

SIXTY-FIRST DAY

Thursday, May 7, 2009

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2009, convened at 10:18 a.m. with the President in the Chair.

The Divine Blessing was invoked by Dr. Wayne Cordeiro, New Hope Christian Fellowship, after which the Roll was called showing all Senators present.

The President announced that she had read and approved the Journal of the Sixtieth Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 659 to 671) were read by the Clerk and were placed on file:

Gov. Msg. No. 659, dated April 20, 2009, transmitting the Hawaii State Public Library System's Report on their Maintenance and Energy Efficiency Projects for the Fiscal Year 2007 and 2008, prepared by the Department of Education, State Public Library System, pursuant to Act 213, Section 86, SLH 2007.

Gov. Msg. No. 660, informing the Senate that on May 6, 2009, the Governor signed into law Senate Bill No. 896, S.D. 1, H.D. 2 as Act 43, entitled: "RELATING TO CIVIL SERVICE LAW."

Gov. Msg. No. 661, informing the Senate that on May 6, 2009, the Governor signed into law House Bill No. 1414, H.D. 1, S.D. 1 as Act 44, entitled: "RELATING TO METAL."

Gov. Msg. No. 662, informing the Senate that on May 6, 2009, the Governor signed into law Senate Bill No. 979, S.D. 2, H.D. 1 as Act 45, entitled: "RELATING TO COMMERCIAL DRIVERS."

Gov. Msg. No. 663, informing the Senate that on May 6, 2009, the Governor signed into law Senate Bill No. 1056, S.D. 2, H.D. 2 as Act 46, entitled: "RELATING TO COMMERCIAL DRIVERS."

Gov. Msg. No. 664, informing the Senate that on May 6, 2009, the Governor signed into law House Bill No. 267, H.D. 2, S.D. 1 as Act 47, entitled: "RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY."

Gov. Msg. No. 665, informing the Senate that on May 6, 2009, the Governor signed into law House Bill No. 319, H.D. 1, S.D. 1 as Act 48, entitled: "RELATING TO FAMILY LEAVE."

Gov. Msg. No. 666, informing the Senate that on May 6, 2009, the Governor signed into law House Bill No. 1075, S.D. 1 as Act 49, entitled: "RELATING TO INSURANCE."

Gov. Msg. No. 667, informing the Senate that on May 6, 2009, the Governor signed into law House Bill No. 1270, H.D. 1, S.D. 2 as Act 50, entitled: "RELATING TO RENEWABLE ENERGY."

Gov. Msg. No. 668, informing the Senate that on May 6, 2009, the Governor signed into law Senate Bill No. 161, H.D. 1 as Act 51, entitled: "RELATING TO EDUCATION."

Gov. Msg. No. 669, informing the Senate that on May 6, 2009, the Governor signed into law Senate Bill No. 537, S.D. 2, H.D. 2 as Act 52, entitled: "RELATING TO AEROSPACE."

Gov. Msg. No. 670, informing the Senate that on May 6, 2009, the Governor signed into law House Bill No. 1436,

H.D. 1, S.D. 1 as Act 53, entitled: "RELATING TO AGRICULTURE."

Gov. Msg. No. 671, informing the Senate that on May 6, 2009, the Governor signed into law Senate Bill No. 718, S.D. 1, H.D. 1 as Act 54, entitled: "RELATING TO TRANSPORTATION."

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 728 to 729) were read by the Clerk and were placed on file:

Hse. Com. No. 728, informing the Senate that on May 6, 2009, the House reconsidered its action taken on April 16, 2009, in disagreeing to the amendments proposed by the Senate to H.B. No. 426, H.D. 1 (S.D. 1).

Hse. Com. No. 729, informing the Senate that the House agreed to the amendments proposed by the Senate to the following House concurrent resolutions and said resolutions were finally adopted in the House of Representatives on May 6, 2009:

H.C.R. No. 37, S.D. 1;
H.C.R. No. 51, S.D. 1;
H.C.R. No. 55, S.D. 1;
H.C.R. No. 60, S.D. 1;
H.C.R. No. 94, H.D. 1, S.D. 1;
H.C.R. No. 135, S.D. 1; and
H.C.R. No. 148, S.D. 1.

ORDER OF THE DAY

FINAL ADOPTION

S.C.R. No. 31, S.D. 2, H.D. 1:

On motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 31, S.D. 2, and S.C.R. No. 31, S.D. 2, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A MANAGEMENT AND FINANCIAL AUDIT OF THE HAWAII PUBLIC HOUSING AUTHORITY'S MAINTENANCE CONTRACTS," was Finally Adopted.

ADOPTION OF RESOLUTION

MATTER DEFERRED FROM WEDNESDAY, MAY 6, 2009

H.C.R. No. 199:

Senator Sakamoto moved that H.C.R. No. 199 be adopted, seconded by Senator Slom.

Senator Hemmings rose in opposition to the measure and stated:

"It's uncalled for and certainly is, from the Saguaro Correctional Center's perspective, harassment of a private business that is contracted with the State of Hawai'i to provide a much needed service of housing our prisoners. And it certainly should be noted that the (what I would refer to as the) 'criminal' lobby here at the Legislature has done an excellent job of lobbying for and protecting, sometimes unfairly so, the interests of the criminals, that this bill basically does their bidding. It should be noted that we have tremendous budget problems in the State of Hawai'i, and Saguaro Prison and the other prisons on the mainland house our prisoners for about one-half the cost that it costs us here in the State of Hawai'i. And of course, we'll hear more about that with bills that are to come later. But the bottom line is that this resolution does not

serve the public's best interest. It serves one particular interest group—prisoners—and I think it's unnecessary and it does not serve the interests of the people of Hawai'i. So I'll be voting 'no'."

Senator Slom requested that a "no" vote be entered and the Chair so ordered.

Senator Espero rose in support of the measure and stated:

"The comments that the good Senator from Hawai'i Kai made are wrong. They are not looking after any criminal or prisoners' interests. They are looking after the interests of our state. We spend over \$50 million per year to send inmates to the mainland, and we've been doing this for over a decade; and in that time period, we have never audited the operations. It just makes common sense, and it's fiscally prudent to do an audit to make certain that we are getting the necessary programming and services for the over \$50 million we are exporting to the mainland. Thank you, Madam President."

Senator Hemmings rose and said:

"It's amazing how perspectives on things can be so different. Yes, we are exporting..."

The Chair interjected:

"Senator Hemmings, you are rising in rebuttal?"

Senator Hemmings continued:

"I rise in rebuttal of the previous speaker. Thank you, Madam President for pointing that out. Yes, we do export \$50 million, but if we house those same prisoners here it would cost the taxpayers \$100 million. So it appears to me with my elementary math that we're saving the taxpayers approximately \$50 million by 'exporting our prisoners.' And I think we should all remember when we pass resolutions like this that these people are prisoners, who have broken the law and violated, in many ways and sometimes very violently, the best interests of the people of Hawai'i, and they're serving a prison term. They're not away at some camp. So I think this resolution, once again, is uncalled for. Thank you, Madam President."

Senator Espero rose in rebuttal and said:

"I agree that prisoners must be incarcerated and they must spend their time for certain crimes that they have committed. But again, this does not have anything to do with bringing prisoners back to Hawai'i. It's an audit to make certain that there is not waste in the \$50 million we are spending and that operations on the mainland are efficient and cost-effective. It's just good sense and good government. Thank you, Madam President."

The motion was put by the Chair and carried, H.C.R. No. 199, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A PRIVATE PRISON PERFORMANCE AUDIT OF SAGUARO CORRECTIONAL CENTER," was adopted with Senators Hemmings and Slom voting "No".

FINAL READING

Conf. Com. Rep. No. 167 (H.B. No. 200, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 167 be adopted and H.B. No. 200, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Chun Oakland.

Senator Kim rose in support of the measure and stated:

"Madam President, it's been three months, two weeks and one day—but who's counting?—since Opening Day and

marking the journey to balance the budget. What a roller coaster ride it's been, and obviously, I don't care too much for roller coasters. If it wasn't the Council of Revenues changing its projections, it was the stimulus numbers; and if it wasn't the stimulus numbers, it was the FMAP or it was Medicaid. The target kept moving. Bets were being placed in Chinatown that we would not be able to close the budget on time, but all the while, I was optimistic that we would be able to close by today, and I looked upon the deficit as an opportunity to downsize government, to cut out the fat, deliver more efficient services, reorganize departments and get our priorities in order.

"Your Committee on Conference set out to find common ground in areas we believed were the least detrimental to core and direct services. Hard choices had to be made, and the House Finance Chair and I made them. It boiled down to a lot of compromising between the House and Senate positions, and we did our best to respond to individual legislators' requests. In some cases, it was restoring cut positions; in others, a proviso or two, or maybe even ten. Various revenue measures, further budget restrictions, the availability of federal stimulus funds, and state special funds enabled the Committee to provide support to revive the following programs cut by the Governor: Adult Dental Services, Immigrant Health Services, Partnerships in Community Living, Healthy Start, Respite Care, Invasive Species Support, Lifeguard Services, and even the Bishop Museum. Also of note is the \$14.3 million general fund subsidy being provided to the Hawai'i Health Systems Corporation for FY10. This subsidy is essential for our hospitals to continue serving as a public safety net to many residents and visitors, especially those of the neighbor islands. In addition, \$30 million will also be provided to the hospital system over the biennium through a mix of general funds and matching federal funds. I must give a note of thanks to the Health Chair for shepherding the bill, and to my Vice Chair who never let me forget that we had to find funding for the hospitals in this budget.

"To support these important programs, we accepted most of the reductions proposed by the Governor. Additionally, 120 vacant positions were reduced, resulting in a general fund savings of \$7 million. The cost of 36 positions and \$8 million will be shifted from general fund to non-general funds in FY10; an additional \$9 million in costs will be shifted to FY11; \$7.6 million budgeted in excess of the needs for an out-of-state inmate contract will also be reduced; and a number of other adjustments were made in an effort to reach the Governor's desired target reduction of 20 percent to discretionary spending.

"We have used federal stimulus funds available under the American Recovery and Reinvestment Act of 2009 to provide a higher level of support for education than afforded by the Governor. Your Committee held fast to the concept that these ARRA funds were intended to stabilize education over the fiscal biennium, and helped to offset some of the reductions initially proposed by the Governor and the Legislature. During the passage of the Senate draft of this budget, I stated that the Senate did not rely upon the Hurricane Relief Fund to balance the state financial plan; and I am pleased, Madam President, to report that under this Legislature's current plan, the Hurricane Relief Fund is still intact. It is a resource that the administration may choose to utilize should the revenue picture continue to worsen. This budget appropriates \$5.1 billion and change in general funds and \$10.8 billion in all means of financing for FY10.

"Madam President, your Conference Committee worked diligently with all parties involved during the development of this budget. The budget is truly a joint effort. It reflects the priorities, concerns and desires of the community, their elected representatives, the executive branch. The measure before you

enhances government efficiency and minimized impacts to important state services.

“Finally, Madam President, I want to close by expressing my gratitude to all of those involved in supporting the Legislature’s task of shaping the responsible expenditure plan. They include the countless concerned citizens across the state that provided feedback by letter, fax, e-mail and phone. Numerous members of the executive branch also played a key role in guiding our efforts. I personally want to thank you, Madam President, for your constant support throughout the process. I commend the chairs who actually found cuts in the budget, along with chairs who calmed down their subject matter advocates when we could not accommodate their requests into the budget. And in closing, I know I speak for all of you when I say there are not enough words to express our thanks to our hardworking staff; and I especially need to single out the seven budget analysts and the five bill researchers who stayed up until wee hours of the morning these last couple of weeks, preparing the budget and the revenue bills and making sure we dotted the i’s and crossed the t’s. This being my first budget, I relied upon the experience and knowledge of three key staffers: Brian Hallett, Rod Becker, and Ross Tsukenjo. Of course, Madam President, the conference draft now before you wouldn’t be possible if it weren’t for the willingness of members of both the Senate and the House working together. All in all, your Committees of Ways and Means and Finance put together a responsible and balanced budget, and I sincerely thank you, Madam President. I thank you, my colleagues, for the opportunity to serve as the Ways and Means Chair. Thank you.”

Senator Hemmings rose in opposition to the measure and stated:

“Before I start, I do want to acknowledge the tenacious and hardworking Chair of the WAM Committee who stepped into this position probably the most difficult time in the history of the State. And though I don’t agree with the results of the budget, I certainly applaud her openness and even-handedness in considering everyone’s point of view in putting together this budget.

“And much can be said about the circumstances that have brought us to this juncture in the affairs of our state and to this budget. We can point the finger of blame on the economic crisis we face, but ultimately we control our destiny here in Hawai‘i. Certainly over the last several decades if we’d been more vigilant on how we spent the money of the people of Hawai‘i, our problems would be manageable. With less spending, our taxes could be reduced, thus enhancing our reputation as a good place to do business. There are reasons why our single industry economy is over-dependent on that one single industry, tourism. This Legislature’s spending policies have made us tremendously vulnerable. So now, even a foolish comment about air travel by the Vice President of the United States can have a devastating effect on Hawai‘i’s delicate tourist industry. In years gone by, we could have done much to enhance the quality of life of our citizens while simultaneously reducing government spending. We could have privatized the monopolistic big hospitals such as Maui Memorial, Hilo, and Kona, saving hundreds of millions of dollars. It’s been tallied in this budget we will subsidize this system by over an astounding \$200 million. The DOE continues to be a black hole, sucking in billions of dollars and producing, by national standards and tests, sometimes stagnating results. By dismantling the top-heavy bureaucracy and restructuring public education, hundreds of millions of dollars could be saved. But, you know what, Madam President, colleagues? We’ll never know because this Legislature audits everyone in the state but the DOE, the biggest spender. They have not had a comprehensive audit since 1973, so we just don’t know where the money is going and how big the bureaucracy is. Children,

parents and teachers suffer while we continue to throw billions of dollars at the system, which this budget will do.

“These reforms alone could go a long way in balancing the budget, and though our numbers are small, we’re not going to surrender. We Republicans continue to hold the system accountable as best we can. We’ll continue to advocate the reform of the Hawai‘i Health Care Systems Corporation, the Department of Education, and other government agencies that we believe could be doing more, spending less. And of course, we can have public-private partnerships that could greatly enhance our viability, such as the sadly killed Renaissance Plan for parks. Much more could be said about restructuring and streamlining government. Our budget could be balanced without raising taxes, as the Governor is trying to do.

“So people of Hawai‘i have to ask themselves, and we should ask ourselves, why do we persist with business as usual when it clearly is driving us to the brink of economic collapse, as has happened in California, who has utilized the same formula we have. The answer is that government labor unions will not share in the burden the rest of us face in this failing economy. Thousands, thousands of our citizens are unemployed, taking dramatic pay cuts and being furloughed. Longstanding Hawai‘i businesses have gone bankrupt. Government unions want to walk away from this crisis unscathed. This Legislature seems to be doing their bidding. And this is not union bashing; it’s the truth. It is a sincere and deep concern shared by a growing majority of the people of Hawai‘i that we can do a better job.

“This budget is balanced by economically devastating tax increases, raiding funds designed sometimes to help the needy, and other punitive initiatives that will further erode our economic viability. And I recognize the vexing problem the Chair of WAM faces. I believe the budget was crafted with transparency, and, as I said, is a sincere effort. But the bottom line is that ultimately, it is business as usual. As a matter of practicality and principle, I must vote ‘no’ against the results. Thank you, Madam President.”

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

“First of all, I would like to thank my Senate colleagues for identifying the preservation of Hawai‘i’s safety net as one of the key priorities this session. Health Chair Ige, Labor Chair Takamine, and I, as your Chair of Human Services, truly appreciate your support and commitment to making sure that the basic needs of our people to have food, shelter, health and safety were preserved in the state budget. Having the foresight and compassion to develop a budget that supports an expanded safety net for our struggling and working families, for our children and youth, and our *kupuna* during these very difficult times is truly appreciated. I would like to express my thanks to Senate President, Speaker of the House, the Senate and House leadership teams, the Chairs and Vice Chairs of Ways and Means and Finance, for their steadfast support of human services. Also, I would like to thank my House counterpart, Representative Mizuno, Chair of the House Human Services Committee, for his compassion and dedicated efforts. With everyone’s leadership and the help of the Ways and Means and House Finance staff, the Governor, the director and staff of Department of Human Services, the many community advocates, as well as President Obama, our Hawai‘i delegation, and the other members of Congress, the budget for human services is in good shape to support many of our families and individuals who are being severely impacted by the global economic downturn.

“The budget for the Department of Human Services reflects many important safety net programs. I wanted to highlight

some of the significant programs that were supported in the biennium budget:

“As you are aware, there is a growing public demand for health insurance coverage through our Medicaid program. The Quest program currently serves 187,000 people and the Medicaid rolls continue to go up by an average of 1,725 new cases per month since April 2008. In Fiscal Year 2009, the Medicaid budget has seen a \$50 million shortfall of general funds. Thanks to the increase in FMAP, or what we call Federal Medical Assistance Percentage, from 55.11 percent to 67.35 percent for at least the next seven quarters and possibly two more starting in October 2008, Hawai‘i will see approximately \$350 million new dollars come from the federal government to offset the growing need for health services for our people. This allocation also covers Quest expanded program to provide long-term care services for Hawai‘i’s *kupuna* and disabled population each year. This program currently helps approximately 40,000 people in the state. We have allocated for Quest and Quest-expanded \$1.3 billion each fiscal year.

