

JOURNAL
of the
SENATE OF THE
TWENTY - FIRST LEGISLATURE
of the
STATE OF HAWAII

Third Special Session of 2001

Convened Monday, October 22, 2001
Adjourned Friday, November 2, 2001

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**THE
TWENTY-FIRST LEGISLATURE
STATE OF HAWAII
THIRD SPECIAL SESSION OF 2001
JOURNAL OF THE SENATE**

FIRST DAY

Monday, October 22, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, was called to order at 10:12 o'clock a.m., by Senator Robert Bunda, President of the Senate, in accordance with the Proclamation issued by Governor Benjamin J. Cayetano on October 22, 2001, as follows:

MESSAGE FROM THE GOVERNOR

Gov. Msg. No. 1, transmitting the proclamation convening the Twenty-First Legislature of the State of Hawaii in special session on Monday, October 22, 2001:

“P R O C L A M A T I O N

WHEREAS, under Section 10 of Article III of the Constitution of the State of Hawaii, the Governor may convene both houses of the Legislature or the Senate alone in special session; and

WHEREAS, the terrorist attacks on America that occurred on September 11, 2001, have resulted in an economic crisis in the State of Hawaii; and

WHEREAS, various measures to provide relief during the economic crisis have been proposed and require immediate consideration by the Legislature;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, pursuant to the power vested in me by Section 10 of Article III of the Constitution of the State of Hawaii, do hereby convene both houses of the Twenty-First Legislature of the State of Hawaii in special session on Monday, the 22nd day of October, 2001, at 10 o'clock a.m., primarily for the consideration of measures to relieve or authorize the provision of relief during the economic crisis in the State of Hawaii that resulted from the terrorist attacks on the United States of America that occurred on September 11, 2001.

DONE at the State Capitol,
Honolulu, State of Hawaii, this
16th day of October, 2001.

/s/ Benjamin J. Cayetano
BENJAMIN J. CAYETANO
Governor of Hawaii

APPROVED AS TO FORM:

/s/ Earl I. Anzai
EARL I. ANZAI
Attorney General,”

was read by the Clerk and was placed on file.

The Divine Blessing was invoked by the Reverend Alan Urasaki, Aiea Hongwanji Mission, after which the Roll was called showing all Senators present with the exception of Senator Matsuura who was excused.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 2 to 29) were read by the Clerk and were disposed of as follows:

Gov. Msg. No. 2, dated May 2, 2001, transmitting a report, “The Feasibility of Establishing a Hawaii Farmers’ Market” prepared by the Department of Agriculture, Agricultural Development Division, Market Analysis and News Branch, pursuant to H.C.R. No. 24 (2000), was placed on file.

Gov. Msg. No. 3, dated May 16, 2001, transmitting a report, “Substance Abuse – The Nation’s Number One Health Problem” prepared by the Schneider Institute for Health Policy at Brandeis University for the Robert Wood Johnson Foundation, was placed on file.

Gov. Msg. No. 4, dated May 18, 2001, transmitting the Quarterly Status Report on Meeting the Requirements of the Felix v. Cayetano Consent Decree prepared by the Department of Education in response to Act 91, Section 46, SLH 1999, was placed on file.

Gov. Msg. No. 5, dated May 28, 2001, transmitting the 2000 Report on the Juvenile Justice State Advisory Council prepared by the Office of Youth Services, pursuant to Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, was placed on file.

Gov. Msg. No. 6, dated June 15, 2001, transmitting a report, “Tax Credits Claimed by Hawaii Individuals and Corporations - 1999” prepared by the Department of Taxation, was placed on file.

Gov. Msg. No. 7, dated June 18, 2001, transmitting the Annual Report for Fiscal Year 2000 prepared by the Office of Youth Services, pursuant to Section 352D-6, HRS, and Act 151, Section 4, SLH 1991, was placed on file.

Gov. Msg. No. 8, dated June 18, 2001, transmitting the 2000 Annual Report on Special Purpose Revenue Bond Financing of Electric and Gas Utility Capital Improvement Programs prepared by the Department of Budget and Finance, Public Utilities Commission, was placed on file.

Gov. Msg. No. 9, dated July 9, 2001, transmitting the 2000 Annual Report for the Housing and Community Development Corporation of Hawaii pursuant to Chapter 201G, HRS, was placed on file.

Gov. Msg. No. 10, dated July 23, 2001, transmitting the 2000 Annual Report prepared by the Department of Labor and Industrial Relations, pursuant to Section 371-7, HRS, and Act 100, SLH 1999, was placed on file.

Gov. Msg. No. 11, dated July 23, 2001, transmitting the Department of Transportation's 2001 Highway Safety Usage Studies Report, prepared by the University of Hawaii, Department of Urban and Regional Planning, was placed on file.

Gov. Msg. No. 12, dated August 23, 2001, transmitting the Native Hawaiian Access Rights Project, Phase I and II, prepared for the Hawaii Coastal Zone Management Program, Office of Planning, DBEDT, by the University of Hawaii, was placed on file.

Gov. Msg. No. 13, dated August 31, 2001, transmitting the Housing and Community Development Corporation of Hawaii's Funds Report for fiscal year ending June 30, 2000, was placed on file.

Gov. Msg. No. 14, dated September 7, 2001, transmitting a report, Legislation Affecting Hawaii's Older Adults - 2001 prepared by the Executive Office on Aging, was placed on file.

Gov. Msg. No. 15, submitting for consideration and confirmation to the Board of Acupuncture, the nomination of WAI HOA LOW, D.A.C., term to expire June 30, 2004, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 16, submitting for consideration and confirmation to the State Foundation on Culture and the Arts Commission, the nomination of MONA ABADIR, term to expire June 30, 2002, was referred to the Committee on Education.

Gov. Msg. No. 17, submitting for consideration and confirmation to the Policy Advisory Board for Elder Affairs, the nomination of WARREN G. HAIGHT, term to expire June 30, 2005, was referred to the Committee on Health and Human Services.

Gov. Msg. No. 18, submitting for consideration and confirmation to the Elevator Mechanics Licensing Board, the nomination of PAUL WILLIAM CONDRY, term to expire June 30, 2002, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 19, submitting for consideration and confirmation to the Board of Trustees, Hawai'i Public Employees Health Fund, the nominations of JULIE K. PRICE and STEVETTE K. SANTIAGO, terms to expire June 30, 2005, was referred to the Committee on Labor.

Gov. Msg. No. 20, submitting for consideration and confirmation to the Hawai'i Teacher Standards Board, the nomination of ANNETTE A. NISHIKAWA, term to expire June 30, 2004, was referred to the Committee on Education.

Gov. Msg. No. 21, submitting for consideration and confirmation to the Board of Regents, University of Hawai'i, the nominations of: KATHLEEN K.S.L. THURSTON, term to expire June 30, 2003; and PATRICIA Y. LEE, PH.D., term to expire June 30, 2005, was referred to the Committee on Education.

Gov. Msg. No. 22, submitting for consideration and confirmation to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, the nomination of PEGGY

ROBERTSON, term to expire June 30, 2002, was referred to the Committee on Judiciary.

Gov. Msg. No. 23, submitting for consideration and confirmation to the Rental Housing Trust Fund Advisory Commission, the nomination of NORMAN M. NOGUCHI, term to expire June 30, 2005, was referred to the Committee on Commerce, Consumer Protection and Housing.

Gov. Msg. No. 24, submitting for consideration and confirmation to the Stadium Authority, the nomination of ROBIN K. CAMPANIANO, term to expire June 30, 2005, was referred to the Committee on Economic Development and Technology.

Gov. Msg. No. 25, submitting for consideration and confirmation to the Board of Directors, Research Corporation of the University of Hawaii, the nomination of HERBERT A. SEGAWA, term to expire June 30, 2002, was referred to the Committee on Education.

Gov. Msg. No. 26, submitting for consideration and confirmation to the Hawai'i Workforce Development Council, the nominations of: JEFF BLOOM and DARREL T. TAJIMA, terms to expire June 30, 2004; and CHRISTINE C. MCCOLGAN, term to expire June 30, 2005, was referred to the Committee on Labor.

Gov. Msg. No. 27, submitting for consideration and confirmation as Administrator, State Procurement Office, the nomination of AARON S. FUJIOKA, term to expire October 15, 2005, was referred to the Committee on Transportation, Military Affairs, and Government Operations.

Gov. Msg. No. 28, dated October 17, 2001, transmitting a report prepared by the Department of Health pursuant to Act 259, SLH 2001, requesting monthly notification of expenditures from the Director of Health relative to the Felix Consent Decree, was placed on file.

Gov. Msg. No. 29, dated October 17, 2001, transmitting a report prepared by the Department of Education pursuant to Act 259, Section 53, SLH 2001, on the monthly report on expenditures for the Felix Consent Decree, Felix Special Monitor, and Felix Monitoring Project, was placed on file.

DEPARTMENTAL COMMUNICATIONS

The following communications (Dept. Com. Nos. 1 to 8) were read by the Clerk and were placed on file:

Dept. Com. No. 1, from the State Auditor dated May 24, 2001, transmitting a report, "Financial Audit of the Med-QUEST Division of the Department of Human Services," (Report No. 01-10).

Dept. Com. No. 2, from the State Auditor dated June 26, 2001, transmitting a report, "Analysis of a Proposal to Expand the Regulation of the Alarm Industry," (Report No. 01-11).

Dept. Com. No. 3, from the State Auditor dated July 9, 2001, transmitting a report, "Update of the 1992 Summary of Special and Revolving Funds," (Report No. 01-12).

Dept. Com. No. 4, from the State Auditor dated July 26, 2001, transmitting a report, "Audit of the Adult Mental Health Program," (Report No. 01-13).

Dept. Com. No. 5, from the State Auditor dated September 6, 2001, transmitting a report, "Financial Audit of the Housing and

Community Development Corporation of Hawaii," (Report No. 01-14).

Dept. Com. No. 6, from the Department of Education dated August 29, 2001, transmitting the "2001 Hawaii Opinion Poll on Public Education (HOPPE)" and "The Superintendent's Eleventh Annual Report on School Performance and Improvement in Hawaii 2000.

Dept. Com. No. 7, from the Department of Business, Economic Development and Tourism dated October 4, 2001, transmitting the "Directory of Japanese Companies Registered to do Business in Hawaii."

Dept. Com. No. 8, from the State Auditor dated October 11, 2001, transmitting a report, "A Review and Assessment of the Department of Education's Development of Educational Standards," (Report No. 01-15).

SENATE CONCURRENT RESOLUTIONS

The following concurrent resolutions (S.C.R. Nos. 1 to 13) were read by the Clerk and were deferred or adopted:

Senate Concurrent Resolution

No. 1 "SENATE CONCURRENT RESOLUTION EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001."

Offered by: Senators Bunda, Slom.

No. 2 "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY."

Offered by: Senators Bunda, Slom.

No. 3 "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY."

Offered by: Senators Bunda, Slom.

No. 4 "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY."

Offered by: Senators Bunda, Slom.

No. 5 "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY."

Offered by: Senators Bunda, Slom.

No. 6 "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY."

Offered by: Senators Bunda, Slom.

No. 7 "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF CHRISTINE SNYDER

AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY."

Offered by: Senators Bunda, Slom.

No. 8 "SENATE CONCURRENT RESOLUTION ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS."

Offered by: Senators Bunda, Slom.

No. 9 "SENATE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES."

Offered by: Senators Bunda, Slom.

No. 10 "SENATE CONCURRENT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM."

Offered by: Senators Bunda, Slom.

No. 11 "SENATE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE."

Offered by: Senators Bunda, Slom.

No. 12 "SENATE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001."

Offered by: Senators Bunda, Slom.

No. 13 "SENATE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION."

Offered by: Senators Bunda, Slom.

No. 14 "SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001."

Offered by: Senators Kawamoto, Chun, Slom.

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 14 was adopted.

INTRODUCTION OF SENATE BILLS

On motion by Senator English, seconded by Senator Hemmings and carried, the following bills passed First Reading by title and were referred to committees or deferred:

Senate Bill

No. 1 "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 2 "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 3 "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 4 "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE COVERAGE."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 5 "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 6 "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 7 "A BILL FOR AN ACT RELATING TO CAPITAL GAINS."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 8 "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 9 "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 10 "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 11 "A BILL FOR AN ACT RELATING TO TRANSPORTATION."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 12 "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 13 "A BILL FOR AN ACT RELATING TO STATE FINANCES."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 14 "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 15 "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 16 "A BILL FOR AN ACT RELATING TO PROCUREMENT."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 17 "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY."

Introduced by: Senators Bunda, Slom.

Referred to: Committee on Ways and Means.

No. 18 "A BILL FOR AN ACT RELATING TO A CAPITAL GAINS TAX CREDIT."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 19 "A BILL FOR AN ACT RELATING TO A GENERAL EXCISE TAX HOLIDAY."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 20 "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE COVERAGE."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 21 "A BILL FOR AN ACT RELATING TO THE EXCLUSION OF PROCEEDS FROM THE MANUFACTURE, PACKAGING, AND SALE OF FOOD FROM GENERAL EXCISE TAX LIABILITY."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 22 "A BILL FOR AN ACT RELATING TO FOOD AND MEDICINE."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 23 "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 24 "A BILL FOR AN ACT RELATING TO PROCUREMENT."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 25 "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT INSURANCE COVERAGE."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 26 "A BILL FOR AN ACT RELATING TO FUEL TAX."

Introduced by: Senators Slom, Hemmings, Hogue.

No. 27 "A BILL FOR AN ACT RELATING TO SCHOOL REPAIR AND MAINTENANCE."

Introduced by: Senators Hogue, Hemmings, Slom.

At 10:17 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

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

Senator Taniguchi, for the Committee on Ways and Means, requested a waiver of the notice requirement pursuant to Senate Rule 20 for the following Senate Bills:

S.B. No. 1;
S.B. No. 2;
S.B. No. 3;
S.B. No. 4;
S.B. No. 5;
S.B. No. 6;
S.B. No. 7;
S.B. No. 8;
S.B. No. 9;
S.B. No. 10;
S.B. No. 11;
S.B. No. 12;
S.B. No. 13;
S.B. No. 14;
S.B. No. 15;
S.B. No. 16; and
S.B. No. 17,

and the Chair granted the waiver.

Senator Slom then rose and said:

"Mr. President, I just wanted to inform and reassure you and our colleagues that the Senate Minority has already had their caucus. We're in total agreement and we're ready to go to work.

"Thank you, Mr. President."

At 10:24 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:25 o'clock a.m.

At this time, the President introduced special guest Ms. Cathy Foi who led the members of the Senate in singing "God Bless America."

ADJOURNMENT

At 10:27 o'clock a.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 10:00 o'clock a.m., Wednesday, October 24, 2001.

SECOND DAY

Wednesday, October 24, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 10:25 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable J. Kalani English, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Chun Oakland, Ihara, Inouye, Matsuura and Taniguchi who were excused.

The President announced that he had read and approved the Journal of the First Day.

HOUSE COMMUNICATION

Hse. Com. No. 1, returning S.C.R. No. 14, which was adopted by the House of Representatives on October 22, 2001, was read by the Clerk and was placed on file.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 15) was read by the Clerk and was disposed of as follows:

Senate Concurrent Resolution

No. 15 "SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001."

Offered by: Senators Kawamoto, Chun, Slom.

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 15 was adopted.

STANDING COMMITTEE REPORTS

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 1) recommending that S.B. No. 1, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

Senator Hemmings then moved that Senate Rule 53, requiring floor amendments to be presented to the Clerk no later than 9:00 a.m. on the day of the session at which the amendment is to be offered, be suspended pursuant to Senate Rule 85, seconded by Senator Hogue.

Senator Hemmings rose to speak in favor of the motion and said:

"Mr. President, I'd like to speak in favor of the motion.

"Very simply, in order to amend this bill, we need the Rule suspended. I think it's worthy of the Majority Party's consideration since we're spending hundreds of millions of dollars to bolster the economy.

"This would simply increase the funding of the most needy in our society from the bill's appropriation to \$4 million which is a little more than doubling it. I think this would be money well spent.

"I'm hoping the Majority Party will see the wisdom in accommodating this motion so that we can amend the bill as need be.

"Thank you, Mr. President. Roll Call vote, please."

The motion to suspend Senate Rule 53 was put by the Chair and, Roll Call vote having been requested, failed to be carried on the following showing of Ayes and Noes:

Ayes, 7. Noes, 13 (Buen, Bunda, Chun, English, Hanabusa, Kanno, Kawamoto, Kim, Kokubun, Menor, Nakata, Sakamoto, Tam). Excused, 5 (Chun Oakland, Ihara, Inouye, Matsuura, Taniguchi).

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 2) recommending that S.B. No. 8, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 8, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 3) recommending that S.B. No. 9, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 9, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 4) recommending that S.B. No. 16, as amended in S.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 16, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 5) recommending that S.B. No. 2 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 2, entitled: "A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS," passed Second Reading and was

placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 6) recommending that S.B. No. 3 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 3, entitled: "A BILL FOR AN ACT RELATING TO UNEMPLOYMENT," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 7) recommending that S.B. No. 5 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 5, entitled: "A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 8) recommending that S.B. No. 6 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 6, entitled: "A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 9) recommending that S.B. No. 10 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 10, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 10) recommending that S.B. No. 11 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 11, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 11) recommending that S.B. No. 12 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 12, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 12) recommending that S.B. No. 13 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the majority of the Committee was adopted and S.B. No. 13, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 13) recommending that S.B. No. 14 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 14) recommending that S.B. No. 15 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and S.B. No. 15, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 15) recommending that S.B. No. 17 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the majority of the Committee was adopted and S.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," passed Second Reading and was placed on the calendar for Third Reading on Friday, October 26, 2001.

ORDER OF THE DAY

REFERRAL OF SENATE BILLS

The President made the following committee assignments of bills introduced on Monday, October 22, 2001:

| Senate Bill | Referred to: |
|-------------|-----------------------------|
| No. 18 | Committee on Ways and Means |
| No. 19 | Committee on Ways and Means |
| No. 20 | Committee on Ways and Means |
| No. 21 | Committee on Ways and Means |

| | | |
|--------|-----------------------------|---|
| No. 22 | Committee on Ways and Means | CONCURRENT RESOLUTION HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," was adopted. |
| No. 23 | Committee on Ways and Means | |
| No. 24 | Committee on Ways and Means | S.C.R. No. 7: |
| No. 25 | Committee on Ways and Means | On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 7, entitled: "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF CHRISTINE SNYDER AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted. |
| No. 26 | Committee on Ways and Means | |
| No. 27 | Committee on Ways and Means | |

ADOPTION OF RESOLUTIONS

The President made the following announcement:

"If there are no objections from the members, we will be suspending Senate Rule 60 to allow for the adoption of these resolutions."

S.C.R. No. 1:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 1, entitled: "SENATE CONCURRENT RESOLUTION EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001," was adopted.

S.C.R. No. 2:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 2, entitled: "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," was adopted.

S.C.R. No. 3:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 3, entitled: "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted.

S.C.R. No. 4:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 4, entitled: "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted.

S.C.R. No. 5:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 5, entitled: "SENATE CONCURRENT RESOLUTION HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted.

S.C.R. No. 6:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 6, entitled: "SENATE

S.C.R. No. 8:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 8, entitled: "SENATE CONCURRENT RESOLUTION ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS," was adopted.

S.C.R. No. 9:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 9, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES," was adopted.

S.C.R. No. 10:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 10, entitled: "SENATE CONCURRENT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM," was adopted.

S.C.R. No. 11:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 11, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE," was adopted.

S.C.R. No. 12:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 12, entitled: "SENATE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001," was adopted.

S.C.R. No. 13:

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 13, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS

LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION," was adopted.

Senator Slom rose on a point of personal privilege as follows:

"Mr. President, I rise on a point of personal privilege.

"You know, after the September 11th disaster there was a tremendous pulling together in our nation and in our community – people coming together. And everybody wanted to help. Everybody wanted to alleviate pain and suffering and to make things better. And there was a spirit of bipartisanship or non-partisanship, a call and an answer for unity . . . people coming forward to help . . . people genuinely wanting to have solutions to our problems to make things better.

"Your Minority, Mr. President, said from the very beginning that this is what we wanted. And we bent over backwards, forward, sideways – the idea being to make sure that we made this special session really special, that we made it open, that we made it inclusive, that we made it so that it wasn't a time limit that was going to govern what we did, but it was going to be ideas and that those ideas would stand or fall on their own merit.

"Mr. President, we spent 13 hours in a hearing yesterday, and I am dismayed and I am saddened because, in fact, there was no unity. There was very little openness, and there certainly were no solutions.

"We will be speaking individually to the measures as they come up for third reading. We may be offering some additional amendments to try to salvage something out of this Session. But the fact of the matter is, of all of the ideas that were advanced to alleviate the pain and suffering of our citizens immediately – to keep them working, to keep businesses in business, to keep cash flowing – nothing that we have done to date will accomplish any of those things.

"Look at the bills that we're considering. We're considering how to give more food and more shelter after people have lost their jobs and lost their ability to fend for themselves. We're talking about long-term construction projects. We're talking about a wholesale transfer of power from this Legislative deliberative body to the Chief Executive on the fifth floor. We are saying that we're not up to the task. But more importantly, Mr. President, we're saying, of all the people that have come forward with ideas, thanks but no thanks because we have the ideas in here and we'll do it behind closed doors.

"We're also going against what every other state has done that has held or is holding a special session. There is a common thread of what they did. They cut taxes. They cut government spending. They reduced government debt. They understood that you have to allow people to have their own money and make their own choices and own decisions. This attempt this morning to try to increase the direct aid to those non-profit organizations who have demonstrated – unlike our political bureaucracy – that they know how to help people failed – failed because we would rather give more money in other directions, rather than to help the people that need that help.

"And those people that came forward with ideas of how to keep the businesses in business, how to alleviate the problems of the airport concessionaires, have been ignored. We talk about it but when you read the fine print and when you ask the questions of the people advocating these measures, the answers are too little and too late.

"I'm sorry, Mr. President, that we put a time limit and made that our priority, rather than seeking and listening to and hearing what people in our community are saying what they need, and responding to them directly. We shouldn't be worried about whether we get out of here on Monday or Tuesday or Wednesday. We should be more concerned about what it is after we've left. And so far what we've left is nothing that is going to help the vast majority of people, and we are facing tremendous and trying times.

"I still remain optimistic, Mr. President, because we've got the greatest number of creative, skilled, hard-working individuals of anywhere in the country. But the message we're sending them is 'We've punted. It's up to you now. You come up with the solutions because we're not up to the task.'

"Thank you, Mr. President."

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

"Mr. President, I rise on a point of personal privilege.

"Mr. President, you and I served in the Legislature in the '80s along with some of our colleagues. At that time we had a monolithic one-party system that said, 'Take it or leave it.' And unfortunately, Hawaii had to take it. And what it led to in the '80s was an incredible increase in the size and cost of government and most economists will say one of the most expensive, bureaucratically bloated state governments in the nation. It's a statistical fact. And it led to the economic malaise of the '90s.

"Coming back to the Legislature in the ten years since, under your leadership I was most enthused this last session because I saw a light at the end of the tunnel and it wasn't a freight train headed our way. It was leadership saying, yes, we'll give consideration to some new ideas in spite of the fact that it might be coming from the Minority Party. We'll talk about it. We'll mix it in with our ideas and we'll see if we can come up with some enlightened leadership that looks to the future, rather than preserving the failures of the past. And what we did was pass the privatization bill. We released for the first time the budget worksheets, and we did some things that said, 'Hey, we're not doing business as usual to protect the status quo, the old boy network that has taken Hawaii to where it is now.'

"I probably, of my two colleagues here, was the most bullish on this special session urging bipartisanship. And we started out that way. But what we've produced with these bills is business as usual, benefiting the same old boy network. And it's not going to work.

"The one goose that's laying the golden eggs for the state economy is being choked. I would suggest that the Majority Party is at a loss of what to do. Maybe if we increase government spending we can fix it. Well it ain't gonna be fixed with business as usual, Mr. President.

"Mr. President, I have the most faith in you, personally, and the leadership team you've built here, and I do believe you have to deal with the other chamber in this Legislature. I'm hoping you'll deal with them forcefully. I am hoping you realize that you have a Minority Party here that's going to stand by you if you do what you did last session. And I hope you know there's also 19 Minority votes in the House of Representatives. They will stand by what's right, not politically expedient.

"Mr. President, this is too serious of a problem to worry about time or petty partisanship of business as usual. I'm hoping the Majority Party will take this into consideration when

you go in your closed room and you caucus and you decide we're not going to increase by \$2 million the funding to the truly needy. We'll shoot the amendment down. We won't even let it get to the floor.

Respectfully submitted,

"Think about it, Mr. President. Now is too serious of a time to resort to business as usual.

Clerk of the Senate

"Thank you."

Approved:

Senator Sakamoto rose on a point of personal privilege as follows:

"I rise on a point of personal privilege, Mr. President.

President of the Senate

"I'm disappointed with what I just heard. You can't talk out of two sides of the same mouth.

"On one hand we're not doing enough; on the other hand we're doing too much – not doing enough with some things to help, doing too much by allowing our government to help such as in the Governor's powers. Too much, on the other hand not enough. On one hand – oh, don't collect taxes. Oh, we want a tax holiday. We want to not tax fuel. We want to not tax a whole lot of things. And then, standing up on this floor and saying, 'Oh, by the way, let's spend more money.' You cannot have it both ways! So, cut it out!"

Senator Hemmings rose in rebuttal and said:

"Mr. President, I rise on a point of personal privilege in rebuttal.

"I appreciate the emotion of the previous speaker, and quite frankly am insulted by the implications. I personally have endured speaking with one mouth on these issues for most of my adult life and have labored in the shadow of a one-party system. I'm sorry the previous speaker, whose Majority Party oftentimes masks itself with a label of compassion, couldn't find \$2 million to help the truly needy in our society while we continue to waste hundreds of millions of dollars on failed education programs, on failed Felix Consent decree demands, and all the other mismanagement that this state is wallowing in while the private sector producers of goods and services suffer, and while the truly needy in our society who can't fend for themselves get offered a paltry \$2 million while hundreds of millions are being talked about in other areas.

"I don't want it both ways, Mr. President. I want it one way – the honest way, the way that's going to solve our problems, rather than preserving the status quo.

"Thank you, Mr. President."

At 10:43 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:44 o'clock a.m.

ADJOURNMENT

At 10:45 o'clock a.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 10:00 o'clock a.m., Friday, October 26, 2001.

THIRD DAY

Friday, October 26, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 10:15 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Sam Slom, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Inouye and Matsuura who were excused.

The President announced that he had read and approved the Journal of the Second Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 2 to 15) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 2, returning S.C.R. No. 15, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

By unanimous consent, Senate Rule 60 was suspended to allow for the adoption of the following House concurrent resolutions:

Hse. Com. No. 3, transmitting H.C.R. No. 1, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 1, entitled: "HOUSE CONCURRENT RESOLUTION EXPRESSING THE DEEPEST SYMPATHY, REGRET, AND CONDOLENCES FOR THE TRAGIC LOSS OF LIFE SUFFERED IN NEW YORK, VIRGINIA, AND PENNSYLVANIA ON SEPTEMBER 11, 2001," was adopted.

Hse. Com. No. 4, transmitting H.C.R. No. 2, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 2, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF MICHAEL COLLINS AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," was adopted.

Hse. Com. No. 5, transmitting H.C.R. No. 3, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 3, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF GEORGINE CORRIGAN AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted.

Hse. Com. No. 6, transmitting H.C.R. No. 4, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 4, entitled: "HOUSE

CONCURRENT RESOLUTION HONORING THE MEMORY OF MAILE HALE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted.

Hse. Com. No. 7, transmitting H.C.R. No. 5, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 5, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF HEATHER HO AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted.

Hse. Com. No. 8, transmitting H.C.R. No. 6, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 6, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF RICHARD Y.C. LEE AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HIS FAMILY," was adopted.

Hse. Com. No. 9, transmitting H.C.R. No. 7, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 7, entitled: "HOUSE CONCURRENT RESOLUTION HONORING THE MEMORY OF CHRISTINE SNYDER AND EXTENDING HEARTFELT SYMPATHY AND CONDOLENCES TO HER FAMILY," was adopted.

Hse. Com. No. 10, transmitting H.C.R. No. 8, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 8, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING THE PEOPLE OF HAWAII TO SHARE THEIR ALOHA AND SUPPORT THEIR STATE AND FELLOW CITIZENS IN THIS TIME OF CRISIS," was adopted.

Hse. Com. No. 11, transmitting H.C.R. No. 9, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 9, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION TO PROVIDE LOAN ASSISTANCE TO SMALL BUSINESSES," was adopted.

Hse. Com. No. 12, transmitting H.C.R. No. 10, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 10, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE U.S. DEPARTMENT

OF LABOR TO RELAX THE FEDERAL REQUIREMENTS ON THE USE OF FEDERAL FUNDS FOR JOB TRAINING AND EMPLOYMENT PROGRAMS SUCH AS THE DISLOCATED WORKER PROGRAM," was adopted.

Hse. Com. No. 13, transmitting H.C.R. No. 11, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 11, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION ALLOWING WORKERS DISPLACED BY THE TERRORIST ATTACKS AGAINST THE UNITED STATES ON SEPTEMBER 11, 2001, TO RECEIVE EMERGENCY MEDICAL ASSISTANCE," was adopted.

Hse. Com. No. 14, transmitting H.C.R. No. 12, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 12, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING FEDERAL LEGISLATION EXTENDING UNEMPLOYMENT COMPENSATION BENEFITS FOR ALL UNEMPLOYED WORKERS, REGARDLESS OF WHETHER THE CAUSE OF UNEMPLOYMENT CAN BE CONNECTED TO A SPECIFIC INDUSTRY OR DIRECTLY TRACEABLE TO THE EVENTS OF SEPTEMBER 11, 2001," was adopted.

Hse. Com. No. 15, transmitting H.C.R. No. 13, which was adopted by the House of Representatives on October 24, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hemmings and carried, H.C.R. No. 13, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO PASS LEGISLATION ALLOWING FOR THE DEDUCTION OF ALL TRAVEL EXPENSES FROM FEDERAL INCOME TAXATION," was adopted.

STANDING COMMITTEE REPORTS

Senator Kawamoto, for the Committee on Health and Human Services, presented a report (Stand. Com. Rep. No. 16) recommending that the Senate advise and consent to the nomination of WARREN G. HAIGHT to the Policy Advisory Board for Elder Affairs, in accordance with Gov. Msg. No. 17.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 16 and Gov. Msg. No. 17 was deferred until Monday, October 29, 2001.

Senator Nakata, for the Committee on Labor, presented a report (Stand. Com. Rep. No. 17) recommending that the Senate advise and consent to the nominations of JULIE K. PRICE and STEVETTE K. SANTIAGO to the Board of Trustees, Hawai'i Public Employees Health Fund, in accordance with Gov. Msg. No. 19.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 17 and Gov. Msg. No. 19 was deferred until Monday, October 29, 2001.

Senator Nakata, for the Committee on Labor, presented a report (Stand. Com. Rep. No. 18) recommending that the Senate advise and consent to the nominations of JEFF BLOOM, DARREL T. TAJIMA and CHRISTINE C. MCCOLGAN to

the Hawai'i Workforce Development Council, in accordance with Gov. Msg. No. 26.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 18 and Gov. Msg. No. 26 was deferred until Monday, October 29, 2001.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 19) recommending that the Senate advise and consent to the nomination of WAI HOA LOW, D.A.C., to the Board of Acupuncture, in accordance with Gov. Msg. No. 15.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 19 and Gov. Msg. No. 15 was deferred until Monday, October 29, 2001.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 20) recommending that the Senate advise and consent to the nomination of PAUL WILLIAM CONDRY to the Elevator Mechanics Licensing Board, in accordance with Gov. Msg. No. 18.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 20 and Gov. Msg. No. 18 was deferred until Monday, October 29, 2001.

Senator Menor, for the Committee on Commerce, Consumer Protection and Housing, presented a report (Stand. Com. Rep. No. 21) recommending that the Senate advise and consent to the nomination of NORMAN M. NOGUCHI to the Rental Housing Trust Fund Advisory Commission, in accordance with Gov. Msg. No. 23.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 21 and Gov. Msg. No. 23 was deferred until Monday, October 29, 2001.

Senator Kawamoto, for the Committee on Transportation, Military Affairs, and Government Operations, presented a report (Stand. Com. Rep. No. 22) recommending that the Senate advise and consent to the nomination of AARON S. FUJIOKA as Administrator, State Procurement Office, in accordance with Gov. Msg. No. 27.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 22 and Gov. Msg. No. 27 was deferred until Monday, October 29, 2001.

Senator Sakamoto, for the Committee on Education, presented a report (Stand. Com. Rep. No. 23) recommending that the Senate advise and consent to the nomination of MONA ABADIR to the State Foundation on Culture and the Arts Commission, in accordance with Gov. Msg. No. 16.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 23 and Gov. Msg. No. 16 was deferred until Monday, October 29, 2001.

Senator Sakamoto, for the Committee on Education, presented a report (Stand. Com. Rep. No. 24) recommending that the Senate advise and consent to the nomination of ANNETTE A. NISHIKAWA to the Hawai'i Teacher Standards Board, in accordance with Gov. Msg. No. 20.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 24 and Gov. Msg. No. 20 was deferred until Monday, October 29, 2001.

Senator Sakamoto, for the Committee on Education, presented a report (Stand. Com. Rep. No. 25) recommending that the Senate advise and consent to the nominations of KATHLEEN K.S.L. THURSTON and PATRICIA Y. LEE, PH.D., to the Board of Regents, University of Hawai'i, in accordance with Gov. Msg. No. 21.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 25 and Gov. Msg. No. 21 was deferred until Monday, October 29, 2001.

Senator Sakamoto, for the Committee on Education, presented a report (Stand. Com. Rep. No. 26) recommending that the Senate advise and consent to the nomination of HERBERT A. SEGAWA to the Board of Directors, Research Corporation of the University of Hawaii, in accordance with Gov. Msg. No. 25.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 26 and Gov. Msg. No. 25 was deferred until Monday, October 29, 2001.

Senator Kanno, for the Committee on Judiciary, presented a report (Stand. Com. Rep. No. 27) recommending that the Senate advise and consent to the nomination of PEGGY ROBERTSON to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, in accordance with Gov. Msg. No. 22.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 27 and Gov. Msg. No. 22 was deferred until Monday, October 29, 2001.

Senator Tam, for the Committee on Economic Development and Technology, presented a report (Stand. Com. Rep. No. 28) recommending that the Senate advise and consent to the nomination of ROBIN K. CAMPANIANO to the Stadium Authority, in accordance with Gov. Msg. No. 24.

In accordance with Senate Rule 36(6), action on Stand. Com. Rep. No. 28 and Gov. Msg. No. 24 was deferred until Monday, October 29, 2001.

ORDER OF THE DAY

THIRD READING

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

On motion by Senator Taniguchi, seconded by Senator Hanabusa and carried, S.B. No. 1, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 8, S.D. 1:

Senator Taniguchi moved that S.B. No. 8, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Taniguchi then offered the following amendment (Floor Amendment No. 1) to S.B. No. 8, S.D. 1:

SECTION 1. Senate Bill No. 8, S.D. 1, Section 1, is amended by amending subsection (a) of the new section to be added to chapter 235, Hawaii Revised Statutes, to read as follows:

"(a) There shall be allowed to each taxpayer, subject to the taxes imposed by this chapter, a residential construction and remodeling tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. The amount of the tax credit claimed under this section by the taxpayer in all years for which the credit is available shall be limited to four per cent of the residential construction or remodeling costs incurred; provided that the costs shall not exceed \$250,000 in the aggregate for each unit; and that the costs are incurred before July 1, 2002.

In the case of a partnership, S corporation, estate, trust, or association of apartment owners, the tax credit allowable is for construction or remodeling costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the construction or remodeling cost for which the deduction is taken.

The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed. In the alternative, the taxpayer shall treat the amount of the credit allowable and claimed as a taxable income item for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income."

SECTION 2. Senate Bill No. 8, S.D. 1, Section 1, is amended by amending subsection (c) of the new section to be added to chapter 235, Hawaii Revised Statutes, to read as follows:

"(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims, including amended claims, for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

SECTION 3. Senate Bill No. 8, S.D. 1, Section 2, is amended by renumbering item 2 to item 3 and adding a new item 2 to read as follows:

"2. By amending subsection (c) to read:

"(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credit over liability ~~shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1-]~~ may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

SECTION 4. Senate Bill No. 8, S.D. 1, Section 3, is amended by amending paragraph 2 to read as follows:

"(2) Section 2(1) and 2(2) of this Act shall be repealed on June 30, 2003, and section 235-110.4(a) and (c), Hawaii Revised Statutes, shall be reenacted in the form in which it read prior to the effective date of this Act."

Senator Taniguchi moved that the amendment be adopted, seconded by Senator Hanabusa.

Senator Taniguchi noted:

“Mr. President, the purpose of the amendment is to specify that tax credits allowed for both residential construction and remodeling and hotel construction and remodeling shall be nonrefundable. The amendment also provides that these credits may be claimed in subsequent years until they are exhausted.

“The tax credit rate remains at 4 percent for residential construction and remodeling and 10 percent for hotel construction and remodeling. The credits will still only be applicable to construction costs incurred before July 1, 2003.”

The motion to adopt Floor Amendment No. 1 was put by the Chair and carried.

By unanimous consent, S.B. No. 8, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS,” was placed on the calendar for Third Reading on Monday, October 29, 2001.

S.B. No. 9, S.D. 1:

Senator Taniguchi moved that S.B. No. 9, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Hemmings rose to speak in favor of the measure with reservations and said:

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

“In reviewing and hearing testimony on the proposed marketing program, I must say that I think the Majority Party will join all of us in lauding their efforts, but it is not focused in the several areas that I think should be additionally considered. Most especially is the statistic that approximately \$500 million a year leaves the State of Hawaii in the hands of people going to Las Vegas to gamble, and I would say to most people doing that – Why gamble in Vegas when you may be losing your job in Hawaii?

“I was hoping the marketing effort would focus in on that also. Thank you.”

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

“Mr. President, I, too, rise in support of the bill with reservations.

“The original bill was a bill that was designed to give \$5 million immediately and then \$5 million later on after the Legislature was able to review the revised marketing plans. I must admit, Mr. President, I’m very discouraged, because at the public hearing we had an opinion – and that’s what it was, an opinion – from one of the many, many, many, many deputy attorney generals who had never written an opinion before about anything else pertinent to state finances. And in her opinion she said that the Legislature had no authority to put conditions on its appropriations.

“Well, Mr. President, I’m taken aback. That’s what we do all the time and that’s what our responsibility is. If we give the people’s money, there should be some conditions and responsibility and accountability.

“I’m a little bit disappointed that people supported the idea of \$5 million up front and \$5 million after the reporting period, so I will support the idea of additional spending with a good marketing plan and good review, with reservations. Thank you.”

The motion was put by the Chair and carried, S.B. No. 9, S.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 16, S.D. 1:

On motion by Senator Taniguchi, seconded by Senator Hanabusa and carried, S.B. No. 16, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO PROCUREMENT,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 2:

On motion by Senator Taniguchi, seconded by Senator Hanabusa and carried, S.B. No. 2, entitled: “A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 3:

On motion by Senator Taniguchi, seconded by Senator Hanabusa and carried, S.B. No. 3, entitled: “A BILL FOR AN ACT RELATING TO UNEMPLOYMENT,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 5:

Senator Taniguchi moved that S.B. No. 5, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

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

“Mr. President, I rise to speak in favor of the measure.

“I think the measure is a good one and I laud the tax department and the administration for putting it forward. Basically what it does is changes the threshold for taxpayers in the general excise tax specifically, so that those who have been paying monthly may now only have to pay quarterly or semi-annually.

“Now, I think that’s a good idea, but basically all it really is doing is deferring those taxes so that later on there’s going to be a large balloon payment coming due for these businesses. The more prudent action, of course, would have been to cut the rates

or to waive them entirely, but I will support the measure as presented.

“Thank you.”

The motion was put by the Chair and carried, S.B. No. 5, entitled: “A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 6:

Senator Taniguchi moved that S.B. No. 6, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Hemmings rose to speak in favor of the measure and said:

“Mr. President, I rise to speak in favor of the bill.

“I want to laud the Majority Party for recognizing that tax reduction does stimulate business. Hopefully this concept will be continued on in the future to help make Hawaii a place people will do business and create jobs and opportunity for our people.

“Thank you, Mr. President.”

The motion was put by the Chair and carried, S.B. No. 6, entitled: “A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 10:

Senator Taniguchi moved that S.B. No. 10, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Slom rose to speak against the measure as follows:

“Mr. President, I’m rising in opposition to this bill.

“We have just passed a bill a few minutes ago authorizing \$10 million in marketing of Hawaii’s tourism and one would suppose that one of the aspects of that marketing would be to talk about the safety. One of the reasons for coming to Hawaii – because we’re safer than other states. And one would presume further that that safety would include coming into our airports, harbors, or any of our transportation systems.

“I have not been shown where we’re going to spend this \$5 million, how it’s going to be spent, or in fact if it’s even legal in terms of the requirements by the Federal Aviation Administration in terms of the use of funds. I would much rather see this money used directly for either specifically heightened security or for additional specific targeting in terms of marketing.

“This bill is too wide open so I’m voting ‘no.’ Thank you.”

The motion was put by the Chair and carried, S.B. No. 10, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING

THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, 2 (Hogue, Slom). Excused, 2 (Inouye, Matsuura).

S.B. No. 11:

Senator Taniguchi moved that S.B. No. 11, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Hemmings rose to speak in favor of the measure with reservations and said:

“Mr. President, I rise to speak in favor of this bill with reservations.

“The bill does authorize the expenditure of over \$2 million to make some new hires. I would like to remind my colleagues of the headline in the July 26th Honolulu Star Bulletin that according to statistics of the census, Hawaii has the biggest state government of any state in the nation. It is pretty lamentable. It’s over 1.4 percent larger than the next largest state on a per capita basis. To put it in better perspective, according to these numbers, since 1997 through the year 2000, Hawaii’s payroll – for just the monthly cost of employees only – went from \$137.2 million to \$158.6 million. The point being, and it’s probably no news coming from the Minority Party, that our state government is way too big.

“The private sector is laying people off because they don’t have enough money to pay their employees. The private sector is enduring a tremendous amount of hardship and we’re growing the size of state government.

“Now, the argument might be made, well, what are we going to do? We need these people, yes we do, and we have a lot of capable people already on the payrolls, but we have hamstrung our civil service employment programs and our labor contracts so strictly that we do not have the ability to re-deploy our workforce. Hence, when we face a situation like this, we’ve got to spend \$2 million that we don’t have to hire new people.

“I think that we really have to take a serious look at this problem during the regular session this year and find ways that we can meaningfully reduce the size of the state workforce before we’re simply faced to lay people off because we don’t have enough tax revenue to pay them. And that’s coming and I might warn the labor leaders who’ve done such a good job of protecting public jobs that we may run out of money to pay their salaries. Unless we do what other states are doing, and that is dramatically reducing the size and cost of government, we’re going to run out of money.

“So, I speak to this bill with reservations. Much of the appropriations are good and necessary, but unfortunately, hiring more people, in my opinion, is not.

“Thank you, Mr. President.”

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

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

“Mr. President, the most disturbing thing about this not-special session has been the fact that questions have been asked very clearly and they’ve been answered very clearly

and then they turn out to be either incorrect or a change in policy, and this is one of those examples.

“From the very first time that I ever saw this package bill, I raised questions with the leadership in both the House and the Senate in all open forums in public hearings and asked the question, ‘Are we talking about the transfer of 36 existing shares?’ In each and every occasion I was given the clear answer, ‘Yes, it is a transfer. It is not new employees.’

“So I, like the Minority Floor Leader, absolutely support the idea of enhanced security. We need that. But I think that when questions are asked, particularly in a public forum, that everybody better be on the same page and answer truthfully.

“Thank you.”

The motion was put by the Chair and carried, S.B. No. 11, entitled: “A BILL FOR AN ACT RELATING TO TRANSPORTATION,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 12:

Senator Taniguchi moved that S.B. No. 12, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

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

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

“I have been a long time and consistent critic of the creation of special funds and in this case we’re talking about the special tobacco fund. My point has always been that we create special funds for a specific purpose, people rely on that purpose, and then later on we change the purpose, we take the funds and use them for other means. That’s what’s going on in this situation here.

“Because we are talking about an emergency and we do have an emergency rainy day fund, I will support this, but with the strongest reservations of the funding source.

“Thank you.”

The motion was put by the Chair and carried, S.B. No. 12, entitled: “A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Inouye, Matsuura).

S.B. No. 13:

Senator Taniguchi moved that S.B. No. 13, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Slom rose in opposition to the measure and said:

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

“As I and many of my colleagues have said over and over again for several years, we absolutely and positively support the concept of the UH Medical School and with the increase and expansion of research capabilities. However, we were very

troubled for a number of reasons that were brought out at the 13-hour public hearing the other night specifically by some of the comments made by the University of Hawaii President, Mr. Dobbelle.

“First of all, he gave us a warning that if we did not pass this bill at this time, we would never pass it. I and several of my colleagues pointed out to him that this Legislature has been in favor of and in support of the UH Medical School and in fact we put your money where our mouth is because we appropriated money for design; we appropriated money for a site selection; we were on our way. What those of us object to in this particular measure, our call to the public’s attention, is the way in which this bill is being funded. Money, again, is being transferred out of the tobacco fund and many people came to testify in opposition to this process, many people from the health and medical communities who support the medical school but don’t like the idea of where the money is coming from.

“Secondarily, the agreement again was always that \$150 million would come from revenue bonds and \$150 million in matching private funds would come from the University. When the University President was asked the other night repeatedly what would happen if for some reason we couldn’t get those matching funds, the University President kept saying, ‘That’s not an option. That’s not an answer. We’ll do it.’ And it was pointed out that sometimes people leave their positions or even leave the state. And we want to know and we have to be responsible because we’re not talking about \$150 million here, we’re talking about \$300 million.

“So I support the medical school concept, support the research concept, but do not like the way the funding is being taken out of the tobacco fund and also the fact that we may be on the hook for \$300 million not \$150 million.

“Thank you, Mr. President.”

Senator Tam rose in opposition to the measure and said:

“Mr. President, I rise to speak in opposition to S.B. No. 13, relating to state finances.

“Before I state my reasons of opposition, I wish to make it very clear that I support the concept of a new University of Hawaii Medical School facility, which will in the future update the technology needs of the State of Hawaii’s Medical School servicing our state and within the pacific region of our world.

“For the record, I am in opposition to this appropriation bill in this Special Session at this time for the following reasons:

1. There is no concrete business plan to build a University of Hawaii Medical School. According to the Constitution of the State of Hawaii, I, like many of you, am responsible for budgeting tax dollars for state services. Without a business plan, Hawaii’s tax dollars will not be spend productively and efficiently. The Department of Business, Economic Development and Tourism requires private businesses to have a business plan when they wish to borrow tax dollars to contribute in stimulating Hawaii’s economy. Therefore, state programs should also be required to have business plans.
2. Since there is no business plan for the medical school at this time, I question the urgency in authorizing \$150 million in revenue bonds and permitting the University of Hawaii to utilize \$150 million in private donations and other university monies to construct the medical

school in this Special Legislative Session. This bill should be addressed in the upcoming 2002 Regular Legislative Session. The construction dollars will not be utilized for possibly another year from now. Recently, on October 12, 2001, Governor Cayetano released \$13 million for site preparation for the land where the medical school is desired to be built. The site preparation will take about a year to complete. As the Senator of the Kakaako community, I know the existing site is contaminated.

3. Once again, the timing for the appropriation is questionable. As of today, the State of Hawaii and the produce companies occupying the proposed medical school site are still negotiating a settlement in terminating the existing land lease agreement. I believe there's about anywhere from 10 to 20 years left on their lease agreement and it's in negotiations between attorneys as this time. It's quite fuzzy in terms of any settlement. I was hoping that a settlement would have been reached after we had finished our Regular Session of this year, but it's tied up now.
4. At this time, the University of Hawaii's emphasis should be to fully fund the existing student programs at the University of Hawaii, which are in bad shape. I emphasize that we should do this before going on to new ventures.

"In closing, if this bill is adopted by the Legislature and signed into law by Governor Cayetano, I respectfully request the Governor to be wise and make sure the University of Hawaii has a concrete and thorough business plan to build a medical school, the State of Hawaii and the lessees negotiate a fair settlement to the lessees, and to release the monies only after the two above items are completed.

"Thank you."

Senator Kim rose in opposition rose to speak against the measure and said:

"Mr. President, I rise to speak in opposition to S.B. No. 13.

"Mr. President, when President Dobelle appeared before us officially for the very first time a couple of days ago, he spoke with many inconsistencies. He said that we needed to pass this and, as Senator Slom said, that if we don't pass it now in this Special Session for the UH Medical School, that we would never pass it. I asked him what gave him the idea that we would not pass it in the next Session. First he tried to say that he really didn't say that he said that we needed to pass it this Session, and then he said he didn't get any indication from Legislators that we would pass it.

"Well, he never spoke to me about it. I polled many of my colleagues here and he never spoke to them about it. Yet, later on in the hearing when he was asked by Senator Kawamoto what he thought about West Oahu, whether or not the Legislature would give them money to finally build, he said he was very optimistic that if we would give him \$8 million now, he wouldn't see any reason why we wouldn't give the rest of the money to finish the West Oahu campus. And yet, that whole premise on the medical school in which we already gave \$13 million somehow did not correlate that we would give him the rest of the money this upcoming Session. So I have to question that.

"Mr. President, I, too, support the concept of the medical school, but I do have some concerns about the fact that this is not an emergency and so we should not be taking it up here in

this Special Session. I have concerns about the location being on the waterfront. I have concerns about using tobacco monies for it. And I also have concerns that we were told that the matching funds would be up front and now somehow the matching funds are at the tail end and we're not even sure if they're going to be able to make the matching funds.

"So with those reasons, I will consistently, as I voted in Committee, vote 'no' on this measure. Thank you."

Senator Sakamoto rose to support the measure and said:

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

"First, as shown by the tragic 9/11, we're very dependent on tourism as our major source of funding. I believe, we all believe, that we need to have other sources. This proposal is based on the Legislature's discussions last Session when Dean Cadman and others came to say, 'here's how we can generate more funds for Hawaii from the National Institute of Health and from other places,' here's how we can have a place in Hawaii where Hawaii's young people can come and have a job as a researcher or as a support person in a good industry, an educational industry, and a health industry.

"This is more than a medical school. The goal and the vision is to be a health and wellness center, including the medical school, including, hopefully, the cancer research center, including other biotech and other types of good industries for Hawaii.

"I believe that many of the comments made are pertinent. Why are there pieces of the puzzle that are still not in place? And yes, these need to be done, but I believe this is a good time to use the money. There are concerns about the location and my comment would be, 'If not now, when? If not there, where? Will we be sitting here or will other people be sitting at these desks 10, 20, 30 years from now saying, "Well, how would we fund it? Where will it go? Where will this, where will that, when, and how?"'

"Mr. President, I believe the valid concerns could and should be addressed, and maybe it's people like myself that have urged President Dobelle to say 'bring forward Kamehameha Schools and bring forward Ward Estate to say that this isn't only state money here, that this is money from surrounding landowners.' This is money and opportunity here for Hawaii's people, not to compete with each other, but to bring more money into our state, Mr. President.'

"So I believe the time is now to move this measure forward."

Senator Menor rose to speak in favor of the measure and said:

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

"Mr. President, I think all of us would agree that these are urgent and extraordinary times that require urgent and extraordinary measures to address the concerns of the people of Hawaii in the aftermath of the September 11th terrorist attacks. I believe that we cannot simply take business as usual, and I believe that by supporting the passing of this bill, we are sending out a strong signal that this Legislature is not conducting business as usual and that in fact we are willing to take the necessary kinds of bold and strong measures that are necessary to address the significant economic difficulties that face us in the future.

“This bill would accomplish those goals in several respects. First of all, this bill would provide and infusion of dollars into our economy that could stimulate our construction industry in the short term, creating jobs and putting more monies in the pockets of the people of Hawaii. But more importantly, this bill would send a strong signal that we are firmly committed to diversifying our economy by encouraging the expansion and development, for example, of biotechnology industries that this medical school, I believe, would facilitate.

“So again, Mr. President, given the urgent times that we now face, I think that we need to take strong action and this bill would accomplish that particular result.

“Thank you.”

Senator Chun Oakland rose to speak against the measure as follows:

“Mr. President, I also stand in opposition to this measure.

“I share the sentiments of my colleagues who have spoken before me with regards to opposing this bill. I believe the Legislature had the foresight several years ago to dedicate the tobacco settlement funds for the purpose of preventing tobacco use as well as to promote health and wellness.

“I think the question for me is the funding source, and I would have much preferred, even during this Session, to have considered general obligation bonds to finance this very needed facility. I truly believe that the medical facility and the health and wellness center that are proposed are things that we should invest our time and resources in, but not using tobacco settlement funds.

“Thank you.”

Senator Ihara rose with reservations and said:

“Mr. President, please note my reservations. They have to deal with the funding source of this project.”

The Chair so ordered.

The motion was put by the Chair and carried, S.B. No. 13, entitled: “A BILL FOR AN ACT RELATING TO STATE FINANCES,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 5 (Chun Oakland, Kim, Matsunaga, Slom, Tam). Excused, 2 (Inouye, Matsuura).

S.B. No. 14:

Senator Taniguchi moved that S.B. No. 14, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

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

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

“As you know, we’ve talked a lot about repair and maintenance and I think all of us would like to see our schools become quality learning centers. There’s no doubt about that. We have \$640 million in the backlog. I know that we would have appreciated even more money going towards our schools. I think this would have been a good opportunity for us to infuse

even more money into our system. To help our schools would have been a win-win situation.

“We personally believe that it would have been a great opportunity to help the economy as well if the money had gone directly to the principals. We think that would have been a great idea to get out into the communities. That didn’t happen and the money is much less in here. I appreciate the money that was in fact put forward.

“However, I was just a little bit bothered by only one thing and that is that all of the money here went to only three districts – Central, Honolulu, and Kauai – and I have to ask why. Why is that? Why didn’t they follow the priority list? Why wasn’t the priority list followed in this case? Why isn’t the money going statewide? It’s my understanding that a few of the dollars, very few, will go statewide, but primarily it’s going to just about a half dozen schools in these three districts. And I just am curious about that and so I ask, Why?”

“Thank you.”

At 10:51 o’clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:05 o’clock a.m.

Senator Taniguchi rose to speak in favor of the measure and said:

“Mr. President, I rise to speak in favor of S.B. No. 14.

“Mr. President, I guess there’s a common misunderstanding about the bill and its contents. I heard some comments on the Floor of the House yesterday along the lines that this was ‘done behind closed doors,’ and that it was ‘done in secret,’ and that it’s just taking care of certain people, certain districts.

“I’d just like to point out that the projects enumerated in S.B. No. 14, those school projects, are projects that had funding in both years of the biennium. So there’s funding in the first year and second year. What we had done is, for all those projects enumerated in our budget bill, which we voted on last Session, we moved up the second year funding into the first year. That’s all we did.

“So, to me, there’s no question about openness or favoritism. These are projects that we’d already had in the budget that we voted for. We felt that if we were going to do other projects, we should at least take a look at funding those projects in this current fiscal year so they can move ahead, because those are projects that the Legislature had passed and wanted. So that’s the clarification.

“The additional \$75 million in the bill basically are projects that DAGS has listed as priorities. They’re primarily classroom renovations. I don’t have a list with me here, but I can provide that to anybody who would want it.

“Thank you.”

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

“Mr. President, I rise to speak in favor of the bill.

“Mr. President, it’s no secret that I supported the Governor’s and the President’s idea of the University’s West Oahu Campus and the monies that were requested at the initial start of the CIP bill. The commitment of the 22 years that I’ve made to the leeward and central corridor students will now total about

70,000 people and the residents out there, which totals about over 250,000 people out in the leeward and central areas.

“But thinking positively, the \$8 million that’s set aside in this bill for the University West Oahu, I’m hoping that this will continue the effort that’s being made by the Governor and the President to press on and the concept of seeing something in the ground in eight months and seeing the completion of a phase growing the University of Hawaii, West Oahu Campus, out in the leeward side, a promise made to the young people out there and the students for a four-year general college out in West Oahu.

“So therefore, Mr. President, I urge all my colleagues to vote ‘aye’ with the hopes that in 18 to 24 months we’ll see a campus out there.

“Thank you.”

Senator English rose to support the measure and stated:

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

“Mr. President, we’ve had a lot of talk on this particular issue regarding school repair and maintenance. To be very clear, it’s been said in the past that Maui doesn’t get anything, that some of the other islands don’t get anything. But to be very clear, in the lump sum appropriations which follows DAGS matrix, Maui County gets its fair share of repair and maintenance for the schools. That’s why I can support this measure.

“As the Chairman of the Ways and Means Committee pointed out, Mr. President, the projects enumerated for Oahu and Kauai were simply projects that were moving up monies from the second year. We have planning allocated for the first year. We’re allowing the construction monies from the second year to go forward now, which meets the intent of what we’ve all talked about – getting projects going right now.

“So, Mr. President, with that clarification, Maui County – Molokai, Lanai, and Maui – gets its fair share and I support the measure.

“Thank you.”

The motion was put by the Chair and carried, S.B. No. 14, entitled: “A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Inouye, Matsunaga, Matsuura).

S.B. No. 15:

Senator Taniguchi moved that S.B. No. 15, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator English rose to support the measure and said:

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

“Mr. President, to be very brief, this is a win-win-win situation. We helped with the medical emergencies before us with Dengue Fever and other medical emergencies in the islands. It helps with the environmental emergencies facing us like Miconia, coqui frogs, fire ants, and other items. And we address the immediate issue of unemployment, which means

that this bill will help to create employment for people as a bridge.

“It’s a creative idea that’s been worked on by many people and I ask my colleagues to support this measure. Thank you, Mr. President.”

The motion was put by the Chair and carried, S.B. No. 15, entitled: “A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Inouye, Matsunaga, Matsuura).

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

The Senate reconvened at 11:30 o’clock a.m.

S.B. No. 17:

Senator Taniguchi moved that S.B. No. 17, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Hogue then moved that Senate Rule 53, requiring floor amendments to be presented to the Clerk no later than 9:00 a.m. on the day of the session at which the amendment is to be offered, be suspended pursuant to Senate Rule 85, seconded by Senator Hemmings and carried.

At 11:31 o’clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:33 o’clock a.m.

Senator Hogue then offered an amendment (Floor Amendment No. 2 – See EXHIBIT “A”) to S.B. No. 17:

Senator Hogue moved that the amendment be adopted, seconded by Senator Hemmings and carried.

At 11:34 o’clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:37 o’clock a.m.

The President made the following declaration:

“We will reconsider the previous action and go back to the original motion.”

Senator Chun then rose and said:

“Mr. President, I’d like to move to reconsider the previous action and I must apologize. I was busy reading the amendment as it was given to me. I have some severe reservations and was not able to voice them prior to the vote. So I would like to ask for a reconsideration, Mr. President.”

Senator Chun moved that the Senate reconsider its action previously taken in adopting Floor Amendment No. 2, seconded by Senator English and carried.

The President then made the following observation:

“Members, we are back to the original motion to adopt Floor Amendment No. 2. Is there any discussion?”

Senator Slom rose in support of the amendment and said:

“Mr. President, I rise in support of the floor amendment.

“I can understand why the Majority was so quick to approve this because it makes sense. It’s very simple. What it does is to specifically limit the Governor to recognize that in fact we do have an emergency situation, but to require that the Governor declare that emergency and to limit his actions into several specific areas:

1. To give immediate relief to the people of the State of Hawaii by exempting the general excise tax on food for home consumption;
2. To allow the Governor to declare a retail tax holiday for those items, all retail items, of \$100 or less for a period of one week to be announced prior to December 9th; and
3. To allow the Director of Transportation, with consultation from the Governor, to be able to adjust and to mitigate the fees and the lease arrangements that are paid for my airport concessionaires and those most directly impacted by the crisis of 9/11 and the subsequent action by the FAA, which does not allow the general public to come in contact with these retailers who are suffering so much.

“So basically, the bill cleans up S.B. No. 17 so that there are no powers that we don’t understand and haven’t discussed or thought about and it does give the Legislature its responsibility to continue to act on behalf of the people and to come back here in our Regular Session in January to finish the job if there are other issues that have come up at that time. So I urge passage of this floor amendment.

“Thank you, Mr. President.”

Senator Chun rose to speak against the motion and said:

“Mr. President, there are portions in this amendment that I think are worthy of consideration. I think there are some common ground between the Minority and Majority Parties. I’m glad to see that. I think there’s common ground too that there is a recognition of an economic crisis. There’s also common ground that in times of an economic crisis, such as we have now, we do need to allow the Governor to exercise extraordinary powers and to review and look at different laws and contracts.

“I think where we disagree, after reviewing this amendment, is on two things. One, it only limits the recognition or the impact of this crisis to only one side, and that is the airport concessions or airport landings. Mr. President, the impact of this crisis goes way, way beyond just airport concessionaires and airport landing fees. It impacts human services. It impacts lessees of lands that the state lets out to other commercial interests – hotels, businesses. It impacts agricultural interests at a time when agriculture is just struggling to survive. They need help too. This bill does not address that.

“So, Mr. President, even though I think there are some good suggestions here by the Minority Party, I don’t think it goes far enough because it only takes care of only one special interest, and that is the airport. I think the economic crisis reaches beyond just that and we need to address those concerns too.

“Mr. President, also as a technical comment on some of the bills, even though it addresses the airports and it tries to carve out a specific exemption to them, the testimony that we received really does not support the method in which they’re

trying to do that. For example, it was testified by the Department of Transportation Director that in their bill, the present bill, they were using passenger counts, passenger landings and deplaning to determine what the real impact on an airline is. In this particular case, in the bill before us or the amendment before us, they’re using landings per se, as opposed to passenger counts. The Department of Transportation indicated that in order to determine the impact to the airlines, passenger counts are a better measurement than just pure landings.

“I don’t know the reason why they want to use landings in this amendment. I think maybe as we go on if there was to be a proposal during the Regular Session to look at landings as a measurement, we can look at that.

“Furthermore, it was interesting to note, even though there is a recognition in this floor amendment, that there is an emergency and a recognition of the need to act quickly. That amendment seems to go backwards and negates the ability to act quickly. In order for the Governor or the Department of Transportation to give any kind of relief under this proposed amendment, they still will have to do rules and adopt them pursuant to Chapter 91.

“Mr. President, as we all know, as we’ve been battling with the administration for many, many years, it takes years, if not months, for a department to get any rule out. So by the time we get rules to implement the suspension of airport fees, charges, and rentals, as allowed during this emergency, the emergency will be over and whatever relief we’ll be able to grant will probably not amount to anything because they’ll be bankrupt by then.

“So Mr. President, even though I think the bill is laudable in its efforts to try and address only a specific issue, I think it goes way too far, and it doesn’t grant relief to others who really need the relief. It also seems to be confused in terms of how to get it done, because on one hand it says we need to act quickly and yet on the other hand it puts up a bureaucratic morass which would prevent anybody from working quickly.

“So for those reasons, Mr. President, I will be voting against the amendment.”

Senator Slom rose again and said:

“Mr. President, I want to thank the Co-Majority Leader from the beautiful Garden Island of Kauai for talking about some of the common ground we have. I don’t know whether it’s leasehold or fee simple and whether it’s in my district or in another district, but we can discuss that later.

“However, let me address some of the points that the good Senator made. First of all, he mentioned at one point that this is too narrow a bill because it’s only for special interest. Then at another point he said that it goes way too far. I’m a little confused whether it’s too narrow or too broad. But let me specify a couple of things.

“He said it’s for special interest and he pointed to the airport concessionaires. Well, number one, the airport concessionaires who have been contacting all of us on a regular basis and who spent the greater part of the 13 hours at the hearing the other day are the ones that are most directly impacted and the ones who have communicated to us exactly what their problems are. However, in this bill the Senator must have forgotten that there was the exemption of food in there, and I think that impacts oh, maybe 100 percent of the state population. So I don’t think it’s a special interest from that standpoint. And in terms of immediacy, if you want to give more money or keep more

money in the pockets of every working and living individual in this state, you reduce their immediate cost on necessities. There's no greater cost than rents and food and basic needs such as medical. So this bill would also address that portion, as well.

"In addition, we've just passed a number of other bills that do look at helping various people – the unemployed workers in terms of extended unemployment comp benefits; unemployed workers in terms of extending their medical through Cobra and other means; and the construction industry. We've looked at various segments of the economy and we've done that. But in the bill, as written right now, S.B. No. 17, there is nothing specific to help or address the problem of the airport concessionaires. That's not me saying that. I asked the Attorney General of the State of Hawaii the other night. And as he folded through all the papers and everything else, he had to agree that the bill as written does not address their concerns. Now, they brought their concerns to us. We know what they are. They're in a very special circumstance and so that's why this bill addresses that.

"Now, in terms of the rule making and all, I certainly agree with the good Senator from Kauai that sometimes it's taken years to make rules or change rules. That's one of the reasons that I'm sure we all support collective bargaining reform and regulatory reform and why the Lt. Governor has done such a wonderful job in swatting those long standing rules. But I would point out to the good Senator that in two separate occasions, number one, the Governor of the State of Hawaii already exercised his powers twice to reduce landing fees. He did that on his own. And in the case of concessionaires, the largest concessionaire in the State airport system is Duty Free Shoppers who announced yesterday, by the way, that they've laid off 70 employees initially. But Duty Free Shoppers was arrears in their contract with the State of Hawaii. They pay upwards of \$60 million to have the monopoly at the airports. And several years ago, before September 11, several years ago they ran into problems and they went to the Department of Transportation and to the Governor and they got a deferment up to \$50 million of what they had to pay. So we've seen in the past that these things can be done.

"The whole purpose of this bill, Mr. President and colleagues, is to identify what those needs are and where they're not being met. And can we account for every emergency and every group of people that are not taken care of? No, we're not. No, we can't. But those people have not come forward yet, specifically, and when they do, it is this Legislature's responsibility and it is our ability to do those kinds of things and make those changes. Plus, we're going to be back in Regular Session in January, and if need be, we could come back earlier than that.

"So, for these and other reasons, I would urge my colleagues to think of this not as a special interest bill for one group of people, but a much a broader bill for the people of this state to cut their costs while at the same time limiting and forcing the Governor to specify what exactly are the emergency powers he seeks.

"Thank you, Mr. President."

Senator Kawamoto rose to speak in opposition to the amendment as follows:

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

"Mr. President, I admire the Minority for bringing up the concessions. And I, too, was concerned about the concessions. In fact, in the earlier part of the game we had a portion in there just for the airport concessions. And the agreement was made

and so forth as the bill went through the process and we came up with the original or the latest S.B. No. 17.

"The problem we have today is because of the process in which bills must go over to the House, then the Governor up there. This S.B. No. 17 with this amendment would probably kill the bill, S.B. No. 17. And this is what the airport concession people said they did not want to happen. The latest note that we had from the concessionaires was that they support S.B. No. 17. Although it does not list the airport concessions specifically, this gives them the opportunity to discuss with the Governor and to waive what we call the minimum annual guarantee, which is, by the way, a part of the committee report if you read the committee report. So they addressed the minimum annual guarantee in the committee report.

"Therefore, Mr. President, I urge all my colleagues to vote 'no' on this amendment if you want to help the airport concessionaires and 'aye' on the bill. We need to pass this bill. We need to pass this bill.

"Thank you."

At 11:52 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:53 o'clock a.m.

Senator Slom then rose and said:

"A Roll Call vote please, Mr. President."

The motion to adopt Floor Amendment No. 2 was put by the Chair and, Roll Call vote having been requested, failed to carry on the following showing of Ayes and Noes:

Ayes, 3. Noes, 19 (Buen, Bunda, Chumbley, Chun, Chun Oakland, English, Fukunaga, Hanabusa, Ige, Ihara, Kanno, Kawamoto, Kim, Kokubun, Menor, Nakata, Sakamoto, Tam, Taniguchi). Excused, 3 (Inouye, Matsunaga, Matsuura).

At 11:55 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:02 o'clock p.m.

Senator Hanabusa rose on a point of information and said:

"Mr. President, I rise on a point of information.

"Mr. President, many of us had Senate Floor Amendment No. 3 passed out to us, and I'm inquiring as to the status of Senate Floor Amendment No. 3, which I believe was being offered by Senator Hogue."

Senator Hogue rose to respond and said:

"Mr. President, we did consider Floor Amendment No. 3. After discussion, we have decided not to offer it.

"Thank you."

Senator Slom then rose to speak against the measure and said:

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

"I can't think of a worse bill, a more poorly crafted bill, a more dangerous bill, and a bill that does not do any of the things that it purports to do than S.B. No. 17.

"We've all agreed we're in an emergency. We all agree that we want to do certain things and help as many people as we can. But this is not the right vehicle to do that. What this bill does is to abdicate the responsibility of this State Legislature and each one of us in the Senate as well as in the House and give powers to the Governor – broad, discretionary, vague, and practically unlimited powers – for a period up to June 30th of the Year 2002, even though this Legislature will be back in Session, as I mentioned earlier, in mid-January and we could, in fact, come back earlier if we had to.

"But the idea that lawmakers who fought so valiantly during the Regular Session this year to establish our independence from the Executive Branch, the idea that Legislators are so willing to go ahead and confer these powers to the Governor of this State – and let me make it clear, whoever the Governor of this State would be and it doesn't matter to me that it's the present governor or would be any other governor of any political party – this bill is wrong. This bill does not do what it's supposed to do. And interestingly enough, as I said the other night, the President of the United States, and he has a few problems and a few concerns, has not asked for the kinds of powers that we are granting our Chief Executive in this bill.

"The Governor of the State of New York, and he's got a few problems as well, had not asked for the kinds of emergency powers that are granted in this bill. In fact, no governor of any state, no municipal leader, nowhere in the United States, present or past, has anyone asked for and received these kinds of additional extraordinary powers. And why are they needed? And that really is the question.

"If we're not prepared to act and do things, if we want to abdicate and give our powers to the Governor, then I guess they are needed. But as long as we have a voice and we have a vote, it is our responsibility to do these things. And if new problems occur, it is our responsibility as elected representatives to come back together or stay here as long as we need to stay here to solve the problems. And we are not doing.

"We talked about one aspect of the bill that purported to help airport concessionaires, but in fact does not. It is not. It relies on the good will of the Governor. It also relies on the Governor's ability to look at each individual contract – for example, not to treat the airport concessionaires or any other group as a whole, but to look at each individual contract and every contract and then decide what he wants to do about it. There's no public hearing process. There's no review. Some have argued there is oversight because the Governor must report to you, Mr. President, and to the Speaker of the House. But he does so only after he has acted.

"There is no one to question why a certain thing is being done or why something is not being done. That's our role. That's what the people rely on us to do. That's what we said we would do in our oath. We are violating our own State Constitution because we are allowing someone else to have unlimited, unbridled powers.

"Now, one of my colleagues early on said that we should not be doing business as usual, and I absolutely agree, but this is exactly business as usual. It is the accumulation of power in the State Executive. Every single state that has had or is holding a special session right now has one thing in common – they have reduced the power of their government, they have cut their taxes, and they have reduced their debts. And Mr. President, our business is as usual. We have not substantially reduced any taxes. We have increased the size and the cost of government here. We are increasing our debt obligations to ourselves and to our children and our children's children. And the bottom line is we don't have anything specific that says what the Governor is

going to do and what his solutions are going to be that are proposed.

"It certainly is true that we should send a message to our State and to our community and nationally. Well, I've heard that the New York Times is already interested in what we are proposing to do here, and the Wall Street Journal, and the message is a negative one. Because how can anyone – investor, family, small business – how can anyone plan anything during this period until June 30, 2002, when it relies on one person who is not accountable to anyone else? No one can do that, Mr. President.

"We have opened the door for a great many possible abuses and excesses. The media talk openly about marshal law and that's, in fact, what we're doing. The only difference is we're voting to give that marshal law, dictatorial power to one individual.

"There's nothing urgent in the bill either. It doesn't say we're going to do this, and this, and this, or we need it for this, and this, and this. And as I pointed out a little while ago, the Governor already has the power to change the landing fees if he wants to and to negotiate with the Department of Transportation to do things. The Governor of the State of Hawaii is already the most powerful Chief Executive of all 50 states by reason of the fact that we are the only state of 50 states that has centralized strong state functions usually reserved for municipalities and local government. And what about those functions – state education, state transportation, state mental health, state corrections, and three of the four are under federal consent decree right now, saying that we haven't done our job to date.

"And so, knowing that, what are we saying? Let's give even more power to the Governor. If that's not business as usual, then nothing is. That is business as usual. The public has been looking to us to make changes, to provide solutions. And it's only second down and we've punted. We're not doing anyone a favor here, except the Chief Executive.

"I asked the Attorney General the other night at the public hearing if, in fact, he were not the Governor of the State of Hawaii three weeks ago. And he said that technically, technically, he was. Well, he was. And I said, under this bill, if again the Governor decides to go to Japan or Malaysia or somewhere else and the Lt. Governor decides to go somewhere else as she did before, then he, the appointed, unelected State Attorney General would be the Governor of this State and would be able to exercise each and every one of these powers. And it's not even what's just in the bill. It's what's not in the bill, but what's set up – a new definition of contracts so that the Governor, the Chief Executive, one individual has the power to determine those things by himself.

"I don't know about the letter that my good colleague from God's country is talking about from the airport concessionaires because I haven't heard the concessionaires say, 'Pass this bill. It's the only hope we've got.' They said, 'Give us relief.' And we're saying, 'We've got the power to do it. If we want to do it, we could do it. We could have done it any one of these days. We could do it today. We could do it Monday or Tuesday.' If we're really interested in helping them, if we're really interested in helping families, let's do it. We know what to do because we get suggestions. There are polls out there and surveys that suggest that 90 percent of the constituents are opposed to this bill. Who has testified for this bill? The Governor's representatives and the Governor's department heads, and a few individuals.

"Can any one of my colleagues tell me that they've had overwhelming support from their constituents saying, 'You

guys better pass this bill because we need these emergency dictatorial powers.' Can any one of you say that in good conscience and honesty? I don't think so. The public opposes this. You know in your hearts and in your heads that this is wrong. You know that we've got the ability to make these changes and you know that this bill will not solve the problems that we're confronting.

"Do not let an emergency cloud your judgment and vision. Let us do the things that are right. Let us accept our responsibility. I understand from some of my colleagues that they think that things are really going to get bad. And because of that, they would rather have the lame duck Governor take the hit for it, for anything that happens or any mistakes that are made. You know better than that. The public looks to us and the public holds us responsible, as they should, because they pay for everything that we do here and for things that we don't do here. So it's our responsibility.

"So, I urge my colleagues to vote 'no' on this bill or to amend or modify the bill which my colleagues have been unwilling to do. I don't care if you don't like Floor Amendment No. 2 or Floor Amendment No. 3 or Floor Amendment No. 4. Then let's stay here today and do Amendment No. 5 that will help the people without giving away everything to the Governor. That's what we're here for. That's what we're responsible for. I urge you to vote 'no' on this bill.

"Thank you, Mr. President."

Hemmings rose to speak against the measure and said:

"Mr. President, I'm absolutely stunned that the Majority Party is willing to abdicate their power as duly elected Senators and Representatives to a dictator, as this bill will do.

"Thank you, Mr. President."

Senator Hanabusa rose to speak in favor of the measure and said:

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

"Mr. President, I've heard the comments. I have looked at the various floor amendments and it's very interesting, because the last time I checked, S.B. No. 17, in the present form that's before all of us, was co-introduced by my good colleague from Hawaii Kai and it wasn't even by reservation. I had to check to make sure, in fact, that it was so offered, and I will represent that it was so offered.

"I'm also stunned in listening to the comments. We have heard many of it, even from the public, that we are creating a dictator in Cayetano and, in fact, most of the comments that I have received have been more anti-Cayetano than anti the bill. They just don't want the Governor to have these powers because they just don't like him.

"As you all know, I've not had a very smooth relationship with the Governor. I think he has even invited the good Senator from Hawaii Kai more times to see him than he's invited me. But notwithstanding that, this is not an issue of whether we like the man or not. This is an issue of what we're going to do.

"My colleagues have said that this is a state of emergency. It's a state of emergency. We're going to have to do something about it. Then my colleagues have made comments like, 'hey, the Governor can do landing fees; the Governor can negotiate contracts; he can do these things with the Department of Transportation.' Then I wonder, if that's the case, then what

really is the true value of Senate Floor Amendment No. 2? Maybe it's the waiver of the GET for a week and maybe the food tax.

"Well, Mr. President, we're passing out S.B. No. 1, which puts a million dollars for emergency food and a million dollars for emergency shelter. And the reason why we have done that is because we understand that there's people who are not going to have food, and those are the figures we were provided to provide them with that.

"We also have passed out S.B. No. 2 and I believe S.B. No. 3, which are supposed to meet the needs of the people who are struggling. S.B. No. 2 and S.B. No. 3 are both unemployment related as well as medical benefits – medical benefits, the one that so many are concerned about because even if they were to go on unemployment and even if we were to give them extended unemployment, the point remains that they're going to spend a lot of that trying to buy medical benefits. So we have both provisions for Cobra, as well as for the new item called Skinny QUEST, which for \$63 they can buy. And with SCHIPS in there, we should wrap around and take care of all the children up to the age of 19.

"Those are important bills. But how do we enact those bills? This state, more than any other state, has one of the strongest provisions in our law for administrative procedures. You can look at all the Supreme Court decisions. They will enforce the requirements of Chapter 91 continuously. How do we get these benefits to the people quickly and without the red tape, red tape that was there to ensure? When we passed Chapter 91 it's to ensure that government does not act in an arbitrary and capricious manner. That is the standard. I will vouch for that. That is the continuing standard that government cannot act in that manner. And that's why we have to engage in rule making, and that's why our rule making takes an average of 18 months. We can't ask these people to wait 18 months for their benefits. Even Senate Floor Amendment No. 2 has a Chapter 91 provision in there. We can't ask people to wait for 18 months. We've got to act immediately.

"So how do we do that? There's a provision in the law, in a provision of S.B. No. 17, which will suspend laws, statutes and rules. And yes, there is a criteria before those suspensions can take place. But, what we are saying is that we don't want to do that. So how are we going to enact 1, 2, and 3 in the interim? How are we going to get these benefits to the people that we have all said 'we've got to help the people.' How are we going to get it to them? We've got to suspend the rules.

"Look at the simple of rule of unemployment eligibility – for example, we have 26 weeks; we're going to extend it for another 13. How are we going to determine eligibility for that additional period of time? What happens if our eligibility criteria is in opposition to the federal extension, if it comes and when it comes. How do we do that? Are we going to come back in, try to craft a bill and then say, okay, go out and implement the rules that are going to be necessary. Is that what we're going to do?

"How about the contract issue? You've heard the good Senator from God's country talk about the airport concessionaires and how they have told him that they are in favor of S.B. No. 17. Senate Bill 17's right to defer, waive, or suspend applies to contract obligations and that's set forth in Section 5. But look at the definition of contracts. The definition of contracts is 'contracts, leases, land leases, land permits, easements, concessions, subsidies and grants, and agreements to purchase goods and services in construction.' We've limited that area.

"Let me explain to you why that is a concern. We have had testimony before us which said, 'If you let the Governor have this, he's going to move the Ala Wai golf course; allow the boats back on Hanalei River on Kauai; permit the Kahului Airport extension on Maui; choose a permanent site for a prison on the Big Island, and re-do the teachers' contract more to his liking.' First of all, I assume in the worst case scenario the Governor, I guess, could move the Ala Wai golf course, but in order for him to move it anywhere I would assume he would have to enter into a contract. And you know what? There isn't a provision in this bill that lets him enter into a contract. And in any event, the last part of this bill restores everything after six months. So if somebody's going to go in and say okay, we'll move the Ala Wai golf course, then six months later we're going to move the Ala Wai golf course back again.

"Hanalei River on Kauai, the boats – I guess in that situation you could put them on and then six months later you'd have to pull them off. And if there is a contract provision in there, he can't do it because he doesn't have that right. Kahului Airport runway extension on Maui – I guess they could start, assuming that the permits are in place, and then they'd have to stop in six months. I guess he could choose a permanent site for a prison on the Big Island, but you know what? In six months that's null and void too. And re-do the teachers' contract – nowhere is contract defined in here as a collective bargaining agreement. You can't re-do the teachers' contract.

"The thing I wanted to point out, Mr. President, is that Senate Floor Amendment No. 3, though it was withdrawn, was a very good proposal. I had problems with it. I probably would have voted against it. But it was a good proposal because it at least recognized all the problems we face. If you looked at Senate Floor Amendment No. 3, what it told me is that my colleagues across the way from me here in the Minority Party at least read the bill and understood what it was intending to do. They were not changing these provisions.

"What would have changed is they would have asked for Minority representation on the advisory committee. They would have asked for a specific provision regarding DLNR leases, and that was one of my problems because the DLNR leases that they refer to in there was in the event of cancellation and the proposed S.B. No. 17 does not give him the right to cancel contracts. So in that sense, that provision was not really relevant because it's not even something that he has the right to do even in an emergency situation. And again, those contracts restore in six months. So even if all of these things were to happen, which I doubt that they'll happen, they'll be restored again in six months. So why would anybody go with that?"

"There's also the issue of the guaranteed rents at the airport. The problem I had with the Minority's proposed Floor Amendment No. 3 was that it had a requirement of shall."

Senator Hemmings interjected:

"Point of order, Mr. President."

The Chair responded:

"State your point."

Senator Hemmings continued:

"I don't think the proposed Amendment No. 3 is an issue that's being discussed or was on the Floor today."

Senator Hanabusa responded:

"Mr. President, If I may continue, I'll address that point."

The President stated:

"Please continue."

Senator Hanabusa proceeded:

"Thank you very much. I only raise those examples to show, in fact, that my good colleague across the way did understand the bill and did recognize, in fact, that it had the necessary powers that we would need in order to effect the total package of bills that we have before us. And that's what this involves. It involves a total package of bills that we've got to see through.

"We are not in session every single day. We are not the Congress of the United States, neither do our departments have these extraordinary powers which the Congress has given to various departments in the United States government.

"But you know the comment about the other things, the comment about other governors not asking for it – there are about 47 states that have some form of emergency powers, and some of them actually address economic emergencies, unlike ours. And in those situations, the governors are given the authority to declare it and upon that declaration they can suspend their laws. They can do whatever else. And you know, our Governor doesn't have, in my opinion, the right to suspend or do any of this in the event of an economic emergency.

"We could arguably read HRS 209 to, in fact, include that. And we could say, possibly, the civil defense and emergency act may apply. But I don't believe it does. But if those provisions did apply, we wouldn't need S.B. No. 17 because he would have way more power than what he has in this proposed law. And again, this law undoes everything – all statutes, orders, anything is undone at the end of this bill's life. And it's automatically repealed. We don't do anything affirmative. And any relief that is given, basically become undone too, which to some is not what they want. Airport concessionaires would like to have a permanent waiver of their MAG requirements. I'm sure they do. But that's not something that we're going to give. Neither are we going to extend or permit the Department of Transportation to give anyone a longer permitting time than what they have. That's not part of it too. Six months is the maximum period.

"Colleagues, you have to make a decision. Do we have an emergency? And if we have an emergency, we all know our rules. We all know our statutes and we all know how they can conflict with each other, and somebody's going to have to implement this. How do we get the benefits to the people quick enough? Because I believe we have people who are in need of those kinds of relief – the people, people who are going on unemployment, who were getting off and managed to straddle September 11th. They're going to be covered from the Sunday after, the Sunday after this law takes effect. The laws take effect; they will be covered, and we have to make sure that our rules and regulations and our statutes do not infringe upon that.

"And if people need relief from contracts, they've got to have the contract relief. But you know, all of that ends in six months. That's all that we are saying that the Governor can do.

"Thank you, Mr. President."

Senator Slom rose in response as follows:

"Mr. President, just a very brief response to the eloquent Vice President of the Senate and Senator from the beautiful Waianae Coast, who is an attorney by profession. And you know, oftentimes we get into our problems because of

attorneys, because of how attorneys look at the same bill. The Senator mentioned HRS 209 and she said in her opinion it does not cover these emergency things that the Governor might want to do or could do and all of that. But in someone else's opinion, it does.

"The Attorney General has given us conflicting opinions in the past, and remember the Attorney General is not the people's attorney. He does not represent the man and woman on the street. He represents the Governor. So when it's advantageous for an opinion that will support the Governor, he's all in favor of it and so are his deputies. When there is something questionable, then he's very selective. So, as Shakespeare once said, first we kill the attorneys and then we can move on to the emergencies.

"Oh, about co-authoring the bill. Now, the good Vice President knows that for three weeks we were talking about unity and brotherhood and sisterhood and getting together and a feeling of bipartisanship and all that, as they have demonstrated nationally. And it was in that spirit that I signed each and every one of those bills, but indicated to leadership of both the House and Senate that I had very strong reservations on some of the bills and that I would be voting against other bills. But what this does, colleagues, is point out a very clear and definitive philosophical difference between the present Majority and the emerging Majority – and that is this, we are willing to put any bill, any idea, before the public and let it stand to scrutiny of ideas and public hearing, and then make our decision after people have come forward. Whereas, some people don't even hear bills. They won't even deck those bills. They won't have the input from the public such as the five bills that the Minority introduced as a package at the beginning of this Session that would have granted immediate and meaningful and substantial relief to every man, woman and child in this state. So that's why I co-authored the bill, besides, I like signing things that come from the Majority.

"Well, the one thing that I absolutely agree with the Vice President, she said in referring to Floor Amendment 3 and I hope to Floor Amendment 2 and certainly to the bill, we understand the bill. We understand the total bill. You bet your bottom dollar we do. We understand it, and that's why we oppose it because it is a bad bill, and it doesn't do these things. And we're not arguing about all of the other bills and all of the other relief. I indicated that we support it. We did. You saw by our votes. We supported those things. We wanted to go further. So that's not an issue, either. And let's put it to rest one more time. Let's try this. It does not have to do with this governor, the man, the individual, the lame duck. It would have to do with any governor, he or she, that would be in office at this time. We would say the same things and be opposed to it for the same reasons. It is not about the individual. It is about the constitution and it is about giving up our rights.

"Oh yeah, then there was the provision about 'Hey, don't worry, folks, because come June 30th, this thing drops dead. It automatically sunsets.' Let me see, if I had a buck for every time this Legislature and past Legislatures passed a bill and said, 'Don't worry because here's the sunset date,' and then guess what, the Legislature came back and removed the sunset date and extended the period of time for that legislation, if I had a buck for all that, gee, I could afford to move to a new district and I'd be a happy guy.

"And the eloquent, good Vice President knows that – knows that's possible and knows that it's very difficult to vote against anything that a person of one's own party has proposed. When she was giving you the list of all the things that could happen and she said that they couldn't because of this and that – but they could, depending on who interpreted it – she forgot, oh,

those other areas like, Could the Governor fluoridate the State's water supply since he and the First Lady are on television supporting fluoridation even though the vast majority of people are against it? Could the Governor institute gambling as a means for economic recovery in emergency even though the vast majority of people are against, even though the Governor went to gambling casinos, has good friends that are lobbyists for the gambling industry and all of that? I don't know. I don't know, just like the Vice President doesn't know. And that's the problem. We don't know. Let the Governor let the supporters tell us specifically what they want to do. We'll be glad to do it. I do agree that if there's any area that the Governor needs additional emergency powers, we'll be very happy to support them and give them. Just tell us what they are and why they're needed.

"And finally, finally, I'm just afraid that we are abrogating not only our responsibilities, but our rights that we don't have the right to abrogate – the rights of other people. I see this as a threat to us to really handcuff the freedoms in our state. I don't want to be handcuffed. I don't want my children to be handcuffed. I want us to accept our responsibility and to do the things that we can do and that we should do. Otherwise, Mr. President, we fail our constituents; we fail our keiki; we fail small business, and most importantly, we fail democracy.

"I urge a 'no' vote on this bill as constitutionally presented.

"Thank you."

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

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

"As the previous speaker stated, I think a lot of the concern is about what's possible and what's not possible. And that's a fear – what could be done. The Senator from Waianae clearly indicated some of the things that could not be done. We could not move quickly with some of the aid measures that we're passing on this Floor today. We could not move quickly on issues that are fully identified as of today. We could not do many things that are very much needed.

"There's no question we, he, she, they could do many things, and the public's fear is justified – what does this entail? But certainly, if today we were in the eye of the hurricane and Honolulu was devastated, we wouldn't be debating what could the Governor do. Certainly he would do what needed to be done to help mitigate the effects of the hurricane.

"We're in the midst of an economic hurricane. Certainly, it's very fortunate that we were not the blunt of any airplane disaster or any other disaster, but there is no question that we are in an economic hurricane. We need to do something, and if not this bill, then what?

"I believe this bill will help many small businesses. It will help many people to keep their jobs. It will help many people who don't have their jobs if indeed, rules, regulations, barriers will prevent us from getting to them as immediately as possible.

"Mr. President, I urge you and I urge Mr. Speaker to work with the Governor today and follow up on some of the good things the Senator from Waianae said that should be done and could be done should this measure pass. And I urge you and Mr. Speaker to work with the Governor and make clear what things he intends not to do related to the fears raised about fluoridation, gambling, prison location, and some other things that certainly are issues that deserve a full debate or a continued debate. Many issues have been debated here before.

“Mr. President, my suggestion would be for you and Mr. Speaker and the Minority members, as well, to try and come up with a list of what will be done or what intends to be done to alleviate the fears of what could be done.

“Thank you, Mr. President.”

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

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

“Mr. President, at the risk of being accused of being a lawyer, which I am, I wish to address some of the concerns raised by the Honorable Senator from Hawaii Kai in regards to his fears or the fears raised by other people regarding the Governor’s powers under S.B. No. 17.

“For fluoridation, as pointed out by the Honorable Senator from Waianae, this bill does not give the power to the Governor to enact laws. In order for us to mandate fluoridation, we need to have a law. This bill does not give him the power to unilaterally adopt the law to mandate fluoridation by all the counties.

“Secondly, on gambling, same issue. The Governor does not have the power to mandate laws to authorize gambling. In fact, he would have to repeal them. I don’t believe the Governor in this state has indicated that he’s willing to do that, and besides, it’s six months again. I think those are fears which really are not going to come to the realization and we should adopt the law first based upon what we feel could be done and should be done.

“The Honorable Senator from Hawaii Kai mentioned that he could not think of any single person that testified in favor of this bill. I want to point out that the Chamber of Commerce at the hearing that we had on October 23rd specifically testified in favor of S.B. No. 17 and did so very fervently.

“Mr. President, the bottom line is this, we could argue fears until we’re blue in the face with possibilities, but the real question is, Mr. President, in times of an emergency, do we need to respond quickly to the needs of the people? That’s the real issue.

“Currently on our books, Mr. President, we have a law that allows the Governor, in times of an emergency, to do not only the things that are enumerated in S.B. No. 17, but also to exercise far greater powers than what we have in S.B. No. 17 with no limitations. And that’s the civil defense law. We are not abdicating our responsibility as Legislators. We’re looking at the current law which provides for these same kinds of powers, in fact greater powers, and seeing whether or not that kind of situation should be applied right now. For example, the civil defense law allows the Governor to exercise broad powers in times of natural disaster, and we’ve all seen that happen already, and also in times of attack. The civil defense law states that one of the things that the Governor needs to look at in times of such an emergency is the financial and economic impact of that event upon the State of Hawaii.

“So, precedence is there. Legislation already exists. The question, though, is whether or not a terrorist attack in New York, which has national if not global implications, is of a sufficient magnitude to warrant the exercise of that kind of power.

“In my mind, Mr. President, we are living now in an economy and a world in which there is no isolation. What

happens in New York will have a definite impact on what happens in Hawaii, as well as Florida, as well as California, and our laws need to be changed to reflect that. We had the opportunity. We could have said, ‘Well, we’re going to just simply amend the existing law and say, hey, we’re going to include terrorist attacks in New York, and give the Governor carte blanche in that kind of situation.’ We chose not to because this is a very interesting and very good argument that we should take up during the next session. But that takes time.

“What we’re faced with today is right now, when people are suffering now, where there is an emergency now. Should government be able to act quickly? In response to that question, I will have to say, yes, we are in an emergency now. We need to act quickly. We need to act cautiously and to give the Governor just the kind of powers that he will need to address the immediate problems. S.B. No. 17 does that.

“If you want to approach the larger issue of whether we want to expand the existing law to include terrorist attacks that do not occur on our shores, we can and we should. But let’s not forget that while we’re debating these matters, people are suffering now and action needs to be taken now by government. And that’s what S.B. No. 17 does – it frees up the resources and monies to help people now.

“So let’s not forget the point of this law. Let’s not forget that while we’re arguing on these things, people are hurting. And let’s go forward and address those concerns.

“Thank you, Mr. President.”

Senator Menor rose to speak in favor of the measure with reservations and said:

“Mr. President, I’d like to speak in favor of this measure but with reservations.

“Mr. President, I do share some of the concerns that have been expressed by several of my colleagues across the aisle regarding some of the broad provisions of this measure. I am particularly concerned about the fact that the existence of some of these broad provisions could subject this bill and any actions taken by the Governor thereunder to possible legal challenges on the basis that this bill would result in an overly broad delegation of legislative authority from the legislative branch to the executive branch.

“However, having said that, I still will be voting in favor of this bill and I will be doing so for several reasons.

“First of all, as the committee report so clearly states, the bill does contain sufficient safeguards to insure that the Governor will exercise these emergency powers in a reasonable and prudent manner. First of all, the measure will require the Governor to submit public notices and detailed monthly reports to the Legislature of any power exercised. In addition, as was stated earlier, the emergency powers conferred upon the Governor will be temporary in nature and will be repealed as of June 30, 2002. In addition, as we all know, the Legislature will be coming back into Regular Session in a matter of three months, which means that this body will be in a sufficient position to be able to insure that the Governor does not exercise these powers in an excessive and abusive fashion. And if he does so, then of course this body could take immediate action subsequent to the start of the Regular Session to either repeal this law or pass measures to again correct any abuses that we perceive are occurring with respect to the Governor’s exercise of these powers.

"And finally, I would like to emphasize that we shouldn't lose sight of the fact that the primary purpose of this measure is to assist the airport concessionaires who have stated very clearly and strongly that they need this measure. While not perfect, it will help them because it will enable the Governor to be able to waive fees that they are required to pay in order to insure that they survive economically in the future.

"And for all these reasons, notwithstanding the fact that we don't have a perfect bill before us, I believe that this bill should be passed and therefore would ask my colleagues to vote in favor of it.

"Thank you."

Senator Tam rose to speak in favor of the measure with reservations and said:

"Mr. President, I rise to speak on S.B. No. 17, Relating to Economic Emergencies. Please record my vote in favor of S.B. No. 17 with reservations.

"Mr. President, during the past days of this Special Legislative Session we have discussed 17 bills. The most controversial bill is S.B. No. 17, Relating to Economic Emergencies. Two reasons why this bill is controversial as I analyzed it in our deliberations in the past few days are:

1. September 11, 2001, we had tragic events in Washington D.C. and New York City affecting Hawaii's economy relatively.
2. Per a very large percentage of the State of Hawaii citizens, they unfortunately rank Governor Cayetano very unpopular. Thus, people question whether he can be trusted to do the people's business as a public servant, as I was told by many of the phone calls, faxes, e-mails, etc. I'm quite sure we all received these messages.

"Before proceeding with my reasons for my vote with reservations, I wish to state that as citizens of the State of Hawaii we must move ahead to rebuild our economy with a positive frame of mind and work together as best possible, which includes myself as a Senator. I might add, as the Chairman of the Senate Committee on Economic Development and Technology, I openly state that we must take positive actions to rebuild Hawaii's economy.

"Although it's well known that Governor Cayetano and I have differences, legislatively and yes, personally, whereby the Governor campaigned against me in the last election, and although he disclaims it, I was told by very reliable words through the ears of these walls here, but no fret, I will dismiss that and carry on. I understand that the Governor campaigned against me because I am considered an independent Democrat, as some of his cabinet members have told me quietly behind the scenes. And that's fine with me. But I will vote on this bill for the sake of trying to improve our economy. In fact, if I may add at this time, the Governor even sent me a swear letter after the last election. He called me names, swearing words that we would not even mention to our kids, because I publicly stated that the Governor should follow the directions of the President of the United States in not using public funds to pay for his personal food. He got really upset with that, but that's fine. I have my principles, we all have our principles and this is public dollars.

"Let it be known publicly that I will watch over Governor Cayetano's actions. Thus my reservation is based on me having to work even more hard as a Senator in overseeing the

Governor's actions because of the public demands made upon me which expresses caution about Governor Cayetano.

"If the Governor misuses his authority through S.B. No. 17 (as people know me for being very aggressive), I will petition for his removal from public office. I remind the Governor that in accordance with Article I, the Bill of Rights of the Constitution of the State of Hawaii, 'All political power of the state is inherent in the people and responsibility for the exercise thereof rests with the people. All government is founded on this authority.'

"My reason for support of this bill is because it has various conditions to giving Governor Cayetano economic emergency powers. The conditions are:

1. Facilitate the continuation of business activities and services in the State of Hawaii;
2. Minimize employee layoffs; and
3. Prevent endangerment of public health safety or welfare.

"This bill has positive legislative measures. The measures are to assist Hawaii's travel and tourist industry and to take care of the social needs and economically depressed citizens of Hawaii. Specific details are found within the bill. I won't go into it. We can all read it for ourselves.

"Before we adjourn this Special Legislative Session, I recommend that both Houses and the Governor seriously consider an amendment to have the administration of the State of Hawaii open up the Governor's administrative process through the public hearing process in order for the public to find confidence in the Governor's actions to be fair in using his ability through H.B. No. 17 and S.B. No. 17 when it crosses both Houses.

"We still have time, if I may. I know many of us want to go home but we have to do a job that's right, and I recommend this proposal. I will be sending it to you, Mr. President. In due respect to you, I'm sorry that I don't have it at this time.

"Having heard all this deliberation in terms of people's comments and so forth, I started thinking more openly. And what people really want is a form of democracy here. They want more openness in government. Everybody laughs at me when I mention about it. They called me Mr. Sunshine. Well, I'm proud of that, quite frankly. If that's democracy, so let it be.

"And let me state this in closing, I am assured that Governor Cayetano cannot misuse S.B. No. 17 because S.B. No. 17 has conditions and he is governed by the United States Constitution and the State of Hawaii Constitution.

"Thank you."

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

"Mr. President, I rise in support of S.B. No. 17 with reservations.

"Mr. President, I believe that some emergency powers proposed in this bill are necessary for the Governor to mitigate impacts in Hawaii's current economic crisis. And that is why I will vote for the bill.

"My reservations have to do with my belief that the bill is too broad and lacks sufficient accountability provisions. For example, I would have preferred the Advisory Committee to include the State Auditor and others in order to be more independent.

"This bill would give the Governor extraordinary powers to suspend any law that meets a criteria, which is that the Governor believes a law would delay or hinder his efforts to facilitate continuity of business, activities and services. I believe that the Legislature and public should not have to wait up to one whole month to find out if a State law is not in effect. I believe that this bill fails to meet the test of accountability by not requiring a fixed time period for public disclosure.

"If an opportunity to amend this bill arises, I hope these and other concerns will be addressed. Otherwise, I hope you, Mr. President, as a member of the Advisory Committee will keep all Senators and the public informed as these economic emergency powers are used.

"Thank you."

Senator Hogue rose to speak in opposition to the measure and said:

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

"I've heard a lot of very interesting comments here today, and it certainly would indicate that we have a very flawed bill. Words like confidence or lack thereof, whether this is too broad, not specific enough. I just ask this question, and perhaps I'm partially to blame for this happening a little bit earlier, about lack of amendments that could have come forward on this bill. But I ask the question that I asked a little bit earlier and that's why. Why can't we move slowly and cautiously and get this bill right to get some of the questions that have been answered here today and get this done before we adjourn this Special Session, even if we have to stay here an extra day or two.

"Let's get the bill right. Let's be specific and grant the Governor the specific powers he needs to get the bills and laws passed that we want passed in this terrible emergency. Let's do whatever we have to do. If we have to be here till next Friday, that's fine, a week from Tuesday, that's fine. Let's just do it. And I ask you, Why can't we?"

"Thank you."

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

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

"I feel very similarly to the Senator from Kaimuki and share some of the sentiments of the Senator from Kaneohe. I really feel that there needs to be some amendments to this measure and am willing to stay longer for that to occur.

"I know I had a conversation with you to express that presently under the bill we do have Senate President and the Speaker serving in an advisory capacity as the Governor deliberates on some of the changes that may be necessary. If there were any way to broaden that to have Minority representation or other kinds of watchdog organizations involved, I would very much appreciate that.

"Thank you."

Senator Ige then rose and said:

"Mr. President, I would like to note my support of this measure with reservations for many of the same reasons."

The Chair so ordered.

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

The motion was put by the Chair and carried, S.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 19. Noes, 3 (Hemmings, Hogue, Slom). Excused, 3 (Inouye, Matsunaga, Matsuura).

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

"Mr. President, I rise on a point of personal privilege.

"Mr. President, I know we've been here for a long time and I'm already late for a lunch appointment, but this morning's Advertiser editorial really got my goat and I really want to address this.

"They talk about bill 8 on the tax credits. I'm not going to read it entirely, but let me just point out one of the things they say here – it says 'the tax credit as proposed does more than offer an incentive to hotel and resorts with construction plans, it offers them a gift. For instance, the biggest hotel resort project on the books at the moment is most likely the \$500 million project at Koolina, and they have said that events of September 11 has forced them to put the project on ice for now. But if the tax credit becomes law, there's potential for a \$15 million tax savings that could make the project once again viable.'

"Well, let me inform the editors here that that project would not qualify for this tax credit. That's a residential project with a golf course that is planned for over ten years. With the window of 18 months and the fact that it is only for hotels, this project would not qualify for that. So they should do their homework. And so, once again, we would not have a project that would be viable in any way.

"They go on to say that another big project on the books is the plan by Outrigger Hotels for a \$300 million renovation and rebuilding project on Lewers. That would be a good tax break approaching \$30 million. And they say that could that \$30 million be better used say in upgrading our public schools for computers and so forth. Well, Mr. President, that project has been on hold now for years. The City Council, when I was there, approved or gave them their land use approvals and that project cannot and has not gotten off the ground. And so, what \$30 million of revenues? We would not have any \$30. We would also lose 6,900 jobs that that project alone could create. We wouldn't have the tax revenues from the employees and the suppliers for that project.

"They go on to say that we have agreement that we must diversify from our reliance on tourism. And they ask what message does this send or what kind of signal does this send. Well, the signal that it sends, Mr. President, is that for too long now Hawaii's tourism infrastructure – our accommodations, our hotels – have been allowed to age. We have prodded our hotel people to go ahead and renovate and refurbish so that we could become more effective in our competition to get visitors here.

"So, while we should continue to seek economic diversification, as the Advertiser pontificates, we simply cannot

allow our hotels and our infrastructure to deteriorate further. Waikiki in particular is in bad need of our major facelift, yet we continue to spend millions and millions of dollars in trying to market our very aged asset.

“They go on to state, ‘Private investors will continue to put money into tourism when they perceive a potential profit.’ But what happens if they don’t perceive a profit, Mr. President? I also would like to point out the Advertiser printed this article that says Marriott International, the largest US hotel company, has canceled or postponed construction of about 5,000 hotel rooms. Starwood Hotels and Resorts, the world’s biggest hotel owner, are also delaying projects for in US hotel revenues after it fell 37 percent. The decisions to delay construction projects show that the industry leaders don’t expect demand to return to normal until at least 2003. Marriott said its investment spending for the next year will be 1/3 less than this year’s levels.

“So, do we have enough government public fund projects that we’re going to be able to support this economy for the long term until these so-called perception of developers and hoteliers return? Mr. President, I’ll just say that I’m glad we have two newspapers in this town.

“Thank you.”

Senator Chumbley rose on a point of inquiry and said:

“Point of inquiry, please. Mr. President, for planning purposes, is it accurate that we will now be extending session through Wednesday?”

The Chair responded: “Yes.”

Senator Chumbley replied: “Thank you.”

At 1:00 o’clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 1:02 o’clock p.m.

Senator Taniguchi, for the Committee on Ways and Means requested a waiver of the notice requirement pursuant to Senate Rule 20 for the following House Bills:

H.B. No. 1;
H.B. No. 2;
H.B. No. 3;
H.B. No. 5;
H.B. No. 6;
H.B. No. 8;
H.B. No. 9;
H.B. No. 10;
H.B. No. 11;
H.B. No. 12;
H.B. No. 13;
H.B. No. 14;
H.B. No. 15;
H.B. No. 16; and
H.B. No. 17,

and the Chair granted the waiver.

HOUSE COMMUNICATIONS

On motion by Senator English, seconded by Senator Hogue and carried unanimously, the Clerk was authorized to receive House communications transmitting House bills which passed Third Reading in the House of Representatives. In consequence

thereof and subsequent to its recessing at 1:03 o’clock p.m., the Senate took the following actions:

Hse. Com. No. 16, transmitting H.B. No. 1, H.D. 1, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 1, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO SOCIAL WELFARE,” passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 17, transmitting H.B. No. 2, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 2, entitled: “A BILL FOR AN ACT RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS,” passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 18, transmitting H.B. No. 3, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 3, entitled: “A BILL FOR AN ACT RELATING TO UNEMPLOYMENT,” passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 19, transmitting H.B. No. 5, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 5, entitled: “A BILL FOR AN ACT RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES,” passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 20, transmitting H.B. No. 6, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 6, entitled: “A BILL FOR AN ACT RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS,” passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 21, transmitting H.B. No. 8, H.D. 1, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 8, H.D. 1, entitled: “A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS,” passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 22, transmitting H.B. No. 9, H.D. 1, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 9, H.D. 1, entitled: “A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE

STATE OF HAWAII AS A VISITOR DESTINATION," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 23, transmitting H.B. No. 10, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 10, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 24, transmitting H.B. No. 11, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 11, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 25, transmitting H.B. No. 12, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 12, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 26, transmitting H.B. No. 13, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 13, entitled: "A BILL FOR AN ACT RELATING TO STATE FINANCES," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 27, transmitting H.B. No. 14, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 28, transmitting H.B. No. 15, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 15, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 29, transmitting H.B. No. 16, H.D. 1, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 16, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed First

Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 30, transmitting H.B. No. 17, which passed Third Reading in the House of Representatives on October 26, 2001, was placed on file.

On motion by Senator English, seconded by Senator Hogue and carried, H.B. No. 17, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," passed First Reading by title and was referred to the Committee on Ways and Means.

ADJOURNMENT

At 3:35 o'clock p.m., the Senate adjourned until 10:00 o'clock a.m., Monday, October 29, 2001.

EXHIBIT "A"

SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. 2

DATE: October 26, 2001

TO: Senate Bill 17, SD1

SECTION 1. Senate Bill No. 17 is amended by deleting the contents of the bill and substituting the following:

"SECTION 1. The September 11, 2001, terrorist attacks on the United States have severely impacted Hawaii's economy. Business experienced catastrophic revenue losses as a result of decreases in the number of visitors to Hawaii. The nation has been warned to expect the continuation of the war on terrorism as well as continued losses due to lagging consumer confidence. With the increased risk of further terrorist attacks around the world, the economic welfare of the State is further threatened.

The purpose of this Act is to confer temporarily upon the governor certain specific powers to provide immediate relief to the people of Hawaii, minimize economic impact on airport concessionaires due to increased security protocols, and to facilitate continuity of business activities and services.

SECTION 2. (a) Declaration of economic emergency. The governor may issue a proclamation declaring an economic emergency for the period from September 11, 2001, to June 30, 2002, if the governor finds that, during this time period, in addition to any determination that the slowdown of business activity in the State poses an imminent or present danger to the public health, safety, or welfare, there has been a two hundred per cent statewide increase in initial claims filed for unemployment benefits, other than claims resulting from a labor dispute, when compared with initial claims filed in the corresponding week of the preceding calendar year.

(b) Upon the declaration of the economic emergency, the governor may exercise specific emergency powers under this Act to provide relief during the period of the economic emergency to residents of the State who, as a result of the September 11, 2001, terrorist attacks have experienced substantial monetary losses. The relief provided under this Act shall be to provide immediate relief to the people of Hawaii, minimize economic impact on airport concessionaires due to increased security protocols, and to facilitate continuity of business activities and services.

SECTION 3. (a) Pursuant to section 2 and notwithstanding any other law to the contrary, the governor may impose a moratorium on the collection of general excise tax on all of the gross proceeds or income arising from the manufacture, production, packaging, and sale of food items within the State.

As used in this section, "food items" means

(1) Any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (6), (7) and (8) of this subsection;

(2) Seeds and plants for use in gardens to produce food for the personal consumption of the eligible household;

(3) In the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payment under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C.A. §§ 301 et seq., 401 et seq., 1201 et seq., 1351 et seq., or 1381 et seq.), and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly;

(4) In the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private establishment that contracts with the appropriate State agency to perform such services at concessional prices;

(5) In the case of narcotics addicts or alcoholics, and their children, served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs;

(6) In the case of disabled or blind recipients of benefits under Title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. §§301 et seq., 401 et seq., 1201 et seq., or 1381 et seq.), or individuals described in 7 U.S.C. 2012(r)(2) through (7) who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act (42 U.S.C. §1382(e)(1)) or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section, meals prepared and served under such arrangement;

(7) In the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served by such shelters, and (8) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by private establishments that contract with the appropriate agency of the State to offer meals for such individuals at concessional prices.

(b) The moratorium shall be issued in the form of an executive order and shall be for a period of twenty-six weeks beginning on December 1, 2001 and ending on June 1, 2002.

SECTION 4. (a) Pursuant to section 2 and notwithstanding any law to the contrary, the governor may declare a tax holiday on retail sales. The tax holiday shall be a moratorium on the collection of general excise taxes on retail sales if the sales price of the article is less than \$100 for a limited time. All savings generated by this section shall be passed on by the seller to the purchaser. This moratorium, or limited exemption, shall apply to retail sales only and not to sales on items that will be resold in any manner.

(b) The limited exemption on general excise tax collection provided in this section shall apply to each retail sales item that sells for less than \$100, regardless of how many items are sold on the same invoice to a customer.

(c) The limited exemption on general excise tax collection provided in this section shall not apply to:

- (1) The first \$99.99 of an article selling for more than \$99.99;
- (2) The rental of items that are available within the State for retail sale, including but not limited to clothing, furniture, footwear, electronics, and videos;
- (3) Taxable services performed on retail items, such as repair, remodeling, or maintenance services and cleaning or laundry services;
- (4) Rebates, layaway sales, rain checks, or exchanges when the exchanges occur before or after the tax holiday period;
- (5) Mail, telephone, e-mail, or internet orders; or
- (6) Food, regardless of source or method of preparation.

(d) Articles that are normally sold as a unit shall continue to be sold in that manner and shall not be priced separately and sold as individual items to obtain the exemption.

(e) If exempt items are sold together with taxable merchandise as a set or single unit, the full price shall be subject to tax unless the price of the exempt item is separately stated. When exempt clothing is sold in a set that also contains taxable merchandise as a free gift, the exempt clothing may qualify for the exemption.

(f) A retailer may offer discounts to reduce the sales price of an item. If the discount reduces the sales price to \$99.99 or less, the item shall qualify for the exemption.

(g) The total price of items advertised as "buy one, get one free," or "buy one, get one for a reduced price," shall not be averaged for both items to qualify for the exemption.

(h) Shipping and handling charges shall be included as part of the sales price of the item.

(i) The retailer shall not be required to obtain any special license, permit, or other documentation on sales of eligible items during the exemption holiday period; provided that the retailer's records shall clearly identify the type of item sold, the date the item was sold, and the sales price of the item.

(j) The tax holiday shall be a week in duration to begin sometime before December 9, 2001. The declaration of the retail tax holiday shall be made by executive order.

SECTION 5. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services at airports;
- (2) For lei vendors;
- (3) For airline and aircraft operations;

- (4) For automatic teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons[+] and except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued unless the premises covered under the permit is no longer being used for the existing purposes, ~~and that~~ the permit is issued as a temporary use of the premises until the governmental agency proceeds to use the premises for a new purpose[+] and ~~provided further~~ that no permits shall be issued for more than one year; and provided further that revocable permits issued by the department of transportation for use of state airports may exceed such one year maximum period if (A) the governor determines that there exists a crisis having statewide impacts, such as a natural disaster or a severe economic crisis and (B) during the crisis, the director of transportation, with the approval of the governor, determines that such further extensions of the term of the revocable permits are necessary;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beachboy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law; and
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park and operating under agreement with the appropriate agency solely for such purposes, aims, and goals.

SECTION 6. Section 261-7, Hawaii Revised Statutes, is amended as follows, including adding new subsections (h) and (i):

§261-7 Operation and use privileges. (a) In operating an airport or air navigation facility owned or controlled by the department of transportation, or in which it has a right or interest, the department may enter into contracts, leases, licenses, and other arrangements with any person:

- (1) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;
- (2) Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility;
- (3) Making available services, facilities, goods, commodities, or other things to be furnished by the department or its agents at the airport or air navigation facility; or
- (4) Granting the use and occupancy on a temporary basis by license or otherwise of any portion of the land under its jurisdiction which for the time being may not be required by the department so that it may put the area to economic use and thereby derive revenue therefrom.

All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess.

(b) Except as otherwise provided in this section, in each case mentioned in subsection (a)(1), (2), (3), and (4), the department may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals, or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature. Such charges shall be reasonable and uniform for the same class of privilege, service, or thing.

(c) The department shall enter into a contract with no more than one person ("contractor") for the sale and delivery of in-bond merchandise at Honolulu International Airport, in the manner provided by law. The contract shall confer the right to operate and maintain commercial facilities within the airport for the sale of in-bond merchandise and the right to deliver to the airport in-bond merchandise for sale to departing foreign-bound passengers.

The department shall grant the contract pursuant to the laws of this State and may take into consideration:

- (1) The payment to be made on in-bond merchandise sold at Honolulu International Airport and on in-bond merchandise displayed or sold elsewhere in the State and delivered to the airport;
- (2) The ability of the applicant to comply with all federal and state rules and regulations concerning the sale and delivery of in-bond merchandise; and
- (3) The reputation, experience, and financial capability of the applicant.

The department shall actively supervise the operation of the contractor to insure its effectiveness. The department shall develop and implement such guidelines as it may find necessary and proper to actively supervise the operations of the contractor, and shall include guidelines relating to the department's review of the reasonableness of contractor's price schedules, quality of merchandise, merchandise assortment, operations, and service to customers.

Apart from the contract described in this subsection, the department shall confer no right upon nor suffer nor allow any person to offer to sell, sell, or deliver in-bond merchandise at Honolulu International Airport; provided that this section shall not prohibit the delivery of in-bond merchandise as cargo to the Honolulu International Airport.

(d) The department, by contract, lease, or other arrangement, upon a consideration fixed by it, may grant to any qualified person the privilege of operating, as agent of the State or otherwise, any airport owned or controlled by the department; provided that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under subsection (a).

(e) The department may fix and regulate, from time to time, reasonable landing fees for aircraft, including the imposition of landing surcharges or differential landing fees, and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment of a statewide system of airports landing fees, a statewide system of airports support charges, and joint use charges for the use of space shared by users, which fees and charges may vary among different classes of users such as foreign carriers, domestic carriers, inter-island carriers, air taxi operators, helicopters, and such other classes as may be determined by the director, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.

In setting airports rates and charges, including landing fees, the director may enter into contracts, leases, licenses, and other agreements with aeronautical users of the statewide system of airports containing such terms, conditions, and provisions as the director deems advisable.

If the director has not entered into contracts, leases, licenses, and other agreements with any or fewer than all of the aeronautical users of the statewide system of airports prior to the expiration of an existing contract, lease, license, or agreement, the director shall set and impose rates, rentals, fees, and charges pursuant to this subsection without regard to the requirements of chapter 91; provided that a public informational hearing shall be held on the rates, rentals, fees, and charges.

The director shall develop rates, rentals, fees, and charges in accordance with a residual methodology so that the statewide system of airports shall be, and always remain, self-sustaining. The rates, rentals, fees, and charges shall be set at such levels as to produce revenues which, together with aviation fuel taxes, shall be at least sufficient to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds.

The director may develop and formulate methodology in setting the various rates, rentals, fees, and charges imposed and may determine usage of space, estimate landed weights, and apply such portion of nonaeronautical revenue deemed appropriate in determining the rates, rentals, fees, and charges applicable to aeronautical users of the statewide system of airports.

The rates, rentals, fees, and charges determined by the director in the manner set forth in this subsection shall be those charges payable by the aeronautical users for the periods immediately following the date of expiration of the existing contract, lease, license, or agreement. If fees are established pursuant to this section, the department shall prepare a detailed report on the circumstances and rates and charges that have been established, and shall submit the report to the legislature no later than twenty days prior to the convening of the next regular session.

If a schedule of rates, rentals, fees, and charges developed by the director in accordance with this section is projected by the department to produce revenues which, together with aviation fuel taxes, will be in excess of the amount required to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds, the department shall submit the schedule of rates, rentals, fees, and charges to the legislature prior to the convening of the next regular session of the legislature. Within forty-five days after

the convening of the regular session, the legislature may disapprove any schedule of rates, rentals, fees, and charges required to be submitted to it by this section by concurrent resolution. If no action is taken by the legislature within the forty-five-day period the schedule of rates, rentals, fees, and charges shall be deemed approved. If the legislature disapproves the schedule within the forty-five-day period, the director shall develop a new schedule of rates, rentals, fees, and charges in accordance with this section within seventy-five days of the disapproval. Pending the development of a new schedule of rates, rentals, fees, and charges, the schedule submitted to the legislature shall remain in force and effect.

~~[Notwithstanding any other provision of law to the contrary, the department may waive landing fees and other aircraft charges established under this section at any airport owned or controlled by the State whenever:~~

- ~~(1) The governor declares a state of emergency; and~~
- ~~(2) The department determines that the waiver of landing fees and other charges for the aircraft is consistent with assisting in the delivery of humanitarian relief to disaster stricken areas of the State.]~~

(f) To enforce the payment of any charges for repairs or improvements to, or storage or care of any personal property made or furnished by the department or its agent in connection with the operation of an airport or air navigation facility owned or operated by the department, the department shall have liens on the property, which shall be enforceable by it as provided by sections 507-18 to 507-22.

(g) The department from time to time may establish developmental rates for buildings and land areas used exclusively for general aviation activities at rates not less than fifty per cent of the fair market rentals of the buildings and land areas and may restrict the extent of buildings and land areas to be utilized.

(h) Notwithstanding any law to the contrary, in times of crises having statewide impacts, such as natural disasters or severe economic crises, as determined by the governor (which for purposes of this section shall not require a formal declaration as required by chapter 128), the director may, with the approval of the governor, suspend any applicable airport fees, charges, and rentals, including, without limitation, landing fees, airport system support charges, joint use space charges, airport lease rentals, and concession rents and charges (including any minimum annual guaranteed rents), for only such time as the governor deems necessary to address the crisis having statewide impacts, and provided that:

- (1) In implementing such suspension, the department shall remain obligated to comply with subsection (b) and collect and realize sufficient revenue to meet the expenditures of the statewide system of airports set forth in section 261-5(a);
- (2) The department shall comply with all rules, regulations, conditions, and restrictions imposed by the federal government, including the Federal Aviation Administration, unless and to the extent the State obtains approval to excuse such compliance; and
- (3) Such suspension does not violate any covenants or contractual obligations under or relating to bonds or other types of financing issued or obtained by the department.

In implementing the suspension of applicable airport fees, charges, and rentals hereunder, the director of transportation may waive, reduce or defer the amount of such airport fees, charges, and rentals payable to the department. Notice of the implementation of any suspension (including waiver, reduction, or deferral) of applicable airport fees, charges, and rentals, shall be published statewide at least once in accordance with section 1-28.5. The effective commencement date of the suspension may be retroactive to the time the governor determines the existence of a crisis having statewide impacts, such as a natural disaster or a severe economic crisis. The termination of any such suspension shall be published in the same manner as the notice of implementation of the suspension.

The implementation of the suspension of applicable airport fees, charges, and rentals hereunder shall not require the adoption or amendment of rules pursuant to chapter 91.

(i) Notwithstanding any law to the contrary, if the governor determines that there exists a crisis having statewide impacts, such as a natural disaster or a severe economic crisis, during the term of any contract or lease issued pursuant to the director's authority under this section (including contracts and leases that have been either let under chapter 102 or executed and are presently in force), the director may, with the governor's prior approval, modify any of the terms and conditions of said contract or lease, including the agreed upon rent, for a period and upon such terms and conditions as the director shall deem necessary to allow the state airport lessee, concessionaire, or user to recoup at least some of the losses suffered by said lessee, concessionaire, or user that are attributable to said crisis having statewide impacts, such as a natural disaster or a severe economic crisis, provided the following conditions are satisfied:

- (1) The state airport lessee, concessionaire, or user shall submit written evidence satisfactory to the director, proving the amount

- and the extent of any losses attributable to said crisis having statewide impacts, such as a natural disaster or a severe economic crisis;
- (2) The losses, at a minimum, must be a significant reduction (at least ten percent) in the volume of business of said state airport lessee, concessionaire, or user at the state airport or airports covered by the contract or lease for a period of at least thirty days, computed on the average monthly gross income for the shorter of the following periods:
 - (A) The eight months just prior to the beginning of the crisis having statewide impacts (as determined by the governor); or
 - (B) As long at the state airport lessee, concessionaire, or user has had the contract or lease with the State to operate at a state airport or airports;
 - (3) If the state airport lessee or user is an airline, the airline will qualify for the relief described in this section provided the losses suffered by the airline comprises at least a ten percent reduction in the number of landings made at state airports by the airline for a period of at least thirty days, computed on the average number of monthly landings for the eight months just prior to the beginning of the crisis having statewide impacts (as determined by the governor);
 - (4) In implementing the modifications, the department shall remain obligated to comply with subsection (b) and collect and realize sufficient revenue to meet the expenditures of the statewide system of airports set forth in section 261-5(a);
 - (5) The department shall comply with all rules, regulations, conditions, and restrictions imposed by the federal government, including the Federal Aviation Administration, unless and to the extent the State obtains approval to excuse such compliance; and
 - (6) Such modifications do not violate any covenants or contractual obligations under or relating to bonds or other types of financing issued or obtained by the department.

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

SECTION 8. This Act is effective upon approval; provided that sections 5 and 6 shall be retroactively effective from September 11, 2001."

FOURTH DAY

Monday, October 29, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 10:26 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Jonathan Chun, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Inouye and Matsuura who were excused.

The President announced that he had read and approved the Journal of the Third Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 31 to 43) were read by the Clerk and were placed on file:

Hse. Com. No. 31, returning S.C.R. No. 1, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 32, returning S.C.R. No. 2, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 33, returning S.C.R. No. 3, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 34, returning S.C.R. No. 4, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 35, returning S.C.R. No. 5, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 36, returning S.C.R. No. 6, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 37, returning S.C.R. No. 7, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 38, returning S.C.R. No. 8, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 39, returning S.C.R. No. 9, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 40, returning S.C.R. No. 10, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 41, returning S.C.R. No. 11, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 42, returning S.C.R. No. 12, which was adopted by the House of Representatives on October 26, 2001.

Hse. Com. No. 43, returning S.C.R. No. 13, which was adopted by the House of Representatives on October 26, 2001.

There being no objections, the Senate took the following actions out of order from the sequence printed on the Order of the Day:

ORDER OF THE DAY

THIRD READING

S.B. No. 8, S.D. 2:

Senator Taniguchi moved that S.B. No. 8, S.D. 2, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Kim rose in support of the measure and said:

"Mr. President, I rise to speak in support of S.B. No. 8, as amended.

"This bill on tax credits reflects a compromise of the original proposal. I might add that the original proposal that was supported as the Senate's position included this non-refundable credit amendment from the beginning. And while I believe that S.B. No. 8, as amended, is not as aggressive and stimulating economic development as the original bill, and does not have a long enough window, I do hope it will still attract and encourage investment to Hawaii.

"The Governor has stated earlier that he has concerns about this bill. In particular, he opposed giving tax credits to any new hotels. While this bill will certainly grant credits for new hotel construction, I don't foresee many new large hotels being built using this credit. Rather, what I do see are timeshares and re-conversion projects, as well as needed renovations to aging properties.

"The other day I learned that Kauai has three timeshare projects that could benefit by these tax credits. Why are timeshares so important to Hawaii? Because statistics show that timeshares have weathered this downturn far better than hotels. People who have invested in a timeshare continue to come to the islands.

"According to Sue Kanoho of the Kauai Visitors Bureau, timeshare occupancy projections for the Garden Isle are in the 70-80 percent range, as opposed to a 65 percent high for hotels. Projections for November and December remain at 65 percent for hotels but will likely reach as high as 90-100 percent for timeshares. That will mean more income for local businesses that would otherwise be absent.

"I commend the Governor for his support of the visitor industry in its efforts to promote and market Hawaii to encourage visitors to return to our islands, but Hawaii is becoming an aged destination. We need to do more than just give 4 percent tax credits.

"Under the 4 percent tax credit we have not had too many hotels renovate their aging properties. This has nothing to do with economic diversification. Even if we lessen our dependence on tourism, tourism will still play a very large role in this economy. So no matter what happens, we simply cannot allow our hotels and infrastructures to deteriorate.

"Additionally, we have been planning Oahu's Second City and Koolina Resort areas for years. And thanks to Koolina, the construction industry has three major projects that for now are continuing. This translates into 500 construction jobs and 500 new permanent jobs, but each week developers are reassessing their investments and projects here in Hawaii, as well as around the world.

"Government spending and government construction projects cannot pull our State out of its economic downturn alone. We must work with and support private industry. We must keep private investment coming to Hawaii.

“With sound private construction projects we benefit in so many ways, among them:

1. Taxpayers bear no risk. The private developers are the risk takers;
2. The State does not have to float any bonds and will have no debt service to pay;
3. We have no costly payroll to meet, or change orders to worry about;
4. We will not have to maintain the buildings and operate it with public employees once it's completed;
5. For every 100 million in construction, we get 2,300 jobs, and when people are employed, they pay taxes and they buy goods. They will not have to collect extended unemployment benefits nor seek assistance with medical benefits; and
6. Once the construction is completed, the finished structures will then need to get permanent employees to operate and maintain it.

“And finally, in the case of timeshare units, they will then be sold to visitors who will return each year to spend their vacation here in Hawaii. And what does this all cost us? A 10 percent tax credit based on cost incurred against income taxes owed. It is estimated that any tax credits granted under this bill would be utilized in two short years, but a completed project will have at least a 30-year life span.

“The Governor has said that it is unfair that homeowners only get a 4 percent tax credit. I would certainly support a 10 percent credit to our new homes as well, but it is important to note that construction of new homes will not generate the kinds of jobs and tax revenues that large construction projects can. Also, how would any homeowner afford to build a new home or buy one if he is unemployed? One constituent wrote me on Friday saying, ‘Any tax credit given to new homebuyers only, is counterproductive. The current loss of jobs is going to be reflected in more pages of foreclosures.’

“Mr. President, we need to look at all elements of this economic recovery. Government CIP and tourism promotion alone will not be enough. We must pull together at this difficult time. Sacrifices must be made so we can get our economy moving.

“Thank you, Mr. President.”

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

“Mr. President, I rise to speak in favor of S.B. No. 8, S.D. 2.

“I wish to commend, in speaking in the affirmative towards this bill, the Majority Party in recognizing the need to stimulate the economy with some innovative thinking. When this crisis first hit this State, the Governor's immediate plan was to spend \$1 billion in borrowed money that we'd have to pay interest on to stimulate the economy. I think the Legislature deliberated on that issue and thought there may be a better way to do this. And the better way is what we came up with in S.B. No. 8, S.D. 2, and that is to give a tax credit to private developers in the private sector to provide the jobs, the construction, and the opportunity that our people need to have money get back into the economy at no cost to the taxpayers.

“As so eloquently pointed out by the previous speaker, this is 10 percent on future taxes we would have never received if this bill was not passed. So it is a huge net gain for the government's tax coffers while we still stimulate the economy without borrowing \$1 billion. It is an ideological departure from business as usual, and that's why I wish to really commend my colleagues in the Majority Party for recognizing this in passage of this legislation.

“I'm hoping that this will be a model for future economic development in the State. Thank you, