

FIFTY-EIGHTH DAY

Tuesday, April 27, 2010

The Senate of the Twenty-Fifth Legislature of the State of Hawai'i, Regular Session of 2010, convened at 9:24 a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Anne Findlay-Chamberlain, Manoa Valley Church, after which the Roll was called showing all Senators present.

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

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

Senator Sakamoto introduced a group of 4th grade students from Aliamanu Elementary who were accompanied by their teacher Jennifer Teruya and chaperones Rosa Fries, Cindy Ogata, and Kristi Kamiya.

Senator Hee introduced former first lady Vicky Cayetano, her sister Ginny Tiu, Inga Gibson from the Hawaii Humane Society, and Stephanie Brendle from Hawaii Shark Encounters, who were the principal movers on the shark finning bill. Also recognized was Matthew Wong from Senator Hee's office who was responsible for doing research on the bill.

At 9:28 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:14 a.m.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 517 to 521) were read by the Clerk and were placed on file:

Gov. Msg. No. 517, informing the Senate that on April 24, 2010, the Governor signed into law Senate Bill No. 2611, S.D. 2, H.D. 2 as Act 55, entitled: "RELATING TO VITAL STATISTICS."

Gov. Msg. No. 518, informing the Senate that on April 24, 2010, the Governor signed into law House Bill No. 2561, S.D. 1 as Act 56, entitled: "RELATING TO LANDS CONTROLLED BY THE STATE."

Gov. Msg. No. 519, informing the Senate that on April 24, 2010, the Governor signed into law Senate Bill No. 2163, S.D. 2, H.D. 1 as Act 57, entitled: "RELATING TO THE PRACTICE OF NURSING."

Gov. Msg. No. 520, dated April 25, 2010, informing the Senate that on April 26, 2010, the Governor allowed the following measure to become law without signature, which reads as follows:

Senate Bill No. 2803, S.D. 1, H.D. 1 as Act 58, entitled: "RELATING TO THE REGENTS CANDIDATE ADVISORY COUNCIL."

"Dear Madam President and Members of the Senate:

Re: Senate Bill No. 2803 SD 1 HD1

On April 26, 2010, I intend to allow Senate Bill No. 2803, entitled 'A Bill for an Act Relating to The Regents Candidate Advisory Council' to become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to establish a seven-member student advisory group to recruit, evaluate, and recommend to the Regents Candidate Advisory Council who are the 'most

qualified' candidates to fill the Board of Regents student position. The bill further precludes certain persons from serving on the Regents Candidate Advisory Council including persons on the All Campus Faculty Senate and the Executive Council of the University Student Caucus.

I continue to believe that the creation of the Regents Candidate Advisory Council established a narrowly prescribed process, not answerable to the public, with the intent to limit the choices a Governor has in appointing Regents. This bill is an attempt by a group of dissatisfied students to address the narrow interests of the Regent Advisory Council by setting up another mechanism to involve more students in the determination of who should be a student regent.

However, in trying to address the shortcomings of the Advisory Council law, this bill further blurs the lines of responsibility and transparency for holding a Governor accountable for the performance of the Regent Board. Rather than disbanding the Advisory Council or broadening the number of candidate names it must submit to a sitting Governor, the bill sets up yet another group that both shadows and second-guesses the work of the current Council. There is nothing in this bill that will lead to a wider choice of candidates for a Governor's consideration. Nor is there anything in this bill that allows the public to better understand and participate in the selection of those individuals who are responsible for setting the policies that guide our State university.

As I stated in my 2007 veto message, the current process exempts the selection of regents from public scrutiny, narrowly defines the number of candidate names that a Governor can consider, and fails to ensure that the Board is composed of members who reflect the best interests of the entire university and the State. This bill makes a small but ineffective effort to address some of these fundamental flaws.

For the foregoing reasons, I intend to allow Senate Bill No. 2803 to become law as Act 58, effective April 26, 2010, without my signature.

Sincerely,

/s/ Linda Lingle
LINDA LINGLE"

Gov. Msg. No. 521, dated April 25, 2010, transmitting the Governor's statement of objections to Senate Bill No. 2840, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT," which was returned to the Senate without approval and reads as follows:

"EXECUTIVE CHAMBERS
HONOLULU

April 25, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL
NO. 2840

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2840, entitled 'A Bill for an Act Relating to Public Procurement.'

The purpose of this bill is to require contractors awarded public works construction contracts to employ a workforce consisting of at least eighty percent Hawaii residents, and provides sanctions for noncompliance including temporary

suspension of contract work, payment withholding, disqualification from the project, recovery of contract payments, and disbarment or suspension.

I support the creation of local jobs for local residents. However, this measure does not create jobs, because it does not incentivize any new economic activity. Unfortunately, the bill will likely discourage some job creation activities by increasing the costs of public works construction in the State of Hawaii.

It establishes an ill-defined, ambiguous, and complex compliance structure for contractors and state and county agencies. For example, the bill fails to indicate whether a contractor must maintain the ratio of Hawaii and non-Hawaii resident workers every day the project is underway, every month, or over the entire duration of the project. Furthermore, the bill fails to specify if the quota applies only to jobsite staff or all contractor staff including administrative and managerial personnel.

It will be difficult for a contractor to determine at the outset, prior to the commencement of the contract, the total number of workers and the total number of worker hours required for the duration of the contract. The contractor's flexibility to maintain a workforce that is responsive to changing needs of the project likely would be impaired if the contractor were required to maintain a quota within its workforce at all times during the contract. The eighty percent residency requirement would exacerbate the contractor's need to continually juggle its workforce, adding and deleting individuals, so as not to violate the quota requirement at any time during the contract. Further, it would also be difficult for contractors to determine which of their workers are state residents based on the criteria of the bill, as the contractor would have to glean the workers' intent to establish residency in Hawaii.

Additionally, the eighty percent requirement applies to the contractor's subcontracts that are priced at \$50,000 or more. Under this measure, the contractor would be responsible not only to maintain the composition its own workforce, but also the workforces of its subcontractors, over whom the contractor has limited authority.

State and county agencies would be similarly burdened to enforce the requirements of this measure, and will have to find the resources and staff to do so. In sum, the monitoring, enforcement and compliance that this bill requires are difficult, burdensome, and expensive for both contractors and public government agencies.

This measure's requirements are also likely to provide additional grounds for contractor protests, delaying projects at the expense of taxpayers and impeding the ability of the State and counties to carry out public works initiatives.

Finally, the courts are divided as to the validity of state statutes that require the employment of state residents in the construction of public works. The legislature may not have created a record with the necessary requirements to overcome a constitutional challenge, thereby subjecting the State to protracted and costly litigation.

For the foregoing reason, I am returning Senate Bill No. 2840 without my approval.

Respectfully,

/s/ Linda Lingle
LINDA LINGLE
Governor of Hawaii"

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 625 and 626) were read by the Clerk and were placed on file:

Hse. Com. No. 625, informing the Senate that on April 26, 2010, the Speaker made the following changes to the conferees on the following measure:

H.C.R. No. 296 (S.D. 1):

Added Representative Manahan as Co-Chair.

Hse. Com. No. 626, informing the Senate that on April 26, 2010, the House reconsidered its action taken on April 7, 2010, in disagreeing to the amendments proposed by the Senate to H.B. No. 2152, H.D. 1 (S.D. 1).

STANDING COMMITTEE REPORTS

Senator English, for the Committee on Transportation, International and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 3235) recommending that H.C.R. No. 86 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3235 and H.C.R. No. 86, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE COUNTY OF KAUAI TO RESTORE PRINCE KUHIO PARK TO ITS FORMER CONFIGURATION," was deferred until Wednesday, April 28, 2010.

Senator English, for the Committee on Transportation, International and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 3236) recommending that H.C.R. No. 174 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3236 and H.C.R. No. 174, entitled: "HOUSE CONCURRENT RESOLUTION URGING PRESIDENT BARACK OBAMA TO SELECT A LOCATION IN HAWAII AS THE SITE FOR HIS PRESIDENTIAL LIBRARY," was deferred until Wednesday, April 28, 2010.

Senator English, for the Committee on Transportation, International and Intergovernmental Affairs, presented a report (Stand. Com. Rep. No. 3237) recommending that H.C.R. No. 282, H.D. 1 be adopted.

By unanimous consent, action on Stand. Com. Rep. No. 3237 and H.C.R. No. 282, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING CONGRESS TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PERMIT CONGRESS AND THE STATES TO REGULATE THE EXPENDITURE OF FUNDS BY CORPORATIONS ENGAGING IN POLITICAL SPEECH," was deferred until Wednesday, April 28, 2010.

ORDER OF THE DAY

FINAL READING

MATTERS DEFERRED FROM MONDAY, APRIL 26, 2010

Conf. Com. Rep. No. 123-10 (S.B. No. 2395, S.D. 2, H.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 123-10 be adopted and S.B. No. 2395, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Kidani then offered the following amendment (Floor Amendment No. 12) to S.B. No. 2395, S.D. 2, H.D. 1, C.D. 1:

"SECTION 1. Senate Bill No. 2395, S.D. 2, H.D. 1, C.D. 1, is amended to provide for a smoother transition of public school teachers and their dependents from the voluntary employees'

beneficiary association trust to the Hawaii employer-union health benefits trust fund by extending the sunset date of the voluntary employee's beneficiary association trust from six months to twelve months (June 30, 2011) as follows:

1. By amending the second sentence of the second paragraph of Section 1 (at page 1, lines 12-13) to read:

"The legislature declares that it does not intend to make the enabling law permanent, but will extend the sunset date for the existing pilot testing period."

2. By amending paragraph (1) of Section 1 (at page 2, lines 7-10) to read:

"(1) Extend the enabling law for the voluntary employees' beneficiary association trust for twelve months to provide for a smoother transition to the Hawaii employer-union health benefits trust fund;"

3. By amending Section 2 (at page 3, lines 1-15) to read:

"SECTION 2. Act 245, Session Laws of Hawaii 2005, section 8, as amended by Act 294, Session Laws of Hawaii 2007, section 2, as amended by Act 16, Session Laws of Hawaii 2008, section 18, as amended by Act 5, First Special Session Laws of Hawaii 2008, section 1, is amended to read as follows:

"SECTION 8. This Act shall take effect upon its approval, for the purpose of establishing a voluntary employees' beneficiary association trust pilot program in March, 2006 and shall be repealed on ~~July 1, 2010;~~ June 30, 2011; provided that sections 89-2, 89-3, 89-6, and 89-9, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the effective date of this Act; and provided further that the amendments made to section 89-6, Hawaii Revised Statutes, by Act 202, Session Laws of Hawaii 2005, shall not be repealed when that section is reenacted on ~~July 1, 2009;~~ July 1, 2010."

Senator Kidani moved that Floor Amendment No. 12 be adopted, seconded by Senator Tsutsui.

Senator Kidani rose in support of the measure as follows:

"This amendment extends the VEBA Trust Fund from 6 months to 12 months to sunset on June 30, 2011, rather than on December 31 of this year. EUTF cannot handle another 13,000 plus members at this time. They currently do not respond to letters, phone calls, e-mails. My staff has had family disenrolled from plans. I have a retiree who wants to fly here from San Francisco to personally go to EUTF because in the five months she has been trying, she has yet to receive a call back. The administrator and deputy retired at end of December last year; have not been replaced. Don't set EUTF up for further failure. This effort is not only a concern for the HSTA VEBA members, but is also a concern for the current EUTF members. So, my proposal is to, as our good senator from Salt Lake-Moanalua said, 'Why throw the koi into the murky pond? Let's clean the pond first.' So colleagues, I hope you'll support me on this issue. Mahalo."

The motion to adopt Floor Amendment No. 12 was put by the Chair and carried.

Senator Kidani then moved that Conf. Com. Rep. No. 123-10 be received and placed on file, seconded by Senator Tsutsui and carried.

By unanimous consent, S.B. No. 2395, S.D. 2, H.D. 1, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO THE BUDGET," was placed on the calendar for Final Reading on Wednesday, April 28, 2010.

At this time, the Clerk made the following announcement:

"We are skipping Conf. Com. Rep. No. 147-10 on H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1 and moving to Conf. Com. Rep. No. 69-10, Final Reading of S.B. No. 2646, S.D. 1, H.D. 2, C.D. 1."

Conf. Com. Rep. No. 69-10 (S.B. No. 2646, S.D. 1, H.D. 2, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 69-10 be adopted and S.B. No. 2646, S.D. 1, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Hee.

Senator Fukunaga then offered the following amendment (Floor Amendment No. 14) to S.B. No. 2646, S.D. 1, H.D. 2, C.D. 1:

"SECTION 1. S.B. No. 2646, S.D. 1, H.D. 2, C.D. 1, is amended by amending sections 1 and 2 as follows:

1. By amending paragraph (1) of section 1 (page 1, lines 12-15), be deleting the terms "recreational" and "competitive" and to read:

"(1) Formal worldwide recognition of the designated surfing site as an area that has quality surf and significant cultural, historical, and sports value;"

2. By amending the first paragraph (3) of section 1 (page 2, lines 1-3) to read:

"(3) Promotion of the long-term preservation of Hawaii surfing reserves."

3. By amending the last paragraph of section 1 to delete the reference to Makaha Bay and to read:

"The purpose of this Act is to designate the surf breaks:

- (1) From the Ala Wai to the Waikiki War Memorial Natatorium on the island of Oahu; and
- (2) From Haleiwa to Sunset beach on the island of Oahu, as Hawaii surfing reserves."

4. By amending section 6E- (a), Hawaii Revised Statutes, in section 2 to delete the reference to Makaha Bay and to read:

"(a) There is established:

- (1) The Waikiki Hawaii surfing reserve, which shall include all surf breaks off the area of Oahu bounded by the Ala Wai and the Waikiki War Memorial Natatorium; and
- (2) The north shore Hawaii surfing reserve, which shall include all surf breaks off the area of Oahu from Alii beach in Haleiwa to Sunset beach.

Each Hawaii surfing reserve shall extend from the high water mark and include all surf breaks within the defined reserve."

Senator Fukunaga moved that Floor Amendment No. 14 be adopted, seconded by Senator Hee.

Senator Fukunaga rose in support of the measure as follows:

"The purpose of this amendment is to remove the designation of Makaha as one of the initial surfing reserves. We do want to note that, in some of our discussions, there was not adequate opportunity for the community to participate. We certainly want to incorporate community participation. For those reasons, we are deleting those sections."

The motion to adopt Floor Amendment No. 14 was put by the Chair and carried.

Senator Fukunaga then moved that Conf. Com. Rep. No. 69-10 be received and placed on file, seconded by Senator Hee and carried.

By unanimous consent, S.B. No. 2646, S.D. 1, H.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO HAWAII SURFING RESERVES," was placed on the calendar for Final Reading on Wednesday, April 28, 2010.

FINAL READING

MATTER DEFERRED FROM MONDAY, APRIL 26, 2010

Conf. Com. Rep. No. 151-10 (H.B. No. 2200, H.D. 1, S.D. 2, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 151-10 be adopted and H.B. No. 2200, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Chun Oakland.

Senator Hemmings rose in support of the measure as follows:

"Probably history will record this budget is one of the most vexing and challenging in certainly the history of the State, if not longer. In addressing the budget, I would truthfully say that for the most part it does sustain the formula that got us here.

"But I think something that's extremely germane and pertinent to this budget is how it came to be; and in speaking on that, I believe that the Senate and I know I accept full responsibility for not doing a better job of defending the Chairman of the Ways and Means Committee on a threat she received. Much to my dismay, she was threatened and none of us rose to defend her, individually or collectively. The words that were mentioned are a matter of record, and words that strong and that fearsome are always taken by the recipient very seriously. She may be too young and others here may be too young, but there was once a senator who was shot in the course of his duties as a senator. I am stunned that the individual made that callous remark, and I'm even more stunned that the union, UPW, had the audacity to send the good senator, Chairman of the Ways and Means Committee, a letter demanding her apology.

"So in voting 'yes' on this budget, I'm voting in favor of the Chairman and asking that all of us stand together and support her right and responsibility to do what she was trying to do—which is to provide the most cost-effective and balanced budget possible—and though I may not agree with the outcome of certain aspects of the budget, I'll certainly defend her in her courage in attempting to do what is being done. Thank you, Madam President."

Senator Slom rose in opposition to the measure as follows:

"While I certainly do agree with my good colleague about supporting individuals, particularly against threats and bullying, the issue at hand is whether or not we will accept the budget which will increase spending; increase taxes; lower the standard of living for individuals, families, and small businesses within this state; and bottom line, will it correct the problems that brought us to this fiscal crisis now? My answer is that it will not. We have a responsibility to be fiscally sound and accurate in the projections and the numbers that we provide and that we agree to. This budget is above the estimates and the calls from the Governor; and while there are cuts and reductions in certain areas—and we've had individuals and organizations come to us and tell us that their program, their personnel, are the priorities—this is the opportunity that we have to make systemic changes within our spending patterns, and this budget really does not reflect those changes.

"The WAM Chairman and I absolutely agree that one of the ways that we got to this condition was because of overspending and expansive programs during times when we had a lot more money and a lot more resources, but now there's been a desperate attempt by some to try to preserve their standard of living at the expense of everyone else. This budget—which

must be, by law, balanced—is balanced on the backs of those that are going to be called upon to pay even more taxes, more fees, more surcharges, and still do without services. We have not learned how to prioritize. Every individual, every family, every small business has to do that, has done that. And while sometimes in this building we have cried crocodile tears for those public employees and unions that have in fact been impacted, nobody seems to shed a tear for the more than 60,000 people in our community in the private sector who have lost their jobs and whose families and households have been thrown into financial turmoil. For us to approve a budget that exacerbates this problem to protect certain classes within our political community is not doing our job; and so we have to separate out the emotional support for individuals and talk about the fiscal impact for everyone in our community.

"And more importantly, not now but in the future, because this budget and our deliberations and the bills that we're going to debate today that this budget is based upon—additional tax increases, additional raiding from so-called special funds—does not solve the problem. It simply puts it off to another day and another Legislature. So, I would urge my colleagues to seriously consider the budget on its merits and what it will do to the people, to the businesses, to the economy of this state, and particularly to the future. Thank you, Madam President."

Senator Kim rose in support of the measure as follows:

"Madam President, this budget is not about me; and while I thank the words of my colleague from the Windward side, again this budget is not about me. It's not about the WAM Chair. It is not even about the Senate. This budget is about the State. This budget is the Legislature.

"On one hand, the recent speaker, the last speaker, talked about taxes and what this bill does. It does not increase the general excise tax; and while some of my other colleagues may have wanted it to include the GET tax, again, it does not include a broad-based tax. It is a little bit of everything. We had to balance by agreeing to many of the Governor's cuts. We had to look for revenues to balance; and so both sides don't like the budget. So maybe we do have a good budget. Do I like everything in this budget? No. Am I happy that we had to do some of the things we had to do? No. But that's reality and that's life. We don't all get everything. Government cannot be everything to all people. And I believe that we looked at our immediate needs, we looked at the long-term viability of our state's economy, and we did it without raising the GET tax. But, no doubt, we will be faced with this again next year, and we may have to come in next year with a broad-based tax.