“This budget also restores funding for the Immigrant Health Initiative program mentioned by the WAM Chair for immigrants needing health care coverage in the amount of \$275,000, as well as funding for *keiki* care in the amount of \$200,000 to provide health insurance coverage for children whose parents have lost their jobs but do not qualify for Quest.

“\$69.5 million in 2010 and \$62.5 million in Fiscal Year 2011 is appropriated to fund the increasing number of families qualifying for the state’s Temporary Assistance to Needy Families program, where there is one parent and children in the household, as well as TAONF, or Temporary Assistance to Other Needy Families, which are two parent households with children. Currently, there are 14,628 people who are receiving TANF assistance; 12,070 of them are children. Each month we are seeing a significant increase in families needing help with basic needs for food and shelter. In addition, \$13 million in 2010 and \$11.6 million in 2011 is appropriated to help 2,648 families requesting assistance through TAONF specifically. In order to qualify for TANF or TAONF, a family of four, for example, has a household income per month of \$958. Each month there are 1,857 applications received by DHS; 59 percent of them are rejected. Many families are hurting and cannot qualify because our income and asset limits are too stringent.

“There is also \$13 million in Fiscal Year 2010 and \$11.8 million in 2011 set aside for work programs to help people become self-sufficient, to be competitive in the workforce.

“\$15.1 million and \$13.2 million will help support child welfare programs, and this is for the protection of our abused and neglected children.

“\$11.9 million and \$11.5 million in each fiscal year has been appropriated to support our elders and disabled with community care services and adult protective services.

“\$5.4 million has been allocated to non-school hour programs that prevent teen pregnancy and promote healthy alternatives for our youth. We will be able to provide approximately 230,960 youth, ages 5-19, with challenging, stimulating opportunities to grow and be involved with positive youth development activities.

“\$61.9 million each year is allocated to child care services that will support 10,985 children under the age of 5.

“\$1.5 million of TANF moneys and \$3 million of tobacco settlement moneys will be allocated, totaling \$4.5 million, for Healthy Start, Hawai‘i’s premier child abuse prevention program that has had a 99.8 percent success rate in preventing child abuse and neglect among the highest risk families with

newborn babies. In addition, \$4 million and \$3.2 million in TANF funds will be used for Enhanced Healthy Start. These are for families who are already involved in child protection and we have seen a cycle of abuse. This has helped with a variety of family strengthening programs and reduced our re-abuse rate significantly to 3 percent, one of the lowest re-abuse rates in the nation.

“TANF funding has also been allocated to fund youth gang prevention services, legal services for the poor, domestic violence shelters and services, and sexual assault services.

“State vocational rehabilitation services funds have been preserved also for the visually impaired, those that are blind, hearing impaired, and deaf persons.

“Adult dental services funding, which was originally cut, has been restored. This means that adults in the Medicaid program will be able to receive preventive dental services and dentures, and not be subjected to only emergency services involving the pulling of teeth.

“\$19.8 million and \$15.5 million has been appropriated to support homeless shelters, transitional housing services, and other critical services for individuals and families who are homeless. On the average, daily there are 5,800 people who are in these circumstances, and these essential services will at least afford them a safe place to sleep and eat. In the course of a year, approximately 14,000 unduplicated people enter homelessness and access the services provided by the state appropriation, and the majority are able to move into permanent housing.

“In 2008, \$175 million was appropriated for the Supplemental Nutritional Assistance Program, or SNAP—this is the former Food Stamp Program—to help approximately 55,582 people. We are expecting significantly more federal funding to support the growing number of people qualifying for this assistance, and so we really do thank Congress and the President for coming to our aid for these next two years.

“The funding allocated in the budget will also allow the Office of Youth Services to be able to address the on-going improvements being made at the Hawai‘i Youth Correctional Facility, which we are very close to addressing the numerous concerns identified several years ago that Hawai‘i needed to address for the health and safety of the youth in the State’s custody.

“The funding levels approved in the DHS budget will allow Hawai‘i to continue improving the child welfare program and meet the benchmarks of the stringent federal requirements spelled out in our State Performance Improvement Plan for Child Welfare Services.

“In the area of health, some funding was preserved to support children with developmental disabilities, mental health services for children and adults, substance abuse treatment for adolescents and adults, health coverage for the uninsured, the Hawai‘i Health Systems Corporation to operate the neighbor island hospitals, as well as Kahuku Hospital and Maluhia and Leahi long-term care hospitals on Oahu, primary health care centers, and *kupuna* care services, which I am very grateful for.

“Thank you to the people of Hawai‘i for supporting these essential safety net services with your tax dollars for the people of our state, and *mahalo* to the Legislature, the Governor and her administration, and the many human service and health organizations that helped to shape the budget before us. I appreciate your support very much.”

Senator Slom rose in opposition to the measure and stated:

“It’s always difficult to stand up and vote against a budget, particularly when the budget is so big, when the budget contains

so many different amounts and programs, and all of that. And that's exactly the problem. I, too, concur that the Ways and Means Committee had a very difficult time, and they did very good in transparent resolution of the budget as they see it in their ideology. Those of us on this side have a different ideology, and we've talked about it in good times as well as bad; and basically, the problem has been that our budget has continued to grow and outpace the growth of the economic livelihood of the people in this state. So when we talk about a moving target, and refer to the estimates made by the Council of Revenues and others, that certainly is true. But the real moving target in this state are the taxpayers, the families, the small businesses, because we search them out and we target them to pay more and more and more. At a time when they are cutting back and doing without things that they really need, as opposed to things that they would want, we continue spending. We continue putting money back in programs that had been reduced, cut, or eliminated.

"The problem is this is what we've done year after year, good times or bad times; and so we have more people that have become more dependent on government. I'm from a generation that remembers when people took care of themselves; when families took care of their family members, when churches and charities and other eleemosynary groups took care of these people within each community. But that's hard to do now; it's hard to do because the numbers keep rising. You just heard a dissertation on how many people are dependent and how many people need this service and that service, but that's the problem. Because what's going to happen after these tax increases that this Legislature has passed cripples more business, after the hotel room tax cripples our number one industry, after we have poor legislation such as the union card check bill that cripples all businesses, but particularly small businesses—where's the money going to be generated? 'Ah,' you say, 'President Obama and the Democratic Congress.' Well, that's fine. You talk about the ARRA, the so-called Recovery Act, the so-called stimulus, which is a.k.a. for more debt, more spending, more taxes. Take that money because this budget is based on that money; even the executive branch based their calculations on getting the money from Washington. But two things: Where does the money come from in Washington? It doesn't come out of the Congressmen's wallets or pants pockets just like nothing comes from us here. We rely on the public. Number two, as was said: At best, these so-called stimulus funds will count for one to two years; what happens then? And if we put everybody back in the programs that were reduced or cut or eliminated, what do they say in two years? 'We can't get by without government. We need more government. We need more taxes. We need more spending.' And that's the vicious cycle that we're in.

"We talk about safety nets. Where's the safety net for the taxpayer, the typical Hawai'i family, the small business? There's no safety net for us. We talk about the government in its generosity giving things to people. Government can't give anything to anybody unless it first takes it away from somebody else; and we're seeing the most massive, incredible redistribution of wealth this country has ever seen. And it will not be for a good purpose because you're going to destroy the incentive of those people that work and produce and invest. Instead you're going to have more and more and more people with their hands out. 'Gimme, gimme, gimme. I'm poor. I'm needy.' And some of them aren't. But we have to prioritize, just like we do in our own lives. And those people that come to this Legislature and hear all these fancy words—particularly after the Legislature raised its own salaries this year, and we had a raise in the executive and judiciary salaries in the last two years—and we look at expenditures and what we spend money on, and any individual would take a look at some of those figures and say, 'You can't spend money on this. Why are you

doing that?' And we're talking about \$11 billion per year. That's what this budget is all about.

"And then we're talking about raiding funds, raiding special funds. Madam President and my colleagues know I vote against the creation of every new special fund because guess what: They're not special. People think that they're giving more money for a particular cause—clean up the oceans, clean up the parks, clean up this, build highways—and then they find that that money is taken away, and what's it taken for? For the general operating expenditures of the State Legislature or the state government. And when that money is gone, it doesn't come back either. We're talking about a one year, one time raid on funds.

"So the real problem here is not that we haven't spent enough, not that our limitations are too strict. If our limitations were too strict, less people—not more people—would be on the rolls to get different kinds of assistance, but we have more every day. Why? Because of our tax policies and philosophies of taxation and spending. They are absolutely connected, and if we continue in this direction then those figures today will seem real easy four or five years from now because they'll double, and we'll have more people. But what happens when you don't have the people working and investing and providing the funds to take care of the rest? And what happens when you have some people saying, 'Well, I'm tired of working and having the fruits of my labor taxed away. I can't make my own decisions for my family, for my business, for anyone else. Why should I work? Why should I stay here?' And that's the danger that we have.

"So no one likes to vote 'no.' No one likes to say, 'These problems might mean that some people will not get what they say they want.' And, again, that's part of the problem with the whole welfare and subsidy situation because what do we do? We pick a number and we say if you're above that number, you don't get anything. If you're a dollar above, you don't get anything, but if you're a dollar below and more, then you're entitled to this. We don't look at individuals. Why? Because we say, 'That's too time-consuming. It's too difficult to look at individuals.' So we just give the money. We're seeing what's happening with Medicaid fraud and welfare fraud across the country. It's happening here. But we're more interested in giving because it's a lot easier when you can tell someone, 'I gave you this. I'm the one that took care of your teeth. I took care of your artificial limb.' That's wonderful, except that you didn't do that; the taxpayers did it.

"So we're going to have to come to a point where either we realize this and we do make some very tough decisions and stand by them, or we're going to see a state that continues to lose business and investment opportunities and with it, the tax revenues to do all the things that we say we'd like to do. Thank you, Madam President."

Senator Hooser rose in support of the measure and stated:

"I'd like to commend the Chair of the Committee and the Vice Chair and the entire Committee and staff for a fine job under very, very difficult circumstances. All of us here during these past months have had to speak to people throughout our community, people from all walks of life, and explain to them as best we can how there's not enough money to go around, and that we're forced by constitutional mandate to have a balanced budget; and so therefore, our options are limited. They're limited to cutting programs, eliminating tax credits, raising taxes, laying people off. And so the Committee struggled with this because everyone that came before us—everyone, whether they're advocating for the environment, advocating for business, advocating for the very poorest in our community—they all had good arguments, and what they all said was true: that if we cut their program, that there was a bigger price to pay

down the road. And I think in virtually every instance, we did have to cut because we were forced to do so. But I want to commend the Committee for their work.

"I would be remiss if I didn't correct just a few of the misstatements and misinformation presented by the previous speaker. The remarks characterized the tax increases that we passed as affecting the typical Hawai'i taxpayer; and those that are following this issue will know that those tax increases that we struggled with, but did pass ultimately, target the very wealthiest in our community. It targets people purchasing property over \$2 million. And yes, they target tourists, but the research clearly shows that the increases that have been passed in this body, when similar increases were passed in other neighborhoods and other jurisdictions, had no negative impacts, no discernible impacts on the economy. The research also clearly says that those middle class taxpayers and those at the very bottom of the tax scale pay far more in taxes as part of their net tax burden, pay far more in their tax burden than the very wealthiest in our community. So when you look at the overall tax burden, it is obvious and clear and a fact that the wealthiest in our community pay far less than those at the bottom in our community.

"To talk about welfare fraud, Medicare fraud, you know, I don't know why we're not talking about bank fraud or insurance company fraud or investment scams. Okay? Let's look at what really brought us to where we're at in our economy, members. We're not here because poor people are banging on our door for help. We're here because the very wealthiest, the very wealthiest in our nation have abused the system and caused us to be on the brink of economic collapse; and if not for the action of our President and others, we may very well be in much worse condition than we are now. So I for one am thankful for that action. And we have cut hundreds of millions of dollars from this budget.

"The Legislature did not raise our salaries; that's another misstatement. We did not raise our salaries. Those salaries were a recommended increase by a salary commission, which is established in our Constitution, as is how it's been for many, many years.

"You know, the Governor this afternoon is going to be holding a press conference, a grand extravaganza to put on a show like ancient Rome, to go down, veto those tax increases, gathering as many people as she can to show how brave and noble the act is, to protect those who earn the very most in our community, those who can afford \$2 million properties and better. But you know there was no press conferences offered when the Governor cut children's health care, no press conferences offered when the very poorest in our community—those who through no fault of their own are unemployable, whether from circumstances of health or birth or otherwise—who are receiving in round numbers at one point maybe \$500 a month from the state to help them, help them survive a basic, basic existence. And no press conference was held when that amount was cut in half from the very poorest in our community.

"And I echo the words of the Chair of the Human Services Committee when she repeated the cuts that we've restored from the Governor's budget; and yes, we got those from reducing tax credits and from raising taxes. And you know the people that were the loudest at my door in my office were not the poor people, were not the people that were sick and in need of our help. It was the high technology people, the people who were trying to start their businesses and grow their businesses, and I don't begrudge them that. But it was also the tourism people. This is not about helping only the poor. There are many segments in our community that the government supports as best we can to stimulate the economy, to help those greatest in need, and there were cuts made all the way around. I applaud

the Committee for its work and urge the members here in the room to vote in support. Thank you."

Senator Slom rose and said:

"I am always open and welcome for someone to correct my remarks if they are wrong or for some rational argument. Unfortunately, that didn't occur here."

The Chair interjected:

"Senator Slom, for what purpose do you rise?"

Senator Slom responded:

"I rise for a brief rebuttal. We were talking about the budget. Bailouts for banks, which I've never supported; bailouts for insurance companies, which I've never supported; bailouts for any big businesses, which I've never supported—it's not part of this argument for the budget. Welfare fraud and Medicaid fraud, however, should be an integral part since we spend so much in the budget in these areas. In addition to that, we don't have time to get into who really was involved—former high ranking state and federal officials, particularly those in Fannie May and Freddie Mac—but we're talking about the budget. And the good Senator from Kaua'i kept talking about, as he usually does, about the wealthy, the wealthy, the wealthy. He has some knowledge of small businesses, and he should understand that most small businesses, the preponderance of small businesses, file their business income along with their personal income on a Schedule C 1040, which makes the gross amount much larger. But you ask them; they're not wealthy, but they're going to get hit hard with this. And by the way, the rate, the top rate which will go to 11 percent, will be the highest rate in the nation, even higher than bankrupt California. So we're not just talking about the wealthy. And when we talk about the very poorest in our community—excuse me, but the very poorest in our community don't have a tax liability at this point, and we have always advocated greater reductions and standard deductions for the very poor in our community.

"The good Senator from Kaua'i said, 'Oh, yeah, well it's true the tourists will get hit, but that's okay. They're the tourists.' That's our number one industry. Our number one industry is flagging right now, and when people from the industry come and talk to you, you should listen to them rather than brush them off because I can guarantee you from past hearings, if people don't come from business or the industry, then some of my colleagues say, 'See, if it were that important, where were they?' Well Senator, they were out earning a living, paying their bills, taking care of their employees, and providing services for their clientele. So when we talk about these tax increases matter-of-factly and the other labor bills and so forth, they all have an impact, and maybe some of my colleagues can't see it, but those of us in small business see it every day. Thank you."

Senator Baker rose in support of the measure and stated:

"I think it's important to note that in times like these that are trying for all of us that there's probably no way that the Committee on Ways and Means or the Committee on Finance could have come up with a bill that was going to make everybody happy. I think the Committee did an excellent job of trying to address unintended consequences that could have cost us a great deal more money than they would have saved in cuts, and so I applaud them for that. They've attempted to put together a balanced budget, and while I, like everybody else in this room, would have preferred that there was something else in it or maybe a cut taken someplace else to have preserved something else, that's not the role that they're given. They're tasked with coming up with a budget that is going to move the state forward and carry us through these very difficult times,

and I for one appreciate the hard work and the time and effort they've put into it. Thank you, Madam President."

Senator Ige rose in support of the measure and stated:

"I would just like to make a couple of brief comments. I did want to thank the Chair and Vice Chair of the WAM Committee for their strong support for health in this budget. Clearly, the Chair of Human Services had talked about all the work that they did to restore the safety net services that were shredded by the executive. I also wanted to comment about the fact that the House budget devastated the Department of Health, and the WAM Committee and staff worked diligently to restore most of the cuts that the House had made to the Department of Health. I think more fundamentally important, the House had attempted to return the Hawai'i Health Systems Corporation into the Department of Health, which would have been the biggest mistake that we could ever make.

"But on a positive note, I did want to thank the Committee for two fundamental and important measures that are included in this budget that help the HHSC to be a more sustainable and more structured organization in the future going forward. First, they made the smart move of separating administrative costs from the operating costs, so that the Legislature can be more clear and aware of the system support that HHSC provides to each and every facility. More importantly, they invested more than \$14 million in general funds direct subsidy to the Corporation and another \$15 million of federal funds and state funds through the Department of Human Services to ensure and support safety net services that these institutions provide to each and every community.

