid to take care of their own family's children.

"And now you have to have so many square feet per child; you have to feed them certain kinds of food. That's what this bill does, Mr. President. The bill defines kinship boarding homes . . . with grandparents, brothers, sisters, aunts, uncles. Why do we need bills to take care of a family's child?

"It really bothers me that we try so hard to pass something every year and instead of making it easier on the people of Hawaii, we make it more difficult although we think it's such a simple thing to do. And it's not that simple. It's burdensome. It becomes cumbersome. Somebody will turn somebody in, and they'll say, didn't you know that uncle was in prison. So what? He happens to be an uncle. He'll take good, good care of his brother's or sister's kids. That's the way things happened years back.

"And I know that the chairman will say something. I have those reservations, Mr. President. And I think we're going backwards rather than forward.

"Thank you."

Senator Chun rose in support of the measure and said:

"Mr. President, I stand in favor of the bill.

"Mr. President, while I appreciate the comments from the Senator from Waimanalo, I agree with some of his concerns about the government interfering too much. I agree with the statements in terms of getting too involved with the time-

honored traditions of 'hanai' not only in the Hawaiian culture but also in the Filipino culture where that kind of relationship of sharing responsibility for raising children are there, but this bill does not even attempt to do that. This bill only concerns situations where family members are boarding a child for a fee or a charge. That is not and has never been part of the 'hanai' process. I don't believe this bill tries to get involved with that only in situations where there is a charge involved.

"So I don't believe the concerns raised by the honorable Senator from Waimanalo are contained in this bill."

Senator Anderson rose and said:

"Short rebuttal, if I may.

"By putting in a bill like this, Mr. President, it is the same as baby-sitting, as I said earlier. Some people had a fee; some didn't. By passing out a bill like this, people will think, 'well, if I'm going to do something, I might as well get a fee.' And they're going to have to undergo all of this so they might as well charge for it. They're not going to take a child for no reason into their home if they're going to be subjected to everything.

"Thank you very much."

Senator Chumbley rose in support of the measure and said:

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

"It appears that we need some additional clarification, and I would like to encourage our members across the aisle to participate in these discussions when we are hearing these measures and maybe we wouldn't have to have this misunderstanding on the floor.

"This kinship care bill applies only, only in a situation where the state has custody of a child through a court order. It is similar to a foster home care situation where that child is placed in a foster home under a court order and is a ward of the state. Under this kinship care proposal, what we are attempting to do is to create a process that will allow for the families and first degree consanguinity, which is the Senator from Moanalua's favorite term, to be able to take that child into their home and have some deviations from the standards.

"Under the foster home care law right now, you have to have a certain amount of square feet; you have to have a certain bed configuration; you have to have a certain amount of criteria you meet. What this bill simply allows is for families -- for grandparents, for aunts and uncles -- to get involved in a foster home care situation when the child is in custody of the state. It in no way impacts 'hanai' or any other family member that wants to take care of the child for another member of their family. This is a good thing to do and this will give the Department of Human Services more options in placing children into homes where there is a caring, loving relationship.

"I ask all my colleagues to support this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 67 was adopted and S.B. No. 2850, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO KINSHIP CARE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 69 (S.B. No. 2154, S.D. 1, H.D. 1, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 69 be adopted and S.B. No. 2154, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

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

"Mr. President, I rise in support with reservations.

"Mr. President, my reservation is related to this dating relationship which would be added to the family or household member definition, so to speak. I believe the family is a basic unit that we want to protect differently from other units. This extends what family or household member means to now start to include dating relationship, which 'means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.'

"Mr. President, family and household member should be family and household member and not all the etceteras."

Senator Slom rose with reservations and said:

"I couldn't have said it better myself. Reservations, Mr. President.

"Thank you."

The Chair so ordered.

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 69 was adopted and S.B. No. 2154, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROTECTIVE ORDERS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 71 (S.B. No. 2151, S.D. 1, H.D. 1, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 71 be adopted and S.B. No. 2151, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Matsunaga rose and said:

"Mr. President, I just want to clarify some points about this measure. There've been a couple of misstatements in the press about it.

"First of all, this bill does not create a task force to study the firearms issue, rather, it has two major components: (1) it improves some areas of existing firearm laws; and (2) it creates an action coalition to better enforce those laws.

"Specifically, this measure improves the process for surrender or disposal of firearms owned by persons who no longer qualify to own them. It improves the process for providing mental health information to the police for the purpose of evaluating an applicant's fitness to own a firearm. And it improves the role of our courts in notifying county police departments when a person has been ordered to surrender or dispose of firearms.

"In addition, Mr. President, the revised measure establishes a multi-agency coalition charged with reducing violent firearm crime. The coalition will accomplish this through prevention, deterrence and maximum effort and investigation, arrest, detention, and enhanced prosecution. Mr. President, this is an action coalition that will make the best use of existing resources. It is not a study task force.

"A similar coalition has been highly successful in the Seattle area, ensuring better enforcement, more consistent sentencing, and cooperation among various law enforcement agencies. The Seattle coalition was based on the model of violent firearm crime coalition guidelines created by the International Association of Chiefs of Police. These guidelines include the specific objectives and recommended action steps.

"Mr. President, S.B. No. 2151 does charge the coalition with making recommendations in a couple of areas. However, their primary focus will be on reducing firearm crimes.

"Thank you, Mr. President."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 71 was adopted and S.B. No. 2151, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREARMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 72 (S.B. No. 3133, S.D. 1, H.D. 1, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 72 be adopted and S.B. No. 3133, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

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

"Now I'm the poster boy for the prostitution zones. (Laughter.)

"Mr. President, I speak in favor of the bill with reservations.

"We have expanded the zones of prostitution free areas within our county, but the thing that bothers me is, first of all, we don't have a government interaction or interference zone anywhere. This bill specifically allows police officers to arrest without warrant any person within the zone where the officer has probable cause to believe that the person has committed or is engaged in prostitution related activity, and further allows the police to detain a defendant without bail until a hearing is held. I think this is too much of an incursion on the civil rights of an individual.

"Thank you."

Senator Bunda rose in support of the measure and said:

"Mr. President, I rise in favor of the measure.

"I'd like to thank the chairs of the Judiciary Committee for their support in the passage of this measure.

"Mr. President, for years residents of our community in Wahiawa have been plagued with the problem of prostitution. As we all know, a high level of prostitution is nearly always associated with other criminal activities such as theft, robbery, assault, and drug abuse. In recent years, two transvestite prostitutes soliciting sex in the area were brutally murdered.

"Our neighborhood patrol, and I participate in that patrol, really has tried to curb some of these illegal activities in our community and the efforts by the HPD to crack down on prostitution really has had some limited effect. Supportive testimony from the HPD indicated that geographic restrictions like Waikiki, established in the bill, would increase the establishment of law enforcement efforts.

"Mr. President, back in 1998 we had provided for the creation of a prostitution free zone in Waikiki which has been really successful. Recently, the City Council really tried to enact an ordinance to extend the ban to Chinatown and also to Wahiawa, but there was found some conflicts between the city ordinances and also the HRS.

"This bill, Mr. President, really clarifies the uncertainties. Any City Council may enact some of the ordinances upon the recommendation of the City and County Police Chief.

"Mr. President, regarding the issue on bail restriction, this measure is no different than the street solicitation of prostitution for Waikiki. Any person who violates this section may be granted bail, but that bail shall be revoked if the person returns to the geographic restriction area while awaiting a hearing or on probation. This is meant to deter the recurrent problem of prostitutes establishing their territory in Chinatown, in Wahiawa, or Waikiki, or anywhere else that the chief of police determines to be a problem.

"Mr. President, I urge all my colleagues to vote 'yes' on this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 72 was adopted and S.B. No. 3133, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Fukunaga).

Conf. Com. Rep. No. 73 (S.B. No. 2722, S.D. 1, H.D. 2, C.D. 1):

Senator Hanabusa moved that Conf. Com. Rep. No. 73 be adopted and S.B. No. 2722, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator D. Ige.

Senator Slom rose on a point of information as follows:

"Mr. President, a point of information.

"Has this bill been introduced and gotten this far by a Republican? (Laughter.) If so, Mr. President, this could be a dangerous trend if bills like this are allowed to be heard and actually pass. I might have to speak against it.

"Thank you."

Senator Chun commented:

"Mr. President, the sponsor of that bill was a Hawaiian first before he was a Republican." (Laughter.)

The motion was put by the Chair and carried, Conf. Com. Rep. No. 73 was adopted and S.B. No. 2722, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN LANGUAGE IMMERSION PROGRAM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 78 (S.B. No. 2729, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 78 was adopted and S.B. No. 2729, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SERVICE CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 79 (S.B. No. 2819, S.D. 1, H.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 79 be adopted and S.B. No. 2819, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Tam rose for a conflict ruling as follows:

"Mr. President, I wish to declare a possible conflict of interest. I sell life insurance."

The Chair ruled as follows:

"No conflict, you may vote on this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 79 was adopted and S.B. No. 2819, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 82 (S.B. No. 2467, S.D. 2, H.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 82 be adopted and S.B. No. 2467, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

"Mr. President, I rise to speak in support of the bill with strong reservations.

"Some people believe that the unlicensed contractor situation in Hawaii is a major problem and growing because there are more individuals engaging in contracting business. I think it's a sign of the economic times -- even though our governor continues to tell us that things have turned around or are expanding -- that more and more people are finding it more difficult to actually work and to do jobs related to construction, even small construction projects.

"We have had unlicensed contractor measures on the books for a number of years and they have not been enforced. Now what we're doing is we're taking laws that have not been enforced and we're escalating them to the point where we're adding forfeiture, forfeiture of tools which are very broadly defined for people that are working, the same as we do for drug dealers and other people. We're making the argument that because an unlicensed activity exists, it is per se fraudulent and deceptive. And in fact that is not the case whether we're talking about contractors or other people. The fact of a license does not guarantee that there will be no fraud, deception, or problems created. The lack of a license does not guarantee that there will be fraud or deception or other practices.

"I think that we also have a problem within this bill because it mentions fraud and deceptive practices, but does not in fact define them within the bill itself. But I think my main concern is that there are an awful lot of people that are working and are in fact paying taxes. They are not paying the same kinds of taxes that larger licensed contractors with employees are paying -- notably, workers' compensation, TDI, prepaid health, and so forth -- because they're working on their own and they're doing smaller jobs.

"The remedy of confiscating their tools, particularly without a clear understanding that in fact there had been fraud or

deception, I don't think that serves the community interest and it certainly doesn't serve the interest if we're trying to get people off the unemployment rolls and welfare rolls and so forth.

"I support the idea of protecting consumers. I support the idea of having all businesses, including contractors, being on the same footing and being responsible for the same laws, but the fact of the matter is there is a difference between a large business and a small business, a corporate business and a sole proprietor, and I don't think that the link has been established here between fraud and deceptive practices and unlicensed by itself. And I do think that the remedy is too harsh in terms of the broad definition of forfeiture.

"Thank you."

Senator Sakamoto rose in support of the measure and said:

"Mr. President, I rise in support of the measure and just briefly in response to some of the comments made.

"I agree that the laws were not enforced as they should be and part of the enforcement action to make it more timely and in essence more enforceable was a measure such as this. There were many times where homeowners suffer because jobs are not completed, jobs are done poorly, money is taken before jobs are even started. And yes, not all of this is because somebody is licensed or unlicensed. But so many times it is because it's unlicensed. The licensees do come before the contractors license board and other parties, and there are remedies for the homeowners or businesses, but for the unlicensed, there are no remedies. This would aim to make the law more enforceable.

"For someone working on their own, Mr. President and colleagues, I believe that's a good thing. Many contractors who are licensed started working on their own, paying the taxes, getting a contractor's license. I believe many of the skilled people who are now currently unlicensed can be licensed and should avail themselves to the laws to become a legitimate business, even a single employee, just himself, and be a law abiding citizen of our state."

Senator Anderson rose to speak with reservations on the measure and stated:

"Mr. President, I do have some reservations.

"When we were in the committee hearings I did understand that it sometimes is cumbersome to get a contractor's license. But one of the things that I later discovered regarding men and women as handymen and women is a ceiling that they can charge. What I understand is that they have people who have told them that a person goes out to do a job and then the customer will ask, would you go ahead and pay for the ceiling fan or could you purchase this. So they put their money up front. Then they turn around and that person turns them in for not having a license, not completing the job. They go to court and they lose, and they lose all their up-front money.

"So there are some cases that you have to watch the very people who hire you because they in fact can drive up the cost, and then the person who is doing the job does not get their money back. And they are not really doing a contractor's job. It's more of a handyman type of job.

"Thank you very much, Mr. President."

Senator Matsunaga rose in support of the measure as follows:

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

"Mr. President, I just want to clarify a point in this bill. The Senate version when it passed had a provision that unlicensed contracting is an unfair and deceptive practice under Section

480-2. And the conference draft excluded that provision so it's no longer in the draft that we're voting on today.

"Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 82 was adopted and S.B. No. 2467, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNLICENSED CONTRACTORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Levin).

Conf. Com. Rep. No. 86 (S.B. No. 2879, S.D. 2, H.D. 2, C.D. 1):

Senator Nakata moved that Conf. Com. Rep. No. 86 be adopted and S.B. No. 2879, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun.

Senator Slom rose to speak against the measure and said:

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

"The bill will impose a \$1 surcharge or a tax on each motor vehicle tire imported into the state. This, of course, will translate into higher taxes for consumers and we will not stop at the \$1; we'll be back here and we'll be making \$1, \$2 and \$5 and \$10 later on.

"So it is a new tax; it's an additional tax; it's an additional burden, and I'm voting 'no.'

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 86 was adopted and S.B. No. 2879, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE TIRES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 89 (S.B. No. 2021, S.D. 2, H.D. 1, C.D. 1):

Senator Tam moved that Conf. Com. Rep. No. 89 be adopted and S.B. No. 2021, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun.

Senator Tam rose in support of the measure as follows:

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

"Mr. President, S.B. No. 2021, S.D. 2, H.D. 1, C.D. 1, provides for the protection of tenants who reside in HUD Section 8 tenant based housing. It requires the HCDCH to provide the owner with some options to continue the project. However, the HCDCH is also required to provide a letter as a 'threat of condemnation,' which will enable the owner to defer any gain on the sale of the housing project should he decide to sell to the state or non-profit corporation.

This bill provides two positive outcomes:

1. It is anticipated that the state will continue to own the land and sell the building to the tenants as a leasehold, limited equity cooperative. Low income housing bonds will be issued and tax credits sold to reduce debt. The non-profit tenant's organization will issue stock as a limited equity cooperative, which will facilitate the transfer of a unit through the sale of stock. The non-profit tenant's organization will be responsible for the

repayment of debt as well as the management and maintenance of the building.

2. Structured in this manner, it is expected that this project shall remain affordable for a minimum of thirty years rather than the fifteen to twenty years with HUD. Conceivably, this project will remain affordable to the low-income population for the life of the building and rents may even be reduced after the debt is retired. This type of project also allows for maximum participation by the tenants who will be more responsible for the condition of their unit and the overall condition of the building, as a cooperative owner.

"This is a positive step in providing adequate and safe public housing this session. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 89 was adopted and S.B. No. 2021, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 93 (S.B. No. 2692, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 93 was adopted and S.B. No. 2692, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SALARIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 1 (Kanno). Excused, 2 (M. Ige, Taniguchi).

Conf. Com. Rep. No. 94 (S.B. No. 2988, S.D. 2, H.D. 2, C.D. 1):

Senator Tam moved that Conf. Com. Rep. No. 94 be adopted and S.B. No. 2988, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

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

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

"Mr. President, S.B. No. 2988, S.D. 2, H.D. 2, C.D. 1, specifies that subcontractors provide evidence to contractors of a valid union trust fund contribution bond, a performance bond, any other bond, or any other form of mutually-acceptable collateral in order to receive payment within ten days of payment received from the State of Hawaii. It imposes penalties on contractors who fail to pay on time; repeals rules to be developed by the procurement policy board regarding prompt pay.

"Mr. President, over the years, too many subcontractors were forced into bankruptcy because of a few bad general contractors who decided not to pay certain subcontractors even though the work was good and there were no disputes. We are also informed by subcontractors that payment is not received for one or two years after their work has been completed.

"I want to emphasize that basically, the money that we're using is state money. This is in regards to state contracts, not private contracts. So we only see the money being spent right, rather than wrong.

"The State would like to have more good subcontractors, however, it should recognize that it is directly responsible for the diminishing number of good subcontractors primarily

because it fails to recognize its obligation to subcontractors after all the names of all the subcontractors are disclosed by the contractor.

"This is a positive step in assuring fair procurement laws in the public sector of government this session.

"Thank you."

Senator Anderson rose to speak with reservations on the measure and stated:

"Mr. President, I have some reservations primarily because any good general contractor wouldn't just arbitrarily hold out payment. What happens a lot of times is you have numerous subcontractors on a job. It could be a plumber. It could be for installation of glass. It could be for many other types of jobs that they have done. And then if the contractor doesn't get his money up front, he just can't go ahead and pay right away.

"And this doesn't say the numbers of subcontractors that the contractor may have hired. Consequently, if you're going to be paying 1-1/2 percent to each one on a penalty, it can add up to a considerable sum. So for that reason I did have some reservations and I wish we'd look at it.

"Thank you."

Senator Tam rose and said:

"Mr. President, for clarification, if I may, in reference to the reservation, this is money that's already received by the general contractors and have not paid their bills to subcontractors.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 94 was adopted and S.B. No. 2988, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS AND PROCUREMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Bunda, M. Ige).

Conf. Com. Rep. No. 102 (S.B. No. 2987, S.D. 1, H.D. 2, C.D. 1):

Senator Tam moved that Conf. Com. Rep. No. 102 be adopted and S.B. No. 2987, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kawamoto.