"But right now I believe that we can be proud of what we've done. We've balanced the budget. We did it with the minimum amount of pain. We were able to make sure that the priorities of this body, the priorities of the Senate, were looked after in the budget. We restored moneys for our libraries, which we said was important, especially in this time when many of our people would have to go to the libraries and utilize their services. We tried to take care of our education. We reallocated funding from categorical programs so that we could increase the student weighted formula by \$22.6 million. We maintained funding in ensuring that charter schools, with their projected 19.4 percent enrollment increase, would have a comparable general fund support as non-charter school students by adding \$5.3 million. We restored and added funding for defense, including financial, cemetery, and staff positions to those who provide services to those who serve our country. In health, we added \$4.5 million in general funds for emergency medical services, \$2 million in special funds for community health centers, and added \$300,000 in general funds for disability and communication access board. In human services, we restored 440 positions—247 of them general funded—and \$5.5 million in general funds. And in agriculture, 45 general

funded positions—half of which are plant quarantine inspectors—and \$2 million in general funds.

“And while my colleagues may say we didn’t cut enough, we cut, but we tried to make sure that the areas in which we cut would not impact the services, and we added. We added in the areas that we felt were priority, that we felt we needed, and we believed that is going to serve the general public. And so, Madam President, I urge my colleagues to support this budget. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 151-10 was adopted and H.B. No. 2200, H.D. 1, S.D. 2, 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, 24. Noes, 1 (Slom).

At 10:33 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:49 a.m.

At this time, the following late introduction was made to the members of the Senate:

Senator Sakamoto recognized additional students from Aliamanu Elementary who were accompanied by their teacher Sharon Kotoshirotu; substitute teacher Norma Mantro; and chaperones Justin Kawamura, Robert Start, Melissa Wise, Katherine Abunime, and Joy Lyons.

FINAL READING
MATTERS DEFERRED FROM
FRIDAY, APRIL 23, 2010
AND
MONDAY, APRIL 26, 2010

At this time, the Clerk made the following announcement:

“We were acting on measures on the non-fiscal consent calendar, with the exception of Conf. Com. Rep. No. 66-10 on S.B. No. 2169, S.D. 2, H.D. 2, C.D. 1.”

Conf. Com. Rep. No. 12-10 (H.B. No. 1190, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 12-10 was adopted and H.B. No. 1190, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TRAFFIC ACCIDENT INVESTIGATION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 13-10 (H.B. No. 2020, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 13-10 was adopted and H.B. No. 2020, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO COUNTIES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 17-10 (H.B. No. 2266, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 17-10 was adopted and H.B. No. 2266, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CORRECTIONS,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 19-10 (H.B. No. 1684, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 19-10 was adopted and H.B. No. 1684, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INVASIVE SPECIES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 22-10 (H.B. No. 1863, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 22-10 was adopted and H.B. No. 1863, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PROSTITUTION,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 23-10 (H.B. No. 1992, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 23-10 was adopted and H.B. No. 1992, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE INTERMEDIATE APPELLATE COURT,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 25-10 (H.B. No. 1818, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Espero, seconded by Senator Hee and carried, Conf. Com. Rep. No. 25-10 was adopted and H.B. No. 1818, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO COGNITIVE RESTRUCTURING,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 26-10 (H.B. No. 2288, H.D. 1, S.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 26-10 be adopted and H.B. No. 2288, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Baker rose to speak in support of the measure as follows:

“Madam President, may I request that remarks in support of H.B. 2288 be inserted into the Journal?”

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

“Madam President, I rise in support HB 2288, CD1.

“This measure would prohibit deed restrictions or covenants that require a transferee of real property to pay transfer fees. Except for limited exemptions, this restriction is an inappropriate restraint on the transfer of real property. Because this private transfer fee is paid every time that property is transferred, the private party imposing this restriction is retaining a part of the fee simple interest in the real property. These restrictions run with the land, and may not disclose to subsequent buyers until the closing of a property sale.

“Presently, there is no regulation over the imposition of PTFs; there is no limitation on the application of the fees; and

there is no accountability or oversight of the recipients of the fees. Left unregulated, PTFs can be misused, and may create significant financial barriers to homeownership. Because PTFs are funds due at closing, they can be a substantial burden on real property buyers, who are already financially committed to the costs of down payments, appraisals, title insurance, surveys, recording costs, mortgage points, attorney's fees, conveyance taxes, and other taxes and fees.

"When these transfer fees are not properly disclosed, the buyer may find his or her land subject to a lien for a fee or penalty that cannot be collected from the seller. Sometimes the developer is dissolved. In that case, the property may be rendered unmarketable because there is no surviving entity to which the fees may be paid to satisfy the covenant. Most of these covenants are designed to create a perpetual income stream for the developer or other entity which bears no fair relation to the value added to the property by the developer. The net effect of these covenants devalues the property and they may render the title unmarketable.

"Exemptions contained in this bill will enable the assessment of legitimate charges that arise from the transfer of real property, such as the legitimate transfer fees associated with the stewardship of conservation interests in certain real property, pursuant to adjudicated settlements and for affordable housing programs. The bill also provides an exemption for certain usual and customary fees, assessments, or charges encompassed in various real property transactions.

"Madam President, colleagues, PTFs decrease housing affordability, serve no public purpose, and provide no benefit to property purchasers or the community. H.B. 2288, CD1 protects against inappropriate or unscrupulous transfer fees that are attached as covenants and triggered upon future land sales.

"We, as a legislative body, have a responsibility protect the public's interest on balance with private and conservation interests.

"I therefore support HB 2288. Mahalo."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 26-10 was adopted and H.B. No. 2288, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIVATE TRANSFER FEES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 29-10 (H.B. No. 2831, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 29-10 was adopted and H.B. No. 2831, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 30-10 (H.B. No. 1978, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Baker and carried, Conf. Com. Rep. No. 30-10 was adopted and H.B. No. 1978, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOWING," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 34-10 (H.B. No. 2575, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Ige, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 34-10 was adopted and H.B. No. 2575, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRAUMA," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 37-10 (H.B. No. 2725, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 37-10 was adopted and H.B. No. 2725, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANIMALS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 38-10 (H.B. No. 2661, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Ige, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 38-10 was adopted and H.B. No. 2661, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ANATOMICAL GIFTS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 39-10 (H.B. No. 2397, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 39-10 was adopted and H.B. No. 2397, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PRIMARY ELECTIONS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 59-10 (S.B. No. 950, S.D. 2, H.D. 3, C.D. 1):

On motion by Senator Espero, seconded by Senator Hee and carried, Conf. Com. Rep. No. 59-10 was adopted and S.B. No. 950, S.D. 2, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC GUNS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 60-10 (S.B. No. 2449, H.D. 1, C.D. 1):

On motion by Senator English, seconded by Senator Nishihara and carried, Conf. Com. Rep. No. 60-10 was adopted and S.B. No. 2449, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DRIVER LICENSING," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 61-10 (S.B. No. 2019, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Hee and carried, Conf. Com. Rep. No. 61-10 was adopted and S.B. No. 2019, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE MAXIMUM TERM OF COMMERCIAL USE AND OPERATOR PERMITS FOR THRILL CRAFT AND PARASAILING," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 63-10 (S.B. No. 2150, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 63-10 was adopted and S.B. No. 2150, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 64-10 (S.B. No. 2257, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tokuda and carried, Conf. Com. Rep. No. 64-10 was adopted and S.B. No. 2257, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRONIC WARRANT VOUCHERS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 65-10 (S.B. No. 2256, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 65-10 was adopted and S.B. No. 2256, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF EDUCATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 67-10 (S.B. No. 2020, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 67-10 was adopted and S.B. No. 2020, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO REAL PROPERTY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 68-10 (S.B. No. 2545, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Baker and carried, Conf. Com. Rep. No. 68-10 was adopted and S.B. No. 2545, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 70-10 (S.B. No. 633, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Bunda and carried, Conf. Com. Rep. No. 70-10 was adopted and S.B. No. 633, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO WATER," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 72-10 (S.B. No. 1105, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kim and carried, Conf. Com. Rep. No. 72-10 was adopted and S.B. No. 1105, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE HEARINGS AND PROCEDURES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 73-10 (S.B. No. 2154, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Nishihara and carried, Conf. Com. Rep. No. 73-10 was adopted and S.B. No. 2154, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ADULT PROBATION RECORDS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 74-10 (S.B. No. 2472, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 74-10 was adopted and S.B. No. 2472, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 75-10 (S.B. No. 2643, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Nishihara and carried, Conf. Com. Rep. No. 75-10 was adopted and S.B. No. 2643, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 78-10 (S.B. No. 2697, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Baker, seconded by Senator Espero and carried, Conf. Com. Rep. No. 78-10 was adopted and S.B. No. 2697, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INSURANCE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 79-10 (S.B. No. 506, S.D. 1, H.D. 3, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 79-10 was adopted and S.B. No. 506, S.D. 1, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 80-10 (S.B. No. 2105, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator English and carried, Conf. Com. Rep. No. 80-10 was adopted and S.B. No. 2105, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PARKING FOR DISABLED PERSONS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 82-10 (S.B. No. 2831, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 82-10 was adopted and S.B. No. 2831, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PROCUREMENT CODE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 85-10 (S.B. No. 2565, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 85-10 was adopted and S.B. No. 2565, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII CIVIL RIGHTS COMMISSION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 88-10 (S.B. No. 2897, S.D. 2, H.D. 3, C.D. 1):

On motion by Senator English, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 88-10 was adopted and S.B. No. 2897, S.D. 2, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 89-10 (S.B. No. 2346, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Kidani and carried, Conf. Com. Rep. No. 89-10 was adopted and S.B. No. 2346, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII TEACHER STANDARDS BOARD," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 91-10 (S.B. No. 532, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 91-10 was adopted and S.B. No. 532, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITING CIVIL LIABILITY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 93-10 (S.B. No. 2371, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Baker and carried, Conf. Com. Rep. No. 93-10 was adopted and S.B. No. 2371, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LIMITED BENEFIT HEALTH INSURANCE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 94-10 (S.B. No. 2811, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Ige, seconded by Senator Baker and carried, Conf. Com. Rep. No. 94-10 was adopted and S.B. No. 2811, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PHARMACIES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

S.B. No. 2547, S.D. 1, H.D. 1:

On motion by Senator Hee, seconded by Senator Tokuda and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2547, S.D. 1, and S.B. No. 2547, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

FINAL READING

MATTER DEFERRED FROM MONDAY, APRIL 26, 2010

Conf. Com. Rep. No. 66-10 (S.B. No. 2169, S.D. 2, H.D. 2, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 66-10 be adopted and S.B. No. 2169, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Hee rose in support of the measure as follows:

"I would like to, before I begin, acknowledge so many people from the international community who have participated in the debate over this historic measure. I would like to acknowledge the Humane Society of the United States and Inga Gibson. I would like to acknowledge Stefanie Brendl from Shark Allies, and would like to acknowledge the local community that have also been very effective in their non-ending support of this measure. I believe very strongly that without their support we would likely not be here today to act upon a measure that sets Hawai'i apart from the rest of the United States and, indeed—with the exception of Palau—the rest of the international world. Palau has established the first shark sanctuary in its waters.

"With the passage of this bill, Hawai'i will become the first shark conservation area and sanctuary in the United States. Hawai'i will have accomplished what the United States Congress is trying to do, and more. The Shark Conservation Act of 2009 was passed by the United States Senate Commerce, Science, and Transportation Committee on November 19, 2009. This Act would end the barbaric practice of finning sharks in U.S. waters. This Act is presently being evaluated and discussed and debated by the United States House of Representatives. Hawai'i, by this Act, will send a strong message to Washington, D.C., and indeed the world, on its position of ending the barbaric practice of finning sharks locally. It has been testified before this committee by the Hawai'i Institute of Marine Biology at Coconut Island that as many as 89 million sharks are finned globally each year—89 million. Not 89,000, 890,000 or 8.9 million—89 million. All for the indulgent status of eating a bowl of soup, not unlike the indulgent practice of killing elephants for the ivory or dehorning rhinoceroses for its status. Eighty-nine million sharks. This practice is not sustainable either as sharks reproduce late in life and have low reproduction rates.

"I would like to read into the record an e-mail I received from a young woman who is part-Hawaiian who speaks more of the personal issues that she believes as a young Hawaiian woman. She says:

The sacredness and power of the manō (the shark) is found in mele (songs), mo'olelo (stories), and in the mo'o kū'auhau (genealogical lines) of numerous Hawaiian families. Manō are 'aumākua (personal family gods) for many Hawaiian families. It is believed the spirit of a family member who dies can possess a manō or turn into a manō. 'Aumākua protect and watch over their family for generations. Manō were taken by Hawaiians for use in our culture. For example, the teeth of the manō were used in war implements. The skins of the manō were used for the tops of drums; and woven into some of the patterns of nā ali'i 'ahu'ula (the royal capes) are symbols representing the teeth of the manō. Always respect and revere in reverence for the gifts of what

the manō could give, and that is why we respect them.

Shark finning is completely disrespectful to Hawaiian spiritual and cultural beliefs. I am writing today in strong support of S.B. No. 2169, 'Relating to shark fins,' which makes it unlawful for any person in the state to possess, to sell, to offer for sale, to trade, or distribute shark fins in Hawai'i. The horrific practice of shark finning must end, but not only because of the stated cultural reasons, but because it is inhumane and unconscionable how these sacred and beautiful creatures are brutally handled and killed in shark finning. The manō are captured, their fins are sliced off to sell or trade, and then their bodies are dumped back into the ocean, often while they are still alive, like discarded rubbish. It is unfathomable to think this can happen. This horrible practice also negatively impacts our ocean ecosystem. Respect the manō. Protect the manō, as manō are guardians for numerous Hawaiian families in the sea. I ask you to become their guardians on the land by passing this measure.

"I would only add, in closing, that the manō in its reverence to this culture of the native people is no different than the reverence of all native cultures in Oceania. Members, we rarely have opportunities to impact and send an international message. We have that opportunity at hand today. I ask all of you to stand and pass this bill and send a very strong message to the international community. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 66-10 was adopted and S.B. No. 2169, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SHARK FINNS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At this time, Senator Baker requested that remarks in support of H.B. No. 2288, H.D. 2, S.D. 1, C.D. 1 be entered into the Journal, and the Chair so ordered.

FINAL READING

MATTER DEFERRED FROM WEDNESDAY, APRIL 14, 2010

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

Senator Kim moved that Conf. Com. Rep. No. 2-10 be adopted and H.B. No. 1907, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kokubun.

Senator Slom rose in opposition to the measure as follows:

"Madam President, we might describe this bill and a number of other bills that are going to come up before us today as the 'taxpayer finning' bills because what it does is separate out more of the resources from taxpayers to give to the State. This bill puts a cap and limitations on itemized deductions for all classes of taxpayers, and also makes it retroactive to January 1 of this year, and ends the capital goods excise tax credit (makes it a non-refundable credit), again retroactively from January 1 of this year. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 2-10 was adopted and H.B. No. 1907, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 16; Ayes with Reservations (Espero). Noes, 9 (Baker, Bunda, Fukunaga, Hemmings, Hooser, Ige, Ihara, Sakamoto, Slom).

FINAL READING

MATTER DEFERRED FROM FRIDAY, APRIL 16, 2010

Conf. Com. Rep. No. 7-10 (H.B. No. 2376, H.D. 3, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 7-10 be adopted and H.B. No. 2376, H.D. 3, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Galuteria rose in support of the measure as follows:

"Colleagues, this year has been particularly eye-opening concerning the accountability, or lack thereof, for our children's education. The current status of our system and accompanying exasperation didn't happen overnight. Looking back at audits done over the years, accountability has been consistently pointed to and specifically cited from the Audit Report No. 73-1 *Management Audit of the DOE* that I hold in my hand. Colleagues, this is the last full management audit done of the Department of Education back in 1973. All we need to do is to change the cover to read 2010, and we can start again. But I digress. One of the ways we can address the accountability issue is by passing this measure. The audit, for example, cites—and if you'll indulge me—in chapter 4, Executive's Relationship with the Board of Education: 'While the legislative role is unquestioned, the respective responsibilities of the executive and the Board of Education are not entirely clear. There is uncertainty, confusion, and conflict regarding the respective responsibilities. The nature of the confusion,' and I continue, 'by virtue of being elected, the Board of Education is constitutionally accountable to the general public. On the other hand, by virtue of existing statutes which grant to the governor supervisory powers over all executive branches, the department is accountable to the governor. The latter in effect circumscribes the former, that is, the exercise by the governor of his or her statutory power limits the ability of the board to fully and directly account to the public for the public education system.' It also notes that 'the constitutional change to an elected board,' and this is back in 1973, 'gives rise to the governor and Board of Education's relationship which may aptly be described as anomalous.' It seems that the relationship has not improved in the ensuing years. As a matter of fact, as early as this morning's newspaper, we see the same operatives pointing the blame at each other, kind of like a firing squad standing in a circle.

"This measure prescribes to institute a system that lends itself towards accountability, and I am especially pleased that this measure includes the check and balance provision of advice and consent. Nominees will be chosen from pools of qualified candidates presented to the governor by a Board of Education Candidate Nomination Commission as to be provided by law. That is just the first layer of safeguard. Subsequently, our body will, as is customary with advice and consent, systematically determine qualification of candidates. In due course, there shall be direct accountability to the governor because the board will be comprised of members nominated by the executive and fully vetted by this body. And lastly, the people of the state will have the ultimate say when this measure is put on the ballot for their consideration. I urge all members to support H.B. 2376. Mahalo, Madam President."

Senators Taniguchi, Baker, and Chun Oakland requested that their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 7-10 was adopted and H.B. No. 2376, H.D. 3, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION RELATING TO THE BOARD OF EDUCATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25; Ayes with Reservations (Baker, Chun Oakland, Taniguchi). Noes, none.

FINAL READING

MATTERS DEFERRED FROM FRIDAY, APRIL 23, 2010

Conf. Com. Rep. No. 15-10 (H.B. No. 2676, H.D. 1, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 15-10 be adopted and H.B. No. 2676, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Takamine.

Senator Slom rose in opposition to the measure as follows:

"This is one of a series of bills we're going to be discussing this morning that have to do with the state procurement code and seeking exemptions. I will be speaking on all of them.

"In the hearing, the Kaho'olawe Reserve Commission had sought an exemption because they were having difficulty in getting food and fuel supplies. They had applied for an exemption from the State Procurement Office. They were granted an exemption. The problem is administrative; it's not legislative. As a matter of fact, I asked the State Procurement Officer how many exemptions had been requested during the past fiscal year. His response was between 70 and 100 because that is a provision of the law. I asked how many of those exemptions had been granted. He said the vast majority of them.