"And I did want to state one fact and I wanted to thank all of the Senators working to help me in working through the issues of Health Systems Corporation. There have been some comments made by the Minority about the losses sustained by the Corporation. I did want to state for the record that the executive, since 2004, has drawn down more than \$130 million in federal funds as a direct result of operating losses that the HHSC has sustained, and has diverted it to other uses. More importantly, in the current biennium, just the two years that the budget projects, HHSC is looking to draw down more than \$24 million in each of the fiscal years that would directly reduce the operating subsidy that the state provides. I think it's very important to know that the executive has purposely created a budget that exacerbates and expands the losses that the Corporation accrues, and we hope to clear that up in the interim. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 167 was adopted and H.B. No. 200, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE BUDGET," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Hemmings, Slom). Excused, 2 (Bunda, Nishihara).

FINAL READING

H.B. No. 876, H.D. 1, S.D. 2, C.D. 2:

On motion by Senator Chun Oakland, seconded by Senator Baker and carried, H.B. No. 876, H.D. 1, S.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Final Reading on the following showing of Ayes and Noes:

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

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

Senator Baker moved that H.B. No. 128, H.D. 1, S.D. 1, C.D. 2 pass Final Reading, seconded by Senator Ige.

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

The motion was put by the Chair and carried, H.B. No. 128, H.D. 1, S.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO ELECTIONS," passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 1222, S.D. 1, H.D. 1, C.D. 2:

On motion by Senator Baker, seconded by Senator Ige and carried, S.B. No. 1222, S.D. 1, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE HUMANE TREATMENT OF PET ANIMALS," passed Final Reading on the following showing of Ayes and Noes:

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

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

The Senate reconvened at 11:24 a.m.

At this time, the Chair made the following announcement:

"This is slightly unusual, but we're going to take this opportunity to explain to the people in the gallery what's going on. We are in the process of... We have passed a budget but we can't do anything more until the House passes the budget, and they're still in debate. On a normal day, we would recess and come back at a certain time. I've decided we'd convene again so we could explain to everyone, all of you—so you don't just sit there and wonder what's going on—that we, the Senate, will be taking a recess until 12 noon, and we're hoping that the House will pass the budget at that time. As I explained earlier, we cannot proceed to any of the other fiscal bills until the budget is actually received by the Governor. So with that, the Chair is calling a recess; we will reconvene at 12 noon. Thank you."

At 11:25 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:21 p.m.

FINAL READING

MATTERS DEFERRED FROM TUESDAY, MAY 5, 2009

Conf. Com. Rep. No. 7 (H.B. No. 1057, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Tokuda, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 7 was adopted and H.B. No. 1057, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII COLLEGE SAVINGS PROGRAM," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 12 (H.B. No. 1071, H.D. 3, S.D. 2, C.D. 1):

On motion by Senator Kim, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 12 was adopted and H.B. No. 1071, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE SERVICERS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 15 (H.B. No. 1045, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 15 was adopted and H.B. No. 1045, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 16 (H.B. No. 975, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Kim and carried, Conf. Com. Rep. No. 16 was adopted and H.B. No. 975, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURAL WATER SYSTEMS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 17 (H.B. No. 1152, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 17 was adopted and H.B. No. 1152, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMITTED PERSONS' ACCOUNTS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 21 (H.B. No. 1103, S.D. 1, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 21 was adopted and H.B. No. 1103, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR INDEPENDENT LIVING SERVICES AND CENTERS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 47 (H.B. No. 1713, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Espero, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 47 was adopted and H.B. No. 1713, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAZARDS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 50 (H.B. No. 1471, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Kim and carried, Conf. Com. Rep. No. 50 was adopted and H.B. No. 1471, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FARMS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 57 (S.B. No. 659, H.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 57 was adopted and S.B. No. 659, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE FUNDS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 67 (S.B. No. 914, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 67 was adopted and S.B. No. 914, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 72 (S.B. No. 1066, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Kim and carried, Conf. Com. Rep. No. 72 was adopted and S.B. No. 1066, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF THE HAWAII AUTHORITY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 77 (S.B. No. 1107, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Espero and carried, Conf. Com. Rep. No. 77 was adopted and S.B. No. 1107, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONDOMINIUMS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 83 (S.B. No. 91, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 83 was adopted and S.B. No. 91, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY-BASED ECONOMIC DEVELOPMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 93 (S.B. No. 1206, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 93 was adopted and S.B. No. 1206, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COUNTIES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 103 (S.B. No. 1164, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Espero and carried, Conf. Com. Rep. No. 103 was adopted and S.B. No. 1164, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTERSTATE COMPACT ON

EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 107 (S.B. No. 1345, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Kim and carried, Conf. Com. Rep. No. 107 was adopted and S.B. No. 1345, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AGRICULTURE,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 108 (S.B. No. 1160, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 108 was adopted and S.B. No. 1160, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 109 (S.B. No. 109, S.D. 2, H.D. 3, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kim and carried, Conf. Com. Rep. No. 109 was adopted and S.B. No. 109, S.D. 2, H.D. 3, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE INTERSTATE COMPACT FOR JUVENILES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 111 (H.B. No. 381, H.D. 2, S.D. 1, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 111 was adopted and S.B. No. 381, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII ENDOWMENT FUND,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 119 (H.B. No. 610, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 119 was adopted and H.B. No. 610, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SCIENCE AND TECHNOLOGY,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 120 (H.B. No. 586, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Kim and carried, Conf. Com. Rep. No. 120 was adopted and H.B. No. 586, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN

ACT RELATING TO THE KANEOHE BAY REGIONAL COUNCIL,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 124 (H.B. No. 1692, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 124 was adopted and H.B. No. 1692, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HOUSING,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 128 (H.B. No. 986, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Gabbard and carried, Conf. Com. Rep. No. 128 was adopted and H.B. No. 986, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC SCHOOL FACILITIES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 137 (S.B. No. 427, H.D. 1, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 137 was adopted and S.B. No. 427, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAXATION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 145 (S.B. No. 415, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 145 was adopted and S.B. No. 415, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 147 (S.B. No. 1248, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 147 was adopted and S.B. No. 1248, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE ENTERPRISE ZONES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 148 (S.B. No. 1674, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Tokuda, seconded by Senator Kim and carried, Conf. Com. Rep. No. 148 was adopted and S.B. No. 1674, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 150 (S.B. No. 1329, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 150 was adopted and S.B. No. 1329, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY LEARNING," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 156 (H.B. No. 34, S.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Hooser and carried, Conf. Com. Rep. No. 156 was adopted and H.B. No. 34, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 158 (H.B. No. 1495, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 158 was adopted and H.B. No. 1495, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE INCOME TAX," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

Conf. Com. Rep. No. 179 (H.B. No. 989, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Green and carried, Conf. Com. Rep. No. 179 was adopted and H.B. No. 989, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILDREN'S HEALTH CARE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

S.B. No. 522, S.D. 2, H.D. 1:

On motion by Senator Taniguchi, seconded by Senator Kim and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 522, S.D. 2, and S.B. No. 522, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LAND COURT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

S.B. No. 523, S.D. 2, H.D. 2:

On motion by Senator Tsutsui, seconded by Senator Hooser and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 523, S.D. 2, and S.B. No. 523, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HIGH TECHNOLOGY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

S.B. No. 876, S.D. 2, H.D. 2:

On motion by Senator Tsutsui, seconded by Senator Bunda and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 876, S.D. 2, and S.B. No. 876, S.D. 2, H.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Noes, none. Excused, 8 (Baker, Chun Oakland, English, Fukunaga, Ige, Ihara, Nishihara, Takamine).

RECOMMITTAL OF A HOUSE BILL

Conf. Com. Rep. No. 178 (H.B. No. 1404, H.D. 1, S.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 178 and H.B. No. 1404, H.D. 1, S.D. 1, C.D. 1 be recommitted to the Committee on Conference, seconded by Senator Kim.

Senator Baker rose in support of the motion and stated:

"Colleagues, the contents of this measure were amended and placed into S.B. No. 1461 with Floor Amendment 15. This measure is severely flawed and should not go up to the Governor."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 178 and H.B. No. 1404, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," were recommitted to the Committee on Conference.

FINAL READING

MATTERS DEFERRED FROM TUESDAY, MAY 5, 2009

Conf. Com. Rep. No. 20 (H.B. No. 1676, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Tsutsui, seconded by Senator Bunda and carried, Conf. Com. Rep. No. 20 was adopted and H.B. No. 1676, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC WORKS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Hemmings, Slom). Excused, 2 (Chun Oakland, Takamine).

Conf. Com. Rep. No. 33 (H.B. No. 1776, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 33 was adopted and H.B. No. 1776, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC ASSISTANCE," passed Final Reading on the following showing of Ayes and Noes:

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

At 12:25 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:27 p.m.

The Chair made the following announcement:

"Members, just so that we are clear, we did miss one bill so we are going back to it. That's H.B. No. 541. The vote we just took was on H.B. No. 1776, C.D. 1. I assume everyone's votes stand with that."

Conf. Com. Rep. No. 28 (H.B. No. 541, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Takamine, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 28 was adopted

and H.B. No. 541, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL SERVICE PERSONNEL," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 36 (H.B. No. 982, H.D. 3, S.D. 1, C.D. 1):

On motion by Senator Takamine, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 36 was adopted and H.B. No. 982, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 39 (H.B. No. 983, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator English and carried, Conf. Com. Rep. No. 39 was adopted and H.B. No. 983, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 48 (H.B. No. 994, H.D. 1, S.D. 2, C.D. 1):

Senator Espero moved that Conf. Com. Rep. No. 48 be adopted and H.B. No. 994, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Espero rose in support of the measure and stated:

"Madam President, colleagues, this piece of legislation is out of this world. It will launch Hawai'i in the competition to launch citizens into outer space. There is a competition now between many countries and cities to get on the ground floor of this new economy, space tourism, which can provide a tremendous to our tourist market. With this funding, it is conceivable that within four to six years, we may be launching residents, tourists, from the Big Island going into outer space and landing at Honolulu International Airport or Kalaheo. We would be the only destination in the world going point-to-point because other destinations are looking at landing and taking off from the same airport or space port. I believe this is something that will also benefit our efforts with STEM, with our students in science, technology, engineering and mathematics, and it is an opportunity for our youth to have high paying jobs in the aerospace industry. So I request your support. Thank you, Madam President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 48 was adopted and H.B. No. 994, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 49 (H.B. No. 1174, H.D. 3, S.D. 2, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 49 be adopted and H.B. No. 1174, H.D. 3, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kokubun.

Senators Hooser and Ihara 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. 49 was adopted and H.B. No. 1174, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Ayes with Reservations, 2 (Hooser, Ihara). Noes, 2 (Galuteria, Hee).

Conf. Com. Rep. No. 58 (S.B. No. 971, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 58 was adopted and S.B. No. 971, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 69 (S.B. No. 389, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Kim, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 69 was adopted and S.B. No. 389, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 94 (S.B. No. 1665, S.D. 2, H.D. 1, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 94 be adopted and S.B. No. 1665, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Takamine.

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

"While I support the intent of the bill and the projects therein, there was discussion during the hearings and after the hearings, and there seems to be a legal difference of opinion as to whether or not we're entitled to use Reed funds for this purpose. So with that in mind, I'll express reservations. Thank you."

Senator Tokuda rose in support of the measure and stated:

"I'd just like to go on the record and clarify, so that the good Senator from Hawai'i Kai can support this without reservations, that we have in fact cleared this with the Federal Department of Labor at both the regional and the federal level in D.C. that the way we have worded the bill in its current form is the appropriate and legal use of Reed Act funding. Thank you very much, and I hope you all support this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 94 was adopted and S.B. No. 1665, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHER EDUCATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Ayes with Reservations, 1 (Slom). Noes, none.

Conf. Com. Rep. No. 100 (S.B. No. 1664, S.D. 2, H.D. 2, C.D. 1):

Senator Takamine moved that Conf. Com. Rep. No. 100 be adopted and S.B. No. 1664, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure and stated:

"This bill will expand the unemployment compensation benefits and the payments by employers to part-time workers. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 100 was adopted and S.B. No. 1664, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

EMPLOYMENT SECURITY,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 102 (S.B. No. 1218, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 102 be adopted and S.B. No. 1218, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Baker requested comments in support of the measure be entered into the Journal.

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

“Madame President I rise in support of this measure. The debate surrounding state regulation of mortgage loan originators was settled by adoption of the SAFE Act on July 31, 2008, by the Congress of the United States. The passage of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Mortgage Licensing Act of 2008), 12 United States Code sections 5101 to 5116, adopted standards for regulation in this area and gave states a limited timeframe to bring their statutes into compliance or face federal preemption.

“Thus, passage of this measure is necessary in order for the State of Hawaii to comply with the Federal SAFE Act. Without this measure, our State’s right to regulate the mortgage industry would default to the federal Department of Housing and Urban Development. That would be unacceptable as it is critical that the State retain its right to respond to unique local circumstances in regulating the mortgage industry.

“The states were given until July 31 of 2009 to implement a system which complies with the requirements of the SAFE Act. This measure, based on the model act, ensures that the deadline is met and that regulation of this industry remains within the state of Hawaii so that we can address those issues unique to our island state.

“While this measure establishes the regulatory framework mandated by federal law, it recognizes that this new framework will remain subject to additional improvements as the Division of Financial Institutions (Division) implements the provisions of this measure. This measure requires the Commissioner of Financial Institutions to report to the 2010 Legislature on the Division’s progress of implementing this measure, utilizing guidance from HUD, and to make recommendations for additional legislative action.

“And, perhaps most importantly, under these difficult economic circumstances, the fee structure contained in this measure will allow the mortgage originator regulatory system to be financially self-sufficient. I urge all my colleagues to vote in favor of this measure. *Mahalo.*”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 102 was adopted and S.B. No. 1218, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATORS,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 104 (S.B. No. 266, S.D. 2, H.D. 2, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 104 be adopted and S.B. No. 266, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Nishihara.

Senator Slom rose in opposition to the measure and stated:

“Since we do not have scientific information or fact about global warming, I’ll be voting ‘no.’”

Senator Espero rose in support of the measure and stated:

“Hawai‘i is at ground zero if there are global warming issues and climate change issues. Why we would not want to look at this and how it would affect our island state amazes me that someone would vote against it. This is certainly a measure which we should be looking at in terms of our future—our economic future, the future of the state—and I ask our colleagues to support it. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 104 was adopted and S.B. No. 266, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GLOBAL WARMING,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 105 (S.B. No. 1224, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Kim and carried, Conf. Com. Rep. No. 105 was adopted and S.B. No. 1224, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO AIRPORT CONCESSIONS,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 106 (S.B. No. 1352, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Fukunaga and carried, Conf. Com. Rep. No. 106 was adopted and S.B. No. 1352, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO BUREAU OF CONVEYANCES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 112 (H.B. No. 1536, H.D. 2, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 112 be adopted and H.B. No. 1536, H.D. 2, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Hemmings rose in opposition to the measure and stated:

“Of course, the easy and politically convenient thing would be, Madam President, would be to vote in favor of that noble gesture of reducing our own salaries and the salaries of the executive branch leadership along with it. But that’s deceptive because the total impact on the budget will be millions of dollars. What we really should be doing in order to be fair and equitable to the people of Hawai‘i is reduce the pay of all employees collecting checks from state government. That would have a tremendous impact on the state budget and save hundreds of millions of dollars, and we’d be able to balance our budget without—along with other savings—without having to raise taxes. So this is showmanship at its worst, and I’ll be voting ‘no.’”

Senator Bunda 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. 112 was adopted and H.B. No. 1536, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SALARIES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Ayes with Reservations, 1 (Bunda). Noes, 1 (Hemmings).

Conf. Com. Rep. No. 114 (H.B. No. 1550, H.D. 2, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 114 be adopted and H.B. No. 1550, H.D. 2, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Hooser.

Senator Slom rose in opposition to the measure and stated:

“This is the rollover bill, and it seeks to tax employee contributions as they roll them over from deferred plans. Currently, Hawai‘i and the federal government do not tax these amounts until there’s distribution. So, again, it’s another way of taxing, or increase, and particularly for retirees. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 114 was adopted and H.B. No. 1550, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 117 (H.B. No. 1166, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Kim and carried, Conf. Com. Rep. No. 117 was adopted and H.B. No. 1166, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE PASSENGER FACILITY CHARGE SPECIAL FUND,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 118 (H.B. No. 1552, H.D. 2, S.D. 2, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 118 be adopted and H.B. No. 1552, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure and stated:

“You know, we seem to send out mixed signals, both the State and the City and County of Honolulu, if it’s okay for people to live in parks or it’s not okay. Are the parks for the general public or for specific people who utilize political means to get residential status there? And that’s what we’re doing in this bill here. I think we should have taken more time to look at the options, but the option for allowing people to live and expand in public parks is a bad one, no matter whether it’s on the windward side or on the leeward side. Thank you.”

