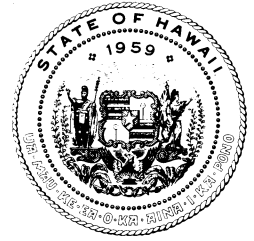


ROBERT BUNDA  
PRESIDENT  
DONNA MERCADO KIM  
VICE PRESIDENT  
COLLEEN HANABUSA  
MAJORITY LEADER  
CAL KAWAMOTO  
MAJORITY FLOOR LEADER  
SHAN S. TSUTSUI  
MAJORITY CAUCUS LEADER  
FRED HEMMINGS  
MINORITY LEADER  
BOB HOGUE  
MINORITY FLOOR LEADER  
PAUL WHALEN  
MINORITY POLICY LEADER

The Senate  
The Twenty-Second Legislature  
of the  
State of Hawaii

STATE CAPITOL  
HONOLULU, HAWAII 96813



April 28, 2006

**TO:** Members of the Senate Committee on Judiciary and Hawaiian Affairs

**FR:** Senator Colleen Hanabusa, Chair ~~\_\_\_\_\_~~  
Senate Committee on Judiciary and Hawaiian Affairs

**RE:** House Bills that passed out of JHW in which the House agreed to the amendments made by the Senate and Measures that passed out of JHW and moved out of conference with amendments

The following House bill passed out of JHW as second Committee and the House voted to agree to the amendments made by the Senate:

**HB 2278, HD1,  
SD2**

**MAKING EMERGENCY APPROPRIATIONS FOR THE DEPARTMENT OF THE ATTORNEY GENERAL**  
Makes an appropriation out of the general fund to be deposited into the DNA registry special fund. Makes an appropriation out of the DNA registry special fund to pay for costs associated with the implementation of Act 112, SLH 2005. Appropriates moneys out of the general fund to pay for costs associated with the implementation of Act 133, SLH 2005.

The Senate amended this bill to: (1) Include \$97,992 for the Judiciary's costs for the collection of buccal swab samples in accordance with testimony received from the Judiciary; and (2) Include the following sums for the emergency appropriation for DNA testing as requested by the Attorney General: (a) \$186,620 for the purchase of buccal swab collection kits and for mailing costs; (b) \$191,500 for costs related to collecting buccal swab samples (with the Judiciary's costs, this totals \$289,492); and (c) \$836,247 for costs related to analyzing samples collected. These amounts equal a total appropriation of \$1,312,359 for the DNA registry special fund and an appropriation of \$1,076,217 for sexual assault services. The Senate further amended this measure by making technical nonsubstantive amendments.

The following measures passed out of JHW as lead Committee and moved out of conference with amendments:

FIRST DISTRICT  
LORRAINE R. INOUE  
SECOND DISTRICT  
RUSSELL S. KOKUBUN  
THIRD DISTRICT  
PAUL WHALEN  
FOURTH DISTRICT  
SHAN S. TSUTSUI  
FIFTH DISTRICT  
ROSALYN H. BAKER  
SIXTH DISTRICT  
J. KALANI ENGLISH  
SEVENTH DISTRICT  
GARY L. HOOSER  
EIGHTH DISTRICT  
SAM SLOM  
NINTH DISTRICT  
LES IHARA, JR.  
TENTH DISTRICT  
BRIAN T. TANIGUCHI  
ELEVENTH DISTRICT  
CAROL FUKUNAGA  
TWELFTH DISTRICT  
GORDON TRIMBLE  
THIRTEENTH DISTRICT  
SUZANNE CHUN OAKLAND  
FOURTEENTH DISTRICT  
DONNA MERCADO KIM  
FIFTEENTH DISTRICT  
NORMAN SAKAMOTO  
SIXTEENTH DISTRICT  
DAVID Y. IGE  
SEVENTEENTH DISTRICT  
RON MENOR  
EIGHTEENTH DISTRICT  
CAL KAWAMOTO  
NINETEENTH DISTRICT  
BRIAN KANNO  
TWENTIETH DISTRICT  
WILLIE C. ESPERO  
TWENTY-FIRST DISTRICT  
COLLEEN HANABUSA  
TWENTY-SECOND DISTRICT  
ROBERT BUNDA  
TWENTY-THIRD DISTRICT  
MELODIE WILLIAMS ADUJA  
TWENTY-FOURTH DISTRICT  
BOB HOGUE  
TWENTY-FIFTH DISTRICT  
FRED HEMMINGS  
CHIEF CLERK  
PAUL T. KAWAGUCHI