"So, it is something that we don't need to do legislatively. It's already in the law. It's already being taken care of; and as I say, there should be a difference between administrative problems and legislative problems. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 15-10 was adopted and H.B. No. 2676, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE KAHOLAWE ISLAND RESERVE COMMISSION," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 16-10 (H.B. No. 2239, S.D. 2, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 16-10 be adopted and H.B. No. 2239, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure as follows:

"You know, I'm really troubled by this bill. This is not a beverage deposit program; it is a tax. It's been a tax for a number of years now on the consumers and families and businesses of the community, raising a great deal of money for the purchase of beverages—water and sodas and juices. And this bill, initially, this year really troubled me because it sought to add a tax on alcoholic beverages and dietary supplements. Well, thank goodness that my colleagues came to their senses and exempted the alcoholic beverages because without alcoholic beverages we would have difficulty in moving legislation. But the dietary supplements are still now going to be taxed; and I'm wondering, Madam President, aren't we trying to get everybody slimmer? Aren't we trying to end obesity? And now we're going to punish those people that want dietary supplements by adding the tax to them. What's next—

mother's milk? I ask you, Madam President, this is a slippery slope we're going on, and I urge my colleagues, don't, don't tax the dietary supplements, and for God's sakes, in the future don't tax alcoholic beverages. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 16-10 was adopted and H.B. No. 2239, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPOSIT BEVERAGE CONTAINER PROGRAM," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

FINAL READING

MATTERS DEFERRED FROM MONDAY, APRIL 26, 2010

Conf. Com. Rep. No. 18-10 (H.B. No. 1987, H.D. 2, S.D. 2, C.D. 1):

Senator Espero moved that Conf. Com. Rep. No. 18-10 be adopted and H.B. No. 1987, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Espero rose in support of the measure as follows:

"Madam President, colleagues, as you know, this is the first of two bills that the Legislature is addressing this year regarding the illegal firework activity that we have seen increase in the last two years. This measure, H.B. 1987, will subject individuals to the nuisance abatement law. It has teeth in terms of possible business closure and property forfeiture. This is the measure that will hopefully help our law enforcement, help our prosecutors, and make our citizens and residents who are violating our fireworks law to think twice. Thank you, Madam President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 18-10 was adopted and H.B. No. 1987, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 20-10 (H.B. No. 2289, H.D. 2, S.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 20-10 be adopted and H.B. No. 2289, H.D. 2, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Espero.

Senator Slom rose in opposition to the measure as follows:

"This bill further extends gift certificates, which is fine except that when a person gets a certificate and there is a due date on there, an expiration date—which the Legislature has previously expanded—that should be good enough. But the real problem that I have with this bill is that it authorizes now an issuance fee, so that people that are selling the gift certificates now can charge people an additional fee for that. The gift certificates have been very profitable for the industry because a lot of people either lose them, misplace them, or don't use them fully; and to add an additional fee, I think, adds insult to injury. Thank you."

Senator Baker rose in support of the measure as follows:

"Perhaps the good senator does not realize that there is a federal law recently enacted on gift certificates. This measure conforms Hawaii law with regard to the length of time that gift certificates must be valid before they expire. And while I share the senator's concerns about activation fees, the Committee was made aware that there are a number of products that are unavailable to residents in our state because we do not allow a small activation fee. This was the smallest of the ones

presented to your Committee. It's 10 percent of the face value or no more than \$5; and I would also note that many of the kinds of gift cards or cards like you would get at Starbucks or Borders can be refilled and are exempt from this provision. In addition, there are lots of stores that offer gift cards for which an activation fee is not required. So, I think this measure just opens Hawai'i to the kind of commerce that other places have. We still have options—people can still get gift cards without any activation fee because this market is very competitive and for some businesses it will be advantageous not to charge an activation fee on their cards. So I encourage my colleagues to vote in favor of this measure.”

Senator Sлом rose in rebuttal and said:

“The good senator is aware of federal law. The good senator from Hawai'i Kai, however, believes that states are still independent and still have a right to do things differently. And as far as the activation fee and the lack of materials that we can purchase from Hawai'i, I think that that gap has been narrowed every day. In fact, that's one of the reasons for the streamlining tax because Hawai'i residents have shown the ability and the creativity to go outside to get just about everything they want. So, to say that an activation fee is going to help consumers, I think, is disingenuous. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 20-10 was adopted and H.B. No. 2289, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GIFT CERTIFICATES,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Kim, Sлом).

Conf. Com. Rep. No. 21-10 (H.B. No. 2283, H.D. 2, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 21-10 be adopted and H.B. No. 2283, H.D. 2, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Nishihara.

Senator Sлом rose in opposition to the measure as follows:

“This is the second of the procurement bills, and it's really interesting because it requires ‘ethical’ procurement. I think that, hopefully, ethics should be the foundation of everything that we do, particularly our state laws and procurement; and it's something that, again, the procurement officer said we do not need in the law. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 21-10 was adopted and H.B. No. 2283, H.D. 2, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Hemmings, Sлом).

Conf. Com. Rep. No. 24-10 (H.B. No. 2595, H.D. 1, S.D. 2, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 24-10 be adopted and H.B. No. 2595, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senators Baker and Ige requested that their votes be cast “aye, with reservations,” and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 24-10 was adopted and H.B. No. 2595, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25; Ayes with Reservations (Baker, Ige). Noes, none.

Conf. Com. Rep. No. 28-10 (H.B. No. 2919, H.D. 1, S.D. 2, C.D. 1):

Senator Takamine moved that Conf. Com. Rep. No. 28-10 be adopted and H.B. No. 2919, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Sлом rose in opposition to the measure as follows:

“This bill carves out a special addition for sewer workers. My understanding from the hearing is that there are only seven employees that would now be covered. They are supervisory employees. The problem is that it does carve out a special exemption from the law, and the Employees' Retirement System testified against this, saying it would add to their costs and to their record keeping. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 28-10 was adopted and H.B. No. 2919, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Hemmings, Sлом).

Conf. Com. Rep. No. 31-10 (H.B. No. 2061, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Espero, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 31-10 was adopted and H.B. No. 2061, H.D. 1, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CHILDREN,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 11:18 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:19 a.m.

Conf. Com. Rep. No. 32-10 (H.B. No. 869, H.D. 1, S.D. 1, C.D. 1):

At this time, the Chair made the following announcement:

“If there are no objections from the members, this measure will be recommitted to the Conference Committee.”

By unanimous consent, Conf. Com. Rep. No. 32-10 and H.B. No. 869, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLES,” was recommitted to the Committee on Conference.

Conf. Com. Rep. No. 33-10 (H.B. No. 2349, H.D. 1, S.D. 2, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 33-10 be adopted and H.B. No. 2349, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Sлом rose in opposition to the measure as follows:

“I certainly support the security and protection of health care personnel, as well as lifeguards, as well as everyone else, and I think that's been the problem here. We've had more violence against individuals, but what our answer has been, instead of enforcing the law or making tougher penalties, what we've done is carved out exemptions for different classes of people. And so, while I'm not, as I say, in any way opposed to protecting these people, I want all of our people protected and I want the laws enforced and people that commit the crimes punished. Thank you.”

Senator Green rose in support of the measure as follows:

“The purpose for this bill, from my standpoint, is that if you're working in emergency medical services, you have an

additional exposure. Two years ago, there was an individual that repeatedly said, 'It's easy to kill an emergency room physician,' which was directed at me. And when you're seeing a patient, whether you're a physician or a medic or whomever, you want to be able to go in and take care of an individual no matter what. And a lot of times when medics go in to see patients in the home, some people feel like their personal space is being violated. A lot of time it's because they're high on drugs or because they've just recently beaten their spouse into submission or what have you, and the medic is responding because a child has called. So there's a lot of violence in these environments, and that's the reason to spell it out specifically in this bill. Thank you, Madam President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 33-10 was adopted and H.B. No. 2349, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VIOLENCE AGAINST HEALTH CARE PERSONNEL," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Hemmings, Sлом).

Conf. Com. Rep. No. 36-10 (H.B. No. 2450, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator English and carried, Conf. Com. Rep. No. 36-10 was adopted and H.B. No. 2450, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 40-10 (H.B. No. 1212, H.D. 1, S.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 40-10 be adopted and H.B. No. 1212, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Takamine.

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

Senator Baker rose to speak in opposition to the measure as follows:

"Madam President, I have some remarks in opposition to this measure I'd like to have inserted into the Journal. Thank you."

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

"Madam President, I rise in Opposition to HB 1212

"This measure would bar the public from seeing a listing of complaints against persons or businesses licensed under Title 25 unless or until the complaint was resolved against the person or business. This bill redacts a major feature of our consumer protection laws – the public's right to know.

"I know the chair of the Judiciary Committee struggled long and hard with this bill. He was hoping to strike a balance between that right to know and a licensee's desire not to have 'frivolous' complaints and unsubstantiated slurs on the website for an indeterminate amount of time. I appreciate his efforts but unfortunately this bill does not strike that balance. I cannot see how anyone but a few licensees who want to hide their complaints from public view will be served by this measure.

"Since the adoption of the Uniform Information Practices Act, challenges have resulted in the conclusion that any individual granted any type of license in the State does not have a significant privacy interest in 'the record of complaints including all dispositions' so that the UIPA's privacy exception

provided in section 92F-13(1) of the Hawaii Revised Statutes could not apply to exempt such records from public disclosure. Therefore, under the UIPA, the public has access to complaint records about any and all licensees.

"This information is valuable to the public. Website usage data from the DCCA shows that the RICO/OCF complaints history database was viewed nearly **half** a million (450,855) times in fiscal year 2008. In addition to that, nearly 30,000 (29,578) RICO telephone complaint history inquiries were made in fiscal year 2008.

"HB 1212 would seriously cripple the public's ability to make informed choices about state-licensed service providers. And its passage might raise state liability in these licensed areas. This measure, however, was not referred to your committee on Commerce and Consumer Protection.

"We, as a legislative body, have a responsibility protect the public's interest in information. It is mandated under the Uniform Information Practices Act and we should not be going backwards.

"This legislation does not serve the public interest. It supposedly rights a perceived wrong done to single licensed dentist -- a narrow special interest -- and in the long run will tip the balance against the consumer and in favor of those small number of unscrupulous business practitioners.

"I urge all my colleagues to oppose this bill."

Senator Hooser requested that 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. 40-10 was adopted and H.B. No. 1212, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18; Ayes with Reservations (Hooser, Sлом). Noes, 7 (Baker, Espero, Fukunaga, Gabbard, Green, Ige, Ihara).

FINAL READING

MATTER DEFERRED FROM FRIDAY, APRIL 16, 2010

Conf. Com. Rep. No. 54-10 (S.B. No. 2807, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Kim, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 54-10 was adopted and S.B. No. 2807, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, RELATING TO THE TAX REBATE REQUIREMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 2 (Hemmings, Sлом).

FINAL READING

MATTER DEFERRED FROM FRIDAY, APRIL 23, 2010

Conf. Com. Rep. No. 62-10 (S.B. No. 2817, S.D. 1, H.D. 1, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 62-10 be adopted and S.B. No. 2817, S.D. 1, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Baker.

Senator Gabbard rose to speak in support of the measure as follows:

"Madam President, will you please direct the Clerk to enter my remarks in support of this measure into the record? Mahalo."

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

"Madam President, I rise in support of SB 2817 CD1. This is a common sense measure that will remove one of the last roadblocks for homeowners in associations to take the positive step of installing solar energy devices on their homes. As you know, distributed generation is a key component in our state's ambitious efforts to ramp up our use of renewable energy sources in our quest to get off foreign oil. Distributed generation is great for families who are able to both do something good for our environment and also greatly reduce their electric bills. We've made great strides in this area. You might be surprised that a recent report from the Solar Energy Industries Association found that Hawaii ranks 6th in the nation in the amount of solar power we produce and 4th in the nation in solar water heaters. But we have to do more if we're really going to make a difference. That's why each homeowner who chooses solar gets us one step closer to our energy efficiency goals. Colleagues, I ask you to join me in voting in favor of this very important 'clean energy' bill. Mahalo."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 62-10 was adopted and S.B. No. 2817, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLAR ENERGY DEVICES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

FINAL READING

MATTERS DEFERRED FROM MONDAY, APRIL 26, 2010

Conf. Com. Rep. No. 71-10 (S.B. No. 1059, S.D. 2, H.D. 3, C.D. 1):

Senator Espero moved that Conf. Com. Rep. No. 71-10 be adopted and S.B. No. 1059, S.D. 2, H.D. 3, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Espero rose in support of the measure as follows:

"This, colleagues, is the second of the two bills I mentioned earlier regarding fireworks, S.B. 1059. This is a carryover from last year, and unfortunately it didn't get through conference.

"The first part of this, of course, looks at a task force into the illegal smuggling and how all of these fireworks are entering our state. I firmly believe it is a homeland security issue, as well as a regular, recreational-entertainment issue for our residents, especially when you look at the possibility of a dirty bomb or any other major explosive being imported or smuggled in and what that effect would be on our island economy. You think it's bad now; imagine if something like that happens. So the first part of this is the task force.

"The second part is to allow the counties the discretion to pass tougher law than state law, and what this bill will do will allow the counties to ban fireworks if they so desire. So, lacking the ability to pass a statewide ban, this is a good compromise which puts the matter into the separate jurisdictions, and I urge you to pass this. Thank you."

Senator Slom rose in opposition to the measure as follows:

"I had supported the previous fireworks bill, and I'm sure I, like most of my colleagues, have gotten a lot of responses from our constituents who had advocated a ban on fireworks.

"This bill is very confusing to me. I don't think it's really going to do anything at all. Another task force? I have seen several of the task forces that we've had previously. They have resulted in nothing new, except now we're going to have legislators sit on these task forces.

"What we really need to do is enforce the laws that we've got, and we don't do that. We talk about 'illegal' fireworks, we talk about 'illegal' aerals, and we don't seem to have a way of enforcing the many laws that we have covering this.

"As far as the counties, one county has already, to my understanding, banned fireworks. The counties believe that they have this ability to do this, so I'm wondering again what this bill will actually do because the public wants action and we're not providing action.

"Finally, my confusion comes in when we're talking about federal law and federal homeland security, and I'm not sure exactly what fireworks have to do with dirty bombs and terrorists and all of that.

"So, I think that, again, when we pass laws, we should pass them and they should be very clear. They should address a problem. They should provide a solution for the problem. Thank you."

Senator Espero rose rebuttal and said:

"Just to provide clarification for the speaker before me: A firework is an explosive. Terrorists deal with explosives. That's the connection, senator. And with explosives being smuggled in, illegally brought to Hawai'i for the purpose of either profit or whatever other reason, there is a likelihood that someone with evil intentions could look at our island economy, look at our military presence, look at the home of the President of the United States, and smuggle in a dirty bomb. And they may use the same method that illegal aerals or other explosives are coming in because they are not been detected currently. And if you look at the illegal aerals in the last two years, I think it's safe to say these are not being smuggled in via UPS or FedEx. I believe they are either container loads or other ways that they are entering our state. Thank you, Madam President."

Senator Green rose in opposition to the measure as follows:

"I did want to say I commend the Chairman's focus on public safety; I absolutely agree with that. I also thought his position, which I know was full bent, to be noble.

"I was just concerned about giving it to the counties because I think that two things: Number 1, I don't think they're up to the challenge on the cultural matters. I think that will get a disparate feel for this bill across different county lines; and I think probably it's better that the State have full control. But I did want to commend the Chair for his work on this bill."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 71-10 was adopted and S.B. No. 1059, S.D. 2, H.D. 3, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FIREWORKS," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 76-10 (S.B. No. 2231, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator English and carried, Conf. Com. Rep. No. 76-10 was adopted and S.B. No. 2231, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ELECTRIC VEHICLES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 77-10 (S.B. No. 2859, S.D. 2, H.D. 1, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 77-10 be adopted and S.B. No. 2859, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Baker.

Senator Baker rose to speak in support of the measure as follows:

“Madam President, I have remarks in support of this measure I’d like to have inserted into the Journal.”

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

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

“We are all well aware of the effects the economic downturn has had on the automobile industry. We’ve seen dealerships close in our state and livelihoods lost as a result. The closing of automobile manufacturers and auto dealerships nationally have been both caused by the financial downturn and a contributor to it. This disruption in an industry that affects us all has demonstrated a need to update our regulation of this industry in our state and we’ve done so in concert with changes being made in legislatures across the country.

“Madam President, your Committee on Commerce and Consumer Protection has worked throughout the session and into Conference with representative of auto dealers, distributors and manufacturers as well as the Department of Commerce and Consumer Affairs Regulated Industries Complaint Office (RICO). It has been a remarkable testament to collaboration and the good result that can occur when all parties want to find a resolution and craft language that works for all. We believe it is in the best interest of our state to provide proper provisions to help protect the industry and safeguard the consumers who rely on the dealerships to provide them with safe and economical options when purchasing vehicles.

“SB 2859, CD1 amends Chapter 437 of the Hawaii Revised Statutes by creating a new part II to create fair compensation and level the transaction field amongst the parties; it provides transparency and protects businesses as well as consumer. There has been a lot of healthy discussion between the manufacturers, distributors and the dealers throughout the process, and although we acknowledge that this bill may need some additional tweaks next session, there’s a willingness by all parties to continue working together as new issues arise. I’m told our collaboration is unprecedented in other states. The bill before this body provides important guidelines and standards for the business affairs between the manufacturers and the local dealerships here in Hawaii. In addition, RICO has assisted us in developing the appropriate standards for a dispute resolution process which is an important feature of the bill. The manufacture, distribution and sale of motor vehicles in the state affect the general economy, the commerce in our state as well as individual car owners. Considering the geographical location of Hawaii, it is in our best interest to assure that we can obtain quality vehicles, parts and services here and this measure intends to provide for continued service and safety. Colleagues, I urge your favorable vote on this bill. Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 77-10 was adopted and S.B. No. 2859, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING ACT,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 81-10 (S.B. No. 2454, S.D. 2, H.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 81-10 be adopted and S.B. No. 2454, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure as follows:

“This bill would add fees set by the Judiciary for important public records, which now should be available to the public without cost since they’re already paying for that in their taxes. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 81-10 was adopted and S.B. No. 2454, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PUBLIC AGENCY MEETINGS AND RECORDS,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 83-10 (S.B. No. 2919, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Espero and carried, Conf. Com. Rep. No. 83-10 was adopted and S.B. No. 2919, S.D. 1, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE HAWAII STATE HOSPITAL,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 84-10 (S.B. No. 2937, S.D. 1, H.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 84-10 be adopted and S.B. No. 2937, S.D. 1, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Nishihara.

Senator Slom rose in opposition to the measure as follows:

“This is the infamous ‘vexatious requestor’ bill, and this is the bill that came out of the creative thinking of the Department of Health, specifically because of all of the requests that they have gotten, the so-called ‘birther’ requests, asking for a clear definition of the President of the United States birth certificate. There have been other instances, however, and other people and other agencies who have requested information and have not gotten that information from State agencies.