Senator Hee rose in support of the measure and stated:

“This bill takes into account the recommendations made by the Legislative Reference Bureau report dated 2001. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 118 was adopted and H.B. No. 1552, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC LANDS,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 121 (H.B. No. 1525, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 121 was adopted and H.B. No. 1525, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR

AN ACT RELATING TO MEDICAID,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 122 (H.B. No. 111, S.D. 2, C.D. 1):

Senator Takamine moved that Conf. Com. Rep. No. 122 be adopted and H.B. No. 111, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure and stated:

“The current situation with this bill is if a government employee is overpaid, the government has an unlimited time in which to try to collect that money. This bill, the final version, I think gets it down to two years, and after that the money is theirs. Now, there’s no malicious intent. Obviously, the mistake was made by the state, but it’s taxpayer money and we should use every opportunity to restore all of that money. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 122 was adopted and H.B. No. 111, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO STATE SALARIES,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 123 (H.B. No. 343, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Ige, seconded by Senator Tokuda and carried, Conf. Com. Rep. No. 123 was adopted and H.B. No. 343, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO RURAL PRIMARY HEALTH CARE TRAINING,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 126 (H.B. No. 1807, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator English and carried, Conf. Com. Rep. No. 126 was adopted and H.B. No. 1807, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO WATER QUALITY,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 127 (H.B. No. 371, H.D. 2, S.D. 2, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 127 be adopted and H.B. No. 371, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

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

“Boy, this is one of those toughies. Right now, there’s an exemption on naphtha fuel used in generating facilities, generation for electricity. There is a sunset clause which is due to expire this year. If the sunset clause expires, I believe that the tax returns to its pre-sunset level of 17 cents. If we accept this bill, it extends the sunset for another three years, but adds a new tax increase. So you’re kind of darned-if-you-do and darned-if-you-don’t. So I’ll vote ‘with reservations’ because 1 to 2 cents is better than 17 cents. *Aloha.*”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 127 was adopted and H.B. No. 371, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Ayes with Reservations, 1 (Slom). Noes, none.

Conf. Com. Rep. No. 130 (H.B. No. 1504, H.D. 1, S.D. 2, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 130 be adopted and H.B. No. 1504, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Baker.

Senator Slom rose in opposition to the measure and stated:

“Stripped away from all of its language, this bill seeks to put us on the further slippery slide of universal health care. I understand that that is a popular political, not health, concern nationally. We are the only state in the union that ever adopted a prepaid health care act, which is as close to universal health care in this state as any piece of legislation. And what we’re seeing now is a reduction in the number of people that are covered because of increasing premium costs, increasing mandates. The idea with health care is that we do have major problems in our health delivery system, but people don’t go running to other countries as they do to the United States for medical care. So it would seem to me that the real objective would be to correct the problems, including portability of medical insurance within the health care system, but not throw it out for a socialist, collectivist, universal health care. All we’re doing is substituting the method of financing and instead of individuals paying for their health care, we put the burden on all of the taxpayers instead. With all of the expenditures and costs and tax measures we’re doing right now, I have no idea now we’re going to afford this additional mandate. Thank you.”

Senator Baker rose in support of the measure and stated:

“You know, it’s unfortunate that the term ‘universal health’ has, in some people’s mind, connoted ‘single payer’ as found in Great Britain or Canada. Actually universal health care really means that we believe that all of our citizens ought to have health insurance and the ability to pay for the health care that they need. It is fundamental to making sure that we have access to health care. What this bill does is not mandate one system or another, but really takes a look at how we might move to the point where there are no uninsured in our state. Our prepaid health law is great, but it’s an anachronism of sorts because it’s caught in time. And in order for us to amend it substantially, to address some of the inequities that exist in the health care delivery system, we have to go to the Congress. This measure is an attempt to position Hawai‘i to be in a better place should the Congress enact some form of improvement in the health delivery system. I think this is something we need to be on top of and should be moving forward, and I ask my colleagues to support this measure.”

Senator Hemmings rose in opposition to the measure and stated:

“This is a step towards universal health care. To be at a better place, what Congress is considering is universal, single payer health care system, which will take away the choice of the marketplace of doctors and patients to do what’s best for themselves. It’ll also set up, as with social security, a national monopoly health care system that guarantee will be bankrupt within generations, and secondly, will decrease the quality of health care service in this country. Therefore, this is a step, as the previous speaker noted, towards being in the ‘right’ position to take advantage of Congress’ initiatives, which under the President is universal health care. Thank you, Madam President.”

Senator Green rose in support of this measure and stated:

“Just wanted to say that this bill was kind of the labor of love of a very important person, Ah Quon McElrath, and I’d like to dedicate the passage of this bill today to her.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 130 was adopted and H.B. No. 1504, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HEALTH,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 132 (S.B. No. 199, S.D. 1, H.D. 1, C.D. 2):

Senator Kim moved that Conf. Com. Rep. No. 132 be adopted and S.B. No. 199, S.D. 1, H.D. 1, C.D. 2 pass Final Reading, seconded by Senator Kokubun.

Senator Fukunaga rose in opposition to the measure and stated:

“Colleagues, I know that we have had many lengthy discussions regarding the future of technology in Hawai‘i and the many businesses that have benefitted from Act 221 financing. During some of the floor debates on the House side, one of the points made by the proponents of S.B. No. 199, C.D. 2 was that this change in the tax credit would have little, if any, effect on many of the Hawai‘i businesses.

“I’d like to read just a few excerpts from some of the e-mails that many of us have been receiving. This one is from Darren Kimura, who states: ‘My biggest issue with this current version is that it effectively eliminates the attraction of outside capital to Hawai‘i. Historically, companies have shifted equity to the outside investor in exchange for tax credits. It is this outside money that makes the difference because the Hawai‘i private investor capacity is much too small. As it stands today, Sopoty believes we’re one step away from preparing for an initial public offering and I’m very concerned that the modification of Act 221/215 will negatively affect our new and potentially final private financing. Once a public company, we can access public funds and debt, but not before.’

“Another e-mailer who sent remarks to the Senate states: ‘I am writing to let you know that without the ability to reallocate the 100 percent tax credit between our investors, we will simply not be able to attract the necessary mainland financing to build our facility.’

“Those comments were from a letter from Stephan Smith who sent copies of his letter to all Senators, who said: ‘The reason for this is simple. Building a sound stage facility is a high-risk endeavor. The only way for a mainland investor to mitigate its risk is to trade its tax credits to the Hawai‘i investor in exchange for some form of preferential rights in the company. Interestingly, disproportionate tax credit allocation is not unique to Act 221 and 215. In fact, the federal new markets tax credits have the same feature. So as long as an investment is made subject to the federal guidelines, the tax credits can be allocated in any manner most beneficial to the project.’

“Colleagues, there have been many, many e-mails that have been sent to us. I’m sure I could go on and on, but I won’t belabor the point. I would simply ask that you reconsider your prior decision and vote ‘no’ on this measure. Thank you.”

Senator Slom rose in opposition to the measure and stated:

“I didn’t want the Chair of EDT to be standing alone because the Majority party is not used to standing alone and voting ‘no,’ so I thought I would give her support.

“You know, years ago, I was not in support of the original Act 221 and the arguments that were made. And over the years, we’ve seen some people that have taken advantage of the tax

credits. We've had a great many informational briefings on all of that. But I've come to the conclusion this year that at this time with us having so few economic options, that the tech industry in Hawai'i has started to grow and take wings. Now don't get me wrong; philosophically, I'm absolutely in the camp of Lowell Kalapa and others as we've said on this Senate floor many times. In an ideal world, there would be no tax credits whatsoever. We would simply lower the tax rates and taxes imposed upon everyone here—businesses, individuals, families, and so forth. But that's not what we do. We pick and choose. And if we're going to do that, those of us that listen through the hearings and through the informational briefings had really one question to answer in our minds and that is: For every dollar of state investment for the tech industry, were we getting back less than one dollar? Were we getting back more than one dollar? Were we actually creating jobs as the industry had said? Were we actually positioning ourselves to be one of the top states in the nation? And again, it's kind of a mixed message thing. I mean, we all hail our robotics teams; we watch the growth that they've made. We hail our STEM programs of science and engineering in the schools, and yet here is an industry that actually has produced. They've produced more jobs—full-time jobs, part-time jobs, independent contractor jobs. They have produced more revenue.

"Now the question is, I mean normally I'll defer on the side of the tax director, but quite frankly, his figures I had questions with and I don't think those questions were answered. Maybe the tech industry was using a little bit of puffery in increasing the revenue stream that they projected, but there's no question if we look around that they are doing it. And I've had a lot of calls from small businesses that I didn't expect were involved in technology, but they are and I think that's part of the situation here. We're not really cognizant of all of the people benefitting. It's kind of like the tourism industry or anything else; you think of the big players, you think of the hotels and all that. You don't think about the smaller businesses who actually, relying on Act 221, have started businesses or expanded businesses, added employees. We've been very successful in getting people back from the Silicon Valley, from Austin, Texas, from Concord and Cambridge, Massachusetts. So, when we look at programs as we should to see if they're really working, this program seems to be working.

"Now the conference committee, when it came out, nobody was happy. The administration was not happy (they wanted more revenue), the Legislature wanted more revenue, and the techie group, they wanted less restrictions. But I think that what happened was one of our drafts that we had come closer to saving the industry—not saving it, but enhancing it. Do I think that we should continue to subsidize any business or industry or individual? No, the answer is 'no,' but we have a situation right now where if we take this away—where people have relied upon this legislation—we not only pull the carpet out from under existing businesses, those businesses that wanted to invest here, but also we may be setting up legal problems because some of these businesses, in reliance of these laws, if they find that they no longer have access to these laws, may bring suit against the State for the changes. Now I'm not one that worries about lawsuits or threatened lawsuits and all that, but I think it's something we should consider. And if we're talking about the fairness and if we're talking about the effectiveness and the actual productivity, then I think that we find that Hawai'i's technology industry is among the leading industries in the nation and is giving us both economic revenue and employment growth. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 132 was adopted and S.B. No. 199, S.D. 1, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Ayes with Reservations, 1 (Gabbard). Noes, 8 (Baker, Bunda, Chun Oakland, Fukunaga, Hee, Ige, Ihara, Slom).

Conf. Com. Rep. No. 134 (S.B. No. 423, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Ige and carried, Conf. Com. Rep. No. 134 was adopted and S.B. No. 423, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 140 (S.B. No. 1202, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Gabbard and carried, Conf. Com. Rep. No. 140 was adopted and S.B. No. 1202, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION ENERGY INITIATIVES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 142 (S.B. No. 292, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Ige and carried, Conf. Com. Rep. No. 142 was adopted and S.B. No. 292, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FUNDS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 143 (S.B. No. 972, S.D. 2, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 143 be adopted and S.B. No. 972, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure and stated:

"I'll be voting against this bill; the reason is certainly we want to enforce our tax laws, we want people to pay their fair share and all that. The fact of the matter is we are in a cash economy right now, and I think that this bill is too heavy-handed on enforcement and goes after a lot of individuals and small businesses. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 143 was adopted and S.B. No. 972, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 146 (S.B. No. 496, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 146 was adopted and S.B. No. 496, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 149 (S.B. No. 43, S.D. 2, H.D. 2, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 149 be adopted and S.B. No. 43, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Ige.

Senator Slom rose in opposition to the measure and stated:

“This bill does two negative things. First of all, it creates a new special fund. Secondly, it creates an additional \$60 fee upon renewal of physician and osteopathic physician licenses. We already have a problem losing doctors in this state. All you want to do is single them out and make sure that we tax them and make fees even more. Thank you.”

Senator Baker rose in support of the measure and stated:

“Madam President, we started a project last year to try to get firm data on the number of physicians and the distribution of physicians by specialty. This will enable us to continue that work and move it forward. We’re not going to be able to recruit appropriately or make sure that the med school is engaging in the right residency programs, which is the only way we can truly recruit and retain physicians, if we don’t have good data. This follows along with what we have worked with for nurses in the Center for Nursing; adding a fee that they did not object to but proposed, so that we could have good data and work on issues important to nurses. That is what this particular fee will do. Even with this \$60 fee, we have a license fee for physicians in our state that is less than in virtually all the other states. So I don’t think this is a barrier; I think this will actually help physicians and preliminarily, we’re already seeing it. Anecdotally we hear that physicians leaving in droves when actually according to the data, our physician count is flat. We need to make sure that we get the good data, follow the good data, and then we can have better basis on which to make policies. Thank you, Madam President.”

Senator Green rose in support of the measure and stated:

“Look, as a physician, I don’t mind the \$60 fee. The bigger issue for physicians I think has been reimbursement. And the reason this bill is particularly good is because as we isolate where we have shortages, there has been a fair amount of dialogue about changing the structure of reimbursements into the primary care areas where it’s harder to get care for people. It will have some success, from a scientific standpoint, to be able to really isolate where we have shortages; really isolate where we can do things such as loan repayment or increase reimbursements in areas that we have no physicians and bring them there. So actually, this will be a windfall for physicians that work in shortage areas over time, and I think that that, among many other reasons, is a very good reason to have an analytical approach to our shortage rather than a speculative one which we’ve had for years. Thank you.”

Senator Slom rose in rebuttal to the measure and stated:

“With all due respect to the nurses and to Dr. Green—who doesn’t mind paying the \$60 and may pay for other doctors too, if we tell them to come see him—I think the testimony by the doctors was that they opposed this fee increase. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 149 was adopted and S.B. No. 43, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PHYSICIAN WORKFORCE ASSESSMENT,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 151 (H.B. No. 427, H.D. 1, S.D. 1, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 151 be adopted and H.B. No. 427, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure and stated:

“I will be voting against all five of the bills which seek special purpose revenue bond money from the State. Number one, we keep hearing over and over again how we don’t have money; and while there is no direct link between the State backing these bonds for these companies, it is true that the companies get a break both on interest that they pay and also on floating the bonds in the first place. Number two, we have issued a lot of special purpose revenue bonds over the last five, six years, and I think we’ve gone afoul of what the original law was and what the intent is. They were supposed to be educational, health-related, and so forth, and we’re going into different directions here, and some of these bond approvals may in fact have constitutional or other questions. And then, the final problem that I have with a number of these companies: While their names sound good, I don’t think many of us have seen the information about how these companies have actually been up and running and created anything other than a desire to tap into State approval and State money. So I will be voting against all five. Thank you.”

Senator Baker rose in support of the measure and stated:

“Madam President, there’s been some confusion even amongst colleagues as to the efficacy of floating special purpose revenue bonds. In our statute and Constitution, it sets out several purposes. We, by constitutional amendment, allowed lower educational institutions to access them. In the renewable energy area, the federal government has additional guidelines and there’s a threshold beyond which, if a company wants non-taxable special purpose revenue bonds, it is a much smaller amount. So these measures follow the current statute, the current laws. I would also note that it is not an obligation of the State. In fact, the companies that want to access special purpose revenue bonds have to do their own due diligence—they have to pay for that—and they have to pay a fee to the Department of Budget and Finance for their assistance in reviewing form and so forth. So if it helps with renewable energy projects, if it helps with standing up schools, if it helps with utilities, hospitals, and the other items that entities can use a special purpose revenue bond for, I think that it’s good for our state and one that we should be supporting. The due diligence is the company’s, not ours.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 151 was adopted and H.B. No. 427, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST ONE PLANET PACIFIC ENERGY, LLC, A PROCESSING ENTERPRISE,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Bunda, Slom). Excused, 2 (Hooser, Tsutsui).

Conf. Com. Rep. No. 152 (H.B. No. 1627, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Kim and carried, Conf. Com. Rep. No. 152 was adopted and H.B. No. 1627, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Bunda, Slom). Excused, 2 (Hooser, Tsutsui).

Conf. Com. Rep. No. 153 (H.B. No. 1628, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Kim and carried, Conf. Com. Rep. No. 153 was adopted and H.B. No. 1628, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL

PURPOSE REVENUE BONDS TO ASSIST BIOENERGY HAWAII, LLC,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Bunda, Slom). Excused, 2 (Hooser, Tsutsui).

Conf. Com. Rep. No. 154 (H.B. No. 1483, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Kim and carried, Conf. Com. Rep. No. 154 was adopted and H.B. No. 1483, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR BETTER PLACE HAWAII, INC,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Bunda, Slom). Excused, 2 (Hooser, Tsutsui).

Conf. Com. Rep. No. 155 (H.B. No. 1678, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Kim and carried, Conf. Com. Rep. No. 155 was adopted and H.B. No. 1678, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Bunda, Slom). Excused, 1 (Galuteria).

Conf. Com. Rep. No. 157 (H.B. No. 35, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 157 be adopted and H.B. No. 35, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Hooser.

Senator Slom rose in opposition to the measure and stated:

“One buck? One buck? That’s what we’re going to get? That’s our refund? One buck? See, if you want real stimulus, give the money back to the people that earned it, but not one buck. That’s not going to do it. I say, ‘no.’”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 157 was adopted and H.B. No. 35, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INCOME TAX CREDIT,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Galuteria).

Conf. Com. Rep. No. 159 (H.B. No. 1544, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 159 be adopted and H.B. No. 1544, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Hooser.

Senator Slom rose in opposition to the measure and stated:

“I can’t believe it, Madam President. I’m voting ‘no’ because first you’re giving us a buck, and then you’re going to start phasing out our personal exemption. Hawai’i’s personal exemption right now is one-third of what it is on the federal tax return; so I guess people here are one-third of a person compared to the national, although we work three times harder with our businesses and our jobs. So, you’re going to phase it out; you’re not going to conform it with the good stuff, only going to conform the payout. So I say, ‘no,’ Madam President.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 159 was adopted and H.B. No. 1544, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAX EXEMPTIONS,” passed Final Reading on the following showing of Ayes and Noes:

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

At 1:07 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:18 p.m.

Conf. Com. Rep. No. 161 (H.B. No. 899, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Kim and carried, Conf. Com. Rep. No. 161 was adopted and H.B. No. 899, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Hemmings). Excused, 1 (Slom).