HB 237, HD3,  
SD1, CD1

RELATING TO TORTS

Amends abolishing joint and several liability for a government entity by specifically retaining joint and several liability for claims relating to the maintenance and design of highways.

The Committee on Conference amended this bill by: (1) Deleting the exception relating to insurance coverage; (2) Adding language to retain an exception for highway maintenance and design; and (3) Changing the effective date to upon approval with retrospective application to the extent permitted by law. As amended, this bill abolishes governmental joint and several liability, except for all damages in highway cases where government has prior notice or negligence of 25 percent or more, consistent with the Kienker decision. The Committee on Conference believes this amended measure correctly reflects the original intent of Act 213 prior to the Kienker decision. To avoid any confusion as to the application of section 663-10.5, HRS, following Kienker, this measure is given retroactive application to the extent permitted by law so as to implement its intent without violating accrued or substantive rights.

HB 2265, HD2,  
SD1, CD1

RELATING TO CORRECTIONS

Transfers continuing supervisory and counseling functions of paroled individuals from Hawaii Paroling Authority to Department of Public Safety.

The Committee on Conference amended this bill by: (1) Requiring HPA and DPS to meet to discuss the effective transfer of HPA's supervisory and counseling functions; (2) Changing the effective date to upon approval; provided that sections 2 through 8 take effect on July 1, 2007; and (3) Making technical, nonsubstantive amendments for consistency, clarity, and style.

HB 2299, HD1,  
SD1, CD1

RELATING TO CHAPTER 803

Specifies the exact procedure to be followed by the police when entering a home to arrest a person suspected of a crime.

The Committee on Conference amended this bill by: (1) Specifying procedures to be used by an officer or person making an arrest in two situations as follows: (A) In the case of an arrest with warrant, the officer or person shall first knock on the door and state in a loud voice "Police!" or the equivalent as "Sheriff!" and "We have a warrant! Open the door!"; or (B) In the case of a lawful arrest without warrant, the officer or person

shall first knock on the door and state in a loud voice "Police!" or the equivalent as "Sheriff!" and "You are under arrest! Open the door!"; (2) Clarifying that the procedures are to be used absent exigent circumstances; and (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

HB 3016, HD1, SD1, CD1      RELATING TO UNSERVED ARREST WARRANTS  
Requires due diligence in serving all traffic warrants issued against a defendant. Requires Hawaii paroling authority to report to the appropriate courts and arresting authorities whether a parolee has any outstanding traffic warrants. Requires the Judicial Council to conduct a comprehensive review of the backlog of arrest warrants.

The Committee on Conference has amended this bill by: (1) Rephrasing the new statutory provisions in more general terms to reflect the fact that the service of warrants is a collaborative effort; and (2) Making technical, nonsubstantive amendments for clarity and style.

HB 3242, SD1, CD1      RELATING TO INTOXICATING LIQUOR  
Prohibits consumption of liquor by minors.  
The Committee on Conference amended this bill by making technical, nonsubstantive amendments for consistency, clarity, and style.

SB 2260, SD1, HD1, CD1      RELATING TO SENTENCING  
Provides for a mandatory sentence of 30 years to life for habitual violent felons.

The Committee on Conference amended this bill to: (1) Delete the section that provided that the court may, upon the motion of the defendant, impose a mitigated sentence that departs from the mandatory sentencing requirements in the measure; (2) Insert language to state that a person is a "habitual violent felon" if either the current conviction or at least one of the prior and separate convictions is for an offense other than burglary in the first degree. This insertion is to ensure the intent of the Legislature that three burglaries are not to be subject to mandatory sentencing under this measure; (3) Reinsert the offenses of sexual assault in the second degree, continuous sexual assault of a minor under the age of fourteen years, robbery in the second degree, and burglary in the first degree to the list of offenses that fall under the definition of

"crimes of violence"; and (4) Change the effective date to upon approval and change the sunset date to July 1, 2011.