Senator Tam rose in support of the measure and said:

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

"Mr. President, S.B. No. 2987, S.D. 1, H.D. 2, C.D. 1, adds provisions to the existing law that prohibits contractors from withholding more than 5 percent of the subcontractor's contract price as retainage, further providing that the retention shall be the same for the subcontractor as applied to the contractor by the State of Hawaii.

"Mr. President, any time funds are withheld from subcontractors our economy is affected. We need to ensure that government dollars are spent in our local economy. Persons employed by the subcontractors will spend government dollars more quickly, which helps our economy to recover more quickly.

"The state as well as the contractor should also recognize that the current 10 percent retention is the subcontractor's profit; his cash flow, which is required to fund his next project. Without this money, the subcontractor faces a 'real world' dilemma of laying-off workers, thus, unemployment or a burden to the State

of Hawaii. The subcontractor could also borrow funds, however, that cost will also be passed on to the state in his next bid.

"This is a second positive step in assuring fair procurement laws in the public sector of government this session.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 102 was adopted and S.B. No. 2987, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

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

At 2:02 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:14 o'clock p.m.

Conf. Com. Rep. No. 106 (S.B. No. 2576, S.D. 2, H.D. 1, C.D. 1):

Senator Tam moved that Conf. Com. Rep. No. 106 be adopted and S.B. No. 2576, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun.

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

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

"Mr. President, S.B. No. 2576, S.D. 2, H.D. 1, C.D. 1, establishes a resident advisory board to advise the HCDCH on public housing. The 21 member resident advisory board is elected by the residents and elects five persons from which the governor selects three to sit on the HCDCH board which is now increased to twelve members from the previous nine. Tenant representation on the HCDCH board is required by the Federal Quality Housing and Work Responsibility Act. The HCDCH and the Resident Advisory Board shall report annually to the Legislature.

"Mr. President, this is an initiative of the residents of public housing. In order for residents of public housing to become self-sustaining, they must learn to involve themselves with the management of property. The opportunity for self-determination is here, now. Members of the HCDCH board, as well as staff and the governor's housing assistant, are reluctant to include low-income persons on the board of the HCDCH.

"The administration is afraid that low-income persons are incapable of making financial judgments especially as it relates to housing bonds and mortgages. They will be surprised that for the last 20 years 40 elderly and disabled persons have been managing their limited equity cooperative with little help from anyone. Their responsibility includes approving the budget each year and negotiating a management contract with the property manager every two years.

"It is interesting that with all the agonizing over finances, there is currently only one public member who sits on the board with any financial background and this person is on the HCDCH board by default as the chair of the Rental Housing Trust Fund advisory board.

"We are making an effort to allow the residents of public housing 'self determination.' There is no reason for doubting the capabilities of people. Perhaps the real reason is that the administration is afraid that the residents will succeed.

"Mr. President and fellow Senators, the Government Operations and Housing goal is to involve housing tenants in a democratic government.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 106 was adopted and S.B. No. 2576, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE OWNED PUBLIC HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 107 (S.B. No. 3160, S.D. 2, H.D. 2, C.D. 1):

Senator Tam moved that Conf. Com. Rep. No. 107 be adopted and S.B. No. 3160, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Chun.

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

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

"Mr. President, S.B. No. 3160, S.D. 2, H.D. 2, C.D. 1, provides marketing requirements that give the sale of residential condominium apartments to owner-occupants priority and streamlines owner-occupancy sales requirements for condominiums.

"Mr. President, the real estate development community is experiencing difficulty with some of the requirements of the condominium law, especially as it applies to owner-occupied units. They have asked for some concessions which will enable them to comply better with sales to owner-occupants.

"Our intent is to provide units for purchase by owner-occupants. One provision allows the family to choose a unit that has not been designated for owner-occupancy as long as the replacement unit is sufficiently similar. Another allows the unit to be placed in trust as long as the apartment is used as the principal residence. Other provisions and procedures are simplified to effect the sale of condominiums to owner-occupants.

"As you can see, we continue to learn more about condominiums, which requires that we address the need to recodify the condominium law through H.B. No. 2222.

"This is the first positive step this year in providing fair laws in the sale and management of condominiums law.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 107 was adopted and S.B. No. 3160, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE SALE OF RESIDENTIAL CONDOMINIUM APARTMENTS TO OWNER-OCCUPANTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

At 2:19 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:20 o'clock p.m.

Conf. Com. Rep. No. 111 (S.B. No. 2706, S.D. 1, H.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 111 be adopted and S.B. No. 2706, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Kawamoto rose in support of the measure as follows:

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

"Mr. President, this bill provides a 2 percent income tax credit, also only for airplanes that have the stage three aircraft, primary use as an incentive to buy new airplanes that are less noisy and fuel efficient.

"So therefore, Mr. President, I urge all my colleagues to vote 'aye' on this bill.

"Thank you."

Senator Slom rose to support the measure with reservations and said:

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

"I do support the bill as it has been amended and has come through Conference Committee, but my reservations still have to do with the original form of the bill and what happened with the Aloha Airlines deal that was made behind closed doors between the one inter-island carrier and the state tax department. I have asked for information about what specifically was allowed, what was going to be exempted, and to this date still have not received any information about that.

"I would certainly salute all those people, particularly from Hawaiian Airlines, that have called my office and I'm sure other offices as well, called and wrote and e-mailed, and were concerned about their company. And I would salute the company even more because they had gone ahead already and placed the order for the new stage three compliant aircraft even before there was any kind of tax or income tax credit.

"I would suggest, however, that next year's Legislature take a very hard look at this whole question of leasing of any kind of equipment from out of state because one of the unfairness features of the original bill was that we did single out aircraft and yet there were many other businesses that had to lease equipment from outside the state because it was not available here, and they would be fully taxed.

"So I think, as I say, we should look at the entire process.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 111 was adopted and S.B. No. 2706, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 118 (S.B. No. 2521, S.D. 1, H.D. 1, C.D. 1):

Senator Tam moved that Conf. Com. Rep. No. 118 be adopted and S.B. No. 2521, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Tam rose in support of the measure and said:

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

"Mr. President, S.B. No. 2521, H.D. 1, S.D. 1, C.D. 1, establishes criteria for screening committees for contracts for professional services and requires electronic posting of awarded



contracts, the name of the recipient of the contract, and the name of purchasing agency head.

"Mr. President and fellow colleagues, our state economy has been lagging behind the rest of the nation for too many years. Even though we have appropriated more than a billion dollars for construction over the past few years, much of the funds have yet to find its way into our economy. The quickest, most efficient way to spend government dollars is to contract with many smaller contractors.

"As state government, we are constantly criticized about our process of awarding architectural and engineering contracts. The general public is 'fed up' with our procurement practices, which border on being unlawful. However, our Chief Procurement Officer continues to represent that we have adequate laws, which allow for the 'best qualified' to be selected. The public, on the other hand, believes that the best qualified professional is the one who contributed more than the others towards the governor's re-election campaign. Senate Bill 2521 addresses this issue with disclosure of contracts awards.

"We must establish criteria that will enable the selection committee to review the qualifications of our contractors and recommend a short list of the 'best qualified.' The Senate has agreed with the House to establish the criteria and to also pursue monitoring the use of the criteria by screening committees. The American Institute of Architects as well as the American Public Works Association have also committed to participate in future discussions.

"The Government Operations and Housing Committee will also be requesting that the Attorney General investigate the conduct of the Mayor of Honolulu, Jeremy Harris, who required professional contractors to perform services without a contract as seen through the Vision 2000 projects. The state's chief procurement officer has informed us that the law is explicit and prohibits this practice with penalties to be imposed upon a government employee. Should the Attorney General determine that the procurement law does not require a written contract before a contractor to perform any service, we shall be prepared to enact legislation next year. The Government Operations and Housing Committee believes that the 'best qualified' should not be required to perform services without a contract.

"Mr. President, S.B. No. 2521 does not address all of the shortcomings of our procurement law as it applies to design professionals. However, it provides us with a beginning towards achieving what has been tried and tested on a national level. Our priority is establishing appropriate criteria to securing the 'best qualified' contractor for the work. We are also ensuring that the selection process is a fair process, which also allows contracts to be better disbursed to other smaller, qualified professionals.

"In order for our state to adequately support the construction industry, we need to approach awarding contracts with a criteria for selection and a screening process that is fair. In that way, we will be able to ensure the continued growth of the construction industry in Hawaii.

"Also, I want to add a note that many of us before session read the articles about our Director of the Department of Transportation. Well, this bill here hopefully will resolve a lot of the concerns out there as what we had experienced in the State of Hawaii. It is unfortunate that the State of Hawaii had experienced that, but I think this bill will help resolve that in terms of unfair practice in awarding contracts.

"Also, I want to add that this is the second positive step in assuring fair procurement laws in the public sector of government this session.

"Thank you."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 118 was adopted and S.B. No. 2521, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL SERVICE CONTRACTS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (M. Ige, Ihara).

Conf. Com. Rep. No. 121 (S.B. No. 2303, S.D. 2, H.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 121 be adopted and S.B. No. 2303, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Inouye.

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

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

"Mr. President, the next five years will be crucial for the cruise ship industry. We're looking at about \$60 million worth of improvements needed in the harbors at all the neighbor islands and Honolulu Harbor.

"This bill proceeds to provide the public service company tax on future cruise ships that are coming in December 2000 and January 2001 to dedicate some funds to ensure that there is money to improve the harbors on all the neighbor islands and in Honolulu. And people would be available to use these improvements. Unfortunately, it appears that the concern by the administration is that they would like to see the revenues of these funds come from all the services of the harbors, and that means increasing wharfage fees. Two years ago we had a 25 percent increase in wharfage fees and it affected all of us because the freight, cargo and those things that came in from the mainland, 99 percent of the cargo comes on these ships.

"Looking at this, this is the last bill that we have. We lost the cost containment bill. This is the only bill we have left to provide the necessary revenues to improve all the harbors in this state. Therefore, I urge all my colleagues to vote 'aye' on this bill and hope the governor will pass it.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 121 was adopted and S.B. No. 2303, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HARBORS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 142 (H.B. No. 139, H.D. 1, S.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 142 be adopted and H.B. No. 139, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Kawamoto rose to speak in favor of the measure and stated:

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

"Mr. President, this bill has been almost five years in the making. Unfortunately, it comes at a time when our unemployment and the national unemployment is almost the same, and we lost the advantage for the use of this bill. But

still, Mr. President, it provides the capability of addressing the definitions of state resident, state contractors for federal jobs. I think collectively we all want to see the possibility of getting the maximum use of all the federal dollars that are coming down here to Hawaii and being spent here.

"Our goal, again, is to ensure that the federal dollars brought here be spent and used in Hawaii. So I urge all my colleagues to vote 'aye' on this bill. Thank you."

Senator Chumbley rose and said:

"Mr. President, if I may be permitted a question to the chair of the TIA Committee."

The President posed the question to Senator Kawamoto, and Senator Kawamoto having answered in the affirmative, Senator Chumbley proceeded:

"Mr. Chairman, on page 3 of the bill, subsection (e) goes to the maintenance of the principal place of business with regards to a company having been incorporated into the State of Hawaii. Was it the chair's intention to limit the principal place to only areas where there was a company incorporated within the State of Hawaii?"

Senator Kawamoto replied:

"That was the intent of the bill."

Senator Chumbley continued:

"Thank you, Mr. Chairman."

"Mr. President, I'd like to stand in opposition to this measure."

"Mr. President and colleagues, the chairman of the TIA Committee has spent a lot of time working on this proposal, and as he has indicated, it's taken five years to get to this step. I would say to you that there must be a reason why this bill hasn't passed in those five years. And that's because this bill that's before us today is seriously flawed, and, quite frankly, it will put out of business a company that has been doing contracting projects and employing hundreds of people in our state for the past 27 years. I'm speaking specifically to a company by the name of Goodfellow Brothers."

"Under this bill, Steve Goodfellow, who is the principal owner of Goodfellow Brothers, whose company was incorporated in the State of Washington 27 years before he moved to Hawaii and relocated his business here, under this bill would not be permitted to be able to bid on any of these contracts for two reasons -- first, because his company was incorporated outside the State of Hawaii; and secondly, because on page 3, subsection (e) of the bill, he should have maintained his principal place of business within the state for at least two-hundred consecutive days prior -- prior -- to the submission of a bid on any contract."

"While I agree with the good Senator from Waipahu that we want to keep our local state residents working, I don't think that this is the way that we should move to accomplish that goal. What this would do is, if adopted, it goes into effect July 1, 2000. There are companies like Fletcher who has now been bought by Dick Incorporated who has set up their business of operation in the State of Hawaii -- they can bid on these contracts. Kiewit Pacific, they moved to change their state of incorporation to the State of Hawaii -- they can bid on these contracts. But Goodfellow, who is a contractor that's done business here for 27 years would have to sit on the bench, sit on the bench and not be able to bid on any contracts for over 200 days until such time they were able to go through a re-registration process to incorporate their business here."

"Once they accomplished that re-registration, there's a second flaw in the principle of this bill. Goodfellow Brothers could set up a Hawaii based company. They could incorporate. They could list \$500,000 of assets. Goodfellow Brothers is a company with over \$50 million of assets. In the event that something went wrong and there was a bankruptcy or breach of contract, you would only have access to that \$500,000 asset base that was set up, not the \$50 million asset that is the true holdings of that company."

"The bill also goes on to restrict an employer with one or more employees requiring that 85 percent of its employees are state residents. In the situation of Goodfellow Brothers, they are currently building a golf course in Palau and they're also doing work on Guam. Under this bill, if they were incorporated in the State of Hawaii and more than 15 percent of their employees, even if they're working on Guam or Palau, or out of state, were no longer the state's residents but were working for that company, they would be barred from being able to bid on federal contracts."

"Many individuals within the construction industry have indicated that this bill is an anti-competition bill, that the way the bill is structured it prohibits outside companies from being able to bid on these contracts. Well, I think that in some cases that should be our goal that we want these companies to be incorporated here, and we want them to hire local residents, and we want them to get these federal contracts. However, I think this bill misses the point, and could have easily, easily been fixed."

"This morning I drafted up a floor amendment and had spoken to the leadership about proposing an amendment to this bill. And it's a simple fix. However, it takes two to dance, and the House would not go along with the floor amendment to this bill. The simple fix is to delay the implementation date by one year and give those companies who are caught in this Catch 22 situation enough time to be able to develop a corporation status in the State of Hawaii and not lose the qualifications to be able to bid on federal jobs."

"What we're talking about is the potential situation where a couple hundred people may be put out of work because they can't bid possibly on federal jobs. Now, maybe they'll get enough state contracts or maybe they'll get enough private contracts to hold them over during this period of time, but it does stop a legitimate Hawaii company who's been here and operated for 27 years from the same equal level playing field and the ability to bid on contracts as other companies. I want you to think hard about this and think about general contractors in your districts and in your communities who may be in a similar situation."

"This bill proposes just to change Session Law. It doesn't change any statute. And I don't know if under an appeal to the attorney general under 3E if we would have a favorable opinion as to 'has maintained its principal place of business within the state for 200 consecutive days' -- principal meaning a comparable number. Comparable to what? Comparable to the corporation being in Seattle versus the subsidiary being in Kihei, Maui? Principal meaning does it do 51 percent or more of its business in this state?"

"This bill is drafted in a way that it's very vague and it's going to cause a lot of trouble, particularly for residents on my island and a company who has been a major part of the economy not only for Maui but has now started to do more jobs outside of Maui. In fact, they're doing the North Shore road repair right now. I don't want to see this company lose its opportunity to compete with other businesses on the level playing field, so I urge all of you to think before you make a commitment to support this bill."

"Thank you."

Senator Kawamoto rose and said:

"Mr. President, just a slight rebuttal.

"Mr. President, the company that was mentioned, they've been working here for 20 years. They could, they could have, if they wanted to, create a domestic corporation in Hawaii as a branch, but they didn't. You know, what breaks do they have? I just talked to my contractor friend, the Senator from Kalihi, about contractors, and there's a way in which they can funnel the supplies that they would maybe get a break or may not get a break. It would be hard to track if they're outside the state.

"And I beg to differ as far as the overall competition, overall help for the economy. We've seen Midpac Lumber; we've seen different places go out of business because they don't have the capability of selling these supplies to these big companies that come from the mainland, and proceed not to register in Hawaii but also to take jobs from our Hawaii businesses.

"And as far as federal contracts are concerned, we passed a resolution just recently, S.C.R. No. 18, urging the military to use our state resident clause. They are not binding to use. We're just positioning our companies, our local residents in position to get these jobs. They are not bound by this bill to select. So they are not cut out of the bidding position. They can bid. But all we're asking is that the military and the federal PACDIV and those folks to select companies that have state residents as defined by this law.

"Thank you very much."

Senator Buen rose in opposition to the measure and said:

"Mr. President, I thank the good Senator from Waipahu for working hard on this bill for a number of years, and I have spoken with him in regard to my concerns regarding the same company that the Senator from Kihei, Maui has talked about.

"I would like to voice my opposition mainly because good companies like this have been paying their taxes in Hawaii. They have, at one time, employed over 700 employees, local residents, and many of the local residents have worked for the company for about 27 years, and they would be out of a job. And so, I, too, will voice my opposition to this bill.

"Thank you."

At 2:42 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:44 o'clock p.m.

Senator Chun rose in support of the measure and said:

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

"Mr. President, this bill basically acts as a guideline to the federal government to determine in what situations they will allow a corporation to bid as a resident company. It does not bind the federal government and it in no way sets forth in solid rock who can or cannot bid for a federal contract. That is a matter for the federal contractors board under that jurisdiction.

"What we're trying to do at this point in time is give that board some kind of guideline as to what criteria to use when determining whether a company is a resident company here in Hawaii or a foreign company. And there are questions and I recognize there are questions and there are situations where companies might fall through the cracks on these criteria. But I believe the federal government, when they go through their own rule making procedure, can address those things. What we're trying to set up here are guidelines and these guidelines are valid, and these guidelines can and should be followed by the federal government.