Conf. Com. Rep. No. 162 (H.B. No. 1364, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 162 be adopted and H.B. No. 1364, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Galuteria.

Senator Hemmings rose in opposition to the measure and stated:

“This bill is... I remember years ago a popular term here was ‘shibai’. This is one of the greatest ‘shibais’ ever perpetrated on a national peoples, and certainly is the biggest debt ever passed with one single vote in Washington, D.C., by legislators who never had the opportunity and/or never read what they were voting on. There are many reasons why the American Recovery and Reinvestment Act is a foolhardy investment for the taxpayers of this country, but more importantly, it will have a negative effect on those of us who were pledged to serve in the State of Hawai’i.

“First and foremost, this is unprecedented spending. On the fiscal year ending October 1, the federal government in 2008, the national deficit for that one year was \$459 billion. As of right now, and the year’s far from over, our national deficit for one year is \$1.7 trillion. I’d like you to ponder that figure, but like the word ‘infinity,’ it’s difficult to understand what 1.7 trillion is. When you look at the bigger picture, our national carry-forward debt as of March 4 was \$10 trillion approaching \$11 trillion. For a family of four, an average Hawaiian family, you and your children owe the federal government about \$150,000. We’re on the way to bankrupting the nation. We’re spending money, under the Obama administration, that we do not have. It will lead to further erosion of our credibility on world credit markets. Nations like China will not lend us the money. We’re being fiscally supported by China, and they’re very smart business people; they don’t lend money to people that are going bankrupt. It is a foolhardy proposition from the get-go.

“This bill will also lead to something that you have heard before from several circles, but I want to reiterate it: This is leading to the rapid erosion and elimination of federalism as we know it. Because of the terms and conditions attached to the federal stimulus money, we legislators and the people of Hawai’i will no longer, in many areas, control our destiny because debt-financed money is being sent to us with strings attached and if we don’t spend it the way Obama and the federal government wants, we will be penalized. So it’s really taking away our power and our responsibility as State legislators to control our destiny; and I will guarantee you that the needs of the people of Hawai’i are far different than the needs of the people, for instance, of Maine or Minnesota or many of the land-locked states on the continent.

“They say that this Recovery Act, as it’s called, is going to stimulate the economy. It’s going to stimulate government growth. It’s going to stimulate special interests, such as ACORN, a group that’s under investigation for voter fraud problems, and other special interests who have been a political asset to the incumbent party of the President. And it may be a one-time job creation for those who are lucky enough in the private sector to have funding, but since it dries up in two years, it will really not stimulate true economic growth in a fertile economic environment. It will be an artificial environment, a one-time stimulation with borrowed money.

“And the last question we should all ask ourselves about the alleged American Recovery and Reinvestment Act is: What happens two years from now when we’re not getting the money anymore? So I really believe that this is a bad investment at a bad time for America’s future. I will be voting ‘no’.”

Senator Espero rose in support of the measure and stated:

“It is unfortunate that we have to have billions of dollars injected into our national economy at this time. However, if it were not for the ill-advised Republican administration led by former President Bush, Vice President Cheney, and Secretary of Defense Rumsfeld, where we invaded Iraq, got ourselves into a war that has cost our nation trillions of dollars, we may not be in this mess in the first place. Thank you, Madam President.”

Senator Hemmings rose and said:

“Madam Chair, despite the applause of the previous speaker...”

The Chair interjected:

“But for what purpose do you rise?”

Senator Hemmings responded:

“I rise in rebuttal. Our national deficit is being created on an on-going basis by a number of programs that are called ‘mandates’ and now are actually becoming ‘rights.’ Medicaid and Medicare are huge gaping holes in our national expenditures, as is Social Security. They make up two-thirds of yearly expenditures. Granted the Iraq war cost us money, but it has paid one incredible dividend—along with our war on terror which we discussed yesterday—and that is America is safe. But I’m not here to debate the past. I’m here to speak for the future. And this reinvestment act is unprecedented by any president of any party, and, as I said before, will lead to the economic hardship as they’re seeing in California because they spent money they did not have. Thank you, Madam President.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 162 was adopted and H.B. No. 1364, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE BUDGET,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 163 (H.B. No. 183, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 163 was adopted and H.B. No. 183, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 164 (H.B. No. 1405, H.D. 2, S.D. 2, C.D. 1):

Senator Tsutsui moved that Conf. Com. Rep. No. 164 be adopted and H.B. No. 1405, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Hooser.

Senator Fukunaga rose in opposition to the measure and stated:

“Colleagues, this is one of a pair of Internet-related bills that the conference committees labored on, and during our negotiations, there were a number of small Internet web-based businesses in Hawai‘i who expressed very strong concerns. Although many of you would probably not be likely to consider voting against this conference draft, I did want to bring their concerns to your attention. Of all of the people who would be hardest hit, the greatest number will be small businesses.

“If you look at the material that has just been distributed to you, one of the e-mails is from Dean Takamine who runs a small tech business and website. If I could just highlight the concerns he has raised, these would certainly bear further review and I hope that you will consider voting ‘no’ on this measure. The first point that Mr. Takamine raises is that online merchants will simply terminate their advertising contracts with Hawai‘i publishers to avoid paying the tax. This is a ‘click-through’ type of relationship where Hawai‘i-based retailers or those who have local websites are paid affiliate fees if people who click on their websites ultimately end up at Amazon.com or other kinds of websites. As he points out, sites like Amazon.com will not pay the excise tax because they have already written letters to their affiliates letting them know that they will drop all advertising contracts with Hawai‘i residents if the bill passes. Second, he cites an example of *Star Bulletin*’s website which he believes represents an example of other Hawai‘i online media businesses that will be hard-hit by this bill. The third thing that he cites is that Hawai‘i will not be able to enforce this law effectively. It will be much too costly to police the law and to find all of the instances in which other technology types of businesses are evading paying the Hawai‘i excise tax. Although we did try to narrow this bill somewhat in committee, I urge my colleagues to vote in opposition to this bill. Thank you.”

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

Senator Slom rose in opposition to the measure and stated:

“Again, your intent is one thing; the way the bill is worded is another thing. And as the Chair correctly pointed out, this is going to have a devastating impact, not only on small businesses but on some well-known businesses as well. That’s why I oppose the streamlining tax in its entirety. We’ll probably get to that in a little while. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 164 was adopted and H.B. No. 1405, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE GENERAL EXCISE TAX,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 17. Ayes with Reservations, 5 (Chun Oakland, Espero, Galuteria, Hooser, Kidani). Noes, 8 (Baker, Bunda, Fukunaga, Hemmings, Ige, Ihara, Nishihara, Slom).

Conf. Com. Rep. No. 165 (H.B. No. 900, H.D. 2, S.D. 1, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 165 be adopted and H.B. No. 900, H.D. 2, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Hemmings rose in opposition to the measure and stated:

“These are perilous times economically for all the citizens of Hawai‘i. As citizens we should share the burden of economic hardship plaguing our state. OHA has enjoyed the benefits of Hawai‘i’s bounty during good times. However during times of hardship, OHA does not seem to want to even underwrite their own programs and administration with their massive \$300 million plus trust fund. It should be our duty to do what is fair for all of Hawai‘i’s people, including native Hawaiians. I do commend the Senate Ways and Means and Water, Land, Agriculture and Hawaiian Affairs Committees for attempting to do what is just, rather than just yielding to the convenience. During conference committee, they drove a hard bargain for having OHA assume its fair share of the burden our state is facing. But unfortunately, in conference the House would not yield. The results are that general revenue funds are being allocated to an agency of state government that has over \$300 million in reserves. I want the Majority party to think about that because you’re so quick to raid tobacco funds that takes money out of health programs that could possibly stop people from smoking or recover from cancer. You’re quick to raid special funds that fund programs that oftentimes take care of the least fortunate in our society. But this massive \$300 million fund is sitting there while we’re underwriting the operating cost of the agency that has all this money. I would urge you to vote ‘no’ and make OHA pay its fair share in digging our state out of the economic abyss that we are in. Thank you, Madam President.”

Senator Hee rose in support of the measure and stated:

“I want to thank the previous speaker for holding the line that he has with regard to the budget. He, as well as the Chair on Ways and Means, perhaps know better than most of the difficulties that the budget proceedings entailed. To a certain extent, the previous speaker is absolutely correct. Much of what the distraction of the discussion with the Office of Hawaiian Affairs budget had to do with attorney fees that were awarded to Native Hawaiian Legal Corporation, and many of you are familiar with the details because I’ve given a speech to that extent earlier this session. The long and short of it is that while every other agency and state department is experiencing a 20 percent cut, the Office of Hawaiian Affairs is experiencing a 30 percent increase. That’s a fact. The fact of the matter is that increase is due to a windfall that the Office did not voluntarily disclose to the lawmakers. That’s a fact. The windfall is a result of attorney fees that were awarded by Judge Ibarra to Native Hawaiian Legal Corporation that did not voluntarily disclose to the Office of Hawaiian Affairs, and that’s a fact. It is only after Native Hawaiian Legal Corporation’s failed attempt to disguise the attorney fees as tribal funds did the Office of Compliance and Enforcement of the federal government order Native Hawaiian Legal Corporation to return the fees to OHA. I’m not here to stand before this august body to suggest that Native Hawaiian Legal Corporation does a good or doesn’t do a good job. I’m here instead to say that the law is clear and the law applies to everyone regardless that we may agree or disagree. The fact of the matter is Act 109, Session Law ‘05, requires the Office of Hawaiian Affairs to procure legal services in accordance with Chapter 103D and 103F. That’s a fact. So while I agree with the previous speaker—because he’s correct—the fact of the matter is he’s also correct that the House would not yield. And so in trying to strike a compromise, this is the best that I believe is possible.

“Now some of you may disagree. You have that opportunity now. You can vote against the budget. That’s your prerogative. But the facts as they are are indeed accurate from my perspective. I will vote for this budget because it’s the best deal that I believe, in terms of a compromise, that could be struck;

and that the Office of Hawaiian Affairs is a state agency where anyone present in this chamber can run as a trustee and everyone present in this chamber is entitled to vote in the Office of Hawaiian Affairs elections. It is the best that we could do. It is not the Senate position. We all know that, but I will support the budget. Thank you very much.”

Senator Slom rose in opposition to the measure and stated:

“I think that the last speaker made very cogent arguments with his factual dissertation of the way things are, as he had done in his previous speech. And I’m left with a problem, and that is when we get to a point where we say that one house or one group or one individual has the political muscle to dissuade us from doing what we think is right and what we think is the best position, then I think that maybe more of us should stand on principle, even if it means, ‘Hey, you want to hold this up and you want to be the reason that we don’t have a budget.’ We’re sticking to what’s right.

“A couple points need reaffirming, and that is that OHA is a state agency. A lot of people try to forget that or they gloss over it, but it is a state agency, therefore subject to all of the other requirements of the state. Secondly, as the previous speaker brought up, it is subject to the procurement laws of the State of Hawai‘i, and in fact avoided the procurement laws in the selection of its legal services agency. Thirdly, it did not disclose this information, and when the federal government told them to give back the money to OHA—and we were talking about a figure of about \$3 million—what happened in the conference committee? In the conference committee a deal was struck that they only have to give back a little bit of the money and they can keep more of the money. To me these are ill-gotten gains. They should not be kept at all, and we as the Senate should adhere to our position because in this case, as in so many others, our position is right. The arguments and the facts substantiate that. The final point is some of us have been trying to get a complete audit of the Office of Hawaiian Affairs for a number of years now, and we’ve not gotten that audit. And a lot of people have asked questions in committees about where the money for OHA goes, and we don’t know that either because they don’t disclose it. And yet they are a state agency; they are required to provide that information. So, I would ask my colleagues to think about that as well. Thank you.”

Senator Hee rose in rebuttal and said:

“Many of the things he said he’s entitled to exercise, and the assumption I have is that he will exercise it as he has with other bills. I didn’t want to get into this, to the other side of the argument that went beyond the budget, but let me say that it is, in my view, the discussion about the \$300 million portfolio, the reporting by the audit, are all outside of the realm of what your Committee on Water, Land and Hawaiian Affairs and your Committee on Ways and Means deliberated with the House. It may be a fair statement, as the previous speaker has indicated, to do just that; and he has the prerogative to so sponsor legislation to call for an audit, and I would welcome him to do so. And if he’d like, I’ll co-sponsor it with him. But the budget is what it is. This is the branch of government that functions on compromise. It is not what the Senate would have preferred, but it is a budget that continues to address the needs of the indigenous host culture. I would urge my colleagues to vote ‘yes’. Thank you.”

Senator Slom rose in rebuttal and said:

“The good Senator from Kahlau should be aware that in fact last year I did introduce a bill to fully audit OHA, and I do accept his invitation right now that in 2010, we can have the Hee-Slom bill, or Slom-Hee. We’ll have to argue on that later on. Thank you.”

Senator Hee rose on a point of personal privilege and said:

“That’s what I like about us. We compromise...in the Hee-Slom audit.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 165 was adopted and H.B. No. 900, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 166 (H.B. No. 300, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kim and carried, Conf. Com. Rep. No. 166 was adopted and H.B. No. 300, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE JUDICIARY,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 168 (S.B. No. 21, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 168 was adopted and S.B. No. 21, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GOVERNMENT,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 169 (S.B. No. 1678, S.D. 3, H.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 169 be adopted and S.B. No. 1678, S.D. 3, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure and stated:

“I think it’s been four years now. I think the love affair with the EDT Chair has probably ended for this day, but I’m opposed to this bill. This is a bill that requires individual states to join in a compact, and then wait for the federal government—congressional action—to pass a bill, and then they will tax each of the states that have signed up on interstate and interline purchases. That means your Amazon, that means your Land’s End, that means all of the things that you do on the Internet right now. To me it’s an anti-technology bill because every time we come up with something, we have somebody that wants to tax it. The supporters will say that 22 states have already signed onto this compact, although several of them have different opinions as to what exactly it’s going to have. But as far as the 22 states, that means that 28 states in fact have not signed onto it. I think it was a mistake that Hawai’i got involved in this in the very beginning, and I don’t see any positive things coming but I do see companies on the mainland saying, ‘Hey, we’re not going to do business with Hawai’i’ as we heard on that last bill with Amazon. I don’t think that’s what we really want; and besides that, I think we’re looking to try to help our consumers get a better bargain than they’ve gotten right now. Thank you.”

Senator Fukunaga rose in support of the measure and stated:

“Simply two points of rebuttal to the prior speaker: Number one, the use tax is an existing tax that this project will help the State of Hawai’i collect at a time when it needs every single penny that it is entitled to. Number two, many of those who are part of the Internet coalition including Amazon.com, AOL, AT&T, eHarmony, Expedia, Experian, Comcast, IAC, Match.com, Trustee, United Online, Overstock, Yahoo and others fully support the Streamlined Sales and Use Tax Project

as a far more logical and reasonable way of collecting existing state taxes. For those reasons, I urge my colleagues to vote ‘aye’.”

Senator Sakamoto rose in support of the measure and stated:

“I’ve stood up before, and I guess the small business advocate from Hawai’i Kai is saying, ‘What about those who buy off the Internet and would have to pay more if they paid what is due to Hawai’i?’ I believe this is a measure that would help the small businesses, and I hope the Senator from Hawai’i Kai would realize that Hawai’i’s small businesses collect the taxes due; and when people circumvent taxes by buying on the Internet, it’s hurting Hawai’i’s small businesses. This would help level the playing field. Thank you very much.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 169 was adopted and S.B. No. 1678, S.D. 3, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 171 (S.B. No. 884, S.D. 2, H.D. 1, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 171 be adopted and S.B. No. 884, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Baker.

Senator Slom rose in opposition to the measure and stated:

“This bill is the granddaddy of all raid bills. It raids indiscriminately from many different kinds of special funds only because the money is there. It does not give credence to the purpose for which those additional taxes or fees were collected, and it takes it to scoop it into the general fund and for the budget, and for many of those programs that we talked about earlier that originally were reduced or cut and now are going to be restored at the expense of these funds. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 171 was adopted and S.B. No. 884, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO NON-GENERAL FUNDS,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 173 (S.B. No. 1673, S.D. 2, H.D. 2, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 173 be adopted and S.B. No. 1673, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Hemmings rose in support of the measure and stated:

“I think this bill at first blush could be a vindication of the good Senator from Hawai’i Kai and myself and others who for years now, since the turn of the millennium, had been advocating the privatization of Hawai’i Health Care Systems. It’s important for the good people of Hawai’i to know that the state operates monopoly hospitals—and some big ones—on the neighbor islands. And since their inception in 1996, we have subsidized them well over one-half billion dollars while the health care and medical needs of the people of Hawai’i are met by private hospitals with relatively no direct government subsidies. From Fiscal Year 2008 and with the passage of the budget through 2011, according to figures supplied by Hawai’i Health Care Systems Corporation, we will spend a whopping \$300 million subsidizing these hospitals. It is proof that government owned and operated medical care creates more problems than it solves and certainly adds to the cost.