SB 2922, SD1,  
HD1, CD1

**RELATING TO CAMPAIGN SPENDING**

Clarifies that a noncandidate committee shall be subject to the same limitations on contributions to candidates as any person or other entity. Provides that a "person" other than an individual may make a one-time unlimited transfer in a two-year election period of funds from its own treasury to fund the person's own noncandidate committee. Establishes an expenditure ceiling for prosecuting attorney candidates who participate in the public funded campaign program.

The Committee on Conference amended this bill to: (1) Reinstate section 2 of the senate draft of S.B. No. 2922, which: (a) Required that persons other than individuals, including corporations, partnerships, associations, or organizations to make contributions to candidates, candidate committees, noncandidate committees other than its own and parties through a noncandidate committee only; and (b) Allowed persons other than an individual to transfer an unlimited amount of money from its own funds to its respective noncandidate committee; (2) Include limited liability corporations to section 2; (3) Add language to section 2 to distinguish between individuals using their own funds and all others, and providing that persons other than individuals using their own funds must register pursuant to section 11-194; (4) Insert sections 1 through 4, 6 through 8, section 10, and sections 12 through 16 of H.B. 3101 SD1 with technical amendments for clarity and to track federal guidelines; (5) Delete the reference to the one-time transfer that was added to section 11-204(b), Hawaii Revised Statutes; (6) Add language to make partnerships' contributions attributable only to a partner's pro rata interest in the partnership in order to conform to the federal guidelines; (7) Add language requiring a limited liability company to conform to its Internal Revenue Service status in order to conform to the federal guidelines; (8) Add a new section to provide for a statute of limitation in section 11-228, Hawaii Revised Statutes; (9) Change the effective date to upon approval, provided that Section 2 be effective retroactively to January 1, 2006; and (10) Make technical changes for style, clarity, and conformance.

SB 2941, SD1,  
HD1, CD1

**RELATING TO BRUSH FIRES**

Permits court to assess defendant for cost of fighting fire. Makes parent or guardian liable for the cost of extinguishing the fire based upon the percentage of damage done by the minor.

The Committee on Conference amended this bill to delete the creation of a class C felony for damage caused by brush fire and instead has created a special sentencing consideration for arson. The Committee on Conference retained the language: (1) Allowing the costs associated with putting out a fire and community service to be assessed against the person who set the fire; (2) Allowing a parent or guardian to be liable for the cost of extinguishing the fire based upon the percentage of damage done by the minor; and (3) Stating that the measure does not prohibit a separate criminal or civil action from being brought. The Committee on Conference also amended this measure to make it effective upon approval.

SB 2948, SD1,  
HD2, CD1

**RELATING TO THE PUBLIC LAND TRUST**

Establishes the amount of interim revenue to be expended by OHA each fiscal year beginning with fiscal year 2005-2006, to better the conditions of native Hawaiians at \$15,100,000. Appropriates \$17,500,000 as the amount of revenues owed to OHA for the underpayment of OHA's pro rata portion of the public land trust between July 1, 2001 and June 30, 2005. Requires DLNR to provide an accounting of revenues from the public land trust.

The Committee on Conference amended this measure to: (1) Change the date of the appropriation to the Department from fiscal year 2005-2006 to fiscal year 2006-2007; (2) Include language to further clarify that the Office of Hawaiian Affairs' funds are to be expended only after those general revenue funds appropriated to the Department are expended; and (3) Change the effective date to upon approval.

The following measures passed out of JHW as second Committee and moved out of conference with amendments. Since JHW is the second Committee, the bills are listed below, but an explanation of the changes should be requested from the lead Committee.