"Thank you."

Senator Hanabusa rose in support of the bill and said:

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

"When we first became Senators and attended Senator Kawamoto's, the good Senator from Waipahu, seminar which he held on this whole issue of the federal appropriation and the definition of state resident, even then I think that the problem that we have is what we've heard by the discussion here today.

"The definition of a state resident goes to the employee. It does not go to the company itself. What is required in terms of the so-called differential in the unemployment rate between the federal and the state is that when the unemployment rate of the state is higher than that which is the federal level, the national norm, then there is going to be a preference given to contractors that employ state residents. It's the employment of the individuals, not the company itself.

"Over last session as well as this session, what has happened is that the influence of both union members plus companies have attempted to redefine that issue. Unions would like to have companies that are here and unionized to get that preference. Companies want to be sure that they're not somehow cut out of the loop. The issue here is that the employees who are hired are state residents, and that is why we needed the definition of a state resident in terms of who has filed an income tax return.

"For those reasons I believe that this bill will not put Goodfellow or any other company out of business in terms of the federal contracts that we're talking about and the preference that will be given. The preference is to those who hire state residents. We must not lose the focus as to who exactly is being protected by the act. It is the individuals who live here and they should be given the break.

"Thank you, Mr. President."

Senator Sakamoto rose in support of the measure and said:

"Mr. President, I rise in support.

"I agree with the comments from the Senator from Waianae and the Senator from South Kauai as well, and possibly to the fears of the Senator from East Maui if indeed other provisions are put in, but as it currently stands, Hawaii's unemployment rate is approximately 4.5 and the unemployment rate of the nation is approximately 4.4, and ours has been dropping. And I hope it crosses, which means this particular provision will no longer be the issue at hand today, but it could be an issue in the future.

"However, in relation to some of the comments made from the Senator from East Maui, the size of the company or the capitalization on these types of projects is not the issue at hand in that the projects will be bonded, the federal government projects, and bonded for the size of the job irrespective of the capitalization here. And my belief is good companies like Goodfellow would have no problem setting up a company in Hawaii to do what needs to be done.

"Thank you, Mr. President."

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

"Mr. President, I'm rising in support of the bill.

"Mr. President, basically it's for the reasons articulated by the three previous speakers, all excellent points are made about the law. I would also like to emphasize the fact that we are looking at a law designed to help a state in need because the trigger mechanism is that the unemployment rate exceeds the national rate. That is not a Hawaii law. That's a federal law,

and the federal government recognizes that if the states have that problem, the state has the right to ask the federal government to employ its people, the state's people, the state residents so that the unemployment rate issue can be addressed. It is basically for those reasons, Mr. President.

"I want to again emphasize that we're looking at a bill, a definition that is needed so that the people of this state -- our laborers, our workers, our people -- are helped when there is a problem with our unemployment rate which has been in excess of the national average. We have made strides to the surprise of the Republicans in this state. We have made great strides and we are improving our economy. It is down to, I think the Senator from Waipahu said, one-tenth of a percentage point above the national average and hopefully within the next few months, with continued Democratic leadership at the federal and state level, it will continue to drop.

"Thank you."

Senator Slom rose to respond and said:

"That does require a response, Mr. President.

"I will be supporting the measure, but I have to point out to the good choked up Senator from Mililani that one of the reasons that the unemployment rate has declined is because so many people have left here and they're no longer in the market for jobs.

"Thank you."

At 2:50 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 2:53 o'clock p.m.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 142 was adopted and H.B. No. 139, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL CONSTRUCTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 5 (Buen, Chumbley, Ihara, Matsunaga, Tanaka). Excused, 1 (M. Ige).

Conf. Com. Rep. No. 146 (H.B. No. 2458, S.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 146 be adopted and H.B. No. 2458, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose to support the measure with reservations and said:

"Mr. President, I guess I rise to support the bill with reservations and also some questions.

"The whole purpose of the bill is to save the state and counties money in paying the Employees' Retirement System. Well, first of all the state tries to steal money from the ERS, then tries to divert money to other things. And then we find out that miraculously, just a few nights ago, the state allegedly overpaid the ERS by some \$52 million and that money became available for increased spending in the state budget. So I don't know what we're actually trying to do here and whether or not we need this bill, and maybe someone can enlighten me further.

"Thank you."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 146 was adopted and H.B. No. 2458, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

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

On motion by Senator Nakata, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2061, S.D. 1, and S.B. No. 2061, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC OFFICERS AND EMPLOYEES AND EMPLOYMENT PRACTICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

S.B. No. 2432, S.D. 1, H.D. 1:

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2432, S.D. 1, and S.B. No. 2432, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A SENTENCING SIMULATION MODEL," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

S.B. No. 2545, H.D. 1:

On motion by Senator Nakata, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2545 and S.B. No. 2545, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GLASS RECOVERY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

S.B. No. 2736, S.D. 2, H.D. 1:

On motion by Senator Hanabusa, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2736, S.D. 2, and S.B. No. 2736, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO KIKALA-KEOKEA," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

S.B. No. 2869, H.D. 1:

On motion by Senator Nakata, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2869 and S.B. No. 2869, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SAFE DRINKING WATER," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

S.B. No. 2870, S.D. 1, H.D. 2:

On motion by Senator Nakata, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2870, S.D. 1, and S.B. No. 2870, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO SAFE DRINKING WATER," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 44 (H.B. No. 2273, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 44 was adopted and H.B. No. 2273, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CHILDREN'S TRUST FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 46 (H.B. No. 2354, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Bunda and carried, Conf. Com. Rep. No. 46 was adopted and H.B. No. 2354, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE FIFTIETH ANNIVERSARY COMMEMORATION OF THE KOREAN WAR COMMISSION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

**MATTERS DEFERRED FROM  
FRIDAY, APRIL 28, 2000**

**FINAL READING**

Conf. Com. Rep. No. 52 (S.B. No. 2411, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Chun and carried, Conf. Com. Rep. No. 52 was adopted and S.B. No. 2411, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR PROCESSING ENTERPRISES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 53 (S.B. No. 2530, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Chun and carried, Conf. Com. Rep. No. 53 was adopted and S.B. No. 2530, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

**FINAL READING**

Conf. Com. Rep. No. 60 (S.B. No. 3199, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Levin and carried, Conf. Com. Rep. No. 60 was adopted and S.B. No. 3199, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PLANT AND NON-DOMESTIC ANIMAL QUARANTINE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 68 (S.B. No. 2863, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Kawamoto and carried, Conf. Com. Rep. No. 68 was adopted and S.B. No. 2863, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADVANCE HEALTH-CARE DIRECTIVES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 87 (S.B. No. 2354, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator D. Ige and carried, Conf. Com. Rep. No. 87 was adopted and S.B. No. 2354, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ACCESS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 96 (S.B. No. 2961, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 96 was adopted and S.B. No. 2961, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE UNIVERSITY OF HAWAII AND PROVIDING APPROPRIATIONS THEREFOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 98 (S.B. No. 2486, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 98 was adopted and S.B. No. 2486, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 105 (S.B. No. 3123, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator D. Ige and carried, Conf. Com. Rep. No. 105 was adopted and S.B. No. 3123, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO POST-SECONDARY EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 113 (S.B. No. 2420, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 113 was adopted and S.B. No. 2420, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 120 (S.B. No. 3026, S.D. 1, H.D. 1, C.D. 1):

By unanimous consent, action on Conf. Com. Rep. No. 120 and S.B. No. 3026, S.D. 1, H.D. 1, C.D. 1, was deferred until later on the calendar.

Conf. Com. Rep. No. 125 (S.B. No. 2134, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Kawamoto and carried, Conf. Com. Rep. No. 125 was adopted and S.B. No. 2134, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE AND ANIMALS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 133 (H.B. No. 2650, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Conf. Com. Rep. No. 133 was adopted and H.B. No. 2650, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 136 (H.B. No. 2407, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 136 was adopted and H.B. No. 2407, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE DEPARTMENT OF AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 137 (H.B. No. 3014, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Chun and carried, Conf. Com. Rep. No. 137 was adopted and H.B. No. 3014, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 141 (H.B. No. 2277, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 141 was adopted and H.B. No. 2277, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TOBACCO SETTLEMENT SPECIAL FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 144 (H.B. No. 1873, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 144 was adopted and H.B. No. 1873, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 145 (H.B. No. 2280, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator D. Ige, seconded by Senator Nakata and carried, Conf. Com. Rep. No. 145 was adopted and H.B. No. 2280, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL-TO-WORK," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 147 (H.B. No. 1994, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Nakata and carried, Conf. Com. Rep. No. 147 was adopted and H.B. No. 1994, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 148 (H.B. No. 2801, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Chun and carried, Conf. Com. Rep. No. 148 was adopted and H.B. No. 2801, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 149 (H.B. No. 2802, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Chun and carried, Conf. Com. Rep. No. 149 was adopted and H.B. No. 2802, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR PROCESSING ENTERPRISES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 150 (H.B. No. 2151, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Conf. Com. Rep. No. 150 was adopted and H.B. No. 2151, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 152 (H.B. No. 2835, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 152 was adopted and H.B. No. 2835, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATERSHED PROTECTION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 154 (H.B. No. 3016, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 154 was adopted and H.B. No. 3016, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MEDICAL ASSISTANCE TO LOW-INCOME PERSONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 155 (H.B. No. 645, S.D. 2, C.D. 1):

On motion by Senator Kawamoto, seconded by Senator Levin and carried, Conf. Com. Rep. No. 155 was adopted and H.B. No. 645, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VETERANS RIGHTS AND BENEFITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 157 (H.B. No. 2793, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 157 was adopted and H.B. No. 2793, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 158 (H.B. No. 1956, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Inouye, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 158 was adopted and H.B. No. 1956, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BUSINESS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 159 (H.B. No. 1969, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Levin and carried, Conf. Com. Rep. No. 159 was adopted and H.B. No. 1969, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO MATCH FEDERAL FUNDS FOR THE ESTABLISHMENT OF MANUFACTURING EXTENSION PROGRAMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

#### **MATTER DEFERRED FROM THURSDAY, APRIL 13, 2000**

#### **THIRD READING**

Stand. Com. Rep. No. 3393 (H.B. No. 2569, H.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Stand. Com. Rep. No. 3393 was adopted and H.B. No. 2569, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE COMMERCIAL FISHERIES SPECIAL FUND," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

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

#### **FINAL READING**

Conf. Com. Rep. No. 120 (S.B. No. 3026, S.D. 1, H.D. 1, C.D. 1):

Senator D. Ige moved that Conf. Com. Rep. No. 120 be adopted and S.B. No. 3026, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

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

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

"In discussions on the budget some of the remarks have also related to the repair and maintenance efforts, but I just wanted to reiterate again for the body some of the efforts that we've done, some have yet to be done, but certainly it's a major commitment by our body for repair and maintenance.

"This particular bill does not include everything we hoped for, but it's a major commitment to education and immediate response to the growing backlog of school facility maintenance and repairs. This measure appropriates \$30 million from general funds to facilitate immediate start up of repair and maintenance projects at schools throughout the state and \$15 million for repair and maintenance at the University.

"Mr. President, your Education and Ways and Means members have committed to addressing the entire \$230 million backlog and developing a cyclical maintenance program that will assure that the safety of our children in facilities will provide an environment conducive to proper learning, Mr. President. However, in this bill that particular language wasn't included, so it's my hope or it's our hope that DAGS, in working with the DOE, will be able to implement some of those measures through efforts in this bill. Some have suggested, including the Senator from Waipahu, that having fiscal officers assist the schools in many matters, including R&M, would be a good thing. And it's my hope that some of these dollars could include some of those efforts so that the process will be efficient.

"In summary, Mr. President, for lower ed -- \$30 million in cash; \$15 million in general obligation bonds; \$3 million for playgrounds; \$22.7 million in DAGS, their AGS 807. For the University of Hawaii -- \$15 million in cash; \$5 million in general obligation bonds; \$9.1 million in CIP infrastructure. And that's not including the many, many projects in H.B. No. 1900 that include renovations for our buildings, upgrading electrical, replacements, etc., etc. So, many, many more millions of dollars, as well, Mr. President.

"It's our hope that the schools will see an immediate impact on repair and maintenance and in a few years from now, those that remain here will be able to say the repairs that are outstanding as of this day will be accomplished.

"Thank you, Mr. President."

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

"Mr. President, I rise to support the bill.

"In earlier drafts this bill created special funds, and I'm very happy that in this final draft there are no special funds. I do support the purposes of the bill and the repair and maintenance and so forth, which, as I mentioned earlier, were long overdue.

"I would just caution one thing -- we've had maintenance and repair funds before; we've had funds that have been

directed specifically for the repair and maintenance of specific schools; and these funds have been withheld or they have been lapsed in the past.

"So before everybody gets finished patting themselves on the back and calling us the education legislature, let's make sure, let's follow the money, let's make sure that the money is spent for the purposes for which we have spent so much time in this body, and that in fact they go to the schools and the schools do get repair and maintenance.

"Thank you."

Senator Kawamoto rose to speak in favor of the measure with reservations and said:

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

"Mr. President, I congratulate the chair of the Education Committee from Pearl City, also the Ways and Means chairs for providing almost \$70 million worth of repair and maintenance funds available to the schools. I remember the earlier part of the session we had a bill that requested \$50 million so they topped that one by \$20 million, so that's outstanding.

"As indicated by the Senator from Kalihi, the concern I have is a fiscal manager or business manager. It seems as though I stay on a bill for a long time. This bill was five years or six years in the making. When I first came in I asked for a business manager, got laughed at by the people that I tried to pass this through. But the outcry now is accountability. The outcry is send the moneys down, lump sum to the schools.

"We used to have 19 business managers in the schools as a pilot project. Currently, Waipahu High School is the only school that has a business manager, and I am on the SCBM board there and that individual, let me tell you, saves the school four times his salary.

"The headaches that the principals have to go through is just overwhelming. Many, many elementary school principals, if you ask them, throughout the state, if they would like to have a business manager or someone who can deal with the fiscal capability of the schools and concerns of the school's accountability, they would like to have one. Even the department indicated to the Ways and Means Committee that they are indeed aware of the concerns of the principals but have yet to put in any kind of money to support this effort.

"I understand that our conferees fought for that but we need to educate the House and the teachers and principals who have the opportunity to listen to us or read our Journal. Again, we need to educate the people in the House the desire for a business manager, at least in the complex.

"Thank you very much."

At 3:02 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:08 o'clock p.m.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 120 was adopted and S.B. No. 3026, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SCHOOL FACILITIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

#### FINAL READING

S.B. No. 2745, S.D. 1, H.D. 2:

On motion by Senator Inouye, seconded by Senator Kawamoto and carried, the Senate agreed to the amendments

proposed by the House to S.B. No. 2745, S.D. 1, and S.B. No. 2745, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO AQUACULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

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

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

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 11 (H.B. No. 2183, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Inouye, seconded by Senator Chun and carried, Conf. Com. Rep. No. 11 was adopted and H.B. No. 2183, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 42 (H.B. No. 2410, H.D. 1, S.D. 2, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 42 be adopted and H.B. No. 2410, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Slom rose to speak against the measure and said:

"Mr. President, I'm voting 'no' on this bill.

"There are a number of claims here that are very questionable including one to Harold Matsumoto, the governor's special assistant who seems to get a new job every year and who has made claims against the state last year. Now I find it's in this bill here, and I think we need more explanation as to why we're paying certain people from the taxpayers' funds.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 42 was adopted and H.B. No. 2410, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

Conf. Com. Rep. No. 43 (H.B. No. 540, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 43 was adopted and H.B. No. 540, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HUMAN SERVICES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).



Conf. Com. Rep. No. 45 (H.B. No. 2648, H.D. 2, S.D. 2, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 45 be adopted and H.B. No. 2648, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Slom rose in opposition to the measure and said:

"A 'no' vote, please. It creates a special fund."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 45 was adopted and H.B. No. 2648, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROBATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

Conf. Com. Rep. No. 50 (H.B. No. 37, H.D. 1, S.D. 2, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 50 be adopted and H.B. No. 37, H.D. 1, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Slom rose and said:

"A 'no' vote. It creates a special fund."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 50 was adopted and H.B. No. 37, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FILM PRODUCTION FUNDING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

Conf. Com. Rep. No. 64 (S.B. No. 2062, S.D. 1, H.D. 3, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 64 be adopted and S.B. No. 2062, S.D. 1, H.D. 3, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose to support the measure with reservations and said:

"Mr. President, I rise to support the bill with reservations.

"I worked with the bipartisan committee on long-term care and as I've mentioned before, the original purpose of that committee was to find and encourage a private market, private initiatives to solving the problem of long-term care, a process which is on going in which the marketplace is well into meeting. But what we've seen in the latter part of discussion, particularly this year, is a continuation of the same people that were pushing the Project Hope tax and state funded policy years ago, and so the direction of the study in this particular bill makes it mandatory that they look at a state sponsored long-term care plan.

"To me that is a misdirection from the objectives of the original committee.

"Thank you."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 64 was adopted and S.B. No. 2062, S.D. 1, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

LONG-TERM CARE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 76 (S.B. No. 2186, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, Conf. Com. Rep. No. 76 was adopted and S.B. No. 2186, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 80 (S.B. No. 3043, S.D. 2, H.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 80 be adopted and S.B. No. 3043, S.D. 2, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Kanno.

Senator Slom rose to speak in opposition as follows:

"I rise in opposition to the bill.

"I am fully supportive of the captive insurance industry in the State of Hawaii. We've made great strides in that area. We've passed a number of measures in previous sessions and this session, but what this bill does is put the State of Hawaii into the insurance business even more and creates the state captive insurance company where there are private companies and other alternatives rather than the state being in business and having a lack of oversight.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 80 was adopted and S.B. No. 3043, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE RISK MANAGEMENT AND INSURANCE ADMINISTRATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Anderson, Slom). Excused, 1 (M. Ige).