"I also want to say that this bill is vindication but I want to share this concern with you: That part VI, section 15 provides 'transition of Hawai'i health systems regional system or health facilities to a new entity,' and it goes on to say that those new entities can be a non-profit corporation, for-profit corporation, municipal facility, public benefit corporation, any two or more of these entities, and the 'transition shall occur through the sale, lease or transfer of all or substantially all of the assets of the facility or regional system, except for real property which shall only be transferred by lease. Any transition shall comply with chapter 323.' So this appears, and I emphasize the word 'appears,' to authorize the privatization of Hawai'i Health Care System's facilities because if the facilities were to transition to a non-profit corporation or for-profit corporation, clearly it would need to be private which means it's no longer a state entity.

"The bill, as currently written, does not specify or say anything about Chapters 76 and 89 of Hawai'i Revised Statutes, and those are the civil service and collective bargaining laws, respectively. S.B. No. 1673 does not mandate privatization of Hawai'i Health Care Systems Corporation's facilities, but by implication may allow for it. Section 1 of the bill mentions that public hospitals in other states have converted to non-public status. It goes on to state that it is essential that this transition be optional available to various regional systems and facilities of the HHSC. Because there's no direct precedent, we cannot predict with any certainty whether Hawai'i appellate courts would find this sufficient language to permit HHSC facilities to privatize and abolish all their civil service positions; and even if they did, chances are they'd be subject to a challenge by the unions. Let me quote the testimony of the United Public Workers on another case: 'We oppose privatization and urge you to reject any attempt to violate constitutional merit principles.' The reference is *Kono v. County of Hawai'i* in a 1977 case. Services which have been historically and customarily performed by all civil servants cannot be privatized. Furthermore, S.B. No. 1673 provides, on page 20, lines 14-17, that any transition would be subject to certain terms and conditions including that 'all liabilities of the regional system or facility related to collective bargaining contracts negotiated by the State, shall become the responsibility of the State.' So what's that mean? Does that mean, 'Yes, you can privatize the hospital, but we've got to keep paying all the state workers that were working there?' So it's unclear what liabilities this provision refers to and could possibly be construed to mean the state would have to continue to pay those workers.

"Nevertheless, this bill seems to be, at face value, a step in the right direction and hopefully, reasonable people will come to reasonable conclusions on how to resolve this long-standing problem. You know, on the budget I always get asked, rather sarcastically, 'Oh, you want to balance the budget. Well, what services would you cut? You know everybody's working so hard to make our lives better in Hawai'i. What services would you cut?' Well, here's what I would cut. In our budget right now is approximately \$200 million to further subsidize these state monopoly hospitals. By going to the private sector they would operate much more efficiently and be able to provide the medical care that neighbor island people deserve. They'd probably create competition in the medical marketplace which would further provide choice and competition in prices to everybody's benefit. This bill is a step in the right direction and, like I said, somewhat vindicates our long-standing position regarding privatization of these hospitals, but it remains to be seen what will happen. Thank you, Madam President."

Senator Baker rose in support of the measure and stated:

"Let it never be said that the contents of this bill are a vindication of the Minority leader or the Senator from Hawai'i Kai. This is a good bill, and it allows and empowers the regions

to do what they need to do to be effective and efficient deliverers of health care, primarily on the neighbor islands. It does allow create a process for transition from quasi-state agency to another type of entity—for profit, non-profit, mutual benefit corporations for instance. It allows the regions to drive the process, to make the call, so to speak.

"Couple of things: I have some written remarks in support of this measure I'd like inserted in the Journal, but I need to, Madam President, just challenge a couple of the assertions by the previous speaker. First, he points out that the subsidization of health care for these facilities started back in 1996. Well, I remember in 1996 these facilities were pulled out of the Department of Health. They'd been a total and complete responsibility of the State since their creation, so to say that somehow a reorganization changed things in 1996, I think, is not a correct interpretation or even a proper recitation of history. He also notes that if they're private, then they don't need any subsidization from the state. Well, I would point out that just a few measures ago, we passed what's called the disproportionate share hospital bill that authorizes about \$12 million in general funds to pull down \$14 or \$15 million in federal funds, all of which goes to the private hospitals, most of them on this island. So to say that because a facility is affiliated with the state means somehow that they don't have the ability to deliver good health care or that the privates don't ever have to get any kind of subsidy is really not an accurate statement. I have no problem helping out the private hospitals with both state money and federal money because they're in the same situation that HHSC facilities are in. They don't get adequate reimbursements, they have to provide charity care, and the cost of health care across the board is outstripping the ability to provide those services. So there's going to be a subsidy for hospitals, no matter what kind of organization that they have.

"I was surprised to see that the former speaker noted that he supported this bill, and perhaps that's an example of a bill being damned by faint praise. This bill, like the one that we passed a couple of years ago, is not perfect; and I expect that we'll be coming back to assist in further clarification and further refinements of this measure. But for now it is a giant step, and for that I do agree with the previous speaker. It gives our regions the opportunity to be the best that they can be by giving them the authority to help chart their own course; and that, for the neighbor island hospitals, is very important. And I would like to say for the record that I appreciate so much the leadership of the Chair of the Senate Health Committee in helping move this measure forward, to all my Majority colleagues for making this measure a part of our package, and for all of the neighbor island colleagues for working so diligently to get it into a good shape that gives important self-determination to our facilities on the neighbor islands. *Mahalo.*"

Senator Baker requested that additional remarks in support of the measure be entered into the Journal.

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

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

"Colleagues, the passage of this measure will ensure improved health care services to the people of Hawaii. I would like to clarify the intent of this measure. This bill does not look to eliminate the Hawaii Health Systems Corporation but rather to improve the operations and autonomy of our community hospitals. This bill strengthens the viability of the regional acute care hospitals that provide vital services to our neighbor island communities. This bill provides the regional systems of Hawaii Health Systems Corporation with more autonomy by authorizing any of the regional systems or individual facilities of the Hawaii Health Systems Corporation to transition into a

new entity. In addition, this measure allows HHSC or any regional board to negotiate and executive memoranda of understanding for employees under its control and to alter any collective bargaining agreement on any items subject to collective bargaining. SB 1673 increases autonomy and accountability at the regional level and allows communities to be involved in determining critical, safety-net levels of service which cannot be reduced, as well as in plans for the expansion or enhancement of new services or the reduction or elimination of other non-critical services.

“Hawaii is comprised of diverse communities in which the demand of specific health care services can often be significantly different from each other. In addition the access and availability of health care often depends on the location and demographic make-up of the community. This measure looks to increase our efforts to assist our public hospitals in providing quality health care to all of the people of Hawaii as well as increasing the availability of health care to our constituents. In addition to the transition from a central statewide hospital corporation, this bill provides for further operational abilities for the regional health system; includes internal audit provisions for fiscal accountability and enables the corporation to conduct criminal history record checks. I strongly believe that the provisions provided in this bill will improve our public hospitals and our access to quality health care in Hawaii. I urge all of you to support the passage of this bill.”

Senator Ige rose in support of the measure and stated:

“I would like to first of all, thank all of my neighbor island colleagues who spent so much time as we worked through this. I would like to acknowledge also the support and efforts by the labor unions involved. They came to the table and worked with us to try and come up with a program. I think we all recognize the important role that these facilities play in each and every one of our communities. For the record, I would like to note that the private hospitals have incurred losses of about \$150 million in 2007, and about half of those losses are due to underpayment of government programs, both Medicare and Medicaid. So, the hospital business in and of itself, both public and private sector, is under severe duress because the reimbursements simply do not cover their costs.

“This measure is a comprehensive measure that puts the Hawai'i Health Systems Corporation on reasonable financial standing to be able to ponder their future. It engages the local communities in a dialogue to define what are the basic levels of services which should be provided in each and every one of these facilities. More importantly, it invites those community members to think about the future and to think about what new services and enhancements could be provided in these facilities that would allow the community to be better served. And finally, it really does invite the community to take ownership and to invest, both financially and by participating, in the future of these facilities.

“It does provide and makes clear that the HHSC can negotiate for memorandums of understanding to alter the basic collective bargaining agreements, recognizing the unique situation that each and every one of these facilities are in. It also does, as the Majority leader has said, allows for new kinds of partnerships that can invest external capital into our system so that our facilities can move forward and provide better services to the community. Once again, I just would like to thank all of those who committed much time to try and move this measure forward. I do think, members, that on a going-forward basis, the Hawai'i Health Systems Corporation will be in a much, much better place come July 1st. Thank you.”

Senator Hemmings rose in rebuttal and said:

“I think we're headed towards Never Never Land here because this is a vindication of sorts, and I do have to set the record straight regarding some things that's often our plight here: to look at something and reach completely different conclusions on what we see. Sometimes it's semantical. Sometimes it's ideological. Sometimes it's political stubbornness. Call it what you will. The facts are the number's out of the budget and out of the Hawai'i Health Care Systems. I don't care what you called it before 1996, and quite frankly I don't care what you call it now. The fact is it's a state monopoly hospital, and the facts are in those years, they've been subsidized over a half billion dollars.

“There is no moral equivalency and oftentimes we get mired down in this; well, we see it oftentimes in the war on terror. We're killing them. They're killing us. What's the difference? Well, the difference is right and wrong. And there's no doubt, and I certainly agree with the good Senator from Maui and the Chairman of the Health Committee that private hospitals are indeed in a terrible plight, and I think it's absolutely amazing that the good Senator—the Chairman of the Health Committee—actually told us why: because government programs are bankrupt and not paying doctors enough. Geez. So, we want to continue with a government-owned and operated hospital?”

“But I think we are headed towards a reasonable solution but I do want to, in closing, say that neither of the previous speakers—and I would welcome the opportunity to be enlightened—addressed my original concern, specifically: Will the labor unions be allowed to file suit against the state for privatizing their jobs, or worse yet, will the state have to retain them in some other needless capacity in order to satisfy what this bill would accomplish? That remains to be seen. But it's partially addressed by the budget, as I said, because despite this bold move as we heard two years ago, or three years ago, when we passed the last major reform that proved to do nothing but create more problems, that we are putting \$200 million plus in the budget to carry this corporation forward. And there is a difference between the private sector and public sector hospitals, and I'll tell you one, which was testified in committee on this issue. The labor costs of a state hospital, especially Maui Memorial and Hilo and Kona, are 17 percent higher—17 percent higher—according to testimony, than their private counterparts, and therein is the difference.

“So once again I applaud the Senate for moving in this direction, and I pray that in voting 'yes' on this bill that it is not a façade, that it is really genuine reform, and that this state is headed in a direction that most other states have done; and that is, not operating public monopoly hospitals. Thank you, Madam President.”

Senator Sakamoto rose in support of the measure and stated:

“There is one person who is not in this room who can make a big difference if the statement about 17 percent more in labor cost is true. Labor costs highly get generated by manning and how you man different positions; and I believe in our state, that's pretty much collective bargaining. Our current Governor has had the opportunity several times—in good times, in medium times, and currently in bad times—to make a difference. And I believe it's not about lawsuits; it's about relationships and about working together. Again, this is an opportunity for our administration to work with the respective bargaining units and work together, not for the hospitals, but to work together for the people who vitally need those services. This is an opportunity to not just talk about working together. Perhaps in an hour or so she'll say, 'I shall also have an opportunity to work together as opposed to work against.' *Mahalo.*”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 173 was adopted and S.B. No. 1673, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 174 (H.B. No. 36, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Kim and carried, Conf. Com. Rep. No. 174 was adopted and H.B. No. 36, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Bunda, Nishihara).

Conf. Com. Rep. No. 175 (H.B. No. 690, H.D. 2, S.D. 2, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 175 be adopted and H.B. No. 690, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Takamine.

Senator Slom rose in opposition to the measure and stated:

"What this bill does, it amends the prepaid health care act to further put limitations and mandates on small business. The law right now requires businesses to cover any employee who works more than 19 hours per week. What this bill does is drop the figure to 15. It also says that if the employer adds family benefits to coverage for those full-time employees, he or she must also add them to the part-time employees. Small businesses have the right now, if they want to and if they can afford it, to give any employee—even if they work 5 hours a week—coverage, but if they can't afford it this has been a major problem. And now what we're doing is, yet again, with taxes and mandates we're forcing them to go ahead and cover 15. Next year, we'll probably come back here, it'll be 5 hours or 1 hour as most of the unions want."

Senator Ige rose in support of the measure and said:

"I just wanted to correct one issue. The employee would be fully responsible for 100 percent of the cost. The employer is just obligated to offer the coverage to the part-time employee. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 175 was adopted and H.B. No. 690, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Bunda).

Conf. Com. Rep. No. 176 (H.B. No. 1464, H.D. 3, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Kim and carried, Conf. Com. Rep. No. 176 was adopted and H.B. No. 1464, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ENERGY RESOURCES," passed Final Reading on the following showing of Ayes and Noes:

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

RECOMMITAL OF A HOUSE BILL

Conf. Com. Rep. No. 177 (H.B. No. 1260, H.D. 1, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 177 and H.B. No. 1260, H.D. 1, S.D. 1, C.D. 1 be recommitted to the Committee on Conference, seconded by Senator Taniguchi.

Senator Kim rose in support of the recommitment and stated:

"There were some errors in H.B. No. 1260, and the contents of that bill were put into H.B. No. 387, which we will take up at the end of the agenda. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 177 and H.B. No. 1260, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," was recommitted to the Committee on Conference.

FINAL READING

Conf. Com. Rep. No. 180 (H.B. No. 1271, H.D. 3, S.D. 2, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 180 be adopted and H.B. No. 1271, H.D. 3, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Baker 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. 180 was adopted and H.B. No. 1271, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Ayes with Reservations, 1 (Baker). Noes, 3 (Green, Hemmings, Slom). Excused, 1 (Bunda).

S.B. No. 892, S.D. 1, H.D. 2, C.D. 2:

On motion by Senator Baker, seconded by Senator Taniguchi and carried, S.B. No. 892, S.D. 1, H.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 464, S.D. 2, H.D. 2, C.D. 2:

Senator Gabbard moved that S.B. No. 464, S.D. 2, H.D. 2, C.D. 2 pass Final Reading, seconded by Senator Kim.

Senator Gabbard rose and requested comments in support of the measure be entered into the Journal.

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

"Madame President, I rise in support of SB 464 CD2. Colleagues, the Obama Administration and Congress recently converted the federal investment tax credit for solar into a grant in order to drive more investment into renewable energy as soon as possible. As you know, President Obama has made it clear that he views renewable energy as one sector of the economy that can lead our country out of this crisis. Hawaii is in a perfect position to take advantage of this new direction in federal policy. This measure would help many more Hawaii homeowners and businesses take advantage of the federal incentives for solar and in the process increase our state's energy security and reduce our carbon emissions. This change in law will drive growth in exactly the kind of jobs Hawaii needs and stimulate our state's economy, in part by making renewable energy projects viable for state buildings, such as public schools. I urge you to join me in supporting SB 464 CD2."

The motion was put by the Chair and carried, S.B. No. 464, S.D. 2, H.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

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

S.B. No. 1461, S.D. 2, H.D. 1, C.D. 2:

Senator Baker moved that S.B. No. 1461, S.D. 2, H.D. 1, C.D. 2 pass Final Reading, seconded by Senator Ige.

Senator Slom rose in opposition to the measure and stated:

“What this bill does is to require filers to file earlier, and for businesses this will be yet another hardship. What we should be doing is making sure that the returns are filed adequately, that money is paid, but by moving this up, it is a hardship. Thank you.”

The motion was put by the Chair and carried, S.B. No. 1461, S.D. 2, H.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO TAXATION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Slom). Excused, 1 (Bunda).

H.B. No. 1016, H.D. 2, S.D. 1, C.D. 2:

Senator Takamine moved that H.B. No. 1016, H.D. 2, S.D. 1, C.D. 2 pass Final Reading, seconded by Senator Kim.

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

“Of course we have this bill every year, and the amount of money that the State (read: taxpayers) has to pay continues to grow by the time we get to the final version of it. But I notice in looking at some of the individual claims against the State, I’m afraid the State is too willing to settle rather than to take these to court; and I notice that there are a number of claims by prisoners, prisoners suing the State. Now maybe some of these are justified, but maybe many are not. The practice of using taxpayer money to further reward the prisoners, as my colleague said, the ‘criminal lobby’ here has been extremely successful in doing this. So, I understand some of the payments that have to be made, but I’d like to see a much more aggressive attorney general. Thank you.”

The motion was put by the Chair and carried, H.B. No. 1016, H.D. 2, S.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Ayes with Reservations, 1 (Slom). Noes, none. Excused, 2 (Bunda, Tsutsui).

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

Senator Baker moved that S.B. No. 387, S.D. 1, H.D. 1, C.D. 2 pass Final Reading, seconded by Senator Ige.

Senator Kim requested comments in support of the measure be entered into the Journal.

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

“Madam President, I rise in support of S.B. No. 387, C.D. 1.

“This bill requires the governor or the director of finance to report to the legislature the reason for and impact of any restrictions on a particular program. This provides transparency and helps the public to understand why appropriations authorized by the Legislature are being restricted.

“Also included in this bill are the contents of H.B. No. 1260, executive branch reorganization.

“During these tough economic times, your conference committee has not only focused on cutting dollars and cents from the budget but also ways to streamline government and the way we deliver services.

“The House and Senate carefully scrutinized the reorganizational proposals by both houses. We agreed that these transfers should assist the Department of business, economic development, to focus on its core functions and become more efficient.