“I think this is really a terrible bill when we tell our citizens that they cannot get information from a public agency because if you agree with this and think that it’s fine because it only involves the birth certificate of President Obama, then be forewarned that anyone can be described as a vexatious requestor in the future. And for anyone that is not in elected office that has tried to go through a State agency—oh, let’s take one. Let’s take the Department of Education, for example. Try to get information from them. Try to get an answer, a coherent answer. Try to get an accurate and factual answer. They’ll give you an answer, but it won’t be factual and in many cases it won’t be truthful. And that’s what this bill is all about because it says if somebody asks for something and they’re given an answer, then that agency has the right to deny them any further access to the public agency. What are public agencies for? What are we paying all of these people to provide the information for? The Department of Health and the birther thing said that, ‘Oh, my gosh. They have so much extra work because they get all these requests.’ Well, all of us get a lot of requests, too. We either answer e-mails and phone calls and correspondence directly or some colleagues have a little thing that’s already pre-printed when they get a lot of e-mails and they send it out—‘thank you for your inquiry,’ and so forth and so on. But to determine that a member of the public, because of their continued request or because they haven’t gotten an answer, to determine that they are vexatious or any other name

and to deny them service I think really challenges the foundations of our government, and I would urge my colleagues to think before supporting this measure. Thank you."

Senator Espero rose in support of the measure as follows:

"Yes, this one is an interesting measure because I had originally gone to the Department of Health to ask them to support legislation that would provide some public access to birth records. Department of Health told me no and they asked that something like this measure be introduced. This is a major change from the original bill, but it does help the Department of Health and other State agencies.

"There was a statement mentioned earlier that once the person has been responded to, they will have no further access to that agency or that department. That is not correct. Basically, what this measure says is: If you ask an agency or a department for information and they have given you an answer, and if you come back the next day and ask the same question and the answer remains unchanged—the question is unchanged and the answer is unchanged—they do not have to respond to you if you come back to them day after day after day asking the same question, or week after week. Now, you may request other information from that agency. You may have a different question or different concerns, but you cannot go back to that agency or department day after day after day, requesting the same information like many of these birthers are doing, who ridiculously think our President was born in some foreign land; who for some reason, through their conspiracy notions or whatever philosophies, they think that our President may be a Kenyan national or an Indonesian. That is an insult to us in Hawai'i, this state of diversity, of many cultures and many ethnicities. It's amazing to me that there are some people—and I've tried to follow this to a degree, but you get very frustrated and sometimes you get angry that there are individuals out there who dare question. And yes, there is evidence out there, but the evidence is bogus. It's made up. It's propaganda. It's rhetoric. And I for one get tired of hearing these birthers. So this was a good faith effort.

"The Republican Governor and her administration asked that this measure be introduced. At one time we thought it would not pass, but it was resurrected. There were many changes, and it does not stop a citizen's right to information from government. That is not the case. And quite frankly, if anyone really wanted to get by this law, if you have an organization of 500 people, each of them can ask the same question on a different day of the year and the department would have to respond to that question. This deals with one individual and one individual's concerns. I urge you to pass this bill. Thank you."

Senator Slom rose in rebuttal and said:

"While I appreciate the former senator's discussion about birthers, that was not my point about this bill and that's something that you should think about. And the statement that was made that if somebody asks a question and the agency gives an answer, and they come back the next day and asks the same question and the agency gives the same answer, and they come back again and ask the same question and the agency gives the same answer—that's what you should be troubled about. Because, again, if—and unless you've had any experience with State agencies—if you ask a question and you don't get a real answer, that's what we're skirting in this issue. We're giving a pass to those agencies and saying, 'Hey, you really don't have to provide an answer. You don't have to answer what was asked of you. You just have an answer.' And I'm sure that everyone in this room has had that experience with private companies, private agencies, as well as government agencies. Our focus and our responsibility is on public agencies, however, and I think for too long now they have been

allowed to not provide factual, complete, in-depth answers to the questions that they were asked. Yes, they may provide an answer, but it is not the answer to that question. So again, I would urge my colleagues to think about this and think outside of the birther issue. It has much wider ramifications. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 84-10 was adopted and S.B. No. 2937, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 86-10 (S.B. No. 2745, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 86-10 was adopted and S.B. No. 2745, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONTROLLED SUBSTANCES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Gabbard).

Conf. Com. Rep. No. 90-10 (S.B. No. 466, S.D. 2, H.D. 1, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 90-10 be adopted and S.B. No. 466, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition to the measure as follows:

"As I discussed previously with this measure, we do get a lot of complaints, all of us, about the noise and the disruption that leaf blowers cause. You may recall that the original part of this bill was to ban gas leaf blowers and allow electric leaf blowers. What the conference draft has come up with now is to allow both gas and electric, but to change the time limits and to restrict the leaf blowers on certain holidays and so forth—except, except government leaf blowers are okay whether they be gas or electric. So the government can come by your house or by the school or anywhere else, and the government is exempt from this. Come on! What's with this? If we're passing laws, why is the government exempt? We hold everybody else responsible, and then we exempt ourselves. It's not fair. It's not right, and I vote 'no.' Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 90-10 was adopted and S.B. No. 466, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO POLLUTION," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 92-10 (S.B. No. 2045, S.D. 1, H.D. 1, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 92-10 be adopted and S.B. No. 2045, S.D. 1, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Takamine.

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

"We all saw during the Judiciary hearings and then in the conference committee a well-organized group of individuals who lobbied for this measure, and I give them a great deal of credit because I like to have civic involvement.

"The problem with the bill—and I'm saying I'm voting with it with reservations—the problem with the bill is that from the law enforcement community's perspective, it has been poorly

drafted; and some of the prosecutors have said that the elements of the crime would use to charge offenders are completely unclear and ambiguous and that the language may not have been entirely accidental. So, the only caution that I have here is that when we have hearings and we have people from the law enforcement community telling us that you need to do a better job in terms of drafting the legislation, it would be nice if we listened to them and if we did it because the first time that the law is challenged or the first time that the prosecutors have to tell someone that they can't prosecute under this law, then we ask, 'Whose responsibility? Where does it go?' So I would just urge that we be cognizant of the fact that just because we pass a law it does not mean that it's going to have the desired impact. Thank you."

Senator Baker rose in support of the measure as follows:

"The purpose of this measure is to comprehensively address the growing problem of sexual human trafficking, and I would like to personally thank the conferees, and especially the respective conference committee chairs—our Judiciary Chair in the Senate and the Judiciary Chair in the House—for their hard work in taking an extremely complicated crime which is difficult to prosecute under existing statutes, and simplifying the provisions of related criminal activities (such as kidnapping and prostitution), to establish a new section specifically dealing with human sexual trafficking.

"This is a major problem in Hawai'i. Honolulu is recognized by the Federal Bureau of Investigation as one of 29 cities in the U.S. where a considerable amount of child sex trafficking takes place. In addition, Hawaii's status as an international tourist mecca and its location as a Pacific transit point make the state a high-risk region for all forms of human sexual trafficking. Women are commonly trafficked into Hawai'i to work in the sex industry, in strip clubs, massage parlors, brothels, and as street prostitutes. Some women are trafficked here as mail-order brides for the purpose of domestic servitude.

"Until now, the lack of a specifically defined crime of human sexual trafficking in Hawai'i made it difficult to identify the victims and to prosecute the culprits of this horrific crime. By establishing this new section in our existing penal code, we can finally begin to tackle this problem of enormous magnitude, identify the minors and other individuals who are at high risk, and to effectively prosecute the perpetrators of the repellent crime of human sexual trafficking.

"I hope my colleagues will join me in supporting this measure. Mahalo."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 92-10 was adopted and S.B. No. 2045, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CRIME," passed Final Reading on the following showing of Ayes and Noes:

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

FINAL READING

MATTERS DEFERRED FROM MONDAY, APRIL 26, 2010

Conf. Com. Rep. No. 42-10 (H.B. No. 1665, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Kim and carried, Conf. Com. Rep. No. 42-10 was adopted and H.B. No. 1665, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN FISHPONDS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 43-10 (H.B. No. 2604, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 43-10 was adopted and H.B. No. 2604, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 44-10 (H.B. No. 865, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator English, seconded by Senator Kim and carried, Conf. Com. Rep. No. 44-10 was adopted and H.B. No. 865, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 46-10 (H.B. No. 2692, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 46-10 was adopted and H.B. No. 2692, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISASTER PREPAREDNESS PLANNING," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 48-10 (H.B. No. 2157, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Chun Oakland and carried, Conf. Com. Rep. No. 48-10 was adopted and H.B. No. 2157, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXPANDED ADULT RESIDENTIAL CARE HOMES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 49-10 (H.B. No. 979, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Gabbard and carried, Conf. Com. Rep. No. 49-10 was adopted and H.B. No. 979, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 99-10 (S.B. No. 2473, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Chun Oakland, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 99-10 was adopted and S.B. No. 2473, S.D. 1, H.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, 25. Noes, none.

Conf. Com. Rep. No. 100-10 (S.B. No. 2220, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Baker, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 100-10 was adopted and S.B. No. 2220, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONSTRUCTION SITES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 101-10 (S.B. No. 2399, S.D. 1, H.D. 1, C.D. 1);

On motion by Senator Baker, seconded by Senator Ige and carried, Conf. Com. Rep. No. 101-10 was adopted and S.B. No. 2399, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MIXED MARTIAL ARTS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 102-10 (S.B. No. 2601, S.D. 1, H.D. 2, C.D. 1);

On motion by Senator Baker, seconded by Senator Ige and carried, Conf. Com. Rep. No. 102-10 was adopted and S.B. No. 2601, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ATHLETIC TRAINERS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 104-10 (S.B. No. 2116, S.D. 2, H.D. 2, C.D. 1);

On motion by Senator Sakamoto, seconded by Senator English and carried, Conf. Com. Rep. No. 104-10 was adopted and S.B. No. 2116, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INDEMNIFICATION OF COUNTY AGENCIES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 107-10 (S.B. No. 910, S.D. 1, H.D. 2, C.D. 1);

On motion by Senator Chun Oakland, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 107-10 was adopted and S.B. No. 910, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE TRANSFER OF HOMELESS PROGRAMS WITHIN THE DEPARTMENT OF HUMAN SERVICES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 111-10 (S.B. No. 2702, S.D. 2, H.D. 1, C.D. 1);

On motion by Senator Espero, seconded by Senator Kim and carried, Conf. Com. Rep. No. 111-10 was adopted and S.B. No. 2702, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO A MAJOR DISASTER TRUST ACCOUNT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 112-10 (S.B. No. 2716, S.D. 2, H.D. 2, C.D. 1);

On motion by Senator Chun Oakland, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 112-10 was adopted and S.B. No. 2716, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHILD PROTECTIVE ACT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 113-10 (S.B. No. 2825, S.D. 1, H.D. 1, C.D. 1);

On motion by Senator Kim, seconded by Senator Galuteria and carried, Conf. Com. Rep. No. 113-10 was adopted and S.B.

No. 2825, S.D. 1, 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, 25. Noes, none.

Conf. Com. Rep. No. 116-10 (S.B. No. 2691, S.D. 1, H.D. 1, C.D. 1);

On motion by Senator Takamine, seconded by Senator Kim and carried, Conf. Com. Rep. No. 116-10 was adopted and S.B. No. 2691, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PAYMENT OF EMPLOYEES' RETIREMENT SYSTEM BENEFITS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 119-10 (S.B. No. 2400, S.D. 1, H.D. 1, C.D. 1);

On motion by Senator Kim, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 119-10 was adopted and S.B. No. 2400, 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, 25. Noes, none.

Conf. Com. Rep. No. 122-10 (S.B. No. 2809, S.D. 2, H.D. 1, C.D. 1);

On motion by Senator Baker, seconded by Senator Kim and carried, Conf. Com. Rep. No. 122-10 was adopted and S.B. No. 2809, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO UTILITIES REGULATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 128-10 (S.B. No. 2068, S.D. 2, H.D. 1, C.D. 1);

Senator Sakamoto moved that Conf. Com. Rep. No. 128-10 be adopted and S.B. No. 2068, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Sakamoto rose in support of the measure as follows:

"Can I insert remarks on No. 128-10, S.B. 2068?"

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

"After nearly four years of the launching of the Junior Kindergarten program, we have found that it is not working as effectively as we had envisioned. This bill gives the Early Learning Council (ELC) the opportunity to assess the junior kindergarten program at individual schools in order to certify schools that have been most effective as well as identify ways to expand and improve them. The ELC would also identify the schools have not been effectively serving the 4 year-olds and put together a plan to improve the junior kindergarten program. The bill would also amend the age of a child to be at least 5 years of age to enter kindergarten beginning in 2013-2014. This would allow young learners the chance for more preparation upon entering kindergarten. The ELC would also devise a funding plan which would support the education of 4 year old based on family income and incorporate public and private funding sources."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 128-10 was adopted and S.B. No. 2068, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EARLY EDUCATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 131-10 (S.B. No. 2885, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Takamine and carried, Conf. Com. Rep. No. 131-10 was adopted and S.B. No. 2885, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH SAVINGS ACCOUNTS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 132-10 (S.B. No. 2491, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Ige, seconded by Senator Baker and carried, Conf. Com. Rep. No. 132-10 was adopted and S.B. No. 2491, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TELEMEDICINE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 134-10 (S.B. No. 2600, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator Ige, seconded by Senator Baker and carried, Conf. Com. Rep. No. 134-10 was adopted and S.B. No. 2600, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTHCARE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 135-10 (S.B. No. 2173, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 135-10 was adopted and S.B. No. 2173, S.D. 1, H.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, 25. Noes, none.

Conf. Com. Rep. No. 137-10 (H.B. No. 2503, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 137-10 was adopted and H.B. No. 2503, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ENVIRONMENT," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 138-10 (H.B. No. 2832, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 138-10 was adopted and H.B. No. 2832, H.D. 1, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TARO SECURITY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 142-10 (H.B. No. 2845, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator Sakamoto and carried, Conf. Com. Rep. No. 142-10 was adopted and H.B. No. 2845, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LANDS CONTROLLED BY THE STATE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 150-10 (H.B. No. 2000, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Taniguchi, seconded by Senator Kim and carried, Conf. Com. Rep. No. 150-10 was adopted and H.B. No. 2000, H.D. 2, 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. 152-10 (H.B. No. 2698, H.D. 2, S.D. 2, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 152-10 be adopted and H.B. No. 2698, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Fukunaga rose in support of the measure as follows:

"I'd like to request permission to insert remarks in support of Conference Report No. 152-10."

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

"I rise to speak in strong support of HB 2698, HD2, SD2, CD1. This measure represents our best means of achieving some of the visionary goals of the Hawaii Broadband Task Force at a time that State resources have been dramatically reduced.

"In lieu of a new stand-alone agency combining telecom and cable television regulation and future broadband deployment in the State of Hawaii, this measure adopts a transitional approach that capitalizes on the following factors:

1. On January 14, 2010, the Department of Commerce and Consumer Affairs renewed Time Warner Entertainment Company, L.P.'s non-exclusive cable franchise for cable television services on the island of Oahu. The order allows Time Warner to continue utilizing public rights of way to provide cable service to consumers, and in exchange, the order requires that Time Warner utilize the latest technology to provide a wide diversity of information sources and services to the public.

As part of this franchise, Time Warner will more than double the number of cable channels available for local uses in the State, increasing the channels from six to fourteen digital channels. The order also provides continued funding to 'Olelo for PEG access services, and the Hawaii Public Television Foundation - PBS Hawai'i.

In addition, free high-speed broadband service (Roadrunner) will be provided to all two hundred eighty-eight Department of Education schools, including charter schools, statewide to facilitate online student testing. Time Warner will provide additional free interconnections to the State's INET for government or educational use, including twenty new interconnections during the first five years and additional interconnections thereafter.

The terms of this twenty-year franchise, which the department proposes to review every five years to insure that it is regularly updated to adapt to changes in cable technology, offer unprecedented opportunities to advance Hawaii's broadband capabilities and use.

2. Department of Commerce and Consumer Affairs (DCCA) has received a \$1,900,000 grant to fund broadband mapping and planning activities in Hawaii (\$1,400,000 for broadband data collection and mapping activities over a

two-year period and \$500,000 for broadband planning activities over a five-year period). The Department has teamed with the University of Hawaii Pacific Disaster Center, which is taking the lead on completing the mapping activity.

3. University of Hawaii, in concert with other state/county agencies, has applied for additional federal grants through competitive Broadband Technology Opportunity Program (BTOP) for FY 11. If the University of Hawaii's grant proposal is one of those awarded through the U.S. Department of Commerce, it would leverage state, county and federal resources to produce over \$30 million worth of new infrastructure capabilities that substantially enhances Hawaii's public sector broadband deployment.

"Under these circumstances, a more focused, in-house effort to maximize federal broadband funding with the State's commitment to deliver more services and programs through digital cable networks makes good sense.

"The bill therefore assigns Department of Commerce and Consumer Affairs the primary responsibility for implementing various priorities identified by the Hawaii Broadband Task Force:

- focusing the scope of broadband deployment on expanded digital cable programming and services, and assigning these duties to the Director of Commerce and Consumer Affairs;
- adding a telework promotion and broadband assistance advisory council to meet the goals of expanded broadband and its products and services through the state of Hawaii;
- establishing a work group to develop procedures for streamlined permitting functions applicable to the development of broadband services or technology; and
- requiring the department of commerce and consumer affairs to report annually to the legislature on all expenditures of federal moneys received pursuant to the American Recovery and Reinvestment Act of 2009 or other federal funds, for purchasing broadband facilities, services, or equipment, or entering into contracts for broadband-related projects."

The motion by was put by the Chair and carried, Conf. Com. Rep. No. 152-10 was adopted and H.B. No. 2698, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TECHNOLOGY," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

At 11:46 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:04 p.m.

FINAL READING

MATTER DEFERRED FROM MONDAY, APRIL 26, 2010

At this time, the Clerk made the following announcement:

"Turning back to page 4, Floor Amendments. Conf. Com. Rep. No. 147-10: Final Reading of H.B. No. 2486. H.D. 2, S.D. 2, C.D. 1."

Conf. Com. Rep. No. 147-10 (H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com Rep. No. 147-10 be adopted and H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Takamine.

Senator English then offered the following amendment (Floor Amendment No. 15) to H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1:

"SECTION 1. H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1, RELATING TO EDUCATION, is amended by amending section 1 to read as follows:

"SECTION 1. Act 51, Session Laws of Hawaii 2004, stated, "Ultimately all education reform must be driven by the needs of students. Students are the primary clients served by the public education system and they must be served well by providing them with access to the tools they need to succeed, a nurturing environment conducive to learning, and supplementary opportunities for growth that facilitate their development.

Accordingly, especially in light of the instructional hours lost due to furloughs, the purpose of this Act is to require the phase-in of implementation of a certain number of student instructional hours at all public schools, except charter schools, as follows:

- (1) Part II requires the department of education to maximize the amount of student instructional hours provided to students under relevant collective bargaining agreements in effect during the 2010-2011 school year;
- (2) Part III requires the establishment of a certain number of student instructional hours per school year for elementary and secondary school grades, for the 2011-2013 school years, and for the 2013-2015 school years;
- (3) Part IV requires the department of education to, with the board of education and Office of the Governor, and in consultation with representatives of the affected collective bargaining units, submit to the legislature, no later than twenty days prior to the convening of the 2012 regular session, a plan to provide students with a higher number of student instructional hours per school year for elementary and secondary school grades, for future school years; and
- (4) Part V requires the department of education to provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes in counties with a population of less than 500,000, and also requires the department to consider pick-up and drop-off times that optimize its transportation services while minimizing costs to the State, if implementation of such student instructional hours results in varying schedules for the transportation of students."