Conf. Com. Rep. No. 85 (S.B. No. 2427, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, Conf. Com. Rep. No. 85 was adopted and S.B. No. 2427, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR COMPENSATION OF CRIME VICTIMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 100 (S.B. No. 2872, S.D. 1, H.D. 1, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 100 be adopted and S.B. No. 2872, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Levin.

Senator Slom rose to speak against the measure and said:

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

"I oppose the bill on a number of reasons not the least of which is that we continue having emergency appropriations for this and other agencies and activities.

"The Hawaii Health Services Systems Corporation, while it has been hampered by certain governmental policies, it was designed to reduce cost and to help with the state-run hospitals. We're still running significant deficits as was brought in testimony at the public hearing. The Hawaii Health Systems Corporation saw fit to raise the salaries of its management people. It also spent more than \$100,000 to lobby us to give it money. And some of the receivables are years old and to me indicates a lack of proper management.

"Thank you."

Senator Anderson rose in opposition and said:

"I'll be going 'no' for the very same reasons."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 100 was adopted and S.B. No. 2872, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE HAWAII HEALTH SYSTEMS CORPORATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Anderson, Kawamoto, Slom). Excused, 1 (M. Ige).

Conf. Com. Rep. No. 101 (S.B. No. 2108, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Hanabusa, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 101 was adopted and S.B. No. 2108, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (M. Ige).

Conf. Com. Rep. No. 103 (S.B. No. 2579, S.D. 1, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 103 be adopted and S.B. No. 2579, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Slom rose in opposition as follows:

"Mr. President, I'm voting 'no.' It creates a special needs housing special fund.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 103 was adopted and S.B. No. 2579, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HOUSING," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (M. Ige).

Conf. Com. Rep. No. 104 (S.B. No. 2873, S.D. 1, H.D. 2, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 104 be adopted and S.B. No. 2873, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Buen rose to support the measure as follows:

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

"Mr. President and fellow colleagues, for over ten years, the residents of Maui County have been working toward the vision of improving the county's only full service acute care hospital. The last major expansion was 20 years ago in 1980.

"Mr. President, the legislators from Maui, other lawmakers and public officials were invited to Maui Memorial Medical Center (MMMC) and they understand the desperate need to make improvements. Recently, about four months ago, the good Senator from Kaneohe/Enchanted Lake, the good Senator from North Hilo/North Kona, the Senator from Hilo, and the Senator from Wailuku/Kahului attended a meeting with Maui hospital doctors, staff, Friends of MMMC and residents of Maui. They, too, learned of the frustrations and the hold up of all these years of asking the Legislature for funding.

"The residents from Maui County are grateful to the Ways and Means co-chairs and the members of Ways and Means, the Health and Human Services chair and the members of that committee, and all of you for supporting the \$38 million bond for the long overdue improvements to provide increased intensive care unit beds, a dedicated outpatient surgery service, increased parking capacity and other construction to meet current and future needs.

"With the projected increases in the Maui County population and 93 percent hotel occupancy, we must make sure the health infrastructure is there to support both our residents and visitors. This proposal to invest a modest amount of money through this reimbursable bond to upgrade and reposition the facility builds upon an existing asset and preserves previous investments. It is a cost effective, judicious approach toward supporting the ten year old vision of the people of Maui County to insure the availability of quality health care for all.

"Mr. President and fellow colleagues, I ask you to support this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 104 was adopted and S.B. No. 2873, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAII HEALTH SYSTEMS CORPORATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Anderson, M. Ige).

Conf. Com. Rep. No. 114 (S.B. No. 2838, S.D. 1, H.D. 1, C.D. 1):

Senator D. Ige moved that Conf. Com. Rep. No. 114 be adopted and S.B. No. 2838, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Sakamoto.

Senator Slom rose to support the measure with reservations and said:

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

"Basically, the state wants to do some internet commerce and to charge taxpayers an additional fee for it, similar to the announcement made recently by the City and County of Honolulu for the use of their portal. The state's portal would be for a center for government information and access but that's similar to what we already have, and for most people there's plenty of private access now through places like Yahoo, Excite, AOL, etc.

"So I think again this is a situation where we are getting involved in spending money in an area that we really don't have

to do so. I'm all for greater access and more current government and legislative information, but I think there would have been a better and cheaper and more private way of doing this.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 114 was adopted and S.B. No. 2838, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE INTERNET PORTAL," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (M. Ige, Ihara).

Conf. Com. Rep. No. 115 (S.B. No. 2859, S.D. 1, H.D. 1, C.D. 1):

Senator Nakata moved that Conf. Com. Rep. No. 115 be adopted and S.B. No. 2859, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Levin.

Senator Nakata rose to support the measure and said:

"Mr. President, it's been a long wait and I think I've run out of adrenaline here (laughter), but I do rise with some pride to support this bill.

"At the beginning of the 1999 session the governor issued a challenge to the entire state by making reform of the public employment system his top priority. At that time he gave very little specifics as to what he wanted. This year he came back with a long list of specifics. What he wanted was a total transformation of the system. This is a monumental task that cannot be accomplished in just one year, not when we must evaluate all of his proposals and those of other stakeholders.

"Thousands of individuals having been engaged in this process have risen to his challenge, many to support his proposals and many to challenge them. Their work and dedication must be honored on all sides. We as the Legislature have stepped up to the task of cleaning up the encrustations and overlaps between the civil service system and the collective bargaining system. These have been collecting for over 30 years now. This task should have been done years ago. We should not be surprised then if it takes several years to accomplish. A good product has emerged but it is only the foundation of work that needs to be done in subsequent years.

"Let me just list some of the accomplishments of this bill:

- In cost containment on the criteria for arbitration, no new or increased taxes can be considered in the award and there are some restrictions on the use of special funds.
- We have drawn a clear line between the civil service system and the collective bargaining system. Collective bargaining will be limited to matters of classification, recruitment, examination in initial pricing. This line will clear up or prevent many of the disputes that currently arise.
- We have instituted in this bill a voluntary separation program designed to accomplish reductions in force with some compassion. It is an alternative to the bumping system that creates so many problems in terms of morale within the system when forced reductions happen, and it can also be used to help reshape state government.
- There is funding there to train managers, another area which is very important; it may not be exciting but important in terms of reducing conflict within the system.

- We have allowed for experimental modernization projects, like what the Board of Water Supply is doing -- alternative personnel systems which may give us models to reform further the entire system.
- We have not done jurisdictional autonomy, but have allowed the counties and several other jurisdictions to set up their own personnel systems. That in itself will give them more flexibility.
- We have emphasized performance and merit. One of the features here is that in addition to a disciplinary track we have created a performance track where employees who are not performing up to par will be evaluated, and in the end if their performance does not come up to standards, they may be released, but of course, there will be appeal rights for them.
- We have set up a system where submissions of cost items to the Legislature will be done in a timely manner.
- In the case of arbitration, the award would come to us in the session before the contract expires. In the case of those unions which preserve the right to strike, chances are that this also will happen. They can declare a strike before the session begins, but because the old contract is still in effect, they will not be able to strike until after the session is over, which means more time for negotiating whatever differences remain.
- As our Senator David Ige mentioned earlier, the DOE superintendent and the UH president will have a vote at the bargaining table, so will the chief justice and the HHSC executive director.
- There will be also a provision for merit pay for division chiefs. Their pay will be de-linked from the negotiated settlements of the unions and they will then be evaluated on merit.

"These are some of the features that are in our bill.

"I want to respond just briefly to one of the sources of criticism. In the Senate bill, we did have a complete autonomy for the counties and for other jurisdictions. That is no longer in the bill, and one of the reasons is that we received almost no testimony. I personally did not hear from any of the mayors or any council person seeking this autonomy. So that is one of the reasons why it is not in the bill in that form. I'm not sure whether the mayors realized the financial implications of complete autonomy or what the reason is, but that did not seem to be a pressing issue.

"And with that, I'd like to say that it has been a lot of work, and really there have been a lot of people involved. I have appreciated the support of committee members and other members of the Senate. There is much work yet to be done and you all know that I was very reluctant to take on this task of being the Labor chair, but so much has been invested now that if the Senate is willing, I am willing and able to continue in this work in subsequent sessions.

"I urge your support for this bill. Thank you."

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

"Mr. President, bad news . . . I don't have a lack of adrenaline. I'm ready to go. (Laughter.) Let me speak in favor of the bill with reservations.

"First of all, let me thank the fatigued chairman (laughter) for his efforts. It must be all the speaking he's done so far today since ten o'clock. Let me thank him, though, for the hard work and for the difficult job that he had and for the perseverance, because I know at one point early in the session it looked like

we were not going to have any bill whatsoever. And you may recall that at the beginning of the session I said that if this Legislature would be defined by anything, it would be the civil service bill that we would pass or action that we would take. And for a while it looked like we weren't going to pass anything, so I give him a great deal of credit and to all the people that have worked so hard, and I'm very happy to have been a part of that.

"Having said that, let me say that we had in the Senate a very, very good bill which I would have been very pleased to vote without any reservations whatsoever. In fact I did, first time around. And let me tell you that in this bill, in talking to my colleagues when you were plying me with free lunch and free pie, several of my colleagues wanted to use the metaphor of a baseball game, being the sports-minded colleagues that they are. One of them said this bill hits a home run, and another one said it's at least a ground rule double over the fence, and another one said it's a triple. My version of this bill is the batter got hit by the ball and goes to first. We're there. We made a start.

"But I've got to tell you that I'm extremely disappointed in a number of key areas. First and foremost, What was this bill supposed to do? It was supposed to curb excesses. It was supposed to reduce cost and the tremendous financial burden that the taxpayers of this state and the government are facing in terms of health benefits, retirement benefits, and so forth, coming up in a number of very short years.

"It was also supposed to grant autonomy to the counties to allow for the differences, particularly those counties that don't see the sun rise and set in Honolulu, that have their own priorities, their own needs, their own problems with public services and with employees.

"And while we have a lot of good language here, and while we had a lot of academic debate, and while everybody was intrigued by what went on here, I think part of the problem is that when all this smoke clears, and after we try to implement this, we'll find out that in fact we have not cut the cost, because we have not made one step to change the fiscal policies that, if not changed, are going to bankrupt this state.

"And remember again, Mr. President, I have said on a number of occasions here that we could and should have done this without being a threat to any existing public employee and certainly without being a threat to any public employee retiree. I said the state has got to uphold its commitment and its promise no matter how costly, but, we should have, could have, must have drawn a line and said July 1 of 2000, any new employees must come under different rules, but they would know that before coming in so that they would have full choice. But at the same time, the state would have fiscal integrity. We have not done that.

"We have not given full autonomy to the counties, and I don't know if it's the reason that the chairman said, because the mayors didn't show up and the council members didn't show up. I thought this was a personnel matter and all the personnel directors showed up and they were very loud and they were very clear and they were very specific in what they needed, what they wanted, and the independence. And we had it. We had it in our bill and we gave it away. And we went through a period of a month-and-a-half when nothing happened here except the constant droning of the public service unions. And I'm afraid that we blinked. We blinked because we had 6,000 or 8,000 people outside, all chanting 'no.' All saying no -- no reforms, no changes, no this, no that.

"It was our job to explain to them how important this is to everybody. So the mayors didn't show up and the council members didn't show up. The public didn't show up either, because I don't think the public understands the full consequence of what the fiscal implications and ramifications are, and maybe that's our fault too because we didn't make it

clear enough. Oh, and there was someone else who didn't show up and that was the governor. Maybe he was too busy taking measurements at Hemmeter Center, but he didn't show up.

"If it would have been so important to him the third time that he made this his key provision -- the third time -- then he should have shown a little passion and a little direct interest, instead of attacking the people on the Ala Wai and telling people in Pearl City they can have the sex offenders. Maybe that should have been his priority.

"But be that as it may be, we had the bill. We had the good arguments and we let them slip away. We let the drug testing slip away; the two strikes provision that we had.

"We have a provision in there now that says collective bargaining agreements prevail over the statute where conflicts between the two arise. And this seems to be contrary to statutory and constitutional law where it is the statute that determines. We have added areas of collective bargaining, areas that were not there before. We have given more rights and potential benefits to public service unions.

"Experimental modernization initiatives -- boy, that sounds great. That came out of the Board of Water Supply. We're providing that in the bill and that's good except for one thing -- they're subject to collective bargaining.

"We really have not drawn that clear bright line, that home-run-Chun bright line between civil service and collective bargaining. We had a chance. We came very close, but we pulled back. And people have been watching us. And when will these modernizations even start? Not until July 1, 2002 -- for two more years nothing's going to be done! We don't have that kind of time! And we had a commitment; we had a responsibility; and -- as we tell the school teachers -- we have to be accountable.

"So yes, it's a good start. Yes, we accomplished something. Yes, we're on the road, but it shows we didn't have the political will to see the job through, to make sure that it was done correctly.

"There is good language about the arbiter's awards. There is good language about voluntary severance, and so it is a start. But we all know we could have done a better job, and we all know the example that we have from the Senator from God's country -- if you want something long enough, you hold on and you push for that position. And there are certain things you compromise, but you don't compromise principles. If you say you believe in autonomy, if you say you believe in meaningful change, then that's what you do. And you can certainly change other things because we all gave in on this bill. We all gave things; we all compromised.

"So again, kudos to those who were involved. I'm very happy that we got a bill out. There were many people who were saying as recently as last week that nothing was going to come out of here. So that's good. But let's always strive not only to do better but to do the best that we can do.

"Thank you, Mr. President."

Senator Anderson rose to speak with reservations on the measure and said:

"Mr. President, I will be going with reservations.

"I'm very glad that the Minority Floor Leader reminded me that all four of the personnel people came. The governor didn't show up. But we did send a letter when Representative Case took everything out and said that he was very disappointed because his colleagues took everything out that the governor wanted. And the Republicans put it all back in, but he didn't go for that, so I'm very glad that at least we have something and we'll go forward.

"Thank you very much."

Senator Chun rose to support the measure and said:

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

"Mr. President, I agree with a lot of the comments made by the Honorable Senator from Hawaii Kai. However, we can criticize and we can place blame all we want, but the choice is we can either decide to continue with that blame and continue with that criticism or we can recognize the fear and uncertainty that the unions and the employees have and recognize that and try to explain it to them in an orderly, reasonable fashion and work with them on those fears to alleviate them and to work for a better tomorrow.

"Mr. President, our job is not over. We all know that. The chairman has said that we will go on together next year and try to fashion a better bill and to correct the things that we need to correct. There is still a lot of work that needs to be done. But rather than focus on the things that this bill does not accomplish today, I choose to focus on what this bill does address. And like the chairman indicated, there were a lot of things that we can be proud of.

"I agree with the comments made by the Senator from Hawaii Kai. Just earlier this week, people were saying that this bill would never pass, that we will never make any changes to the civil service system, that we will never make any changes to the collective bargaining system, that the power of the unions was too strong. But we did make some changes. We did begin to cut away at the inefficiencies of the current personnel system. There is a crack in the wall, Mr. President.

"Mr. President, every journey starts with a single step, and this is our first step towards reforming our outdated personnel system. Where we go from here is up to us. Whether we falter and turn away from the challenges is our choice, but for me, I choose to continue the journey with our fellow colleagues and look forward to the work that lies ahead.

"Thank you."

Senator Anderson rose again and said:

"Mr. President, a short rebuttal, if I may. I think my adrenaline just went up.

"I wanted to just point out that the good Senator said you can't explain that to the people. I think when you start explaining that they're going to have to lose their jobs -- and people are losing their jobs, I don't care what anybody says -- then that's how important this bill is.

"Reform is important -- all different forms of reform, not just on civil service. And we don't do our job in that area. We talk a lot. And to sit there and say, well, how do you explain if they don't understand it. And when you can leave a room and they more or less said, 'we won, you lost,' they understand what's going on. They're the ones that are being paid the high salaries, not the people at the lower echelon.

"The people at the lower echelon will eventually lose and that's the problem. If we don't make corrections, they're going to be in trouble. If we don't make corrections so that the people coming in will have a better chance, and the retirees aren't going to be cheated because of contracts that we have agreed to, that's reform.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 115 was adopted and S.B. No. 2859, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT," having been read throughout,

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

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 122 (S.B. No. 2312, S.D. 1, H.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 122 be adopted and S.B. No. 2312, S.D. 1, H.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 122 was adopted and S.B. No. 2312, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A HOISTING MACHINE OPERATORS CERTIFICATION REVOLVING FUND," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 126 (S.B. No. 2433, S.D. 2, H.D. 2, C.D. 1):

Senator Chumbley moved that Conf. Com. Rep. No. 126 be adopted and S.B. No. 2433, S.D. 2, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Levin rose in opposition to the measure and stated:

"Mr. President, I rise to speak against the bill.

"Mr. President, let me touch on two points. First, there are at least two ways to address our prison overcrowding -- one is to build more prisons; the other is to examine the causes of crime and try to do some preventive care.

"To me, building a new prison is the equivalent of admitting defeat . . . defeat not just for today, but measured in the decades of use that one would expect to get out of a prison. I'm not yet prepared to admit such a failure of social policy.

"There are alternatives that we can explore. For example, I believe that if we treat drug abuse as a health problem rather than as a criminal problem, our prison overcrowding will be dealt with in a more cost effective and humane way.

"Second, when it comes to rehabilitation, which has been much talked about with respect to this bill, the co-chairs of Judiciary have worked to address the concerns that have been raised. I appreciate their efforts, but they and we are limited to what a Legislature can do. We can call for a unique kind of institution and for positive rehabilitation programs, but in the end we will be dependent on the will of future legislators to fund expensive rehabilitation programs. And since this prison will not be completed for at least a couple of years, we will also be dependent on an unknown governor and an unknown director of corrections who may or may not share the values of those who have argued so passionately and so persuasively that the current process of warehousing prisoners until they are released, offend again and are recommitted, is a failed strategy that needs to be re-thought.