“The bill:

1. Transfers the Small Business Regulatory Review Board to CCA
2. Transfers NELHA to DAGS
3. Establishes the special advisor for Tourism in the Gov. Office
4. Transfers the Arts and Culture Dev. Branch from DBEDT to DAGS-State Foundation on Culture and the Arts
5. Transfers the Film Industry Branch to HTA

“We found that these programs would be better suited in other departments and saw opportunities where under new guidance, they could be more efficient and effective.

“For example, the **Film Branch** provides an excellent opportunity to showcase Hawaii’s beauty and attract more tourists.

“In 2007 alone, Hawaii’s direct expenditures for film production totaled \$229 million with \$22 million in tax revenue and created thousands of local jobs. It is estimated that close to 79% of those employed on the sets were Hawaii residents. States are vigorously competing to attract these productions. 21 other states have their film office part of their Tourism office.

“It is critical for the state to provide marketing resources to the film branch so that they are able to effectively compete for these productions. Attaching the film office to HTA will create new synergy and efficiencies for both entities. Movies, TV series, commercials, game shows and documentaries all promote Hawaii. The Tourism program’s existing relationships, global marketing partners and marketing experience provide an excellent opportunity to leverage those resources to ensure that the film branch is an economic driver for the State. And provide the Film office endless support and opportunities to become even more competitive.”

The motion was put by the Chair and carried, S.B. No. 387, S.D. 1, H.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE STATE BUDGET,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Hemmings, Slom). Excused, 2 (Bunda, Tsutsui).

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

On motion by Senator Nishihara, seconded by Senator Kim and carried, H.B. No. 754, H.D. 1, S.D. 1, C.D. 2, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII TOURISM AUTHORITY,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Hemmings, Slom). Excused, 2 (Bunda, Tsutsui).

At this time the Chair made the following announcement:

“Members, we are returning to page 14; this is just for a point of clarification. This is regarding Conf. Com. Rep. No. 33/H.B. No. 1776, C.D. 1. So that the record is clear, I am going to ask the Clerk to restate the vote and I will then add that the bill passed Final Reading.”

The Clerk stated:

“22 Ayes, 1 No.”

The Chair then said:

"H.B. No. 1776, C.D. 1 passes Final Reading. That was just for clarification."

At 2:15 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:22 p.m.

RECALL OF HOUSE BILL 444, H.D. 1

In accordance with Article III, Section 12, of the Hawai'i State Constitution, and pursuant to Senate Rule 52, Senator Ihara moved to recall H.B. No. 444, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," from the Committee on Judiciary and Government Operations, seconded by Senator Kidani.

The Chair then made the following announcement:

"The Chair will provide for limited debate as to the advisability of the motion to recall, but the merits of H.B. No. 444, H.D. 1, are not open to debate at this time."

Senator Ihara rose in support of the motion and stated:

"The purpose of this recall motion is to allow the Senate to vote on the civil unions bill, which seeks to end discrimination against a minority group in our community. If this motion is successful, H.B. No. 444 would be immediately brought to the Senate floor for second reading, and tomorrow the bill would receive full debate and a final reading.

"Madam President, today a minority of Senators will be invoking Article III, Section 10 of our State Constitution. This constitutional provision gives nine Senators the power to require a vote on a bill that is held up in a legislative committee. I must disagree respectfully with a claim that this motion would harm the integrity of the legislative process. This recall motion is authorized by our State Constitution, which everyone knows is a higher authority than Senate rules.

"I believe this motion to recall H.B. No. 444 should be viewed as a friendly motion to Senators who want to end discrimination against the gay community because the motion would help accomplish this objective. In fact, if the recall motion fails today, discrimination will continue for the foreseeable future, probably past the next election, and H.B. No. 444 will have its final defeat this session. The intent of this motion is to pass the bill this session, not next session. Let today be the day we free H.B. No. 444 for a full Senate vote. Let today be the day we remove the shackles that have prevented many Senators from taking our place in history in ending discrimination. Today is the day to stand up for the basic human right of every person to enjoy a family relationship without discrimination. Thank you, Madam President; and I'd like to request a Roll Call vote."

Senator Slom rose in opposition to the motion and stated:

"You know, we talk about discrimination; we use that word loosely. We have many statutes in the State of Hawai'i. We have been a leader in ending discrimination. But until now, discrimination has always been viewed as something like race, color, creed; something that a person has no opportunity to change or no opportunity to..."

Senator Baker rose on a point of order and said:

"I believe the discussion is supposed to be on the motion and not on the substance of the measure."

The Chair then said:

"Senator Slom, Senator Baker is correct. You must keep your debate to the advisability of the motion to recall."

Senator Slom continued:

"Certainly, Madam President, and let me keep the debate to recall. You know, we had an 18 hour hearing on this bill, the longest continuous hearing in the Senate's history since statehood. Eighteen hours; started at 9 a.m. one day, and ended 3 o'clock the next day. We had over 500 people that testified, we had over 1,500 points of view, and everyone had an opportunity. And at the end of that, we had six members of the committee who, really unusually, we all stayed the entire time. We discussed it. We voted on it. The result was a tie vote, 3 to 3. The measure failed. We have had tie votes before on the floor and in committees. As was erroneously pointed out the last time we discussed this, we were the only committee that had an even number of members on that committee. As I pointed out to correct that mistake, there are 5 committees out of 14. So therefore, when we had a vote—and we did—when we went through the entire process—and we did—the vote was not to advance the bill. The bill is not being held up in committee. The bill was not being held hostage or anything like that. We had a vote. That was the vote. The bill failed. But a number of people were not satisfied with that result, and there's been great deal of political pressure, from both inside the state and certainly outside the state, with money and resources as well. And then on this Senate floor, we took a vote to yank that bill out of the committee, and that vote failed. Now we're back for the third bite of this apple, and we were supposed to be adjourned today. Other than for the fact that the Legislature decided to extend the session so that they could override the Governor's vetoes tomorrow, we would have been gone. We would have all held hands, and sang 'Aloha 'Oe', and had all that love and kindness that we're all noted for, but we didn't. And we were told at the very beginning today was going to be a historic day. And why was it historic? Because the political machinations and the very careful orchestration of yanking this bill and not being satisfied with the results were already in place. Everybody had their speeches made. Everybody knew how they were going to vote, which is fine. The problem is when do you come to the end of the line? When do you accept a vote as being final?

"Now, I mentioned at the last go-around that I had supported yanking bills two times from committees in the past over the past 10 years, but the difference was and the reason for that was the chairs of those committees, despite tremendous public support, both pro and con, refused to have a hearing on those bills. This is entirely different. We had a hearing. The Chairman of the Judiciary Committee bent over backwards, and then backwards again, and moreover backwards to make sure that everyone was heard. But in the end, there was a decision, and the decision was the bill is dead. And then on the second time around, the bill is still dead. And yet, here we are again trying to resurrect this. I've got to tell you, since the Majority runs everything around here, I have all of the trees that have been killed in my office with the e-mails on H.B. No. 444; there are well over 2,000. They run 70 percent opposed and 30 percent in favor, which was just about what the amount was when we took the only referendum on this issue 10 years ago; and yet we're trying to undo that. We're disrespecting the majority of people here. I certainly believe in protecting the minority. Of course it doesn't happen on the Senate floor here as my colleague and I know; that's why we're usually standing up for one vote or two votes. But I think that at some point after you have had the discussion, after you had the vote—and a tie vote is a vote—then you let it go. Come back next year or come back whenever you want to. No one is being discriminated against, but a lot of people are not getting the kind of financial additional benefits and tax perks that they want. And after all, when all is said and done, that's what this is about. It's not about equal rights. It's not about discrimination. It's about more money and getting benefits that

somebody else has. So, I urge a 'no' vote on this, Madam President."

Senator Sakamoto rose in opposition to the motion and stated:

"My frustration lies in action or inaction after the last attempt to pull the measure, I sincerely believed that efforts would continue to improve the measure. The bills we voted on today—C.D. 1, C.D. 1, C.D. 1—that means people conferenced on it, there were differences in opinion, and bills were amended. The frustration I personally have is, I believe the people observing us, as well as many of us here; wanted a measure to be improved earlier on. At that point in time people were saying, 'You can't change the bill. You can't change the bill.' So it's very frustrating at this later date. In my mind, I believe the integrity of our colleagues here was 'let's try and improve the bill, and work on it to make improvements.' So for those reasons, I object to this motion at this time."

Senator Hemmings rose in opposition to the motion and stated:

"This motion violates the procedures that had been fair and just through my tenure here at the State Senate. Why should one special interest group be accorded special treatment at the expense of all the others who came and labored through this process, some winning and some losing, but nevertheless lived by the process? We've heard a lot about the word 'rights' and I would say the rights of those who play by the rules and have lived with the dictates of this process, their rights would be violated. And what do we do? Do we open up this process? As the good Senator from Hawai'i Kai said, every time some special interest group feels it's justified bringing the issue up two, three, four times? This is a bad precedent. This motion must be defeated. This legislation was aired fairly and justly by the committee; a decision was made and so be it. Let's respect the rights of all involved in this process. I urge my colleagues to vote 'no' on this motion."

Senator Hooser rose in support of the motion and stated:

"I'll keep my remarks brief, and I'll keep my remarks focused on the motion. You know, I think for the record this violates no procedure whatsoever. It's a constitutionally-permitted measure that we're discussing here. The Constitution specifically calls for and allows for this, and so we violate no rule, no measure, no procedure. There's lots of arguments to weigh. Earlier speakers had mentioned: How many times are we going to come back and ask for this? And I would suggest: Until there is justice and equal rights, we should come back as often as we need to. Thank you."

Senator Galuteria rose in support of the motion with reservations and stated:

"I wish to speak to nothing more than the procedure itself, the motion to recall H.B. No. 444. If the infamous pull prevails, I will share my thoughts about H.B. No. 444, but no sooner than that."

"What's important here is that the matter at hand is purely a constitutional issue and option. Obviously those who came before us, colleagues, in their wisdom saw a need to allow for such an option to be available to us. The procedural rule predated us all; it was written into our original State Constitution in 1959, and when our Constitution was amended by convention two subsequent times—first in '68 and '78—it remained intact. Indeed I voted against pulling the bill out of committee earlier in the session, but I've changed my mind. I've changed it because now I better understand our internal process as a body, and I'm very mindful and appreciative of our Committee on Judiciary and Government Operations. Their 18-hour marathon hearing, as the good Senator from the east side

reminded us, is indeed a testament to our dedication to the democratic principles. I am also heartened by the congeniality that we share as senators and very respectful of our leadership and all of our committee chairs. But at the end of the day, we're elected to uphold the Constitution and exercise our different rights within, and therefore this constitutional procedure affords us the opportunity up, down, or even if we amend it through debate to address this subject matter on the Senate floor. And so with that, I support 'with reservations'."

The motion to recall H.B. No. 444, H.D. 1 from the Committee on Judiciary and Government Operations was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Ayes, 10. Ayes with Reservations, 2 (Galuteria, Nishihara). Noes, 15 (Bunda, Espero, Gabbard, Green, Hanabusa, Hee, Hemmings, Kim, Kokubun, Sakamoto, Slom, Takamine, Taniguchi, Tokuda, Tsutsui)

The President then made the following observation:

"The motion is carried, H.B. No. 444, H.D. 1, is recalled and is accordingly in the possession of this body."

Senator Ihara moved that H.B. No. 444, H.D. 1, pass Second Reading, seconded by Senator Kidani.

Senator Tsutsui rose and said:

"Madam President, I wish to offer a floor amendment to H.B. No. 444, H.D. 1."

At 4:40 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 4:52 p.m.

The Chair then made the following announcement:

"Members, I've been asked to explain the requirement of the recall, and we apologize to the people in the gallery. All that was needed to pass the recall was 9 votes. So there were 10 votes, and that is why we are now in the process of the floor amendment."

Senator Tsutsui then offered the following amendment (Floor Amendment No. 20) to H.B. No. 444, H.D. 1:

SECTION 1: House Bill No. 444, H.D. 1 is amended by adding a purpose section to be designated as Section 1 and to read as follows:

"SECTION 1. The intent of this measure is to recognize civil unions in Hawaii. By establishing the status of civil unions in our State, it is not the legislature's intent to revise the definition or eligibility requirements of marriage under chapter 572, Hawaii Revised Statutes."

SECTION 2. House Bill No. 444, H.D. 1 is amended by amending Section 1 of the measure to read as follows:

"SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
CIVIL UNION**

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

"Agent" means the person or persons appointed as agents by the department of health pursuant to section 572-5.

"Civil union" means a union between two individuals established pursuant to this chapter.

"Partner" means an individual who is a party to a civil union established pursuant to this chapter.

§ -2 **Eligibility to enter into a civil union.** A person shall be eligible to enter into a civil union only if the person is:

- (1) Not a partner in another civil union, a spouse in a marriage, or a party to a reciprocal beneficiary relationship pursuant to chapter 572C;
- (2) At least eighteen years of age; and
- (3) Not related to the other proposed partner in the civil union, as provided in section -3.

§ -3 **Civil unions void; when.** A civil union shall be void between the following persons: parent and child, grandparent and grandchild, two siblings, aunt and nephew, aunt and niece, uncle and nephew, uncle and niece; persons who stand in relation to each other of ancestor and descendant of any degree whatsoever.

§ -4 **Solemnization; license to perform; refusal to join persons in a civil union.** (a) A civil union shall become valid only upon completion of a solemnization by a person licensed in accordance with this section.

(b) Any judge or retired judge, including a federal judge or judge of another state who may legally join persons in chapter 572 or a civil union, may solemnize a civil union. Any ordained or licensed member of the clergy may solemnize a civil union. Solemnization may be entirely secular or may be performed according to the forms and usages of any religious denomination in this state. Nothing in this section shall be construed to require any person authorized to perform solemnizations of marriages or civil unions to perform a solemnization of a civil union, and no such authorized person who fails or refuses for any reason to join persons in a civil union shall be subject to any fine or other penalty for such failure or refusal.

(c) Nothing in this section shall be construed to require any person authorized to perform solemnizations of chapter 572 or civil unions to perform a solemnization of a civil union, and no such authorized person who fails or refuses for any reason to join persons in a civil union shall be subject to any fine or other penalty for such failure or refusal.

(d) No agent may solemnize a civil union; nor may any assistant or deputy of the agent solemnize a civil union.

(e) No person shall perform solemnization of a civil union without first having obtained a license from the department of health. The department of health shall issue licenses to solemnize civil unions in the same manner as it issues licenses pursuant to chapter 572. The department of health may revoke or suspend a license to solemnize civil unions. Any penalties or fines that may be levied or assessed by the department of health for violation of chapter 572 shall apply equally to a person licensed to solemnize civil unions.

§ -5 **Applicants for civil union; license required; limitations.** (a) No persons may be joined in a civil union in this State unless both partners have:

- (1) Met the requirements of section -2;
- (2) Complied with sections -6 and, if applicable, section -7; and
- (3) Been issued a license by the agent in the judicial circuit in which a civil union is to be solemnized or in which either person resides, which license shall bear the certification of the agent that the persons named therein have met the requirements of section -2 and have complied with sections -6 and, if applicable, section -7.

(b) The license, when certified by the agent, is sufficient authority for any person authorized to perform a civil union solemnization in this State to join the persons in a civil union; provided that the solemnization is performed not more than thirty days after the date of issuance. The license shall become void thirty days after issuance.

§ -6 **Application for license for persons who wish to enter into a civil union; fee.** (a) No license for a civil union may be issued by the agent until both applicants have appeared before the agent and applied for a license. The application for the license shall be completed in its entirety, dated, signed, and sworn to by each applicant and shall state each applicant's full

name, date of birth, birthplace, residence, social security number, whether single, widowed, or divorced, and whether the applicant is under the supervision or control of a conservator or guardian. If the application is signed and sworn to by the applicants on different dates, the earlier date shall be deemed the date of application. The agent shall issue a copy of this chapter to any person applying for a license.

(b) The fee for a license to enter into a civil union shall be an amount equal to the amount prescribed in section 572-5, and all amounts collected by the agent as application fees under this chapter shall be retained or remitted and apportioned in the same manner as prescribed in section 572-5.

§ -7 **Persons under control of conservator or guardian.** (a) No civil union license may be issued to any applicant under the supervision or control of a conservator or guardian, appointed in accordance with chapter 560, unless the written consent of the conservator or guardian, signed and notarized, is filed with the agent.

(b) Any person who enters into a civil union without the consent provided for in subsection (a) shall acquire no rights, by that civil union, in the property of any person who was under the control or supervision of a conservator or guardian at the time the civil union was entered into.

§ -8 **Record of solemnization; reported by whom; affidavit; evidentiary weight of certificate or affidavit.** (a) Each person who solemnizes a civil union shall certify upon the civil union license certificate the fact, time, and place of the solemnization of the civil union and return the license to the agent within three business days following the solemnization of the civil union, or as may otherwise be prescribed by the department of health.

(b) If any person who has solemnized a civil union fails to return the certificate to the agent as required under subsection (a), the partners joined in a civil union may provide the agent with a notarized affidavit attesting to the fact that they were joined in a civil union and stating the date and place of the solemnization of the civil union. Upon the recording of that affidavit by the agent, the civil union of the partners shall be deemed to be valid as of the date of the solemnization of the civil union stated in the affidavit.

(c) The certificate required by subsection (a) or an affidavit recorded pursuant to subsection (b) shall be prima facie evidence of the facts stated therein.