SECTION 2. H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1, RELATING TO EDUCATION, is amended by amending section 5 to read as follows:

"SECTION 5. Section 302A-406, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department ~~may~~ shall provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes[-] in counties with a population of less than 500,000. In counties with a population of 500,000 or greater, the department may provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes. The department shall adopt such policy, procedure, and program as it deems necessary to provide suitable transportation. In formulating the policy, procedure, and program, the department shall consider the school district; the school attendance area in which a school child normally resides; the distance the school child lives from the school; the availability of public carriers or other means of transportation; the frequency, regularity, and availability of public transportation; and the grade level,

physical handicap, or special learning disability of a school child, and it may also consider such conditions and circumstances unique or peculiar to a county or area. If the implementation of student instructional hours pursuant to section 302A- results in varying schedules for the transportation of students, the department shall consider pick-up and drop-off times that optimize the department's transportation services while minimizing costs to the State.”

SECTION 3. H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1, RELATING TO EDUCATION, is amended by amending section 7 to read as follows:

“SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.”

Senator English moved that Floor Amendment No. 15 be adopted, seconded by Senator Sakamoto.

Senator English rose in support of the measure as follows:

“Thank you, Madam President. Members, this particular amendment will help the neighbor islands by ensuring that school bus services are provided. As you know, my district is East and Upcountry Maui, Moloka‘i, Lāna‘i; and while we’re dealing with furloughs and while we’re dealing with all of these other things, the most important thing is that the students actually get to school. If we don’t have bus service, there’s no way for students that live in these remote districts to get to school. For example, in my home of Hāna we have buses that go to the villages of Kaupō, Kīpahulu, Ke‘ānae, and bring the students into Hana for school.

“So, while we understand the rural areas of O‘ahu have the same issue, there is still a city bus service here; and while it’s not comparable, at least there’s something. In these rural districts, there will be absolutely nothing, so this is imperative; and I ask for all the members’ support of this amendment. Thank you.”

Senator Hee rose in opposition to the measure as follows:

“I think it’s poor policy to divide youngsters into categories of haves and have-nots, can and cannot, should-should not; and I say that as somebody who was a public school teacher on the island of Moloka‘i, so I’m very familiar with the difficulties of neighbor island youngsters in getting from school to school. This amendment is poorly planned. It unfortunately pits neighbor island students and O‘ahu students as if to suggest that O‘ahu students do not have their own challenges as well. Were this amendment to include C.D. 2 as was discussed in caucus, I would support the amendment because the rural areas of O‘ahu face similar challenges for youngsters. It’s unfortunate and too bad and with some reluctance that I do not support the amendment which pits students over other students. Thank you.”

Senator Bunda rose in opposition to the measure as follows:

“Please have the Clerk insert into the Journal the words of the previous speaker as if they were my own.” (The Chair so ordered, by reference only.)

Senator Hemmings rose in support of the measure as follows:

“From just the previous conversations, it’s easy to see that there’s no comparison between the roads and the highways and byways and the amount of people traveling in any area on O‘ahu as compared to Hāna. Hāna is a very special place. It’s protected, I think, by the antiquated roads; and for a young person in one of the villages that were spoken of to get to Hāna, it is a long, arduous journey. There are many options here on O‘ahu that they do not have in Hāna, so I would urge my colleagues in the Majority caucus to vote in favor of this. This is something that’s going to help a distinct group of people,

many of them native Hawaiians who need assistance in getting to school, and it’s a good amendment. Thank you, Madam President.”

Senator Hee rose rebuttal and said:

“If the youngsters of Hāna are those that are in need, so be it. Let’s deal with Hana. If it’s Mana‘e and Hālawā to Kilohana School, so be it. But to pit students against students in this fashion is not good policy. You know, I wouldn’t for a second disagree on the difficulties of transportation from Ke‘ānae to Hāna. It’s not an easy thing. So deal with it specifically, as opposed to dealing with students broadly, as if to suggest that one group is somehow privileged over another group at this late date in the session. Thank you.”

Senator English rose again in support of the measure and said:

“You know, the original intent was to try and do this for all schools and all students, and then we got into a discussion about, well, the huge cost first, and then secondly, the other options available on O‘ahu. I don’t necessarily like dividing this up the way it is, but the necessity requires it. And it’s not pitting any student against another student. It’s just simply saying that for the neighbor islands—and the rural areas of O‘ahu as well, but for the neighbor islands especially—it becomes a huge impediment to actually going to school if they cannot get to school. And I would like it to encompass everyone. That was one of the original suggestions for an amendment. I didn’t think we had the support for that, so we moved to this. I hope that in the future we can actually take care of this entire issue once and for all. Thank you.”

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

“Madam President, the issue here is one of an unfunded mandate. We have the BOE having to decide how they’re going to manage the funds that they have and where they’re going to put this; and if we mandate—and we know the problems that they’ve had with the bus contracts and the bus contractor and the escalation of the cost to BOE—and I’m not sure if this body is prepared that if in fact it is a mandate, that they may have to take funds from other areas that may be a priority and maybe in the classroom. And so, I think that’s issues that need to be considered as we move forward. I believe the conference committees did look at that and did not put in the word ‘shall’ because of all of these issues. Thank you.”

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

The Senate reconvened at 12:14 p.m.

Senator Baker rose in support of the measure as follows:

“Madam President, colleagues, if we don’t assure that students can get to school and get to school safely, all of the good efforts and good works that we provide in the classroom will go for naught. I think this is a reasonable approach. It certainly helps those of us who have rural districts on the neighbor islands, and I would hope my colleagues would move this measure forward. Thank you.”

Senator Green rose in support of the measure as follows:

“I agree with some of the same statements that were made earlier, representing a very rural area and a very large area. Many families have extreme difficulties getting to school, and I hope this won’t exacerbate that problem. We definitely need to come back to this next year to make sure every kid has a bus ride to school. Thank you, Madam President.”

At this time, Senator English moved that Floor Amendment No. 15 be withdrawn, seconded by Senator Sakamoto.

The motion to withdraw Floor Amendment No. 15 was put by the Chair and carried.

Senator Sakamoto moved that Conf. Com Rep. No. 147-10 be adopted and H.B. No. 2486, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Takamine.

Senator Slom rose in opposition to the measure as follows:

"I rise in opposition to this bill. We are on H.B. No. 1854?"

The Chair responded:

"We are on H.B. No. 2486."

Senator Slom apologized and withdrew his earlier remarks in opposition.

At this time, the Chair made the following announcement:

"So members, just so that there's no confusion: Because the amendment has been withdrawn, we are now voting the underlying bill—H.B. No. 2486, C.D. 1, Relating to Education."

Senators Bunda and Chun Oakland requested that their votes be cast "aye, with reservations," and the Chair so ordered.

The motion was put by the Chair and carried, Conf. Com. Rep. No. 147-10 was adopted and H.B. No. 2486, H.D. 2, 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; Ayes with Reservations (Bunda, Chun Oakland). Noes, none.

At 12:17 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:27 p.m.

FINAL READING

MATTER DEFERRED FROM FRIDAY, APRIL 23, 2010

Conf. Com. Rep. No. 14-10 (H.B. No. 1854, S.D. 2, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 14-10 be adopted and H.B. No. 1854, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure as follows:

"The bill would allow the Department of Education to use the Food Distribution Program Revolving Funds for additional and unrelated expenditures, including consultant or personal services, travel expenses, purchases of furniture, equipment, computer hardware, and office supplies. I don't think that this is a proper use of Food Distribution Program Funds. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 14-10 was adopted and H.B. No. 1854, 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, 23. Noes, 1 (Slom). Excused, 1 (Ihara).

FINAL READING

MATTERS DEFERRED FROM MONDAY, APRIL 26, 2010

Conf. Com. Rep. No. 27-10 (H.B. No. 2497, S.D. 1, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 27-10 be adopted and H.B. No. 2497, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure as follows:

"As I said on the Senate floor previously, the original amount for the special purpose revenue bonds was to a company which is no longer in existence. This is the successor company, and there was only one organization that testified in support of this measure. The company on the Big Island supposedly has special patents for co-generation of non-fossil fuel electricity but does not have a track record in doing this. This Legislature and this Senate in the past has authorized the issuance of special purpose revenue bonds which have gone beyond the original purpose of education, health, and related services, and we have provided the special tax benefits from special purpose revenue bonds for organizations that never did come through with the plans and programs; and I think we have another questionable activity here. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 27-10 was adopted and H.B. No. 2497, S.D. 1, 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, 3 (Bunda, Hemmings, Slom). Excused, 1 (Ihara).

Conf. Com. Rep. No. 35-10 (H.B. No. 2688, H.D. 1, S.D. 2, C.D. 1):

On motion by Senator Gabbard, seconded by Senator Ige and carried, Conf. Com. Rep. No. 35-10 was adopted and H.B. No. 2688, 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, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 41-10 (H.B. No. 2644, H.D. 2, S.D. 2, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 41-10 be adopted and H.B. No. 2644, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator English.

Senator Slom rose in opposition to the measure as follows:

"What this bill will do is to expand the use of the surcharge for solid waste, including any solid waste which is transferred out of the state. It does not solve our solid waste problem. It does not do anything to mitigate or help recycling. All it does is expend the surcharge, which is a tax. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 41-10 was adopted and H.B. No. 2644, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 45-10 (H.B. No. 415, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Espero, seconded by Senator Kim and carried, Conf. Com. Rep. No. 45-10 was adopted and H.B. No. 415, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC SAFETY," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 47-10 (H.B. No. 2505, H.D. 1, S.D. 1, C.D. 1):

Senator Fukunaga moved that Conf. Com. Rep. No. 47-10 be adopted and H.B. No. 2505, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure as follows:

"This bill creates a new special fund, the Access Hawaii Special Fund, and I'll be opposing all special funds. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 47-10 was adopted and H.B. No. 2505, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ACCESS HAWAII COMMITTEE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 50-10 (H.B. No. 2084, H.D. 1, S.D. 1, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 50-10 be adopted and H.B. No. 2084, H.D. 1, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Chun Oakland.

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

"The reservations have to do with this is a federal matching program, and my understanding is we have no State funds to match the federal funds. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 50-10 was adopted and H.B. No. 2084, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE FEDERAL DISPROPORTIONATE SHARE HOSPITAL FUNDS," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 87-10 (S.B. No. 1230, S.D. 2, H.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 87-10 be adopted and S.B. No. 1230, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Ige.

Senator Slom rose in opposition to the measure as follows:

"This bill affects the taxation of certain tobacco products, cigars specifically, and it changes the method in which the State will tax the cigars, thus raising and increasing the tax. Currently, the cigars are taxed under State law based on their ring gauge. This would change that from 'ring gauge' to the definitions of 'little cigar' and 'large cigar.' And Madam President, I'm disturbed about this because I was always brought up to believe that size didn't matter, but apparently in tax matters and tobacco, it does. But I'll still be voting 'no.' Thank you."

Senator Baker rose in support of the measure as follows:

"Colleagues, when we changed the way that little cigars and cigars are taxed in our state last session, the definition of how to determine what a 'little cigar' and a 'cigarette' and a 'large cigar' are was inartfully drafted. This measure corrects that so that we don't have the inequities and allow that the State does not collect its appropriate share of revenues on these tobacco products since all of these tobacco products lead to health issues, cancer not being the least of them. So this measure ensures that we will bring into the State approximately \$460,000 of revenue annually, which I think the Chair of Ways

and Means would note that every little bit helps. I urge my colleagues to support this measure."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 87-10 was adopted and S.B. No. 1230, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 95-10 (S.B. No. 2610, H.D. 1, C.D. 1):

On motion by Senator Hee, seconded by Senator English and carried, Conf. Com. Rep. No. 95-10 was adopted and S.B. No. 2610, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CONVEYANCE TAX," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 96-10 (S.B. No. 2806, S.D. 2, H.D. 1, C.D. 1):

Senator Chun Oakland moved that Conf. Com. Rep. No. 96-10 be adopted and S.B. No. 2806, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Ige.

Senator Slom rose in opposition to the measure as follows:

"This would ostensibly raise the deposits that go into the emergency fund, but as we have seen and as we're seeing this week, the fund is just set up to be raided and to offset budget decreases. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 96-10 was adopted and S.B. No. 2806, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 97-10 (S.B. No. 930, H.D. 2, C.D. 1):

On motion by Senator Ige, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 97-10 was adopted and S.B. No. 930, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO VOLUNTEER MEDICAL ASSISTANCE SERVICES," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 98-10 (S.B. No. 2729, S.D. 2, H.D. 1, C.D. 1):

Senator Ige moved that Conf. Com. Rep. No. 98-10 be adopted and S.B. No. 2729, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure as follows:

"What this bill would do is to establish a Hawai'i immunization registry to maintain a single statewide source of information for immunizations. While the bill ostensibly protects and increases privacy, as we have seen nationally and locally, all computer records are suspect. They also have the potential of being hacked and personal information being taken. Medical information is just as valuable as financial information, and I think the idea of having a single statewide registry provides us with little privacy or protection. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 98-10 was adopted and S.B. No. 2729, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO IMMUNIZATION," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 103-10 (S.B. No. 2842, S.D. 2, H.D. 1, C.D. 1);

Senator Baker moved that Conf. Com. Rep. No. 103-10 be adopted and S.B. No. 2842, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Baker rose in support of the measure as follows:

"Colleagues, the purpose of this measure is to allow for financial planning and management operations in Hawai'i that would attract lucrative financial activity in our state, allowing for the creation of trust in perpetuity. Such operations have proven to be successful and beneficial in other states like Alaska and Nevada by bringing in financial activity from clients throughout the United States and the world. In such unstable economic times, it would be in the best interest of our state to expand and diversify our economic producing industries. Our fiduciary financial institutions and the potential market that see Hawai'i as a possible new destination for financial management opportunities have supported this bill and have collaborated with us to draft legislation that will promote the industry and provide certain protections for participating trustees. This industry has the potential to surpass our captive insurance industry in attracting wealth and associated jobs to Hawai'i. I can't think of many people who would choose Alaska for their trust business if Hawai'i were an option. I urge all of my colleagues to join me in supporting this new economic venture in our state and pass this measure. Mahalo."

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

"I certainly agree with the statements that were made by the previous speaker, except that there was one part that was not discussed, and that is, along with all of this business invitation is a 1 percent new general excise tax fee on the transfers at the time that the trust is set up. So, again, I think it's an important thing to encourage business—I certainly want to do that—and investment. I just am saddened that every time that this State thinks about expanding business, it also thinks at the very same time, 'How can we tax it? How can we regulate it?' Thank you."

Senator Bunda rose in support of the measure as follows:

"Madam President, please have the Clerk insert into the Journal the words of senator from Maui as if they were my own." (The Chair so ordered, by reference only.)

The motion was put by the Chair and carried, Conf. Com. Rep. No. 103-10 was adopted and S.B. No. 2842, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PERMITTED TRANSFERS IN TRUST ACT," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 105-10 (S.B. No. 1062, S.D. 1, H.D. 1, C.D. 1);

Senator Baker moved that Conf. Com. Rep. No. 105-10 be adopted and S.B. No. 1062, S.D. 1, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Ige.

Senator Slom rose in opposition to the measure as follows:

"This is an important bill because it affects professional employer organizations, or PEOs, and we've had a lot of discussion and some legislation over the past years. This bill, however, would serve as a barrier to entry for the larger PEOs

and against competition. It does require the PEOs to post a bond of \$250,000, which would be a burden for a number of business organizations, and a number of the smaller organizations, in fact, had sent in testimony in opposition to this. So, while we certainly want to encourage PEOs and we want to give fair legislation, this in fact is not fair to the smaller, more competitive organizations. Thank you."

Senator Baker rose in support of the measure as follows:

"Colleagues, professional employer organizations play an important role in the operations of many businesses in Hawai'i. Not only do these organizations provide staffing but also other personnel services such as wage payments, managing benefits, and paying the requisite taxes on behalf of their client companies. It is for that reason that appropriate regulation through registration and bonding of such organizations needs to be in place, to help protect our businesses and the workers in our state. This bill places the regulatory authority of professional employer organizations in the Department of Labor and Industrial Relations because of DLIR's recognition of the need for registration of PEOs and the nexus with the kind of information DLIR collects and oversees. The bill also requires a \$250,000 bond to ensure good faith duty of the professional employer organizations for transactions on behalf of their client companies; and I might point out that this is in line with what the other states require of the companies that they regulate. Colleagues, in this time where necessary employment protections are needed, I urge you to support the passage of this measure. Mahalo."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 105-10 was adopted and S.B. No. 1062, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Slom, Takamine). Excused, 2 (Ihara, Kidani).

Conf. Com. Rep. No. 106-10 (S.B. No. 2883, S.D. 1, H.D. 2, C.D. 1);

On motion by Senator Takamine, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 106-10 was adopted and S.B. No. 2883, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Hemmings, Slom). Excused, 2 (Ihara, Kidani).

Conf. Com. Rep. No. 108-10 (S.B. No. 2165, S.D. 1, H.D. 2, C.D. 1);

Senator Baker moved that Conf. Com. Rep. No. 108-10 be adopted and S.B. No. 2165, S.D. 1, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Espero.

Senator Baker rose in support of the measure as follows:

"May I have some remarks in support of the measure we just passed inserted into the Journal?"

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

"Madam President, I rise in support of SB 2165, CD 1.

"The purpose of this measure is to raise the professional and competency standards for the private guard industry by

establishing educational, criminal history, and training requirements for all individuals working in a guard capacity in this state.

“This measure came to our attention from the industry itself due to concerns that education and training requirements in the existing law were inadequate to protect the public and to provide for high-quality, professional guard services. Under current law, it is possible for an individual to act as an armed security guard with an 8th grade education and no formal training at all.

“Furthermore, the proliferation of the use of guards and private security forces has resulted in creating a group of individuals empowered by and answerable only to their employers, who are permitted to act authoritatively in potentially dangerous and threatening situations without adequate training and oversight, potentially placing both visitors and residents of the State at risk.

“This measure will subject all guards working in Hawaii to meaningful oversight and regulation that is in the best interest of the guard industry as well as the public’s safety, and urge my colleagues to support SB 2165, CD 1.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 108-10 was adopted and S.B. No. 2165, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PRIVATE GUARDS,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 109-10 (S.B. No. 2563, S.D. 1, H.D. 2, C.D. 1):

Senator Gabbard moved that Conf. Com. Rep. No. 109-10 be adopted and S.B. No. 2563, S.D. 1, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure as follows:

“In all the talk about alternative energy and incentives that we’re providing, we’re also providing additional taxes and fees, and this is one of those bills. It allows DBEDT to impose and collect fees to cover the cost of administering the variances that are permitted here and that are required. So, we’re talking in one hand about saving money; in the other hand, we’re putting the burden on additional people. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 109-10 was adopted and S.B. No. 2563, S.D. 1, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ENERGY EFFICIENCY,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 110-10 (S.B. No. 2599, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 110-10 be adopted and S.B. No. 2599, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Ige.