"The community that I represent has shown a willingness and even a desire to host a new type of positive rehabilitation facility. They also have said that they are not interested in being part of the traditional prison industrial complex. I regret that I cannot be sure which we will be getting from the bill before us and therefore I must vote 'no.'

"Thank you."

Senator Anderson rose to oppose the measure and stated:

"Mr. President, I'll be voting 'no' on this particular measure.

"I did vote 'aye' in the Conference Committee and I saw the Judiciary chairman looking at me. I guess if I said nothing, it would go by. In the Conference Committees, we are voting in public and everybody thinks they're having a lot of input, which they don't. I did ask one question, Can the governor build this anywhere else? And he said, no, that provision was taken out. But I did read in the newspaper that they do have to go ahead and pay certain scales. The unions will be involved. There's a whole bunch of things. We just went over one of those and it's called 'The Emergency Appropriation for the Hawaii Health System.'

"If you go ahead and do everything that is stated in this bill, even if it's privatized, we're going to be paying through the nose, because it doesn't give the private entity any chance to do what they have to do.

"When I went to the National Conference of State Legislatures, I asked and went to committees on privatization of prisons and why it works and why it doesn't. And primarily, because when you do something that's privatized, you have to oversee it to make sure that people who underbid don't goof. That's what I think happened with the Hawaii Health System. They accepted the management of the hospital with the continuation of the financial hurdles -- how much the nurses were going to be paid, what the different hospitals were going to do, our collective bargaining problems -- all of the things that we just went ahead with, collective bargaining, and goofed.

"And now we have the prison. The prison is a sad story if we don't allow a private company to take over the way it can be done in the most cost effective manner. We're going to have another dark hole where they're going to have to come to us if it's privatized, and they're going to pay the funds that they do. And that scares the hell out of me, Mr. President, because I'm not worried about the new governor or a new anything. It's the way it's written and the way it was presented in the newspaper.

"Again, when you are a conferee, they don't talk to you. They talk to each other as committee chairs, and they talk to the House leaders. They might even talk to the governor once in a while. . . . I don't know. . . . a lot of union people. But when it came out, I knew about as much as the person on the street. And that's why I'm voting 'no.' This isn't what I was hoping for. I don't think this is what the people of Hawaii wanted. And it's something that I think we're going to regret, not be happy for, and say, what a great bill and we did a helluva job.

"I wanted a private prison built the way it was supposed to be -- not, all of a sudden find out you're going to have to cut corners in order to make it work because that's not fair to the people of Hawaii.

"Thank you very much."

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

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

"I apologize to the good Senator, the previous speaker, if he feels that we left him out of the debate; that was not intentional.

"Mr. President, as this measure went forward, there were a lot of things that needed to be considered on a very strict time line. Fortunately, I believe that we have come up with a bill that will give an opportunity for the State of Hawaii and the governor to feel comfortable in proceeding with the construction of a new prison in state and bringing home, back to the State of Hawaii, all of our prisoners that are currently outside the state right now.

"The previous speaker had asked a question during the Conference -- Can it be built somewhere else? The bill does identify by a TMK number a reference to a site in East Hawaii. The bill also says that the governor can choose any other appropriate location in the state. When I responded to the question at the Conference hearing, I did indicate to the good Senator that there is a provision in the bill that repeals the governor's ability to construct this facility anywhere outside of the State of Hawaii. And I think there may have been some confusion on that response.

"This measure sets up a pilot process for managed competition to operate a new prison within the State of Hawaii. What we struggled with in the crafting of this legislation was that none of us can define or know exactly what the managed competition process should look like. This is the first step at that. In 1998 when many of us who are here today voted on the managed competition bill, the privatization process, we made a commitment. That's the direction that we were going to go in. We said that we would allow privatization under the managed competition process. And I think that this measure holds true to that commitment that we made several years ago.

"Nothing in this bill would stop the private sector from being the successful bidder on this project. The state will design the operational plan. It will go out to bid and then it will be a competitive process. If our public unions in the State of Hawaii can match that private sector bid, then so be it. Those will be state employees under a public union agreement. What it does allow for is those public entities to create supplemental agreements which the chair of the Labor Committee, in his negotiation on the more extensive civil service reform, created that opportunity to do.

"I think this will be a model that we can look at and review and use through the evaluation of the next year in trying to determine how do you statutorily define what managed competition is and how it will work.

"The good Senator from the Big Island made a comment about health problems versus criminal problems with regards to how we would deal with substance abuse and drugs in our community. I agree with him wholeheartedly and I respect the fact that he voted 'no' on this measure. And all along he had expressed to us his concern that this facility needed to be different. It needed to be something unique and it needed to be in a way that no other prison was built in the state. I hope that we can reach those goals. I hope that's the direction we're moving in.

"And as policy makers, all 25 of us here need to make a commitment to substance abuse. We attempted to do that this year. We tried to set up an interagency council to coordinate the efforts of drug and substance abuse treatment programs and counseling. We weren't successful in that, but we'll be back. We'll be back and we'll continue to push along that way. We have to examine the root causes of what's going on with crime in our communities. And I do believe that drugs are a factor of crime.

"This is a step forward. I believe that the governor, upon his review of this bill, will look at it optimistically, and I believe it is enough to hopefully get a commitment from him to start with the construction of that new facility.

"I urge all my colleagues to vote 'aye.' Thank you."

Senator Anderson rose again and said:

"Mr. President, a short rebuttal.

"I was trying to remember a particular word, if I remember correctly, that Mr. Rodrigues has used in the past and one of the reasons that I'm upset about this particular bill.

"I don't know if the chairman has ever experienced the bidding process, but I used to bid on jobs. And if I remember correctly, Mr. Rodrigues did make a comment once that he wants to assure that the jobs that are available and usually done by union workers are going to be available. And that's why he wanted to make sure that the prison jobs were going to be there.

"But look around you. I bid to clean the stadium. It was previously done by public employees, but it got to the point that the state couldn't afford it, so they put it out for bid. However, in the bid they told me how much I had to pay each person. That's the way the bid read. Now the state couldn't afford it and I had to put in all of the other things. I provided the chemicals. I provided all of these other things which normally the consumers and the taxpayers paid for.

"But look around you right now. I went by the other day, and who's cleaning Washington Place? Who's keeping the yard growing? It's prisoners. The prison population is doing it because it's a lot cheaper for government. This moat that we have right around this capitol, it's being cleaned by prisoners because we can no longer afford the contracts that we've had because this pond continues to be a maintenance nightmare. And that's what bothers me, Mr. President.

"If the bidding process is going to be such that private enterprise is going to be screwed when they bid, that's not fair. Or if it's going to be started by union people and we're going to have to foot that bill because government is going to grow and the taxpayers can't afford it, that worries me. So it's not that I'm opposed to union workers. It's not that I'm opposed to trying to do what's right. I just don't think that we should write bills that take care of one segment of this community. That bothers me.

"Thank you very much, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 126 was adopted and S.B. No. 2433, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRISONS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Anderson, Levin).

Conf. Com. Rep. No. 135 (H.B. No. 2024, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Levin and carried, Conf. Com. Rep. No. 135 was adopted and H.B. No. 2024, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION TO THE LEGISLATIVE AGENCIES," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 139 (H.B. No. 2222, H.D. 1, S.D. 1, C.D. 1):

Senator Kanno moved that Conf. Com. Rep. No. 139 be adopted and H.B. No. 2222, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Tam rose to support the measure and said:

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

"Mr. President, H.B. No. 2222, H.D. 1, S.D. 1, C.D. 1, appropriates the following:

1. A review and recodification of the condominium property regimes law;

2. One full-time temporary condominium specialist; and
3. Other current expenses.

"Mr. President, there are two condominium bills that were considered earlier in this session. Both of the bills are required because of the confusion caused by years of toying with this law. For example, the terminology of 'Apartment' is defined as 'a part of a property intended for any type of use or uses . . .'. The condominium law, on the other hand, requires that building plans be filed with the real estate commission. House Bill No. 2222 will help to recodify the condominium law into a more comprehensive format and help to eliminate confusion.

"The Condominium Management Education Special Fund in this bill will provide up to \$85,000 for staff. However, it is expected that volunteers who are most familiar with the statute will be assisting in order to keep expenses down. By the way, this money is to hire an attorney to review the laws.

"There are at least two condominium groups who are prepared to perform the work of recodifying. Therefore, we fully expect that the cost will be minimized and that the education fund will expend far less than the amount that is budgeted.

"This bill also mandates the involvement of all parties involved in condominiums to the public hearing process. This is the second positive step in this session for providing fair laws in the sale and management of condominium laws.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 139 was adopted and H.B. No. 2222, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 143 (H.B. No. 2392, H.D. 2, S.D. 1, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 143 be adopted and H.B. No. 2392, H.D. 2, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition to the measure as follows:

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

"The bill seeks to address the increasing problems of diabetes within the state, and there's no doubt that this is an increasing medical problem; there's no doubt that this is a very costly problem and is a debilitating and very harmful disease. The problem is that the bill seeks to address this problem by adding yet another mandate to Hawaii's only state in the nation prepaid health care act. The act, which was adopted in 1974 and was supposed to be basic medical coverage, has in those 26 years had mandate, after mandate, after mandate added to the health coverage which is paid almost exclusively and totally by employers in this state. And at the same time during those 26 years, no change has been made in the formula or the ratio between what an employer pays and what an employee pays for his or her own health coverage.

"In addition to that, we have not made any changes to the prepaid health care act which allows for a cafeteria style approach to health care so that people that want certain kind of coverages can purchase those coverages or have those included in their bill, in their medical insurance, while others who maybe because of health reasons, age, or other medical conditions want other kinds of coverages may choose different kinds of coverages. We do not allow for choice.

"All we do is ensure that the premiums will continue to go up as they have. In this bill, as you may recall, we put the cart before the horse because there is a legislative requirement and mandate that a study be completed prior to the enactment of another mandate. We haven't done that. We have the mandate in this bill and the study to come with it, but the mandate takes precedence over everything else.

"So it's going to increase the cost. It continues 26 years of bad precedence and bad faith from the state government.

"Thank you."

Senator Kawamoto rose to support the measure and said:

"Mr. President, I rise to support the bill.

"Mr. President, I'm a diabetic and I did receive the training as indicated in this bill. I think that the training I received is going to be worthwhile, and I hope that I will live a long time. The fact that I received the training will cut the cost of my treatment, and I think this would be an avenue in which maybe the premiums will be lowered because of the fact that we don't have to treat diabetes anymore.

"Thank you very much."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 143 was adopted and H.B. No. 2392, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Anderson).

Conf. Com. Rep. No. 151 (H.B. No. 1759, H.D. 2, S.D. 2, C.D. 1):

Senator Kawamoto moved that Conf. Com. Rep. No. 151 be adopted and H.B. No. 1759, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Matsunaga.

Senator Slom rose to oppose the measure and stated:

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

"Three years ago I spoke in opposition to the bill. The bill passed. This is the bill to allow photo enforcement of traffic violations. The bill was passed, and it was enacted and nothing has happened in three years, which shows the difficulties with this measure and the problems that have been encountered already. It's supposed to be a traffic enforcement demonstration project.

"I'm from the old school. I would like to have a police officer or law enforcement official actually confront me if there is a violation, rather than having a photograph taken and then having to go and have the burden of proof upon me to prove that in fact that wasn't me or that didn't occur. I think that as we go into the new economy and the new technology we are continuing to depersonalize and make additional bureaucratic problems for all of our citizens because of over-reliance on technology in certain areas. And this, in terms of traffic enforcement, I believe, is one of them.

"Thank you."

Senator Kawamoto rose in support of the measure and stated:

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

"Mr. President, we did not start the process because of the funding. Now the funding is available and we have the federal

funds available for this project. We just extended the bill for three years until 2003.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 151 was adopted and H.B. No. 1759, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAFFIC ENFORCEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 160 (H.B. No. 1632, H.D. 3, S.D. 1, C.D. 1):

Senator Inouye moved that Conf. Com. Rep. No. 160 be adopted and H.B. No. 1632, H.D. 3, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Slom rose to speak in opposition as follows:

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

"We've been here, done that before. We've tried to bail out sugar. We've tried all kinds of things by using state funds and state loans. With all due respect to the good Senator from the beautiful Garden Island of Kauai, we have passed special purpose revenue bonds. We have passed other projects to help continue the existing sugar operations. I think we would all like to see that but the idea of having the state continue to loan and try to bail out industries rather than to move on or to try to lessen the tax and regulatory and civil service and collective bargaining problems that afflict those industries is the wrong way to go. So I will be voting 'no.'

"Thank you."

Senator Inouye rose to support the measure and said:

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

"This measure appropriates funds to finance through the agriculture loan revolving fund the major sugar cane operations on the Island of Kauai to encourage the continuation of sugar production on that island, as well as appropriating funds for intensive control of the papaya ring spot virus leading to the eradication of the virus from the Island of Hawaii.

"Mr. President, your Committees have worked hard to dwell with the economy of the state as well as our support of the agricultural industry. We recognize that the sugar cane industry remains a vital component of the Island of Kauai's economic base. The industry employs approximately 700 workers and uses about 25,000 acres of land for cultivation on Kauai. As a user of large tracts of land and a provider of many jobs, the sugar cane industry is without parallel especially to neighbor island rural communities as on Kauai.

"The second part of this bill addresses the papaya industry. Papaya is a vital component of the Island of Hawaii's economic base. The industry grows papaya on 2,500 acres of land across the islands, primarily in the Puna District. Papayas are grown on more than 500 independent family farms and the industry employs approximately 2,000 employees. The Big Island papaya industry has historically produced more than 90 percent of the state's papayas.

"In 1992, the dreaded papaya ring spot virus or PRSV, as we all know, was found in Pahoia, Puna in three years. It virtually eliminated papaya production in the district. So therefore, I need to urge my colleagues to support this measure to address our agricultural industry as well as support of the economic vitality in the state.



"Thank you, Mr. President. I urge my colleagues to support this measure."

Senator Chun rose in support of the measure as follows:

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

"Mr. President, this bill has been mislabeled the AmFac bail out bill. I want to emphasize to my colleagues this loan is not to bail out AmFac who has threatened to leave the islands and the State of Hawaii from its agricultural commitments. This loan is to allow the sole remaining sugar plantation to take over AmFac land to rejuvenate the land to make it more productive again. The loan will be fully covered by the rolling stock and also other assets of Gay and Robinson which is the sole remaining sugar plantation, and we all anticipate that the money will be paid. This is not a situation of lending money to a company that is going under or threatened to go under. This is money that's going to be lent to make profitable lands which are going to be abandoned by AmFac.

"So I ask all my colleagues to support this bill. Agriculture is still an important and viable industry not only for the neighbor islands but for the rest of the state.

"Thank you, Mr. President."

Senator Anderson rose to speak with reservations on the measure and stated:

"Mr. President, I stand with reservations.

"I would hope that the sugar industry would be able to find more by-products for people all over the world, not just on the mainland but throughout the world. And I am very, very concerned about the papaya industry, so I will be going with reservations on this."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 160 was adopted and H.B. No. 1632, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 161 (H.B. No. 2901, H.D. 2, S.D. 2, C.D. 1):

Senator D. Ige moved that Conf. Com. Rep. No. 161 be adopted and H.B. No. 2901, H.D. 2, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fukunaga.

Senator Slom rose to support the measure with reservations and said:

"Mr. President, I rise to support the bill with reservations.

"Everything is the new economy. But you know, when you ask people to define the new economy, usually they do it in terms of technology. I think the good Senator from Mililani earlier said today the age of information, and certainly we have information . . . of course, a lot of it is misinformation and a lot of it is not usable.

"In looking at the bills that we've had and in looking at what we've done before, we're told that the new economy is based on risk taking and change and all of that, which really is the hallmark of the old economy. We haven't really solved the problems existing in the old economy. We haven't realized the fact that the old economy can access technology to make survival, as the successful businesses in Hawaii that still remain here are doing today, and yet we still want to go to that next level without trying to fix the problems that we have right now.

All of that is laudable but we're getting caught up in some of the national think tanks that are defining the new economy -- forces that are defining the indicators and the comparisons, and how we measure the new economy, and how we measure our participation.

"But I really don't have that much objection to any of that. We passed a very good act last year, the omnibus technology act. I would just remind my colleagues that before we hitch our post to the new economy, that we have an obligation and a responsibility to the thousands upon thousands of women and men that are still in the current economy. And we continue to shirk our responsibilities to them in terms of overall tax reductions and benefits to them. We pick certain companies. We pick certain industries. We pick certain activities. And we give them tax breaks or forgiveness or loans or special rates. But we don't do that for the people that are really still the foundation and support of this economy.

"The other thing in this bill that I'm not really happy about is something that I think we discussed in the early Senate version and we had in our bill, and that is under Part 4, the Governor's Special Advisory Council for Technology Development. If I am correct, in the C.D. 1 version it exempts members of the council from Senate confirmation process and the requirement to file financial interest disclosure statements with the State Ethics Commission. The argument initially was -- well, we couldn't get really high quality people that would have to sit through the scrutiny of the nomination process or to bear their financial interest. Who says? Why not? We've got high quality people within our state. And if it is a process that we say is important, the confirmation process and the disclosure process, then it should be good for everybody including the technocrats and the new economy folks. So the fact that we're carving out an exemption and saying, 'hey, wait a minute, they're really special and they don't have to serve under the same kinds of conditions as everybody else' -- that troubles me.