HB 1706, HD3,  
SD1, CD1

**RELATING TO THE UNIFORM ENVIRONMENTAL  
COVENANTS ACT**

Provides for environmental covenants for contaminated property to ensure long-term compliance with requirements needed to protect the public and environment when complete removal of contaminants is not feasible, practical, or necessary.

HB 1871, HD1,  
SD2, CD1

**RELATING TO CONSUMER CREDIT REPORTING  
AGENCIES**

Allows consumers who are victims of identity theft to place a security freeze on their credit reports that will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express authorization. Allows for temporary access to a credit report despite a security freeze under certain circumstances by request of the consumer. Provides penalties and will provide consumers more control over who has access to their credit report.

HB 1995, HD1,  
SD2, CD1

**RELATING TO ENDANGERING THE WELFARE  
OF A MINOR**

Expands the crimes of endangering the welfare of a minor in the first degree and second degree to include causing or permitting a minor to ingest methamphetamine.

HB 2039, HD2,  
SD2, CD1

**RELATING TO DECONTAMINATION OF ILLEGAL  
DRUG MANUFACTURING SITES**

Requires the Department of Health (DOH) to adopt interim and permanent rules establishing procedures for emergency and long-term decontamination of illegal methamphetamine labs. Requires DOH to evaluate and report on soil and groundwater impacts, cleanup procedures, first responder protocol, standards and protocol used by other state and federal agencies, and any additional legislation necessary to permit DOH to ensure contaminated sites are cleaned up and made safe for reuse.

HB 2410, HD1,  
SD2, CD1

**RELATING TO CONTROLLED SUBSTANCES**  
Amends statutory provisions to conform with changes to the Uniform Controlled Substances Act enacted in 2005.

HB 2691, SD2,  
CD1

**RELATING TO PREVAILING WAGES**  
Allows a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 to institute an action for injunctive and other relief against an employer that fails to pay its employees the prevailing wage.

HB 2772, HD1,  
SD2, CD1

**RELATING TO CRIMINAL PROPERTY DAMAGE TO AGRICULTURAL AND AQUACULTURAL PROPERTY**  
Establishes that a person commits the offense of criminal property damage if the person intentionally and knowingly damages the agricultural or aquacultural equipment, supplies, or products of another.

SB 2158, SD2,  
HD1, CD1

**RELATING TO IDENTITY THEFT**  
Prohibits all governmental agencies of the State and county from displaying an individual's social security number contained in all records or documents available for public inspection that are collected, created, or maintained by an agency beginning 7/1/07.

SB 2159, SD2,  
HD1, CD1

**RELATING TO IDENTITY THEFT**  
Increases penalties for identity theft. Makes it a crime to intentionally or knowingly possess the confidential personal information of another.

SB 2290, SD2,  
HD1, CD1

**RELATING TO PROTECTION FROM SECURITY BREACHES**  
Requires government and businesses that possess personal information of Hawaii residents and

experience a security breach to notify people affected by the breach.

SB 2292, SD2,  
HD1, CD1

**RELATING TO DESTRUCTION OF PERSONAL  
INFORMATION RECORDS**

Requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

SB 2909, SD1,  
HD2, CD1

**RELATING TO PERMIT APPROVALS**

Allows a county to opt out of the automatic permit approval law by adopting an ordinance to exempt the county as a whole or any county agency from the law.

Finally, the following bills were deferred:

HB 2204, HD2,  
SD2

**RELATING TO THE OFFICE OF HAWAIIAN  
AFFAIRS**

This bill is the companion measure to SB 2948, SD1, HD2, CD1, which passed out of conference as explained on the fifth page of this memorandum.

HB 3101, HD1,  
SD1

**RELATING TO CAMPAIGN SPENDING**

The language in this bill was incorporated into SB 2922, SD1, HD1, CD1 as explained on the fourth page of this memorandum

SB 1193, SD1,  
HD1

**RELATING TO CIVIL SERVICE LAW**

SB 2571, HD1

**PROPOSING AMENDMENTS TO THE HAWAII  
STATE CONSTITUTION RELATING TO SPECIAL  
PURPOSE REVENUE BONDS**

Thank you for your attention to this matter. Please feel free to contact me if you have any questions or concerns.