Senator Slom rose in opposition to the measure as follows:

“While I certainly support and agree to the results of screening of various diseases and illnesses, I have been opposed to the additional mandating on the Prepaid Health Care Act requirements for employers because it does add to the cost of already skyrocketing premiums. Thank you.”

Senator Baker rose in support of the measure as follows:

“Colleagues, this measure will ensure that all insured patients in Hawai‘i have access to the most effective way to screen and prevent colon cancer—access to a colonoscopy.

“Colon cancer will strike 1 in every 20 residents in Hawai‘i. Unfortunately, many who get diagnosed with colon cancer get diagnosed too late and ultimately die from this preventable and curable disease.

“The truth is that most patients who die from colon cancer were living for months, sometimes years, with a preventable, treatable, and potentially curable form of the disease, if only they’d had access to a screening colonoscopy. A colonoscopy has been shown numerous times to be extremely effective in reducing deaths from colon cancer. Unfortunately, right now, not all insurance plans in Hawai‘i cover this life-saving procedure. This in part explains why roughly half of all Hawai‘i residents who are at risk for colon cancer have not gotten their colonoscopy!

“With the enactment of this bill, health plans will reimburse for this effective screening tool and will be required to inform their members about the risks of colon cancer and encouraged to talk to their doctor about getting screened. Guidelines suggest a screening colonoscopy beginning at age 50 unless there are other risk factors.

“Now, colonoscopy can be an expensive procedure, prohibitively so for patients who may be forced to pay out of pocket. But when the cost is absorbed across the insurance risk pool, the State auditor’s office concluded that to screen all adults in Hawai‘i over 50 costs only 55 cents per enrollee per month. Much less costly than the treatment for colorectal cancer and who can put a price on life?

“S.B. 2599 mandates that all insurance plans in Hawai‘i provide coverage for all patients over age 50 for this life-saving and cost-effective procedure.

“Madam President, before I conclude my remarks, if I may be permitted a late introduction: I’d like to acknowledge and thank George Massengale of the American Cancer Society, who has helped the committee and all of us understand the risks and the need for a measure like this. So George, would you rise to be recognized? Thank you, Madam President.

“Colon cancer is preventable, treatable, and curable when it’s caught early. Let’s pass this bill forward and help save lives. Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 110-10 was adopted and S.B. No. 2599, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO HEALTH INSURANCE,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 114-10 (S.B. No. 2828, S.D. 1, H.D. 3, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 114-10 was adopted and S.B. No. 2828, S.D. 1, H.D. 3, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO EDUCATION,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 115-10 (S.B. No. 2324, S.D. 2, H.D. 2, C.D. 1):

Senator Takamine moved that Conf. Com. Rep. No. 115-10 be adopted and S.B. No. 2324, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure as follows:

“What this bill would do is further expand unemployment compensation benefits to a worker who voluntarily leaves the job. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 115-10 was adopted and S.B. No. 2324, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE BENEFITS,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 117-10 (S.B. No. 2054, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Espero, seconded by Senator Kim and carried, Conf. Com. Rep. No. 117-10 was adopted and S.B. No. 2054, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO CIVIL DEFENSE,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 118-10 (S.B. No. 2386, H.D. 1, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 118-10 be adopted and S.B. No. 2386, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure as follows:

“Again, this creates yet another new special fund at the University of Hawai‘i. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 118-10 was adopted and S.B. No. 2386, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII CAPITAL IMPROVEMENTS PROGRAM PROJECT ASSESSMENT SPECIAL FUND,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 120-10 (S.B. No. 2603, S.D. 2, H.D. 2, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 120-10 be adopted and S.B. No. 2603, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Baker rose to speak in support of the measure as follows:

“Madam President, I have some remarks in support of that measure I’d like to have inserted into the Journal.”

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

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

“Last year the legislature passed Act 32, which set forth the initial steps necessary to make Hawaii compliant to the federal Secure and Fair Enforcement for Mortgage Licensing act. The federal act calls for all states to be compliant with the national program by January 1, 2011. By that time all mortgage loan originators are required to be licensed and registered in the Nationwide Mortgage Licensing System.

“This bill looks to ensure that Hawaii will meet those standards by solidifying the licensing scheme established in Act 32, setting up the fees needed to implement the program and authorize the division of Financial Institutions to hire the necessary staff needed to implement and maintain the operations of the licensing program. In collaboration with the

Department of Commerce and Consumer Affairs and the various stakeholder groups, I feel that we drafted a bill that will assure the good faith effort that we have made to ascertain Hawaii’s compliance with the federal act, as well as providing a licensing system that will provide more stringent safeguards for consumers from unlawful mortgage loan transactions.

“Without this measure, the mortgage brokers and loan originators covered by the federal SAFE law will be unable to write loans in our state. I urge my colleagues to support its passage. Mahalo.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 120-10 was adopted and S.B. No. 2603, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 121-10 (S.B. No. 2661, S.D. 2, H.D. 2, C.D. 1):

Senator Taniguchi moved that Conf. Com. Rep. No. 121-10 be adopted and S.B. No. 2661, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

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

“As we know, every year we have a bill like this and we must pay for the claims against the State, but every year we see that, while we’re going through our deliberations, the amounts keep rising. And every year I stand up and say, ‘Maybe we could do a better job of not looking as a cash cow or deep pockets for those that file litigation against the State.’ Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 121-10 was adopted and S.B. No. 2661, S.D. 2, H.D. 2, C.D. 1, 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, 24; Ayes with Reservations (Slom). Noes, none. Excused, 1 (Kidani).

Conf. Com. Rep. No. 124-10 (S.B. No. 2461, S.D. 2, H.D. 2, C.D. 1):

On motion by Senator English, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 124-10 was adopted and S.B. No. 2461, S.D. 2, H.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO TRANSPORTATION,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 125-10 (S.B. No. 2548, S.D. 2, H.D. 1, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Kim and carried, Conf. Com. Rep. No. 125-10 was adopted and S.B. No. 2548, S.D. 2, H.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INFORMATION TECHNOLOGY,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 126-10 (S.B. No. 2534, S.D. 2, H.D. 1, C.D. 1):

Senator Espero moved that Conf. Com. Rep. No. 126-10 be adopted and S.B. No. 2534, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

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

"I think this is a good bill basically and the industry was in support of it, except that we, first of all, added a filing fee of \$30 and then that fee was increased to \$60. I don't think that bears any resemblance to the actual cost of processing the bail bonds. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 126-10 was adopted and S.B. No. 2534, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO BAIL," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 127-10 (S.B. No. 2385, S.D. 1, H.D. 1, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 127-10 be adopted and S.B. No. 2385, S.D. 1, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Taniguchi requested that 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. 127-10 was adopted and S.B. No. 2385, S.D. 1, H.D. 1, 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 (Taniguchi). Noes, 1 (Slom). Excused, 1 (Sakamoto).

Conf. Com. Rep. No. 129-10 (S.B. No. 2115, S.D. 1, H.D. 2, C.D. 1):

On motion by Senator Sakamoto, seconded by Senator Tokuda and carried, Conf. Com. Rep. No. 129-10 was adopted and S.B. No. 2115, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PREAUDITS FOR PROPOSED PAYMENTS," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 130-10 (S.B. No. 2434, S.D. 1, H.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 130-10 be adopted and S.B. No. 2434, S.D. 1, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Slom rose in opposition to the measure as follows:

"You know, we continue doing the same thing. We continue raising salaries, particularly related to the Department of Education, without requiring any proof of progress or benefits. As the good Senator from Waikiki read couple hours ago earlier, the last audit of the Department of Education was 1973. Some of the problems that were written about then are exactly the same problems we're going through today. It is not a question of lack of money or lack of salaries. We're spending over \$2.5 billion per year for the Department of Education, and yet we don't hold people accountable for their results. By raising salaries that doesn't make the problem go away; it exacerbates the problem. Thank you."

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

"I understand the need to hire good people at a good salary. However, I have a problem when we're talking about a \$90,000 bonus for the superintendent and a \$50,000 for the deputy superintendent. Their job is to make certain our schools are prepared to educate our children to the best that is possible; and when we do well, why should we give them \$140,000 worth of bonuses? Why don't we filter that money down to the schools? Thank you."

Senator Sakamoto rose in support of the measure as follows:

"What doesn't work is when people try to hold other people down. What doesn't work is when we look at scarcity of money, not looking at excellence. This measure attempts, should it pass, to include performance measures.

"Currently, our superintendent here makes less than some of the principals in our schools. I'm told that the average superintendent makes something like \$228,000. This measure before us proposes to take one step, moving the cap from \$150,000 to \$160,000, but as constructed, does provide opportunity to hire not just based on some cap and not just based on somebody saying, 'I'm not coming here unless you pay me a lot of money.' It's based on performance bonuses, stepping up incrementally over several years. And for the superintendent, it's based on student achievement, leadership based on outcomes of employees supervised by the superintendent, community relations; and targeted outcomes developed through an agreement between the Board of Education and the superintendent.

"So, I think it's a good point to say, 'Send more dollars to the schools,' but no one should argue that leadership does matter. We talk about principals being leaders of schools and having excellent achievement. We need to have leadership from the top. Because I was not just for raising the cap just because others are paid more, here's an opportunity for the superintendent, the deputy assistant superintendents, and the complex area superintendents to show that through performance—and for the assistant superintendents, it's support of student achievement—we are moving forward. But this is just part of the picture.

"I passed out our traditional cubes showing where different measures affect, and in the top block, you see educational achievement, the salary cap and adjustments. If you look in the middle at Senate Bill 2120, which we already passed, talks about alternative routes to certification. So we need the better core of principals, vice principals. The bottom block, teachers, talks about the Teachers Standards Board—which still has many problems. Members, we should be happy that all of this is accountability, not treating people as one size fits all. If you go to the accountability block, DOE longitudinal student and workforce development data, we already passed that. But that's UH, DOE, and Department of Labor and Industrial Relations' education to the workforce—all of these measures depend on leadership, depend on treating students not as one size fits all. We want leaders that will excel in student achievement, community relations, the people they supervise, etc.

"And finally, we passed a bill earlier on the school time, and certainly we were remiss, maybe as a body, not having enacted as other states have regarding instructional time. But we need the leaders we have to be excellent leaders, not just saying they're showing up at the job, but performing. I feel and I hope we all feel that adding performance measures on top of what we have now will bring better student achievement, better leadership, and not just more time in school.

"And I will be remiss if I didn't mention two of the advocates, Melanie Bailey and Kathy Bryant, who had worked hard, calling schools in our state, calling schools across the country, looking at reports from places like Education

Commission of the States to say, 'Where are we compared to other states?' And not just in salary, not just in number of days, but in number of hours. So when we move from 180 instructional days, 6 hours a day, to 190 instructional days, 6 hours a day, we need leaders that will perform. So this measure, to me, is an important part of getting the best performance from the best people possible and having them work to attain those measures, not just given across the table because somebody asked, but they need to work for it. So I ask all of my members to be in support.

"Accountability is so important, and I think instead of just writing words—and furlough issues bring it to mind—all of you, many of you read to students. Many of us here honor our principals and other people. As long as we remember—whether it's charter schools, professionals, or our leaders—that they are people, not one size fits all, and there's not going to be a simple solution to fix this. We need to look at all aspects of our educational problem. And again, I think this body should be very thankful that over this year many important measures—there are more tomorrow—but many good things are happening. So let's continue to be positive. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 130-10 was adopted and S.B. No. 2434, S.D. 1, H.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, 22; Ayes with Reservations (Espero). Noes, 2 (Hemmings, Slom). Excused, 1 (Hee).

Conf. Com. Rep. No. 133-10 (S.B. No. 2951, S.D. 2, H.D. 2, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 133-10 be adopted and S.B. No. 2951, S.D. 2, H.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kim.

Senator Slom rose in opposition to the measure as follows:

"This bill seems to be a reincarnation of last year's S.B. 1345 that was vetoed by the Governor. The current bill does not provide for reimbursement of lessees' loss of reasonably anticipated income or for an automatic lease extension when land is taken for public purposes, but like the bill from last year, the measure would require the State to provide unprecedented additional levels of compensation in the circumstances in the form of hypothetical future income losses relating to breeding livestock under some circumstances, instances of insurance costs, and real property taxable taxes paid on land subsequent to the original lease date. The bill probably is in direct conflict with basic contract law and the general State welfare in order to pass a measure which now requires the State to provide not ordinary, but extraordinary and unprecedented compensation to those tenants after they've reaped years of benefit from below market rates. The DLNR had testified against this, talking about unknown and anticipated costs in the future. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 133-10 was adopted and S.B. No. 2951, S.D. 2, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 136-10 (H.B. No. 2775, H.D. 2, S.D. 2, C.D. 1):

On motion by Senator Hee, seconded by Senator Tsutsui and carried, Conf. Com. Rep. No. 136-10 was adopted and H.B. No. 2775, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO AGRICULTURE," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, 1 (Slom).

Conf. Com. Rep. No. 139-10 (H.B. No. 1948, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Kim, seconded by Senator Kokubun and carried, Conf. Com. Rep. No. 139-10 was adopted and H.B. No. 1948, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 140-10 (H.B. No. 2594, H.D. 2, S.D. 1, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 140-10 be adopted and H.B. No. 2594, H.D. 2, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Kokubun.

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

"You heard me say it before, year after year after year: This is the annual bill to put Hawai'i tax law in conformity with federal tax law, and it seems that we always pick up the things that will result in more taxes. But the thing that always has bothered me and still does is that the personal exemption in Hawai'i, the value of a person, is one-third that of what we get from the federal 1040 tax form. The question arose a short time ago on another bill: How can we put the value of a life? Well, apparently, the State Tax Department and the federal Internal Revenue Service can do that, and Hawai'i citizens are worth one-third of what a federal citizen is worth. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 140-10 was adopted and H.B. No. 2594, H.D. 2, S.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; Ayes with Reservations (Slom). Noes, none.

Conf. Com. Rep. No. 141-10 (H.B. No. 2583, S.D. 2, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 141-10 be adopted and H.B. No. 2583, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Tsutsui.

Senator Bunda rose in opposition to the measure as follows:

"Just briefly, Madam President: The original intent of this bill was to amend the HRS to clarify the costs and expenses associated with impounding marine vessels, so it was appropriately named 'Relating to Impounded Vessels.' However, this bill was later amended to establish penalties for shark feeding. According to testimony by the attorney general's office, they believe the shark feeding amendment does not have any relationship to the impounded vehicles and thus it actually violates Article III, Section 14 of the Hawai'i Constitution that states that 'each law shall embrace but one subject, which shall be expressed in its title.' While I support the original intent of the bill, I do not support the shark feeding amendment.

"If we pass this bill, it may adversely affect two shark tour businesses on the North Shore, and ultimately it will also hurt the North Shore community. Both shark tour businesses not only provide jobs for local residents, but they also are an integral part of the community, supporting schools and other organizations with time and money. I understand the concerns for those who are against shark feeding but both shark tour companies have had businesses in the North Shore for years. It's been there without any kind of incident. There appears to

be no scientific evidence to suspect otherwise in the future. Thank you, Madam President.”

Senator Slom rose in opposition to the measure as follows:

“I concur entirely with the previous speaker’s statements. Thank you.”

Senator Hee rose to speak in support of the measure as follows:

“The fact of the matter is chumming for sharks is already against the law. What this bill does is provide the disincentive to engage in an illegal practice. I perhaps more than most other legislators this year have been involved with the shark finning bill, and I’ve been involved perhaps more than most legislators with the community of shark advocates, which includes one of the shark tour operators whom I introduced earlier this morning. They have indicated that in fact they don’t chum, that they use some kind of electronic signal. I’m aware that evidently there is a matter before the prosecutor which may involve chumming, but it’s an effort to enforce the law. I would also note that the two North Shore companies are not the only companies engaged in chumming. There’s evidently two companies that also engage in this activity off of Waikiki.

“No matter, in my opinion, how you look at it, it’s not a good idea, in my opinion, and I think that the law is clear and that this effort is made to bring conformity to the law and make the disincentives strong enough so that those who may be in violation of the law risk the loss of the impounded vessel, so that it sends a strong and clear message along those lines. Thank you.”

Senator Slom rose in rebuttal and said:

“You know, we’ve heard this session and past sessions, too, about the illegal activities of legal businesses in the shark feeding area; and these companies are open. They’re above board. They’re active in their communities; and if in fact they were involved in illegal activities, with all of the spotlight that we’ve put on them, with all of the words that we’ve used, one would think that if they were violating the law, the laws would be enforced and they would have been penalized. Obviously, there is a problem with some of my colleagues in distinguishing between legal activities and illegal activities, and I think that the firms that were described by my colleague from the North Shore and the words that I agree to certainly fall into the category of legal activities. Thank you.”

Senator Hee rose in rebuttal and said:

“Well, then if the previous speaker is accurate, then there’s nothing to worry about and we ought to pass this law. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 141-10 was adopted and H.B. No. 2583, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO IMPOUNDED VESSELS,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 143-10 (H.B. No. 2441, H.D. 2, S.D. 2, C.D. 1):

Senator English moved that Conf. Com. Rep. No. 143-10 be adopted and H.B. No. 2441, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Hee.

Senator Slom rose in opposition to the measure as follows:

“Again, this is another one of those bills that seeks to skirt the procurement law, and I think the insidious feature in this bill is that it allows gifts to be made—gifts and donations to the

State. I think that any reasonable person could infer that those gifts at the time people were seeking an exemption or specific expedited action by the government, they could look at those gifts as being pay for play; and in any event, we talked earlier about a bill that was seeking ethical procurement. I think this would be a prime example of unethical behavior. Thank you.”

The motion was put by the Chair and carried, Conf. Com. Rep. No. 143-10 was adopted and H.B. No. 2441, H.D. 2, S.D. 2, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PROCUREMENT,” passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 144-10 (H.B. No. 2133, H.D. 1, S.D. 1, C.D. 1):

On motion by Senator Fukunaga, seconded by Senator Taniguchi and carried, Conf. Com. Rep. No. 144-10 was adopted and H.B. No. 2133, H.D. 1, S.D. 1, C.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PROCUREMENT,” passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

Conf. Com. Rep. No. 145-10 (H.B. No. 1808, H.D. 3, S.D. 1, C.D. 1):

Senator Hee moved that Conf. Com. Rep. No. 145-10 be adopted and H.B. No. 1808, H.D. 3, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator English.

Senator Hemmings rose in opposition to the measure as follows:

“This legislation attempts to address a problem that is ongoing and is going to become worse as the years go by unless we find a comprehensive solution. Several years ago, we passed a bill that would’ve stopped someone from accreting land and getting possession of it through adverse possession after holding it for 20 years; where Kailua beach, particularly the beach was being watered to grow the naupaka so that the owner could claim 20 years hence that land had accreted and they own it. The problem is just the opposite in many areas of Kahala Beach. There are some areas where the beach is accreting, but there’s a much more serious problem where the beach is eroding, and the naupaka actually serves as a natural barrier against erosion.

“This problem on the shorelines throughout the entire island is going to continue until we change and move away from previous Supreme Court decisions and common law (as goes back to even riparian rights) and adapt a surveyed boundary for the ocean side of any property so that the high wash mark does not become the legal definition of the boundary.

“There’s another egregious factor of this bill. It’s one of the proponents of it who’s arguing real vigorously to make sure that ‘the public has access to the beach’ and was down here testifying in favor and actually dragged the Chairman of the House Environment Committee over to a Senate hearing on this bill to bolster her position. Lives on an area of Kahala Beach with the worst thing for the environment on the beach, a wall, on the beach in front of her house where no one can walk; and to add insult to injury, the same owners in the same area back after the divestiture of Kamehameha Schools’ Bishop Estate land bought the road owned by Kamehameha’s Bishop Estate in front of their house. So people do not have vertical access to the beach, nor do they have lateral access along the beach in front of the proponents of this bill. So for hypocritical reasons like that and for the practical point that we have a serious problem with eroding beaches that has to be addressed seriously, I urge my colleagues to continue to look at this

problem as time goes on. I will vote 'no' in hopes that you will do it.

"I will remind everybody that about 1,200 miles of my district is atolls, the last one being southeast of Japan, Kure Atoll. At low tide, it's a sandbar like Kāne'ohe. The truth of the matter is that these Hawaiian Islands—and hopefully it'll take a long process—will eventually slide under the Asian continent and disappear forever. In the meantime, they will erode from islands down to sandbars, and it is a problem that is inescapable, and until we start dealing with it intentionally and protecting the vested land rights for shore owners while also protecting, intelligently, access to the shoreline, we're going to continue to be throwing piecemeal solutions like this ill-conceived one, and I urge my colleagues to consider this in the future. I'll be voting 'no' and probably the only one to do so. Thank you, Madam President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 145-10 was adopted and H.B. No. 1808, H.D. 3, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO COASTAL AREAS," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 146-10 (H.B. No. 347, H.D. 2, S.D. 2, C.D. 1):

Senator Tokuda moved that Conf. Com. Rep. No. 146-10 be adopted and H.B. No. 347, H.D. 2, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Tokuda rose in support of the measure as follows:

"Colleagues, this measure has gone through numerous changes over the last two years, and I believe we have a bill before us that will do the good it hopes to achieve while seeking to prevent and contain the potential harms that have been speculated.

"H.B. No. 374 would create a two year pilot exempting the University of Hawai'i from the State procurement code, while requiring them to adhere to some of the sections of the code and putting in place provisions in their statute that would further safeguard bidders in the awarding of contracts. At the end of the day, the goal is to be able to efficiently award and complete some, if not all, of the over \$250 million in funded projects ready to go, while still maintaining a high level of fairness, transparency, and integrity in the process.

"In talking with stakeholders and listening to their concerns, your Conference Committee created a subcontractor listing provision requiring bidders on projects over \$1 million, to list their subcontractors who perform work with the value of at least five percent of the total award. We also put into the University's statutes requirements to hold pre-bid conferences and the right to audit records in order to ensure transparency and accountability.

"The University will also not be exempt from HRS 103D-304, which deals with the procurement of design professional services; 103D-110, which deals with mandatory education and training for procurement officers; 103D-324, relating to contract and performance bonds; 103D-707, which outlines remedies after an award; and 103D-1002, which creates a preference for Hawai'i products.

"To ensure the Legislature's continued oversight of this pilot project, this measure also requires the University to report back each year on the internal procurement process they establish, a description of the internal procedures established for handling protests of solicitations or awards of contracts, and a description and summary of any protest or litigation that have arisen during the prescribed time period. We should also keep in mind that

the University is the recipient of hundreds of millions of dollars in federal funding, and as such, must continue to maintain a high level of accountability in their procurement practices.

"It is my hope that over the next two years we will also be able to identify best practices and possible improvements for the State procurement code. While the State procurement code was put into place to prevent abuse and ensure fairness in the awarding and management of public contracts, during these difficult economic times it has largely been used as a weapon by some to lapse funds and prevent others from receiving State contracts. With over \$250 million in important funded projects ready to go, we have the opportunity to ensure that our students and faculty have a safe and conducive learning environment, increase revenue to the University through an improved indirect cost rate, and put our men and women in the construction trades back to work.

"Colleagues, I appreciate your patience as we have modified and improved upon this measure, and I would ask for your support in passing this bill. Thank you."

Senator Sлом rose in opposition to the measure as follows:

"While I certainly appreciate and applaud the efforts of the Chair of the Higher Education Committee and do recognize that over these last several years where this bill has been bouncing around, improvements have been made. Nevertheless, it still is yet another one of the many bills that I've spoken on already seeking exemptions from the procurement code.

"Now the honest thing to do if we have so many people seeking exemptions is to change the procurement code or at least to look at that, rather than carving out special exemptions. But the problem here, the Chair has read off the various chapters that would be affected, and one of the major areas is that area of protest. And what the University testified to and what they're trying to do is to get away from the more stringent requirements under the procurement code which allows protest and which in the past has hampered the University in some of their projects. No one likes protest, but unless we change the procurement law, we don't want to be able to just say, 'The protest is going to be set aside,' or, 'It's going to be applied by the rules that the University is now going to develop.'

"So, I think the prudent course really is to make any changes, as necessary, within the procurement code; and as I addressed the issue earlier, there are provisions right now for exemptions to the code. Exemptions have been made to the chief procurement officer. Exemptions have been granted. Exemptions have come from the University. So, in other words, we do have a process, the process works, but this is the wrong way of providing additional exemptions. Thank you."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 146-10 was adopted and H.B. No. 347, H.D. 2, 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 (Ihara, Kim, Nishihara). Noes, 2 (Hooser, Sлом).

Conf. Com. Rep. No. 148-10 (H.B. No. 2542, H.D. 1, S.D. 2, C.D. 1):

Senator Kim moved that Conf. Com. Rep. No. 148-10 be adopted and H.B. No. 2542, H.D. 1, S.D. 2, C.D. 1 pass Final Reading, seconded by Senator Kidani.

Senator Sлом rose in opposition to the measure as follows:

"Wow! This is the granddaddy of all raid bills for this year. We've got 25 special funds that are going to be raided, including the deposit beverage container fund, the Hawai'i tobacco settlement fund, the agricultural loan reserve fund, the disaster loan fund—all of these funds. And everybody asks why do I vote against the creation of new special funds year after year after year? Because there's no such thing as a special fund. We grow them. We raid them. In the meantime, the public thinks that their money, the extra money, the extra taxes, are going for a specific purpose, but it's not used for that purpose. It's dumped into the general fund. I'm voting 'no.' Thank you."

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

The motion was put by the Chair and carried, Conf. Com. Rep. No. 148-10 was adopted and H.B. No. 2542, H.D. 1, S.D. 2, 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, 18; Ayes with Reservations (Chun Oakland, Gabbard, Ihara). Noes, 7 (Baker, Bunda, Fukunaga, Green, Hemmings, Ige, Slom).

Conf. Com. Rep. No. 149-10 (H.B. No. 2318, H.D. 2, S.D. 1, C.D. 1):

Senator Sakamoto moved that Conf. Com. Rep. No. 149-10 be adopted and H.B. No. 2318, H.D. 2, S.D. 1, C.D. 1 pass Final Reading, seconded by Senator Chun Oakland.

Senator Sakamoto rose in support of the measure as follows:

"We see homeless all over the place and it's very frustrating. This measure is sort of a sleeper because it wasn't discussed a whole lot because initially there were no funds to support it. But I'll read part of it, and it says: 'Moving chronically homeless individuals into housing directly from streets and shelters, without a precondition of accepting or complying with treatment; provided that the authority may condition continued tenancy through a housing first program on participation in treatment services.' Housing First has created a mechanism to take people who may be initially resistant and provide a place for them to be safe and housed, then wrap around services to ideally transform them from the street corner, from the cardboard box, from the blue tarp to a life that's safe. Hopefully with proper treatment they can become productive citizens in our society. So I ask our colleagues all to vote in favor. Thank you."

Senator Slom rose in opposition to the measure as follows:

"It seems that we often patronize people. In this case, we're patronizing the homeless because we are saying that this program, which they have not adopted—the housing first program—is so good that we'll force them to do it no matter what they want to do. And, in addition, we'll create another special fund for the homeless. You can't force people to do things that they do not want to do unless you make it attractive and provide incentives. Obviously we have not done that in this program. Forcing them to do it and creating another special fund is not an answer. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 149-10 was adopted and H.B. No. 2318, H.D. 2, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HOMELESS," passed Final Reading on the following showing of Ayes and Noes:

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

Conf. Com. Rep. No. 153-10 (S.B. No. 2849, S.D. 2, H.D. 1, C.D. 1):

Senator Takamine moved that Conf. Com. Rep. No. 153-10 be adopted and S.B. No. 2849, S.D. 2, H.D. 1, C.D. 1 pass Final Reading, seconded by Senator Taniguchi.

Senator Slom rose in opposition to the measure as follows:

"I believe that the primary concern with this bill is the constitutionality, or rather, the unconstitutionality of the bill. What the bill seeks to do is to make sure that the chief executive is not allowed to withhold any funds and, in fact, is directed to make the allocation of any legislative funds. I think that we already decided that in a legal case two years ago involving then-Governor John Waihe'e. The court ruled very clearly that the executive has the ability to allocate or to withhold any funds that are derived from the Legislature. What this would do is to carve out an exemption just in the case of the Employer Union Trust Fund, or the health plan; and so as a result, I believe that if and when challenged, it will be found to be unconstitutional. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 153-10 was adopted and S.B. No. 2849, S.D. 2, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND," passed Final Reading on the following showing of Ayes and Noes:

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

FINAL READING

MATTER DEFERRED FROM WEDNESDAY, APRIL 14, 2010

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

Senator Kim moved that S.B. No. 2001, S.D. 1, H.D. 1 pass Final Reading, seconded by Senator Fukunaga.

Senator Slom rose in opposition to the measure as follows:

"This bill and another bill that we'll take up involve tax credits that had been advanced by the State, and now they're going to be withdrawn. And I think the problem with this bill and with others like it, it's one thing if you have the tax credits or any kind of program, and then later on you decide that either you can't afford it or it's not working or people have violated the conditions. In this case with these tax credits, people in good faith, businesses in good faith relied upon the incentives that the State has provided, and now the State wants to take away those incentives. The case for the revenue versus expenditure I don't think was adequately made by the State Department of Taxation, but the most important situation, whether you're talking about an individual or a business, when they rely on something that you've put out there, you cannot then take it away. If you do so, you're endangering not only the business and investment climate, but you're also inviting potential lawsuits. It's a bad bill. It's a bad precedent. We should not support it. Thank you."

Senator Baker rose in opposition to the measure as follows:

"Through Act 221 and its predecessors, the Legislature was very forward thinking in creating tax incentives to encourage the development of high tech businesses in the state. That effort has been successful. What was an industry of a few hundred people in the state (outside of the defense sector) in 1999 is emerging into a vibrant and growing economic engine in our economy.

"I was Maui County's economic development coordinator when the Legislature passed these important measures beginning with Act 178, Session Laws of Hawai'i 1999,

followed closely behind in 2000 by Act 297. So I've been able to see firsthand the positive impact Act 221 has made in Hawai'i. On so many fronts we've been able to bring many of our kama'aina home to good paying jobs in growing scientific and technology laden fields. We've attracted investment into Hawai'i, a commodity otherwise in short supply in our state. The Legislature's foresight created good paying jobs, increased tax revenue far in excess of the cost of the credits, spawned new businesses and more jobs, and helped innovative ideas develop into viable businesses and products. Hawai'i has always had the creativity and the brain power; what was lacking was the capital to prove it.

"Unfortunately, what the Legislature was insightful in creating it is poised to cripple if not destroy along with our state's reputation of being a positive environment for scientific and high tech ventures. S.B. 2001 laudably seeks to extend the tax credit for research activities for an additional year but it does so at the expense of an early repeal of Act 221, thereby closing the incentive for high tech investments in our state. The opportunity cost of repealing the last six months of a 10 year law in terms of the State's reputation is simply too high. If we want to seriously consider future capital formation and mechanisms to support the nurturing of an innovation economy, we must take a long-term position. Repealing Act 221 six months early will send the message to the investment community—not just locally, but nationally and internationally as well—that Hawai'i is simply not a good place to invest: Our tax and investment laws are not dependable; they lack certainty, credibility; and are unreliable for business planning and execution. Having such a profile will cost us dearly for any future effort to grow our economy if offshore capital is required, or even if people in our state, residents, want to invest.

"In addition, this measure will result in irreparable harm to companies that have relied on the investor tax credit to develop their financing plans with a capital structure design premised on Act 221 and the expectation that Act 221 would sunset 12/30/2010. Previous changes to the investor tax credit have already injected a great deal of uncertainty into investors' minds and reduced local companies' ability to raise funds. This measure and the one that follows, S.B. 2401, if enacted, will certainly be the death knell to otherwise promising and growing companies. Many of us received an e-mail from a local software company entrepreneur outlining the damage that will befall his small but growing employee- and investor-owned business with the passage of S.B. 2001 and S.B. 2401. Madam President, I would like to insert the e-mail comments of Mike Curtis into the Journal along with my remarks. [The Chair having so ordered, the e-mail of Mike Curtis is identified as "ATTACHMENT A" to the Journal of this day.]

"Finally, Madam President, we all acknowledge that these are very trying times to balance the budget and to enact appropriate policies to help, not impede, the recovery of our economy. However, I respectfully suggest that this bill moves us in the wrong direction. It sends the wrong message. It creates potentially unconstitutional policy in violation of the due process clause of the Fifth Amendment to the United States Constitution—all of this for very little gain. An objective review of this measure concludes that the revenue estimates provided by the Department of Taxation are bogus and not based on realistic assumptions or solid calculations.

"Act 221 and other supportive policies helped reverse the brain drain of the 1990s by creating high paying jobs, enabling many kama'aina to return home to these islands. Act 221 attracted over a billion dollars of investments in the form of 'cold hard cash' into our economy over the past decade. Colleagues, now is not the time to turn our back on an industry that represents a bright future for our children and an industry that helps diversify our economy. With Google currently

considering Hawai'i as a site to test its ultra high speed broadband, the timing could not be worse for the State to backpedal on high tech investments. I urge my colleagues to join me to go back to the future and vote 'no' on this measure. Mahalo."

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

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2001, S.D. 1, and S.B. No. 2001, S.D. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," and Roll Call vote having been requested, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 14; Ayes with Reservations (Gabbard, Nishihara, Sakamoto, Taniguchi). Noes, 11 (Baker, Bunda, Chun Oakland, Espero, Fukunaga, Green, Hemmings, Hooser, Ige, Ihara, Slom).

FINAL READING

S.B. No. 2172, S.D. 2, H.D. 1:

On motion by Senator Sakamoto, seconded by Senator Kim and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2172, S.D. 2, and S.B. No. 2172, S.D. 2, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST KAIMUKI CHRISTIAN SCHOOL," passed Final Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

FINAL READING

MATTER DEFERRED FROM WEDNESDAY, APRIL 14, 2010

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

Senator Kim moved that S.B. No. 2401, S.D. 1, H.D. 1 pass Final Reading, seconded by Senator Fukunaga.

Senator Slom rose in opposition to the measure as follows:

"Just like the discussion we just had on S.B. 2001, this is the other shoe dropping. I think that my colleague, the senator from Maui, made excellent points about the shockwaves that this process would send to investment in the future, particularly technology investment.

"This bill is so flawed, it's really difficult to know where to start. It's got to be unconstitutional, in violation of both the United States and Hawai'i constitutions under the due process clause. It also uses the retroactive feature; and as I said earlier, if you're going to end a program, that's fine but you don't do it in the middle of the incentivizing when people have relied upon this, when they have used their time, their expertise, their resources and cash, and so forth. It's just not the way to further a legitimate legislative purpose.

"The other point is that there is debate, at the least, as to the negative impact of these tax credits. Most of us who have looked at the credits and examined them carefully found that in fact there was a positive impact, overwhelmingly so; and that's why I indicated earlier my personal belief is that the State Tax Department did not do a very credible job of enforcing its logic for why we should do away with these credits at this time.

"Finally, the idea of inviting lawsuits is one aspect of this, but the loss in business, the further blow to our already mixed signal business climate is reason enough to not support this kind of bill.

"So Madam President, I ask again for a Roll Call vote [The Chair so ordered] and ask my colleagues who are on the fence or who voted for the first bill to reconsider because this has far-reaching impact and people outside of this state—people that can provide jobs, people that can help us with our economy and long term cash revenues for education and other means—will be looking at how we vote on this measure now. Thank you."

Senator Fukunaga rose in opposition to the measure as follows:

"I find it quite amazing that the prior speaker and I are together on this measure, so perhaps in tax policy, politics in fact does make strange bedfellows."

"While I can appreciate the urgency of the need to address the State's revenue shortfalls for fiscal '10 and fiscal '11, relying on this method of closing the gap makes no sense. Here's why: The House's amendment to S.B. 2401, S.D. 1 have raised numerous constitutional concerns, which means that if adopted, the bill will be challenged immediately on the following grounds: It violates protections, depriving Hawai'i taxpayers of property without due process in violation of the U.S. and the Hawai'i constitutions, and effectively confiscates the credits for three years. It raises a serious issue of whether the Legislature is effectuating a property taking without just compensation, again in violation of the U.S. and the Hawai'i constitutions. It violates the contracts clause, stating that 'no state shall pass any law impairing the obligation of contracts in violation of the U.S. Constitution.'"

"I have shared a detailed analysis of the constitutional problems in S.B. 2401 written by former Attorney General Bronster with all senators, but the same time, other well-respected trial attorneys have weighed in with their concerns over the constitutional impairments of this bill. Any revenues to be generated by S.B. 2401 will have to be deposited under protest into a litigation account until the court challenges are over and will definitely not be available if the challenges are upheld."

"Equally importantly, this bill sends the clear message to everyone that Hawaii's financial commitments will not be honored if we find ourselves in a fiscal crunch. For example, investment companies that have issued Hawai'i bonds rated by Moody's will be at risk since portions of their cash flows were derived from the contractual flow of tax credits from the State of Hawai'i to investors as promised pursuant to Act 221. If payments are missed for any reason, the Hawai'i securities would be downgraded from investment grade to junk bonds. As pointed out in a recent commentary in the *Honolulu Advertiser*, the state legislature's retroactive delay or elimination of the ability of an investor to claim an authorized and approved state tax credit will have an immediate and chilling impact on the investor community's willingness to make future investments in that state. The long-term effects of such an action will then spread far beyond the state, potentially harming the state's national reputation as investors and businesses lose faith in a state's willingness to honor its commitments. With our state dropping in rank from number 33 to number 47 in the April 2010 Municipal Credit Research State of the States Report, such a loss of reputation and investor confidence comes at a time when our state is being identified as having very high economic debt levels, poor business climate, and falling home prices. On the other hand, during the past three administrations, Hawai'i was among the top-rated states in terms of credit worthiness and fiscal stability."

"Finally, in looking at what S.B. 2401 will do to one of Hawaii's exemplary renewable energy businesses, I'd like to close with a quote from Robert and Kelly King's message to all of us:

Pacific Biodiesel is close to completing what has turned out to be a two year long process to raise \$10 million to build a state-of-the-art biodiesel plant on the Big Island. This project will create jobs, displace more fossil fuel imports, and help to revitalize the agricultural sector. We are one of a very few companies in Hawai'i, who in spite of the economic crisis and S.B. 1999 passed last year, had been able to attract close to 30 mostly small community-minded investors, all of whom are Hawai'i taxpaying residents, each with his own personal and or business 'ohana. We understand the need to early retire Act 221, but by reneging on the agreements made to people who have invested in good faith, you are pulling the plug and throwing it away for decades. It is ironic that all government officials talk about investing in the future while we have a Legislature that proposes to do the opposite. Please do not pass S.B. 2401."

"Thank you."

Senator Kim rose in support of the measure as follows:

"Madam President, on the issue of the constitutionality, I do have a written response from the attorney general dated April 13, 2010, and in this response they say that 'although the proposed legislation is not free from all doubt and could be the subject of a challenge, we believe a strong argument can be made that S.B. No. 2401, H.D. 1 is constitutional.' It goes on to say that 'moreover, it is recognized by Hawaii's federal judicial court, the 9th Circuit Court of Appeals, in the case of *Quarty v. U.S.*, which cites the United States Supreme Court case that the purpose of raising government revenue is a legitimate legislative purpose. We understand that businesses have relied upon the credit in their planning and may be impacted by this measure. However, it is well established legal principle that has been articulated and reiterated by the Supreme Court that legislation readjusting rights and burdens is not unlawful solely because it upsets otherwise settled expectations.' And then they end by saying, 'Because S.B. No. 2401, H.D. 1 merely suspends various credits and does not repeal them altogether and for the other reasons discussed, including the fact that the amendments appear rationally related to the governmental purpose of raising revenue, we believe that the provisions of this bill could withstand a challenge under the due process clause.' Thank you, Madam President."

Senator Slom rose in rebuttal and said:

"I always find it interesting when my colleagues quote the attorney general because usually they treat him like chopped liver, but when it is a specific issue, then they're using his particular findings. In that opinion that he gave that was just read, he was talking about the Legislature's ability to raise revenues, and nobody is disputing that. What we're saying is that this goes far beyond revenues, particularly short-term revenue gains. We're talking about the long-term image of this state and the long-term ability to attract revenues and investment, and more importantly, job creations."

"When the attorney general talked about being able to defend against those that had expectations—again we're not talking about expectations. We're talking about real people who relied on the law itself the way it was, and because of that reliance, they actually put themselves in jeopardy in terms of business relationships, in decisions that were made, resources expended, and cash made either available or unavailable."

"So, I think that when we're looking at this, again, I urge my colleagues, as my new 'bestest friend' from the EDT Committee, if we're joining together, you know it's got to be the right thing to do. And, in addition to that, when we talk

about this being just a temporary, a temporary suspension, when does anything that the government does, when it has to do with money and taking from one group to give to another, when does that ever prove to be temporary? So colleagues, please, we're going to do a Roll Call vote. You've got an opportunity to stop this and to restore the credibility of Hawai'i as a business and investment opportunity. Thank you."

Senator Baker rose in opposition to the measure as follows:

"I have some longer remarks that I'd like to have included in the Journal, but I would like to just touch on a couple of points made by the previous speaker because I think they're so very, very relevant and I would like to associate myself, although it may seem a little unusual with those of the good senator from Hawai'i Kai.

You know, proponents argue that the credits are not being repealed; they're only being suspended. Unfortunately, the net effect is the same. Our Legislature's retroactive delay of an investor's ability to claim an authorized and approved state tax credit will have an immediate and chilling impact on the investment community, not just locally but nationally and internationally as well. Who's going to want to invest in Hawai'i? Where will any of our businesses find investment capital? One has to wonder if Act 221 can be disavowed today, what program will the State of Hawai'i renege on tomorrow? For businesses depending on the use of the credits, this policy change could spell economic disaster, as well as obtaining financing because obtaining financing is already very challenging in our state.

"You know, the issue of the constitutionality has been brought up and we can get lawyers on both sides to say it is or it isn't, but whether it is or not will be resolved in litigation, costly litigation, costly to the State as well as investors, and it's my understanding that if there are dollars in question, that the State will not be able to use them to balance a financial plan or to pay for any programs. It will go into a litigation fund and that could well be tied up for years.

"But to me, even though these are very important matters and the reputation of our state is at stake, the concern that I have was well-expressed in an e-mail I got from one of my constituents who happens to be a small investor. He writes: 'These tax credits make it possible for small business owners, and other Hawai'i residents to partner with our state to invest in high tech projects that bring jobs and attract new businesses to Hawai'i. I have invested in Kaheawa Wind Power on Maui and hope more innovative green energy can be made available, which helps preserve our beautiful islands. I would not have become an investor if not for the tax credits. It is the minimum investment required by these types of companies that restricts individuals,' like him, a dentist in Lahaina (not a huge practice, not a lot of income), 'from investing. Partnering with the state through the qualified high tech business tax credits makes investing possible for me and others like me. This ability to invest in Hawai'i empowers us, leading to a feeling of 'we can make a difference.'"

"That's what Act 221 has done for not just the small investors in our state, but for small businesses and allowed them to grow. It seems to me, Madam President and colleagues, that the damage we do to these small investors and our growing businesses, as well as our own reputation as a stable place to do business, and to our future are far-reaching and not worth the risk that might be gained in this taking. It is the wrong choice, especially now when we need business investments to improve our economy, to fuel the recovery, and bolster tax collection. Passing 2401 to obtain a transitory, short-term, one-time gain is worse than short-sighted. It's just bad policy, and I hope all my colleagues will vote this measure down."

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

"Madam President, I rise in Opposition to SB 2401.

"Colleagues, the legislature thoughtfully created tax incentives to encourage the development of high technology businesses in this state, as one way to help diversify our state's tourist-dependent economy.

"SB 2401 seeks to suspend the tax credits under HRS 235-110.9 and 235-110.51. Those tax credits, commonly referred to as Act 221 credits, are responsible for pumping more than one billion dollars in private investment into Hawaii, creating thousands of jobs and advancing regional businesses. In exchange for that investment the State of Hawaii committed to allow investors to claim tax credits over 5 years and to carry forward any unused credits until they were fully used. Now because we find balancing our biennial budget a challenge, SB 2401 would change the law in mid-stream.

"Proponents argue that the credits are not being repealed, only suspended. Unfortunately, the net effect is the same. Our legislature's retroactive delay of an investor's ability to claim an authorized and approved state tax credit will have an immediate and chilling impact on the investment community not only locally but nationally and internationally as well. Who will want to invest in Hawaii? Where will any of our businesses find investment capital? One has to wonder, if Act 221 can be disavowed today, what program will the State renege on tomorrow? For businesses depending on use of the credits this policy change could spell economic disaster as obtaining financing is already challenging in this climate.

"As one writer noted, Hawaii will be taking a major hit to its reputation if this bill passes. We will be viewed as a state that does not honor its commitments. Investors will lose faith in the actions of Hawaii's State government. This loss of faith by Act 221 investors could extend to others who have purchased bonds issued by the state. If the confidence of those who hold the state's municipal bonds weakens, then the value of those bonds in the open market could decline, making it more expensive for the state to borrow money. The chill caused by our action on SB 2401 could be felt for years.

"Furthermore, this legislation is potentially unconstitutional. To retroactively suspend these credits **could** be a violation of the due process clause of the Fifth Amendment to our federal and state constitutions. It could also be considered an unconstitutional taking without just compensation. Whether that is so will only be resolved by costly litigation – costly to the State as well as investors.

"Perhaps we, as a legislative body, should be reminded that we have a responsibility to honor our commitments. Businesses received a comfort letter from the Hawaii Department of Taxation and invested accordingly, planned their business growth and financial plans as a result. Now because times are tough we are threatening to default on the State's contractual obligations. That can never be good policy and it certainly isn't now.

"The damage we'll do to our reputation and our future are far-reaching. It's not worth the risk; it is the wrong choice especially now when we need business investment to improve our economy, to fuel the recovery and bolster tax collections. Passing 2401 to obtain a transitory short-term, one-time gain is worse than short-sighted; it is bad policy.

"I urge all my colleagues to oppose this bill."

The motion was put by the Chair and carried, the Senate agreed to the amendments proposed by the House to S.B. No. 2401, S.D. 1, and S.B. No. 2401, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO STATE FINANCES," Roll Call vote having been requested, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 14; Ayes with Reservations (English, Gabbard, Nishihara, Sakamoto, Takamine, Taniguchi, Tokuda, Tsutsui). Noes, 11 (Baker, Bunda, Chun Oakland, Espero, Fukunaga, Green, Hemmings, Hooser, Ige, Ihara, Slom).

At 2:54 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:00 p.m.

RECONSIDERATION OF ACTIONS TAKEN

S.B. No. 2395, S.D. 2, H.D. 1, C.D. 1:

Senator Tsutsui moved that the Senate reconsider its action taken earlier on the calendar in adopting Floor Amendment No. 12 to S.B. No. 2395, S.D. 2, H.D. 1, C.D. 1, seconded by Senator Tokuda.

Senator Tsutsui noted:

"Madam President, the identical amendment in the House failed to pass this morning, so if we don't reconsider our previous action, then the underlying bill to extend VEBA by six months would fail."

The motion was put by the Chair and carried.

The Chair then made the following announcement:

"If there are no objections from the members, we will be taking Final Reading of S.B. No. 2395, C.D. 1 on consent."

FINAL READING

S.B. No. 2395, S.D. 2, H.D. 1, C.D. 1:

On motion by Senator Kim, seconded by Senator Taniguchi and carried, S.B. No. 2395, S.D. 2, H.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, 25. Noes, none.

THIRD READING

Stand. Com. Rep. No. 3234 (H.B. No. 2094):

On motion by Senator Kim, seconded by Senator Tsutsui and carried, Stand. Com. Rep. No. 3234 was adopted and H.B. No. 2094, entitled: "A BILL FOR AN ACT RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST HAWAII PACIFIC HEALTH," passed Third Reading on the following showing of Ayes and Noes:

Ayes, 25. Noes, none.

MISCELLANEOUS BUSINESS

Senator Chun Oakland, Chair of the Committee on Human Services, requested that referrals of H.C.R. No. 155 and H.C.R. No. 165 to the Committees on Human Services and Ways and Means be waived pursuant to Senate Rule 46(4).

Senator Chun Oakland noted:

"I request the waiver of the referral to the Committees on Human Services and Ways and Means for said House concurrent resolutions to bring these resolutions to the Senate floor for adoption prior to sine die."

The Chair granted the waivers.

At 3:03 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:07 p.m.

Senator Kim, Chair of the Committee on Ways and Means, requested that referral of H.C.R. No. 237 to the Committee on Ways and Means be waived pursuant to Senate Rule 46(4).

Senator Kim noted:

"Madam President, I request of the waiver of the referral to the Committee on Ways and Means for said House resolution to bring this resolution to the Senate floor for adoption possibly prior to sine die."

The Chair granted the waiver.

Senator Tokuda, Chair of the Committee on Higher Education, requested that referral of H.C.R. No. 288, H.D. 1 to the Committees on Higher Education and Energy and the Environment be waived pursuant to Senate Rule 46(4).

Senator Tokuda noted:

"Madam President, I request a waiver of the referral to the Committees on Higher Education and Energy and Environment for said House concurrent resolution to bring this resolution to the Senate floor for adoption prior to sine die."

The Chair granted the waiver.

At 3:08 p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 3:09 p.m.

At this time, Senator Slom rose on a point of personal privilege and said:

"My colleagues have known for the last month or so that I have been involved in negotiations to purchase the *Honolulu Star-Bulletin* along with Malia Zimmerman of *Hawaii Reporter*. We just got word a little while ago that the Justice Department ruled that our final bid has not been accepted and that they are going to allow Mr. David Black of Black Press in Vancouver, Canada, to go ahead and purchase the *Honolulu Advertiser*.

"I just wanted to, first of all, thank my colleagues for their interest and their support. I want to reassure you that we made every good faith effort and spent an inordinate amount of time, energy, personal resources, and money to make this sale come about. But I am sad to say that from the beginning, it was evident to anyone that had looked over the materials that the publisher of the *Star-Bulletin* had no intention to sell the newspaper, to continue a viable, independent editorial voice, or to preserve the jobs of many hundreds of people of both newspapers that are now in jeopardy. As we said from the outset, we wanted the independent voices and we wanted a community newspaper. We did our due diligence. We had to pull teeth to get information from the seller. In fact, as the Senate President knows, we did not even get the last information—the ability to look at the assets that supposedly went with this sale—until this past Saturday. At every step of the way, we were blocked from getting full disclosure and transparency. In looking at other recent newspaper sales across the country—and there have been plenty of them—in every case they had a common denominator, and that was: Number one, the seller actually wanted to sell; number two, there was good faith; number three, there generally was an independent third party where questions, information, documents, statistics were all available to any legitimate bidder. None of those things took place in this situation now.

"As Ms. Zimmerman and I said from the very beginning, our idea was to have a community newspaper. We established a community website. We enlisted the aid of more than a hundred of our citizens who represented a broad-based background and diversity of political thought, independent

thought, political persuasion, ethnic persuasion, everything else. The idea was to have a viable and profitable newspaper that would provide individuals with that alternative voice, with more coverage of the neighbor islands than O'ahu, with more expanded local editorial and letter writing positions, and to truly make it an opportunity for people who wanted to preserve this independent voice.

"We knew and we acknowledged at the outset that we were actually bucking tremendous odds, financial and otherwise, but we were confident in the business plan that we had. We were confident in the people that we spoke to; and we want to thank everyone who came forward from the community including past and present executives of both newspapers, reporters, and other employees who are genuinely concerned about their future and their job and their benefits, as well they should be. We have, in our minds, done everything that we possibly could. I'm not sure that this issue is in fact is entirely over. There may be other venues to pursue this, but I just want to reassure my colleagues because you do recall that on two resolutions that were supported by the House of Representatives and the Senate, I fully disclosed my interest and my involvement and recused myself. The City Council also passed a resolution asking for an extension of time. I want to confide in you that we did have good people from this community come forward who were willing, against all odds and against the trends of printed newspapers and what's been happening around the country, to invest their money for this community and for the employees of these two newspapers. We did not have enough time. We asked for an extension. The extension was not given by the seller.

"When we examined the assets on Saturday of what we would actually get or anyone would get in the sale, there was nothing there. Please excuse me, my Democrat colleagues, but this reminded me a heck of a lot of the Pelosi plan that said, 'Pass the bill and then we'll explain it to you; we'll tell you the details.' No investor is going to do that. No rational person is going to do that.

"It's important that this community have as many independent voices as possible, and that's why we salute *Hawaii Reporter* and its position of printing anything and everything submitted to it. We welcome the new peer news and also the possibility of yet another voice.

"We are not done. All of the information that we have gleaned, all of the people that have come forward to either participate or to help us: We pledge to them that we will continue our efforts. It may be in another venue. As I say, however, this issue may not be finally settled, and there may be litigation that arises from it. But I wanted to tell you and pledge to you that we gave it our best effort, and that from the very beginning we had the interests of our employees and our community at hand and we will continue to do that. So again, I want to thank all of you for your kind remarks and your support. Thank you, Madam President."

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

"I think we have an issue that Senator Slom touched on in his bid to buy the newspaper that needs further thought. We live in perilous times for many reasons.

"In 1835, a French aristocrat wandered through this country, and I talked about him before—Alexis de Tocqueville—and he wrote about democracy in America. And though many of us sometimes lament what we read in the editorial pages of the newspapers and sometimes we disagree with how a reporter saw an incident, nevertheless, I think Alexis de Tocqueville's observations of worthy consideration in these modern times. 'Thou shall not deny that the democratic countries whose

newspapers frequently lead to citizens to launch together into very ill-digested schemes; but if there were no newspapers there would be no common activity. The evil which they produce is therefore much less than that which they cure.'

"What worries me is I'm experiencing it right now on a particular bill I've been supporting is the internet, and alleged news and alleged stories that come over the internet that oftentimes get people in rages. When what is written on the internet is not verified, not filtered, and not penciled by a trained journalist who earns his living by seeking out facts and reporting them which I believe reporters do do. These are perilous times because oftentimes 'ill-digested schemes,' as Alexis de Tocqueville pointed out, go 'unfettered' in the mass media of the internet, leading oftentimes to people coming to wrong conclusions that further polarize our people and create chaos where there should be understanding.

"The printed newspaper, like the printed book, should be enduring as part of our lives, and I'm afraid that the loss of newspapers anywhere will be a loss to all of society. Thank you, Madam President."

ADJOURNMENT

At 3:22 p.m., on motion by Senator Sakamoto, seconded by Senator Slom and carried, the Senate adjourned until 11:30 a.m., Wednesday, April 28, 2010.

ATTACHMENT A

From: Michael Curtis [mike.curtis@chi.mp]

Sent: Saturday, April 03, 2010 7:29 AM

Cc: Mike Curtis

Subject: Strong Opposition to SB2401

Aloha,

My name is Mike Curtis and I run a local software development company called SDC Hawaii, LLC. We employ seven people, five of whom are software designers and developers. We are a start-up company funded and owned by local investors and members of our own employee team.

This bill deferring use of the high technology business investment tax credit will result in irreparable harm to my company's investors, the company itself, and my employee partners. It will also result in further damage to our state's reputation as a stable place to do business.

Beyond the damage done, I question whether any fiscal benefit will be gained as a result of the bill. Any potential tax revenue increase anticipated from deferring these tax credits could be delayed or possibly even wiped out by lawsuits filed by investors as a result of the bills retroactive application. The retroactive nature of the bill will likely be very damaging to investors (companies and individuals). Investors who have made Act 221 investments have done their tax planning based on such investments. Deferment would effectively require these investors to make double payment (the investment and the tax). Many investors may not be able to cope with such a burden, especially given the current economic situation. Companies in this situation will likely lay-off employees in an attempt to make ends meet (as we did in the wake of last year's changes to the law).

In closing, I want to share with you the impact that your decision on this bill will likely have on our company. Right now our business plan calls for us to add five employees each year for the foreseeable future, with our employees (mostly software engineers) continuing to earn an average of roughly \$75,000 annually.

Our capital structure has been designed for local investors based on Act 221 and the expectation that Act 221 would sunset 12/31/10. Last year's changes were damaging to us, pay cuts were required and several of our employees had to be laid off due to a shortfall in anticipated funding. The proposed law would likely eliminate our ability to obtain further funding. Without further funding, it is likely that most of our current employees will lose their jobs and these new hires will not happen. Past changes to the investor tax credit, along with the bills proposed this year, have already injected a great deal of uncertainty into investors' minds and reduced our ability to raise funds. The change proposed in this bill will almost certainly eliminate further funding this year when we need it most.

Thank you for the opportunity to provide you with input on this important bill.

Sincerely,

Mike Curtis

Chief Operating Officer

SDC HAWAII, LLC

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