"So aside from those considerations, Mr. President, I will support the bill with reservations. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 161 was adopted and H.B. No. 2901, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE NEW ECONOMY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

#### MATTERS DEFERRED FROM THURSDAY, APRIL 13, 2000

#### THIRD READING

Stand. Com. Rep. No. 3391 (H.B. No. 2555, H.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 3391 be adopted and H.B. No. 2555, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose in opposition to the measure as follows:

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

"The bill will create six new full time permanent positions relating to workers' compensation expenses. And it takes money from the workers' compensation special compensation fund in the amount of \$282,595. My problem is, again, that we are creating six new positions to do what should have been done, particularly since everybody is taking credit for reducing the cost of workers' compensation.

"Thank you."

Senator Sakamoto rose to speak in opposition also and said:

"Mr. President, I rise in opposition as well.

"When I asked about the positions in caucus, there was no answer as to even if the positions were in this bill. I think workers' comp has been going down and I fear that when things are labelled as special comp funds, people don't pay attention. But all of these costs are paid by each of you as consumers and these costs may not be paid by employers directly into the comp fund, but certainly we need justification on why we're spending more money here."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 3391 was adopted and H.B. No. 2555, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION SPECIAL COMPENSATION FUND EXPENSES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 3 (Anderson, Sakamoto, Slom). Excused, 1 (Iwase).

Stand. Com. Rep. No. 3392 (H.B. No. 2568, H.D. 1):

Senator Fukunaga moved that Stand. Com. Rep. No. 3392 be adopted and H.B. No. 2568, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Levin.

Senator Slom rose in opposition and said:

"Mr. President, a 'no' vote for the special fund created."

The motion was put by the Chair and carried, Stand. Com. Rep. No. 3392 was adopted and H.B. No. 2568, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE PARKS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

At 4:15 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:31 o'clock p.m.

#### ADOPTION OF RESOLUTIONS

H.C.R. No. 116, H.D. 1:

Senator Fukunaga, for the Committee on Ways and Means, requested that the referral of H.C.R. No. 116, H.D. 1, to the Committee on Ways and Means be waived, and the Chair granted the waiver.

Senator Fukunaga moved that H.C.R. No. 116, H.D. 1, be adopted, seconded by Senator Levin.

Senator Fukunaga noted:

"Mr. President, this reso requests establishment of an advisory council to study issues relating to and encouraging the development of public and private high tech bioscience research in the state, and we'd like to encourage our colleagues to adopt it."

The motion was then put by the Chair and carried, H.C.R. No. 116, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE ESTABLISHMENT OF AN ADVISORY COUNCIL TO STUDY ISSUES RELATING TO ENCOURAGING AND ATTRACTING THE DEVELOPMENT OF PUBLIC AND PRIVATE HIGH TECHNOLOGY BIOSCIENCE RESEARCH IN THE STATE," was adopted.

H.C.R. No. 47:

Senator Kawamoto, for the Committee on Transportation and Intergovernmental Affairs, requested that the referral of H.C.R. No. 47, to the Committee on Transportation and Intergovernmental Affairs be waived, and the Chair granted the waiver.

Senator Kawamoto moved that H.C.R. No. 47 be adopted, seconded by Senator Chun.

Senator Kawamoto noted:

"Mr. President, this is a resolution supporting the efforts of the World Health Organization and Waris Dirie to end the harmful tradition of female genital mutilation."

The motion was then put by the Chair and carried, H.C.R. No. 47, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE EFFORTS OF THE WORLD HEALTH ORGANIZATION AND WARIS DIRIE TO END THE HARMFUL TRADITION OF FEMALE GENITAL MUTILATION," was adopted.

At 4:33 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:41 o'clock p.m.

#### RECONSIDERATION OF ACTIONS TAKEN

S.C.R. No. 60, S.D. 1, H.D. 1:

Senator Inouye moved that the Senate reconsider its action taken on April 25, 2000, in disagreeing to the amendments proposed by the House to S.C.R. No. 60, S.D. 1, seconded by Senator Chun and carried.

Senator Inouye moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 60, S.D. 1, seconded by Senator Chun.

Senator Inouye then noted:

"Mr. President, the purpose of this measure is to request the Department of Land and Natural Resources to study the feasibility of establishing, assessing, and collecting user fees to offset the cost of maintaining Kokee State Park and Alakai Swamp on the Island of Kauai.

"The House version has amended the resolution by adding the surrounding forest reserves and changing the title to include surrounding forest reserves. Therefore, S.C.R. No. 60 reads: Requesting the Department of Land and Natural Resources to study the feasibility of establishing, assessing and collecting user fees to offset the cost of maintaining Kokee State Park, Alakai Swamp, Waimea Canyon State Park and surrounding forest reserves on the Island of Kauai."

The motion was then put by the Chair and carried.

On motion by Senator Inouye, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 60, S.D. 1, and S.C.R. No. 60, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE FEASIBILITY OF ESTABLISHING, ASSESSING, AND COLLECTING USER FEES TO OFFSET THE COST OF MAINTAINING KOKEE STATE PARK, ALAKAI SWAMP, WAIMEA CANYON STATE PARK, AND SURROUNDING FOREST RESERVES ON THE ISLAND OF KAUAI," was Finally Adopted with Senator Slom voting "No."

S.C.R. No. 77, H.D. 1:

Senator Hanabusa moved that the Senate reconsider its action taken on April 25, 2000, in disagreeing to the amendments

proposed by the House to S.C.R. No. 77, seconded by Senator Chun and carried.

Senator Hanabusa moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 77, seconded by Senator Chun.

Senator Hanabusa explained:

"Mr. President, this senate concurrent resolution requests the Department of Health to work with service providers and the Department of Land and Natural Resources to determine a reasonable rental fee to improve infrastructure on the Waimano Training School and Hospital grounds."

The motion was then put by the Chair and carried.

On motion by Senator Hanabusa, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 77 and S.C.R. No. 77, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HEALTH TO WORK WITH SERVICE PROVIDERS AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DETERMINE A REASONABLE RENTAL FEE TO IMPROVE INFRASTRUCTURE ON THE WAIMANO TRAINING SCHOOL AND HOSPITAL GROUNDS," was Finally Adopted.

S.C.R. No. 173, S.D. 1, H.D. 1:

Senator Kanno moved that the Senate reconsider its action taken on April 25, 2000, in disagreeing to the amendments proposed by the House to S.C.R. No. 173, S.D. 1, seconded by Senator Taniguchi and carried.

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 173, S.D. 1, seconded by Senator Taniguchi.

Senator Kanno noted:

"Mr. President, the purpose of S.C.R. No. 173, S.D.1, was to request the Hawaiian Electric Company to maintain its demand side management programs benefiting electricity customers. I just want to share with the members what the Senate version was before it went over to the House. It addressed Hawaiian Electric Company's reduction in solar rebates effective April 1, 2000, for owners of existing homes from \$800 to \$500, and for newly constructed residences from \$1,500 down to \$1,000.

"The Senate Resolution requested that the higher rebates be retained for a period of one year. Passing it over to the House, the House gutted our resolution and replaced it with a resolution requesting the PUC to address and consider additional demand side management issues and related pending or new commission dockets.

"I just wanted to share that the Senate chairs believe strongly in the original House position and we would like to make a statement that the rebates are very important in having people install solar water heating units in their homes and that we wanted to make a strong statement to Hawaiian Electric to do what they could to maintain those rebates at the previous levels. However, we are supporting with reservations the House amendments to the resolution.

"Thank you."

Senator Taniguchi rose in support and said:

"Mr. President, I stand in support with reservations.

"On S.C.R. No. 173, I would have preferred our S.D. 1 as crafted by my co-chair."

The motion was then put by the Chair and carried.

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 173, S.D. 1, and S.C.R. No. 173, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE PUBLIC UTILITIES COMMISSION TO ADDRESS AND CONSIDER ADDITIONAL DEMAND SIDE MANAGEMENT ISSUES IN RELATED, PENDING, OR NEW COMMISSION DOCKETS," was Finally Adopted.

S.C.R. No. 179, S.D. 1, H.D. 1:

Senator Kanno moved that the Senate reconsider its action taken on April 25, 2000, in disagreeing to the amendments proposed by the House to S.C.R. No. 179, S.D. 1, seconded by Senator Taniguchi and carried.

Senator Kanno moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 179, S.D. 1, seconded by Senator Taniguchi.

Senator Kanno then noted:

"Mr. President, the purpose of S.C.R. No. 179 is to require the Public Utilities Commission to resolve avoided cost issues."

The motion was then put by the Chair and carried.

On motion by Senator Kanno, seconded by Senator Taniguchi and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 179, S.D. 1, and S.C.R. No. 179, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUIRING THE PUBLIC UTILITIES COMMISSION TO RESOLVE AVOIDED COST ISSUES," was Finally Adopted.

S.B. No. 2160, S.D. 1, H.D. 1:

Senator Fukunaga moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2160, S.D. 1, seconded by Senator Levin and carried.

Senator Fukunaga moved that the Senate agree to the amendments proposed by the House to S.B. No. 2160, S.D. 1, seconded by Senator Levin.

Senator Fukunaga then noted:

"Mr. President, S.B. No. 2160, relating to the general excise tax, provides for cash basis accounting for contractors. That bill had minor technical and nonsubstantive amendments made by the House to that bill."

The motion was then put by the Chair and carried.

At 4:49 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:51 o'clock p.m.

On motion by Senator Fukunaga, seconded by Senator Levin and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2160, S.D. 1, and S.B. No. 2160, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2785, S.D. 1, H.D. 1:

Senator Fukunaga moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2785, S.D. 1, seconded by Senator Levin and carried.

Senator Fukunaga moved that the Senate agree to the amendments proposed by the House to S.B. No. 2785, S.D. 1, seconded by Senator Levin.

Senator Fukunaga then noted:

"Mr. President, S.B. No. 2785, H.D. 1, relating to unclaimed property, establishes a trust fund for said property. The House made minor technical and nonsubstantive amendments to that measure."

The motion was then put by the Chair and carried.

On motion by Senator Fukunaga, seconded by Senator Levin and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2785, S.D. 1, and S.B. No. 2785, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2791, H.D. 1:

Senator Fukunaga moved that the Senate reconsider its action taken on April 11, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2791, seconded by Senator Levin and carried.

Senator Fukunaga moved that the Senate agree to the amendments proposed by the House to S.B. No. 2791, seconded by Senator Levin.

Senator Fukunaga then noted:

"Mr. President, S.B. No. 2791, H.D. 1, provides an emergency appropriation to pay the share of health insurance carrier refund and rate credit amounts due to the federal government. The House added the correct dollar amount into the bill which is \$2.623 million."

The motion was then put by the Chair and carried.

On motion by Senator Fukunaga, seconded by Senator Levin and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2791 and S.B. No. 2791, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO PAY THE SHARE OF HEALTH INSURANCE CARRIER REFUND AND RATE CREDIT AMOUNTS DUE TO THE FEDERAL GOVERNMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2938, S.D. 1, H.D. 1:

Senator Fukunaga moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2938, S.D. 1, seconded by Senator Levin and carried.

Senator Fukunaga moved that the Senate agree to the amendments proposed by the House to S.B. No. 2938, S.D. 1, seconded by Senator Levin.

Senator Fukunaga then noted:

"Mr. President, with respect to S.B. No. 2938, H.D. 1, relating to conformity of the Hawaii income tax laws to the

Internal Revenue Code, the House made minor technical, nonsubstantive amendments to the bill."

The motion was then put by the Chair and carried.

On motion by Senator Fukunaga, seconded by Senator Levin and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2938, S.D. 1, and S.B. No. 2938, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2905, H.D. 2:

Senator Nakata moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2905, seconded by Senator Chun and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2905 on the following showing of Ayes and Noes:

Ayes, 3 (Nakata, Fukunaga, Chun). Noes, none. Excused, 1 (M. Ige).

Senator Nakata moved that the Senate agree to the amendments proposed by the House to S.B. No. 2905, seconded by Senator Chun.

Senator Nakata noted:

"Mr. President, S.B. No. 2905, S.D. 1, extended the life of the employment training program for five years at the current level of assessment. The House amendments would sunset the employment training fund over three years and also calls for an auditor's report to make recommendations on the fund.

"We are now agreeing to the House amendments. Thank you."

The motion was then put by the Chair and carried.

On motion by Senator Nakata, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2905 and S.B. No. 2905, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT SECURITY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2945, S.D. 1, H.D. 3:

Senator Taniguchi moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2945, S.D. 1, seconded by Senator Kanno and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2945, S.D. 1, on the following showing of Ayes and Noes:

Ayes, 4 (Taniguchi, Kanno, Fukunaga, Levin). Noes, none. Excused, 1 (Anderson).

Senator Taniguchi moved that the Senate agree to the amendments proposed by the House to S.B. No. 2945, S.D. 1, seconded by Senator Kanno.

Senator Taniguchi noted:

"Mr. President, H.D. 3 made technical amendments to Act 70 and 71, Session Laws 1999. It also imposed the use tax on contracts imported for resale or use in Hawaii. It provided pyramiding relief from the general excise tax for the sale of amusements. It also provided public service company tax rate relief for telecommunication services resold to long-distance telecommunication providers and motor carrier transportation services which are sold to contractors.

"The Department of Taxation sent a letter to the conferees on April 18, 2000, stating their preferences for the House draft. We were not able to get the House to agree to the other provisions that were in S.D. 1, so the conferees have agreed to agree to the House draft."

The motion was then put by the Chair and carried.

On motion by Senator Taniguchi, seconded by Senator Kanno and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2945, S.D. 1, and S.B. No. 2945, S.D. 1, H.D. 3, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2166, H.D. 2:

Senator Inouye moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2166, seconded by Senator Chun and carried.

In accordance with the Conference Committee Procedures agreed upon by the Senate and the House of Representatives, the managers on the part of the Senate recommended that the Senate agree to the amendments proposed by the House to S.B. No. 2166, on the following showing of Ayes and Noes:

Ayes, 4 (Inouye, Kanno, Nakata, Slom). Noes, none. Excused, 1 (Ihara).

Senator Inouye moved that the Senate agree to the amendments proposed by the House to S.B. No. 2166, seconded by Senator Chun.

Senator Inouye noted:

"Mr. President, the purpose of this measure, S.B. No. 2166, is to assist electricity producing wind farms by: (1) allowing these farms to benefit from the state's enterprise zone program; and (2) exempting the sale of electric power produced from wind energy to the public utility for resale to the public from the general excise and use tax.

"Mr. President, H.D. 2 removes item 2, deleting the general excise and use tax exemptions, thus allowing the farms to benefit from the state's enterprise zones only.

"I ask my colleagues to adopt this measure.

"Thank you, Mr. President."

The motion was then put by the Chair and carried.

On motion by Senator Inouye, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2166 and S.B. No. 2166, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO WIND FARMS,"

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

Ayes, 25. Noes, none.

S.B. No. 2536, S.D. 1, H.D. 2:

The President discharged the managers who were appointed on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 2536, S.D. 1.

Senator Chumbley moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 2536, S.D. 1, seconded by Senator Matsunaga and carried.

Senator Chumbley moved that the Senate agree to the amendments proposed by the House to S.B. No. 2536, S.D. 1, seconded by Senator Matsunaga.

Senator Chumbley then noted:

"Mr. President and members, this is the measure which repeals the existing uniform principal and income act under HRS 557 and then reestablishes a new uniform principal and income act.

"The House made primarily technical, nonsubstantive amendments to the measure and we are in agreement with those.

"Thank you."

The motion was then put by the Chair and carried.

On motion by Senator Chumbley, seconded by Senator Matsunaga and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2536, S.D. 1, and S.B. No. 2536, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 4:59 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:12 o'clock p.m.

S.C.R. No. 123, H.D. 1:

Senator D. Ige moved that the Senate reconsider its action taken on April 25, 2000, in disagreeing to the amendments proposed by the House to S.C.R. No. 123, seconded by Senator Chun and carried.

Senator D. Ige moved that the Senate agree to the amendments proposed by the House to S.C.R. No. 123, seconded by Senator Chun.

Senator D. Ige noted:

"Mr. President, S.C.R. No. 123 urges the Department of Education to comply with existing law and regulations concerning conducting criminal history record checks prior to hiring of personnel in close proximity to children.

"The House added one resolve clause that asks the Board of Education to investigate the feasibility of conducting pre-employment criminal history record checks of applicants in lieu of the current policy of conducting criminal history record checks upon hiring.

"I would encourage all my colleagues to agree with that amendment."

The motion was then put by the Chair and carried.

On motion by Senator D. Ige, seconded by Senator Chun and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 123 and S.C.R. No. 123, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF EDUCATION TO COMPLY WITH EXISTING LAW AND REGULATIONS TO PREVENT THE EMPLOYMENT OF PERSONS WITH CRIMINAL CONVICTIONS IN POSITIONS WHICH PLACE THEM IN CLOSE PROXIMITY TO CHILDREN," was Finally Adopted.

S.B. No. 873, S.D. 1, H.D. 2:

The President discharged the managers who were appointed on the part of the Senate at the conference to be held for the consideration of amendments proposed by the House to S.B. No. 873, S.D. 1.

Senator Taniguchi moved that the Senate reconsider its action taken on April 13, 2000, in disagreeing to the amendments proposed by the House to S.B. No. 873, S.D. 1, seconded by Senator Ihara and carried.

Senator Taniguchi moved that the Senate agree to the amendments proposed by the House to S.B. No. 873, S.D. 1, seconded by Senator Ihara.

Senator Taniguchi noted:

"Mr. President, S.B. No. 873 provides that lease rent based on fair market value as determined by appraisal shall prevail over current contract provisions. It also provides that fair market value negotiation disagreements are to be resolved by Sections 171-18.5(b) and 10-13.6(b) Appraisal Procedures.

"The Senate bill which was unanimously adopted by us last year was permissive but it had an effective date of 2004. The House bill is mandatory and has an effective date upon approval.

"This bill will help small businesses leasing land from major land owners that are struggling to keep their businesses afloat. A reasonable fair market rent is necessary to help the bottom line of our small businesses.

"While the co-chairs would have preferred something different and there may be constitutional questions with this version, I ask that my colleagues support it at this point to provide an opportunity for further scrutiny by the governor and possibly by the courts." (Laughter.)

At 5:17 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:18 o'clock p.m.

The motion was then put by the Chair and carried.

Senator Taniguchi moved that S.B. No. 873, S.D. 1, H.D. 2, having been read throughout, pass Final Reading, seconded by Senator Ihara.

Senator Anderson rose in opposition to the measure and said:

"I'll be going 'no', Mr. President, primarily because I've read the bill and I used to lease land.

"Mr. President, I do have my concerns and I don't see it anywhere in here that says if the appraisal goes up that the rent can go up. What it says is if fair market value goes down, then the lease rent can go down. It doesn't say anything about raising the lease rent.

"And I do know that we circumvented laws for the state leases. And I'm not sure whose land this is anymore, but I do know that prior to this we were, I guess, beneficiaries of certain lands that were leased and people wanted to renegotiate a lease after the contract expired, and I fought for both sides. And that's what concerns me about this. I see it nowhere. Somebody said it's an assumption that it can be and I guess he's an attorney, he must know.

"But that's why I'm going 'no' on this particular measure, Mr. President. It doesn't really explain itself.

"Thank you very much."

Senator Matsunaga rose in opposition and said:

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

"Mr. President, first let me commend the author of this measure and its supporters for trying to do something to help out small businesses. Unfortunately, I oppose this measure for three reasons:

1. The bill is unconstitutional;
2. The bill is bad public policy; and
3. The bill will adversely affect tenants in negotiations on new leases.

"With respect to the unconstitutionality, the previous speaker mentioned that there were questions on the constitutionality. Unfortunately, Mr. President, there's no question -- it's a slam dunk -- it's clearly unconstitutional. I have an attorney general's opinion dated April 20 that states, 'Senate Bill No. 873 violates Section 10, Article I, of the United States Constitution,' which is the contracts clause provision. I'd like to submit this opinion letter into the Journal. (The Chair so ordered.)

"Number two, the bill is bad public policy. The bill will actually increase congestion in Hawaii courts. It will require the Hawaii courts to make determinations which are really better left to professional appraisers; such as whether appraisers followed the Uniform Standards of Professional Appraisal Practice in determining the fair market value of property.

"The bill will give an unfair advantage to parties with 'deep pockets' who may be those landlords who are willing to relitigate the determination of fair market value already made by professional appraisers.

"And number three, this bill will actually adversely affect tenants in their negotiations on new leases. Under current practices, landlords often give tenants lower initial rents to help them get started, relying on the rent floor in future reopeners to protect their income stream. Mr. President, if this bill passes, they will be less inclined to trade existing rents for future rents and the floor on rent reopeners is deleted. If the bill is passed, landlords will be less likely to agree to set future rents using the appraisal process which is based upon fair market value, and instead will seek to fix rents for the entire term of the lease making their best guess as to what is a fair rent 30 to 50 years in advance. Mr. President, I can guarantee that that best guess will be much higher than it is currently.

"I urge my colleagues to vote 'no.' Thank you."

The Chair having so ordered, the attorney general's opinion letter is identified as ATTACHMENT "A" to the Journal of this day.

Senator Chun rose to speak in opposition and said:

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

"Mr. President, I agree with the comments made by the Senator from Palolo, especially in regards to the fact that this bill is unconstitutional. I have also read the attorney general's opinion on this bill and I agree with it.

"More importantly, Mr. President, by my voting 'no' on this bill, I'm not saying there is no public purpose involved in granting a lease, basically a lease renegotiation benefit, to the small businesses. What I'm saying is that if we are going to take that action we need to adequately put down in the bill itself and in public hearings the expressed public purpose behind that. Right now that is not here in the bill. It is not contained in it. We have had no public input either from one side or the other in regards to whether or not there is a valid public purpose in awarding this kind of benefit to a small business over the constitutional rights of the land owner. And without that kind of input I believe I cannot support that bill as it stands.

"I would be very interested to have a bill like this come before the Senate in open meetings, in public debate and input so we can see what the benefit is and what is the overriding public policy that we need to decide.

"Until that happens, I will vote 'no' on this bill, Mr. President."

Senator Chun Oakland rose in support of the measure and said:

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

"Mr. President, S.B. No. 873, H.D. 2, would assist many small businesses in our community and end the practice that keeps lease rent prices artificially high in Hawaii. Inflated values of the Japan bubble period would no longer prevail. This would prevent further bankruptcies of lessees from occurring because they are unable to pay these artificially inflated lease rent values. Fair lease rents to lessees and fair returns to the lessors would be the result.

"It would also protect thousands of condominium residents from losing their homes during upcoming lease rent renegotiations.

"Thank you."

Senator Chumbley rose to speak against the measure and said:

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

"Colleagues, I agree completely with the Senator from Palolo on the issue of the violation of the Constitution. I think it's very clear when you read the attorney general's opinion that we're going into an area of contract clauses and contract laws where, unless there is a significant public policy, the Legislature has no business involving itself.

"If you look at page 1 of the bill, lines 10 through 12, the stated public policy is and I quote: 'The legislature finds that it is in the public interest that the lease rents and the sublease rents should be based on the fair market value of the land.' If you applied that same public policy purpose as to the leasehold conversions under the Bishop Estate situation, you in no way compare this to that level, and that's the standard that you have to rise to in order to state the public policy and interest for us to be taking this action.

"In addition to that, there are two provisions of the existing statutes that this proposed measure conflicts with. So it's unclear what would prevail as far as the law or the policy.

"In addition, when there are cases of hardship, there is nothing that would prohibit a landowner, under a mutual agreement, to renegotiate lease rents in a hardship situation. So

I think there is more than adequate provisions in existing law that would allow for high bubble rents to be taken care of.

"So I urge all my colleagues to vote 'no' on this measure."

Senator Inouye rose to speak in opposition and said:

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

"I concur with the comments made by my colleagues from Palolo, South Kauai, and East Maui/North Kauai. I also am in receipt of a copy of the attorney general's opinion, thereby I'll be voting 'no.'

"Thank you."

Senator Anderson rose and said:

"Mr. President, if I may. I received the attorney general's opinion like everybody else, but I would hope that we'd go on good common sense as far as I was concerned.

"If I went to the bank to make a loan and then everything else went lower, I'm not going to tell them 'I have a fixed loan, however, my property value decreased, my business is losing money, therefore I think you should drop my loan to an amount that I can afford.' And that's what I looked at, and that's what I based it on.

"When we first discussed this, one attorney told me, 'I don't know where you're coming from, but I think it's not bad.' And then he voted no. I was concerned. I wasn't sure if he was voting up or down. But because somebody cited the attorney general's opinion, then everybody said 'well that's a good opinion.'

"What happened to good common sense in this place? If you believe something is wrong, then you say it's wrong. If you believe that it's right for the reasons that you have looked at, then vote that way. Just because the attorney general issues an opinion, it is not law. That's what scared me when we confirmed the attorney general. Because now he is going to come down with an opinion and everybody says that's right, regardless of how you feel. I think good common sense has got to prevail at times. And that's why I will vote 'no.'

"Thank you very much, Mr. President."

Senator Slom rose to support the measure with reservations and said:

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

"It's a very difficult issue and the arguments that have been made on both sides are both tenable. And I go back to the origin of this legislation which was, first of all, to change the appraisal process for which we voted. And then as was previously mentioned, our original bill last year was a permissive or voluntary bill, and we all supported that and that was a good measure as well. It got confusing this year as we had draft after draft and we had additional things that were put in, in terms of tax credits for the landowners and so forth.

"I certainly concur 100 percent with my colleague, the Minority Leader. In the past, we have had attorney general's opinions -- and that's what they are, they are opinions -- and they have proven to be wrong. Most recently and most notably, had to do with the blank ballot situation where the former attorney general assured us that blank ballots would not count and later on they did with the Supreme Court. So it is an opinion and certainly we have to do what is right.

"I am troubled by a number of things here because first of all we are again, as we do so many times, looking at the symptom rather than the cause of a problem here.

"Secondly, I don't like the idea of the Legislature, as you know, interfering in any kind of business and certainly in terms of contracts, no matter what the contracts have been. As long as people are free to make those contracts, free to reject very harsh terms, then there is no problem. And that has not been demonstrated that that's not the case. The statements that are made that the Legislature should not get involved unless there are strong public policy provisions . . . come on . . . we get involved and we interfere all the time -- that's what 90 percent of our legislation is, then we make up the public policy arguments.

"We have a real problem here. Will it help small businesses? Yes, it will help certain small businesses. And that's where I'm caught too, because I have a great deal of respect for the small businesses that have been caught in this particular situation. But I also remember that small businesses are landowners too in certain cases. And so it does affect them.

"I guess the bottom line for me is, as it was in another issue about a year ago, my constituents. And my constituents, because they are caught up in the leasehold problem both commercial and condominium residential, are very, very, very adamant that they want some relief and they want something done. And they have told me that over and over again and it was a subject of our neighborhood board meetings and so forth.

"So, from that standpoint, with reservations and with concerns not only about constitutionality but about additional legislative involvement, I will vote, as I say, with reservations. If anything, I would probably like to have some of the royalty money from Land and Power in Hawaii because this should stimulate a new revised edition of that book in publication.

"I think what we really have to do, though, as I say, is look at the cause of our problems in terms of land. And most people that talk in this building have never met a private payroll in their lives and they've never been in a situation where they understand what the landowner has to go through in terms of additional costs and uncertainties and everything else.

"But to keep the discussion alive, to listen to my constituents, I will be voting with reservations. Thank you."

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

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

"The purpose of being in favor of this bill is because the whole essence of this bill is to stimulate the economy based on the viability of business being able to survive, especially with their leases.

"In regards to the attorney general, it's only an opinion what he's saying. I would have more confidence in the attorney general if he was elected into office.

"Thank you."

Senator Sakamoto rose in opposition to the measure and said:

"Mr. President, I rise in opposition.

"Mr. President, many of the points in opposition are very valid points. I will not restate those. I think one valid point for our body is that this goes against legislative policy.

"This is such an important matter. The appraisal process was discussed, and we did vote on that. But for this last minute effort, the last bill of the day, after a heavy, heavy agenda . . . in the morning an opponent to the bill trying to say here's a little message and it's a very important message . . . This is a sad day if this body, this Legislature, passes a bill of such importance in such a manner as this. We shouldn't do this.

"There are many, many measures that we have passed. Some of these resos . . . when the chairs go w/r on their own reso, we shouldn't have passed that maybe. But certainly this is a heavy issue that deserves full and public debate, deserves both sides of the issue coming to the table. We had open decision-making. This is foolish if we pass something like this. We talk about open decision-making and then we have a bill to be reconsidered with amendments that haven't even been discussed. I think the proponents of openness in legislature really ought to vote no on principle of lack of openness on this particular measure."

Senators Kanno, Hanabusa, Buen, Nakata, D. Ige and Kawamoto requested their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was then put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 873, S.D. 1, and S.B. No. 873, S.D. 1, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY APPRAISALS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 15. Noes, 10 (Anderson, Bunda, Chumbley, Chun, Inouye, Iwase, Matsunaga, Matsuura, Sakamoto, Tanaka).

#### SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 100 to 107) were read by the Clerk and were disposed of as follows:

Senate Resolution

No. 100 "SENATE RESOLUTION RECOGNIZING WITH GRATITUDE EACH OF THE INDIVIDUALS WHO OPENED A DAY OF THE SENATE, TWENTIETH LEGISLATURE OF THE STATE OF HAWAII, REGULAR SESSION OF 2000, WITH AN INSPIRATIONAL INVOCATION."

Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 100 was adopted.

No. 101 "SENATE RESOLUTION EXPRESSING DEEPEST APPRECIATION TO THE MEMBERS OF THE VARIOUS MEDIA FOR THEIR COVERAGE OF THE ACTIVITIES OF THE TWENTIETH LEGISLATURE, REGULAR SESSION OF 2000."

Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 101 was adopted.

No. 102 "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK."

Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 102 was adopted.

No. 103 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTIETH DAY."

Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 103 was adopted.

No. 104 "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE."



Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 104 was adopted.

No. 105 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT."

Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 105 was adopted.

No. 106 "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE TWENTIETH LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF."

Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 106 was adopted.

No. 107 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Ihara, Anderson.

On motion by Senator Ihara, seconded by Senator Anderson and carried, S.R. No. 107 was adopted.

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

"If I may, very briefly, Mr. President, rise for a point of personal privilege.

"I'm going to break my 100 percent vote with my colleague next door on certain things, but twice today he mentioned sex offenders and the governor. I happen to believe that Waimano Home has been there forever. In fact, as a very young man, my aunt used to work up at Waimano Home. That land is owned by us. It's always been for the mentally ill or those persons who had mental problems. I do know that we should have spoken a little more with the residents, the community, and the neighborhood boards. But I believe that it's a fair place.

"In fact, I want to remind everybody again, because they keep mentioning how close the schools are, that on the Windward side we do have the boy's and girl's reform schools and we have the women's prison right next door to Kailua High School. We do have the state hospital on Windward College. So, close proximity of institutions to neighborhood schools is nothing new. And I do apologize to those people because the government didn't sit out there and talk to them more.

"But really what got me, Mr. President, is something else that I read in yesterday's paper. The Sunday paper says 'Island economy picks up steam.' And then on the back of the paper which I normally read, the want ads (I'm always looking for a job; I figure I can get something part-time) two-and-a-half pages of foreclosures. The economy is picking up steam? Also, many, many businesses are for sale. In fact, I was looking at one a few months ago and the people that owned it were working, oh I'd say, 14 to 16 hours a day, 7 days a week. And after reading the paper, I found out (and it's in Chinatown) that the space is now available; the business is gone.

"So it worries me that our people read things like this in the paper, listen to what we're doing and the money we're spending and yet the economy is picking up and there's a lot of our people who don't realize it because there in a very sad condition.

"So I just wanted to make it a point that when we close today, remember that everything that we do, the people that we represent count on us to do the very, very best job we can.

"Thank you, my colleagues."

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

"Mr. President and colleagues, on behalf of the Chinese community and the Hawaiian/Chinese Multi-Cultural Museum, we want to thank you very much for the \$100,000 as grant money for the operations of the museum. And if I may, I'd like to take the pleasure of inviting any one of you and your families to visit our museum so that we can show you in terms of how we are using taxpayers' dollars wisely.

"Thank you."

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

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

"Mr. President, today is the last day of session of at least one of our members, and I wanted to just share some of my thoughts on what he has meant to me as a Senator, as a person, and as a community leader. I'm talking, of course, about our beloved Senator from Mililani.

"I first met Randy about ten years ago when he spoke to me about getting younger Japanese Americans involved in politics. I think I wrote him a little note saying I was intrigued by his comments and he immediately called me up right away and said, 'What did you mean intrigued?' And two things struck me -- his perverse curiosity was only outweighed by his paranoia. (Laughter.)

"And I guess the second time I ran into him was when he was a judge for the Ten Outstanding Young People Award and I was nominated as a finalist. The very first question he asked me was -- What is the sound of one hand clapping? From that moment, I knew that was a taste of tough questions of what was to come. And watching him as a committee chair and on the Special Investigative Committee, Randy always asked the hard questions like: How much deeper would oceans be if sponges didn't live there? (Laughter.) And, What would you do if you see an endangered animal that is eating an endangered plant? And also, If the cops arrest a mime, do they tell him he has a right to remain silent?

"Mr. President, when I was first elected to the Senate, he soon became one of my mentors. I'm sure he'll deny that now, but he gave me that rookie neck tie which I passed on to the Senator from Waipahu, and I'm not sure what has ever happened to that. He also gave me some wise words of advice. He said, 'Go ahead and take risks, just be sure that everything will turn out okay.' He also told me, 'If you can't be kind, at least have the decency to be vague.'

"The very first day of session, we were photographed together and he was shaking my hand welcoming me to the Senate. And normally, he takes pretty good pictures, but I've got to admit, this was the worst picture I've ever seen of him -- he was kind of hunched over, shaking my hand and he kind of looked like a cross between Quasimodo and George Costanza. (Laughter.) It was also the first Corky cartoon in which he and I had ever been drawn together, so I take pride in that. He told me he would never take another picture with me because I had too much hair and because my hair was able to stand straight up. Mr. President, at that time, I didn't know that Senator Iwase had trouble with his hair standing up.

"Mr. President, notwithstanding the fact that we took opposite sides on numerous high profile issues and I've always admired his ability to organize his arguments and clearly

articulate them, I thought I'd read a quote that reminded me of him from one of his favorite presidents, John F. Kennedy:

'When at some future date the high court of history sits in judgment on each one of us, recording whether in our brief span of service we fulfilled our responsibilities to the state, our success or failure, in whatever office we may hold, will be measured by the answers to four questions: Were we truly men of courage? Were we truly men of judgment? Were we truly men of integrity? Were we truly men of dedication?'

And I think in Senator Iwase's case, the answers are, absolutely.

"I would also like to read a farewell speech I hope the Senator can appreciate, because it is in light of his favorite rock group, the Beatles.

'Yesterday,' I was contemplating what I would say about my colleague from Mililani. For Senator Iwase, his career has been a 'long and winding road.' Sometimes, Senator Iwase was referred to as the 'bad boy' of the Senate 'because' of his pension for dissidence and every once and a while a minor 'revolution.' Despite this reputation, Senator Iwase was always able to 'come together' with his colleagues, knowing that 'we can work it out' and do what is right for the people of the state.

On the night before final decking and after many 'a hard day's night' of running around 'helter skelter,' I reflected that 'a day in the life' of Randy Iwase was pretty good. Being without a chairmanship, Senator Iwase would oftentimes be the 'nowhere man' or a 'day tripper' skipping off to other Senators' offices to see what was going on. Occasionally you could be caught 'daydreaming' or strolling down 'Penny Lane,' romping in 'strawberry fields,' or taking a ride on a 'yellow submarine.' And sometimes I would hear him wondering out loud if 'I am the walrus' or if 'I should have known better,' or just 'let it be.'

'Imagine,' as a member of the Labor and Industrial Relations Appeals Board, Senator Iwase will 'get back' to his legal roots. Hearing countless cases on worker's compensation disputes, Senator Iwase will have new colleagues to depend on, and if not, I'm sure that he can always get by 'with a little help from his friends.' I'm sure that under his guidance, 'if I fell' I would attain a fair judgment from him.

Whatever you do, Senator Iwase, 'I've got a feeling' that this 'magical mystery tour' that you're on will take you beyond the 'misery' of the Legislature, because you've got 'something' that keeps you striving to succeed.

'In my life,' I don't think I've met many people who are as interesting as Senator Iwase. Serving with you in the Senate has been enlightening, and your insight on issues, 'that means a lot' to me.

On behalf of my colleagues, I ask that you 'don't ever change' and 'don't let us down' during your term as a member of the Labor and Industrial Relations Appeals Board.

Mr. President, I'd like to ask that we rise 'all together now,' and wish Senator Iwase good luck and aloha to his new job.

"Thank you, Mr. President."

At this time, the members of the Senate rose and extended a resounding round of applause for their colleague, Senator Iwase.

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

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

"First of all, I have to say, with all those accolades, the good Senator from Mililani broke his first promise . . . he was supposed to bring his guitar today and I was supposed to sing 'Don't Be Cruel' for you. I know you were all looking forward to that. So that's a sorry thing.

"I want to tell you, Mr. President, and I want to thank you, first of all, for your leadership, particularly this session, and for the courtesies and generousities that you've extended. Also to my colleagues, I have enjoyed being here in this stint of four years that has gone just like phew, just like that. We have laughed and we have debated and we have battled and we have done things, and hopefully we have made some good, we've made some progress and made some change. Because along with the new economy, there's got to be some new changes for Hawaii. And I think that more than any other agency or body, that the State Senate has the ability to make those changes and we certainly have the capabilities and the people within this body.

"We have agreed and we've disagreed and we've argued and, quite frankly, I am very honored to have been a member of this Senate. I would not like to have been in the House across the hall there because they're so boring. (Laughter.) They don't seem to have as much passion as we do. And you know, we have such colorful characters -- the Beatle, the opihi, all the folks that make up this Senate body. And it shows something about determination and it shows something about being able to resurrect bills and measures that have long been counted as dead.

"The thing that, as I say, I will remember during my four years here, and hopefully I'll be back with some of you to spend some more time, is that all of us, particularly those of us that enunciate a different point of view, need to speak up, need to talk. We need more full and open discussion of issues -- not personalities, but issues -- within this body and within this state. For too long, we have accepted things because that's the way it was always done or because somebody was in favor of it. We have the responsibility to question not only authority, but the basis for our own decisions and decisions that are made by others, but, that we have responsibility for.

"So I would just say that we can compromise on many things, but we can never and should never compromise on principle, and that we should never, never, never, never forget who sent us here -- the taxpayers of this state who pay for every drink of water, every paper clip, every piece of paper, everything that we do here. And we owe them courtesy and respect and responsibility. And even though we may not be in total agreement with ourselves or with them, we owe them that respect to explain why we have taken a position as we have.

"So I want to thank you all for your courtesy and for your kindness and wish you all very well. I'm going to miss this. I'll wake up tomorrow and I won't be able to stand up and speak.

"Thank you very much, Mr. President. Aloha."

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

"Mr. President, a point of personal privilege.

"It sounded almost like a farewell speech from the Senator from Hawaii Kai.

"We talk about time -- more time to do a bill. We talk about ten years ago. We talk about many things -- building trust or violating our own rules. We talk about thinking about our re-elections -- is our heart right; is this the time to do something?

We talk about the proper times -- whether it's celebrating fireworks or other things. We talk about the time we had or wish we had. We talk about journeys. We talk about opportunities for the future. We talk about some future date. We talk about agrees/disagrees.

"I want to read something about time, then relate a little bit to our good Senator from Mililani.

'To everything there is a season, a time for every purpose under heaven -- a time to be born, and a time to die; a time to plant, and a time to pluck what is planted; a time to kill, and a time to heal; a time to break down, and a time to build up; a time to weep, and a time to laugh (I'm going to miss your laughter, Senator); a time to mourn, and a time to dance; a time to cast away stones, and a time to gather stones; a time to embrace, and a time to refrain from embracing; a time to gain, and a time to lose; a time to keep, and a time to throw away; a time to tear, and a time to sow; a time to keep silent, and a time to speak; a time to love, and a time to hate; a time of war, and a time of peace.'

"In my four years here, I appreciate the time you spent with me and with others. I'm going to miss that time. Should I return, should all of us return, or most of us, I would hope that there will be more times to cast away stones, and not to gather them; more times to embrace, and not to refrain; and as the Senator from Hawaii Kai said -- more times that more people speak, and speak openly. And one thing that I appreciate about the Senator from Mililani is that he was able, in a concise manner, to speak and make issues that are sometimes murky, very clear. So I'm going to miss that . . . we're going to miss that.

"I hope and pray that you will do well in your new assignment, but I also hope that you will share your wisdom with us periodically, whether in person or on the phone. And even if you don't step foot in the capitol, your spirit will always be here. God Bless."

Senate President Mizuguchi then delivered his closing remarks as follows:

"Members of the Senate, you've worked long and hard and your well-deserved R&R is just minutes away. Please bear with me as I take a few moments to congratulate all of you.

"Will Rogers said, 'Get someone to blow your trumpet and the sound will carry twice as far.' I'll 'toot your horn' because the legislation that you have constructed with your House counterparts is an outstanding list of accomplishments.

"Much credit must go to you for putting aside personal conflicts and not let them interfere with your deliberations in shaping good public policy -- which is our ultimate responsibility.

"Listen to the trumpet's sounds of legislative accomplishments this session.

"You took to heart people's concerns about the fireworks issue -- one that greatly affects the health, safety, and well being of our island community. While we could not agree on a statewide ban, we were able to limit the display of non-aerial fireworks only for cultural purposes and to ban the general use of aerial fireworks. Concurrently, we imposed stricter penalties for violations.

"You also passed an educational accountability measure that allows the superintendent, teachers, parents, and the unions to work together to set up a system of academic standards and performance measurements. And, you increased the Department of Education's budget.

"You recognized the need for repair and maintenance projects at our schools and generously gave DOE nearly \$71 million in cash and bonds.

"You also gave \$30 million to the University of Hawaii for its R&M projects and agreed to put the issue of amending the state constitution to provide UH with autonomy over its own interests on this year's ballot.

"You passed a comprehensive measure to bring about government efficiency and accountability through civil service reform and cut more red tape in government bureaucracy by streamlining the burdensome regulatory requirements.

"You selected a site for a new prison on the Big Island and established a pilot project for managed competition. You also provided \$400,000 for substance abuse treatment for inmates.

"You went beyond last year's high-tech omnibus bill by providing even more tax credits and other incentives to stimulate the increasing momentum of Hawaii's New Economy.

"Although the Regular Session of the Twentieth Legislature ends today, we must work together to continue the good work we did this session. Since the improvements we seek are incremental and do not flower overnight, I'm asking the committee chairs to determine what issues should be studied during the interim and submit their proposals to me.

"I also ask that you plan to reserve several days during the first week of August to return to these chambers for a special session to confirm three judges, including the replacement for soon-to-be Associate Justice Simeon Acoba.

"While the Senator from Mililani won't be with us when we meet in August, I'd like to take this opportunity to congratulate Senator Iwase on his confirmation to the Labor and Industrial Relations Appeals Board. I'm certainly proud that one of our own has been selected for this important position. Randy, our warmest aloha and best wishes go with you as you start a new chapter of public service.

"This has indeed been a productive session. You can all go back to your constituents with your head high knowing that you worked on their behalf toward the greater good.

"I'm grateful to you and your staffs for all the hard work in taking care of the people's business. I'll see you in August.

"Mahalo and aloha."

At this time, the President appointed Senators Ihara, Chumbley, Chun, Anderson and Slom to inform the House of Representatives that the Senate is ready to adjourn, Sine Die.

At 5:59 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 6:25 o'clock p.m.

#### ADJOURNMENT

Senator Chun moved that the Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2000, adjourn Sine Die, seconded by Senator Slom and carried.

At 6:26 o'clock p.m., the President rapped his gavel and declared the Senate of the Twentieth Legislature of the State of Hawaii, Regular Session of 2000, adjourned Sine Die.

**ATTACHMENT "A"**

STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
425 Queen Street  
Honolulu, Hawaii 96813  
(808) 586-1300

April 20, 2000

The Honorable Ron Menor  
Representative  
House of Representatives  
State Capitol, Room 320  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Re: S.B. No. 873, S.D. 1, H.D. 2

Dear Representative Menor,

We are responding to your request for a follow-up memorandum regarding the constitutionality of S.B. No. 873, S.D. 1, H.D. 2 ("S.B. No. 873"), which was further amended by the Committee on Finance of the House of Representatives in pertinent part as follows:

- 1) Deleted requirement that any reduction in a sublessor's rent shall result in a corresponding reduction in rent between the sublessor and the sublessee;
- 2) Deleted the state income and general excise tax credits for lessors to cover loss lease rental income due to the new renegotiation provisions in S.B. No. 873; and
- 3) Added a requirement that disputes arising during rent renegotiation regarding the fair market value of the leased land be resolved by appraisal under section 10-13.6(b), Hawaii Revised Statutes ("HRS") or section 171-18.5(b), HRS, rather than by arbitration under chapter 658, HRS.

Based on the changes to S.B. No. 873, we are of the opinion that S.B. No. 873 violates Section 10, Article I of the United States Constitution ("Contracts Clause"). Additionally, the proposed amendment to present section 519-1(b), HRS, which adds a new rent dispute resolution mechanism utilizing appraisals as provided in sections 10-13.6(b) and 171-18.5(b), HRS, is in direct conflict with the requirement in present section 519-2(b), HRS, that rent reopening disputes be resolved by binding arbitration by the Housing Finance and Development Corporation ("HFDC").

As noted in our legal memorandum of April 6, 2000, the United States Supreme Court has said with regard to Contract Clause claims that "the prohibition is not an absolute one and is not to be read with literal exactness like a mathematical formula." United States Trust Co. v. New Jersey, 431 U.S. 1, 21, 97

S.Ct. 1505, 1517, 52 L.Ed.2d 92, 109 (1977). However, the United States Supreme Court stated in Allied Structural Steel Co. v. Apannaus, 438 U.S. 234, 242, 98 S.Ct. 2716, 2721, 57 L.Ed.2d 727, 734 (1978), that "[i]f the Contracts Clause is to retain any meaning at all,...it must be understood to impose some limits upon the power of a State to abridge existing contractual relationships, even in the exercise of its otherwise legitimate police power." [Emphasis in original].

Thus, in analyzing Contracts Clause claims, the United States Supreme Court in United States Trust Co. v. New Jersey, 431 U.S. at 22, 97 S.Ct. at 1517-1518, 52 L.Ed.2d at 109-110, noted as follows:

Yet private contracts are not subject to unlimited modification under the police power. The Court in Blaisdell recognized the laws intended to regulate existing contractual relationships must serve a legitimate purpose. [Citation omitted.] A State could not "adopt as its policy the repudiation of debts or the destruction of contracts or the denial of means to enforce them." [Citation omitted.] Legislation adjusting the rights and responsibilities of contracting parties must be upon reasonable conditions and of a character appropriate to the public purpose justifying its adoption.

The Hawaii Supreme Court in Applications of Herrick & Irish, 82 Haw. 329, 340, 922 P.2d 942, 953 (1996) stated the test to be used in determining whether a statute is constitutional under the Contracts Clause as follows:

In deciding whether a state law has violated the federal constitutional prohibition against impairment of contracts, U.S. Const., art. I, §10, cl. 1, we must assay the following three criteria: (1) whether the state law operated as a substantial impairment of a contractual relationship; (2) whether the state law was designed to promote a significant and legitimate public purpose; and (3) whether the state law was a reasonable and narrowly-drawn means of promoting the significant and legitimate public purpose.

As was discussed in our prior memorandum, it is clear that existing leases could be impaired by the provisions of S.B. No. 873, and that the consequent loss of lease rent income which the lessors may rely upon to pay mortgages, bills, and other expenses could be substantial. Unlike the prior House version of S.B. No. 873, however, the present draft deleted the provision for state net income and general excise tax credits to reimburse lessors for any lease rent revenue lost due to a reduction in lease rent that may result from S.B. No. 873. Consequently, the potential harm to lessors and existing contractual rights and expectations under the present bill could indeed be a substantial impairment of their contractual relationships with lessees. Therefore, the only questions remaining are whether the bill "changes the contractual and property rights on reasonable conditions and is of a character appropriate to its public purpose." (Anthony v. Kualoa Ranch, Inc., 69 Haw. 112, 120, 736 P.2d 55, 60 (1987)).

In this regard, the only public policy noted in S.B. No. 873 is stated as follows:

"The legislature finds that it is in the public interest that the lease rent and sublease rent should be based on the fair market value of the land."

Viewing this public policy against the potentially substantial loss of rental income and the ensuing impairment of existing leases that would occur should S.B. No. 873 be enacted, it would appear that the change in law proposed to be effected by S.B. No. 873 would not be reasonable and would not be "of a character appropriate to its public purpose." Anthony v. Kualoa Ranch, Inc., 69 Haw. 112, 120, 736 P.2d 55, 60 (1987).

In this regard, S.B. No. 873 is similar to the statute at issue in Anthony v. Kualoa Ranch, Inc., 69 Haw. 112, 736 P.2d 55 (1987), wherein a provision in section 516-70, HRS, which required lessors to purchase a lessee's leasehold improvements at the expiration of the lease term was struck down as unconstitutionally impairing the obligation of existing leases in violation of the Contracts Clause. In Kualoa Ranch, the Supreme Court noted that the public purpose sought to be advanced by section 516-70

was to accomplish equity. In rejecting this justification for the statute in question, the Supreme Court in Kualoa Ranch, 69 Haw. at 124, 736 P.2d at 63, noted as follows:

This statute, as applied to leases already in effect, purely and simply, is an attempt by the legislature to change contractual remedies and obligations, to the detriment of all lessors and to the benefit of all lessees, without relation to the purposes of the leasehold conversion act; without the limitations as to leaseholds subject thereto contained in the conversion provisions; not in the exercise of the eminent domain power, but simply for the purpose of doing equity, as the legislature saw it. If there is any meaning at all to the contract clause, it prohibits the application of HRS §516-70 to leases existing at the time of the 1975 amendment. Accordingly, that section, as applied to leases existing at the time of the adoption of the 1975 amendment, is declared unconstitutional.

Like the legislative action that was at issue in Kualoa Ranch, the legislature has not cited any broad societal benefits that support the changes proposed by S.B. No. 873. In fact, the public purpose behind the prior versions of S.B. No. 873 has been lost by the deletion of the requirement that rent reductions that may result under the bill be passed onto the sublessees by sublessors. By deleting this pass-through requirement, S.B. No. 873 now denies the benefits of S.B. No. 873 to those lessees most in need of rent relief.

Consequently, it appears that a court could find that the changes proposed in S.B. No. 873, "as applied to leases already in effect, purely and simply, is an attempt by the legislature to change contractual remedies and obligations to the detriment of all lessors...." without advancing any broad societal interest. Anthony v. Kualoa Ranch, Inc., 69 Haw. 112, 124, 736 P.2d 55, 63 (1987). S.B. No. 873, as presently worded, does not appear "...to promote a significant and legitimate public purpose," and does not appear to be "...a reasonable and narrowly-drawn means of promoting the significant and legitimate public purpose," thereby failing the final two criteria for determining whether a law is violative of the Contracts Clause. Applications of Herrick & Irish, 82 Haw. 329, 340, 922 P.2d 942, 953 (1996).

Additionally, it should be noted that S.B. No. 873 creates a conflict between the provisions of sections 519-1 and 519-2, HRS, in that S.B. No. 873 now proposes to amend section 519-1 to provide that "[a]ny disagreement over fair market value that cannot be resolved by negotiation shall be settled by the procedure of appraisal set forth in sections 10-13.6(b) and 171-18.5(b) and not by arbitration under chapter 658." Present section 519-2(b) requires binding arbitration by the HFDC "[i]n the event the parties to a lease are unable to achieve an agreement under any reopening provision." This latter provision is in direct conflict with the "appraisal" dispute resolution process provided for in S.B. No. 873.

Also, section 10-13.6(b) and section 171-18.5(b), HRS, provide that "[f]air market value shall be determined on a per acre basis...." Very few residential lots are one acre in size, with most residential lots being under 10,000 square feet in size. Under normal appraisal practice, the use of one acre lot size to determine fair market value is more appropriate for valuing large parcels and may not result in an appropriate or accurate valuation of smaller lots, which are typically appraised using comparable sales of lots of similar size. Thus, in addition to creating a conflict with the arbitration requirement of section 519-2(b), S.B. No. 873 may also result in erroneous and inaccurate land valuations.

In conclusion, S.B. No. 873 as presently worded, will substantially impair existing leases without furthering any apparent public purpose. The elimination of the net income and general excise tax credits to compensate lessors for any rental income losses that may result from the changes effected by S.B. No. 873, and the deletion of the requirement that any reduction in lease rent be passed on to sublessees by sublessors, make it unlikely that S.B. No. 873 will be found to be a "reasonable and narrowly-drawn means of promoting...[a] significant and legitimate public purpose." Applications of Herrick & Irish, 82 Haw. 329, 340, 922 P.2d 942, 953 (1996). Consequently, it appears that S.B. No. 873, as presently worded, would be found to violate the Contracts Clause.

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Very truly yours,

/s/ Jeffery Kato  
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Approved:

/s/ Earl I. Anzai  
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