§ -9 **Benefits, protections, and responsibilities.** Partners to a civil union lawfully entered into pursuant to this chapter shall have all the same rights, benefits, protections, and responsibilities under law, whether derived from statutes, administrative rules, court decisions, the common law, or any other source of civil law, as are granted to those who contract, obtain a license, and are solemnized pursuant to chapter 572.

§ -10 **Civil unions performed in other jurisdictions.** All unions between two individuals not recognized under section 572-3 shall be recognized as civil unions provided that the relationship meets the eligibility requirements of this chapter.””

SECTION 3: House Bill No. 444, H.D. 1 is amended by renumbering Section 2 of the measure as Section 3.

SECTION 4: House Bill No. 444, H.D. 1 is amended by inserting a new section to read as follows:

“SECTION 4. A party to a civil union shall be included in any definition or use of the terms “spouse”, “family”, “immediate family”, “dependent”, “next of kin” and other terms that denote the spousal relationship, as those terms are used throughout the law.”

SECTION 5: House Bill No. 444, H.D. 1 is amended by renumbering Sections 4, 5, and 6 of the measure as Sections 5, 6, and 7 respectively.

Senator Tsutsui moved that Floor Amendment No. 20 be adopted, seconded by Senator Tokuda.

Senator Tsutsui rose to speak in support of the amendment as follows:

“Madam President, this amendment clarifies that it is not the intent of the Legislature to revise the definition or eligibility requirements of marriage pursuant to chapter 572, HRS. The statement of the Legislature’s intent is meant to avoid the situation which arose in Connecticut, where a statute was enacted creating civil unions that equated the rights provided to civil unions to those provided to married persons. The Connecticut civil unions statute was effectively converted by that state court, the Connecticut Supreme Court, to require the allowance of same-sex marriage. Madam President, this amendment also makes civil unions available to all persons by removing the limitation that civil unions be limited to persons of the same-sex. In addition, Madam President, this amendment also makes civil unions available to persons who are otherwise eligible to be married or enter into a reciprocal beneficiary relationship.”

Senator Tokuda rose in support of the amendment and stated:

“The amendment that is put forward before you today was put together by advocates of the measure seeking to address the concerns raised during our extensive hearing process. As was mentioned by the previous speaker, it clarifies the legislative intent that we are not seeking to redefine marriage pursuant to chapter 572. It also expands civil unions to include relationships beyond same-sex couples. By amending this bill, the Senate would be making a commitment to keeping the discussion alive while allowing for the time needed for a full and open consideration of the issue during the interim. The Chair of the Judiciary Committee has indicated his strong willingness and preference to convene a working group of representatives from both sides of the debate prior to the start of the next session to review the proposed amendments and to consider alternatives or additional amendments.

“Colleagues, I would ask that calmer heads prevail as we move toward these final hours of the legislative session. While high emotions and looming deadlines may make you feel that voting on this version of H.B. No. 444 is the only option, I ask that you consider the big picture and all of the options available to us. Let’s keep our focus on what will get us to the end goal we would all like to see: equal rights for all. Thank you, Madam President.”

Senator Hooser rose in opposition to the amendment and stated:

“You know, I don’t have a perfect crystal ball. None of us do. But looking at the legislative history of these types of amendments or these types of measures, looking at the nature of it, in my opinion, passage of this amendment effectively kills the underlying substance of the measure certainly for this session, would defer it to next legislative session and put it back in the hands of the House, possibly a conference committee. And again, I think if you look at history, the likelihood of this measure dying somewhere along the process is very, very high. I think the underlying measure, H.B. No. 444, H.D. 1, is a good one. I think it was well-written. It presents the rights that are necessary to be presented to bring equality to all people. The argument about the Connecticut ruling, the court ruling, has been addressed on numerous occasions by numerous attorneys, including a former Supreme Court justice. Many other attorneys have said that this ruling does not apply because of Hawai’i’s Constitution. And for those reasons, primarily because I do not want to see this measure die, I’d like to see it pass in the version that it is in now, and I’d like to see it passed right away. Thank you, Madam President.”

Senator Taniguchi rose in support of the amendment and stated:

“Madam President, I would like to ask members to support the amendment because I believe it makes it a better bill. It also addresses some of the concerns with H.D. 1. Members, I guess there’s been some discussion about convening something over the interim, and I’d be very happy to participate in that or possibly delegate it to other members, but we will try to encourage those discussions during the interim, and I encourage all the members to vote for this amendment.”

Senator Baker rose in opposition to the amendment and stated:

“I firmly believe that the time to pass this measure unamended is now because in my view, like justice, equality delayed is equality denied. There were so many instances during the hearing and at other times that make it crystal clear that equality under the law is something that most of us believe in and believe in very strongly. You know, we always have a Hawaiian word of the day when we close our session. Well, I think the Hawaiian word for the day should be ‘kaulike’—equality. While kaulike is a uniquely Hawaiian word in its shades of meaning, it’s also a universal expression that is embodied in basic, human civil rights. Being treated equally is the basic founding principle of the civil rights movement, both in America and across the globe, historically and now. The social philosophic notion of some more equal than others was discarded in favor of uniformity and opportunity in action enforced by law. That’s really what is at stake here. And if we adopt this amendment, with all due respect to some of my colleagues who sincerely believe that this amendment would not kill this bill, I submit that we will have killed this measure for this year and I firmly believe for next year because historically, we don’t go back and pull items from a previous session that have moved up to a point but not gone further. We typically start the whole process over again. I think it’s time for us to stand up for people who have been discriminated against far too long and the time, I believe, for kaulike is now.”

Senator Ihara rose in opposition to the amendment and stated:

“Madam President, I had requested time to review the bill. There has been no hearing on this bill. I have not received any comments and testimony on it. In fact, there is a letter signed by 15 University of Hawai’i law professors that says that there is no need to amend this bill because the Connecticut Kerrigan decision is not relevant at all to H.B. No. 444. In fact, one of the state’s leading constitutional attorneys, in his analysis says about the concern raised about the Connecticut Supreme Court opinion, his conclusion is: ‘it would therefore be impossible for an appellate court in Hawai’i to reach results similar to that reached in Connecticut.’ So I had thought that was completely off the table. I know of no constitutional scholar that has supported the notion that this bill is constitutionally defective. In fact, all of the opinion from all of the attorneys and constitutional scholars is that there is no constitutional impediment to this bill whatsoever.

“This amendment also can be viewed as a way to kill the bill for this session. In fact, that’s the effect. If you vote for the amendment, you are saying that discrimination will continue for another day, perhaps years, and that equality will be deferred, I believe, for years. So, I want to be clear that those who support equal rights, civil rights, those who want to end discrimination, this is your chance by voting against the amendment and for H.B. No. 444, H.D. 1. Thank you.”

Senator Hemmings rose and said:

“This is a most paradoxical...”

The Chair interjected:

“Senator Hemmings, for what purpose do you rise?”

Senator Hemmings then responded:

“I am voting in favor of the amendment in which could be termed one of the most paradoxical votes we’ve taken. I’d like to reflect on some things that have been said about equality and rights because I believe those words have become some of the most abused words in contemporary politics. In reality, true rights are endowed by our creator and clearly enunciated in our Bill of Rights. It is indeed unfortunate many proponents of the original bill, H.B. No. 444, do not respect that simple truth. The exploitation of the term has become rampant. In a free society, we all should be worried of any group that attaches itself to the struggles of the African Americans or to the equality of women for the convenience of their narrowly-focused agenda. The last I checked, same-sex marriage and civil unions was not in the Constitution or the Bill of Rights. Marriage, civil unions, is a licensed privilege granted by the people through the legislative process; and I might add, not through an errant, activist Supreme Court. Calling H.B. No. 444 a right is an insult. Our nation’s social fabric has been weaved in many ways: through the traditions of the family; through individuals’ personal moralities; in many ways in our churches, in our synagogues and places of worship; and in the documents that constitute the very foundation of America. If we allowed the measure 444 to advance, we would be negating the true rights of all Americans for the convenience of political correctness and the interests of a very small group of special interests.

“This bill can be debated again next session, but I recall correctly next session’s an election year. So paradoxically, I’m voting in favor of this amendment because it will do the right thing for the people of Hawai‘i. Thank you, Madam President.”

Senator Hooser rose and said:

“Madam President, may I ask the Minority Leader a question to clarify his position?”

The Chair then said:

“If the Minority Leader wishes to respond to you—Senator Hemmings?”

Senator Hemmings responded:

“He can certainly ask, and I’ll respond if I wish.”

The Chair instructed Senator Hooser to proceed.

Senator Hooser continued:

“I was a little confused by your remarks in support. So my question is: Are you voting in support of the amendment because you support equal rights and the passage of civil union legislation as is being proposed, or are you voting in support so the bill is likely to die?”

Senator Hemmings responded:

“I thought I enunciated my position regarding this alleged right very clearly, but let me be more succinct for your purposes, good Senator from Kaua‘i. I’m voting in favor of this amendment because it will kill the bill for this session.”

Senator Espero rose in support of the amendment with reservations and stated:

“Colleagues, you’re aware that I, with a couple other senators, worked on a compromise bill. I have a copy of it right here—311 pages. And I believe this was a strong compromise because when I shared it with both the opponents and proponents, both sides did not like it. With that said, I will support this measure so that we may continue the dialogue, and I certainly hope and pray that we do have the courage and the political will to act on this next session.

“This has been a very divisive issue, and the issue of equality is complex. In the United States today, in the state of California—the university system, the legal system—they are looking now at rules and laws that may limit the number of Asian Americans who are attending the universities. People are saying this is an issue of equality. In the east coast, there is a case regarding a local fire department where an individual is challenging some hiring policies and practices because he has not been chosen and he feels he should have been moved up, whereas others who may be less qualified have replaced him. It is an issue, he thinks, of equality, of his rights.

“It’s not that simple and easy, and I truly hope that we can work with these opponents and the proponents in the spirit of *aloha*. I say that again so that we may come up with a piece of legislation that we are proud of and that we believe is fair and just for all of us. Colleagues, I believe we are doing the right thing, and I certainly hope you will pass this motion to amend. Thank you.”

Senator Tokuda rose and said:

“Despite what previous speakers have said, the goal of this floor amendment, as well as the goal of the bill in its present form, are not mutually exclusive. You can support this floor amendment and support equality and civil rights. It was also mentioned by one of the speakers that he did not have enough time to review this measure. The bottom line is that had this pull motion not been acted upon prematurely, there would have been more than enough time for us to convene a working group to deliberate this issue over the interim. Another speaker also stated that we have never taken up bills again during the second year of the biennium, or that it is not typical for us to actually take a bill up where it started on the second year. If that is the case, it is also not customary or traditional for us to pull bills out of committee where a full-fledged discussion and vote has actually taken place, and where no amendments were actually even considered or deliberated in conference. So, I would argue again that this floor amendment will help us advance the end goal that we all seek, which is equal rights to all, and I thank you for allowing me to clarify those statements.”

Senator Gabbard rose in support of the amendment with reservations and stated:

“Madam President, colleagues, I had the—I don’t know if ‘honor’ is quite the word—to sit through 18 hours of testimony with our fearless leader, the Chair of the Judiciary and Government Operations Committee. And during that time, you know, after the hearing at 3 o’clock in the morning, it was interesting because as we listened to both sides going back and forth, that one of the comments that struck me was that people were actually very appreciative that the six of us sat there through that whole process to hear them. This is participatory democracy in action. And there was actually one lady that I was talking to who was actually crying about it; she’d sat through hours and hours and hours and she couldn’t believe that we’d actually sat there through the whole process.

“Madam President, colleagues, couple other points. One is that those who oppose H.B. No. 444, from day one what I’d been hearing is that they’ve always been willing to sit down and to discuss maybe some middle ground on this thing. And I really think that we have not done enough. We need to sit back and go back to the table and see if there is some middle ground on this, and so that’s why I will be supporting this amendment with reservations. *Mahalo*.”

Senator Slom rose in support to the amendment and stated:

“It was difficult looking at this amendment and supporting it since I did not support H.B. No. 444, and do not. But it’s interesting even more so to me that the strongest proponents of

444 legislation took this amendment and want to vote against the amendment, and it's basically their language. It's their language; it's what they wanted. What I want is to have further discussion next year. We saw that the House rammed this legislation through. Most people didn't even know it was on the radar, or below the radar, and all of a sudden it was in the Senate. And the idea was pass it; don't make changes. And as the good Senator from Ewa Beach said, he had offered an amendment. There was another amendment offered previously, but they weren't considered.

"I do have to tell you that I do take umbrage with proponents of this legislation that attack the rest of us and say that we are not supporting equal rights or that we are not opposed to discrimination. There's no one in this room that that description fits, and I think it's a very unfortunate way of trying to get your way on a piece of legislation. Do we look at things differently? You bet we do. That's why we have differences. That's why we have bills that go through modifications in the House and the Senate and wind up in conference committee, but this bill did not. So now to bring this to final resolution tonight, we have a resolution and an amendment that, as I say, is the actual words of the supporters, and they're telling you to vote 'no'. I'll be voting 'yes'. Thank you."

Senator Ihara rose in rebuttal and stated:

"First I might mention in response to the Senator from Hawai'i Kai that the proponents would rather have this bill than the bill that they were required to put forward in this floor amendment because they were told that the bill that they originally wanted would not pass. Secondly, I might point out that what we're doing today, if this floor amendment passes, actually we're already making history by the very fact of proposing this floor amendment on second reading. The Senate, in all the years I've been in office, has never amended a bill on second reading. Bills are amended on third reading, and that leads me to the difficulty I have in reconciling two notions: the notion that proponents of the floor amendment are for civil unions, and the other notion that this floor amendment will kill the bill for the session. Please, please don't let this civil rights bill die this year. Thank you."

Senator Slom rose to request a Roll Call vote and the Chair so ordered.

Senator Galuteria rose in support of the amendment and stated:

"This is the exact reason why I wanted to join the nine other senators to bring the debate to the floor because what this has done is not only articulated positions, but it's made for absolutely strange bedfellows, no pun intended. I just want to hold our dear friends from the east side and the windward side to their word and remind them that they're going to be voting on something that says, and I quote, 'the intent of this measure is to recognize civil unions in Hawai'i.' Whether their intent is to kill this bill or not, they're on record. Number two: 'by establishing the status of civil unions in our state, it is not the legislature's intent to revise the definition or eligibility requirements of marriage under chapter 572.' We're not trying to change that definition at all. We're just trying to create a situation where people will have the rights to enjoy the same quality of life that we all do. So I thank you, and to clarify, I do stand in support of the floor amendment. Thank you very much."

Senator Chun Oakland rose in support of the amendment and stated:

"I thank the proponents of the bill and Senate President for working on this language before us in the floor amendment. I am putting my faith and trust in my colleagues and the proponents of this measure and others to come up with

something that will achieve equity and fair treatment. I believe we do care about each other, and I am putting my faith in my colleagues to have something come out next year, including the Chair of Judiciary. I know you folks have been very strong advocates for equality, and I am willing to help in any way. Thank you."

The motion to adopt Floor Amendment No. 20 was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Ayes, 16. Ayes with Reservations, 5 (Bunda, Espero, Gabbard, Kim, Sakamoto). Noes, 9 (Baker, English, Fukunaga, Green, Hee, Hooser, Ige, Ihara, Kidani).

At 5:20 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:30 p.m.

The President then made the following observation:

"Members, we are back to the main motion to pass H.B. No. 444, H.D. 1, as amended, on Second Reading."

Senator Ihara rose to request a Roll Call vote and the Chair so ordered.

The motion to pass H.B. No. 444, H.D. 1, as amended in S.D. 1, on Second Reading was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Senator Baker voted "aye."

At 5:31 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:33 p.m.

The Chair said:

"Madam Clerk, I believe we were taking a Roll Call vote."

The Roll Call vote continued, and H.B. No. 444, H.D. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," passed Second Reading and 48 hours notice was given for Third Reading, on the following showing of Ayes and Noes:

Ayes, 20. Ayes with Reservations, 1 (Espero). Noes, 4 (Bunda, Gabbard, Hemmings, Sakamoto, Slom). Excused, 1 (Kim).

Senator Ihara rose on a point of information and said:

"In 48 hours we will not be in this building, so are you in effect announcing that there will be no Third Reading vote on this bill this year?"

The Chair responded:

"There will be no third reading vote on this bill this year. The third reading vote will continue into the 2010 legislative session."

Senator Baker rose on a point of personal privilege and said:

"Madam President, would you please ask the Clerk to note in the Journal that had I been present on the floor when the fiscal consent calendar was adopted that I would have voted 'aye' on all those measures?"

Senator Nishihara rose on a point of personal privilege and said:

"I would like to note for the record that had I been present for the vote on H.B. No. 200, C.D. 1, I would have voted 'aye', as well as the following bills on today's OD: H.B. No. 1057,

C.D. 1; H.B. No. 1071, C.D. 1; and S.B. No. 1673, C.D. 1.
Thank you, Madam President.”

Senator Chun Oakland rose on a point of personal privilege and said:

“Similarly, on the fiscal consent calendar I would have voted ‘aye’ on all measures. Thank you.”

Senator Ige rose on a point of personal privilege and said:

“Similarly, if I was present, on the fiscal consent calendar I would have voted ‘aye’ on all measures.”

ADJOURNMENT

At 5:38 p.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 10:00 a.m., Friday, May 8, 2009.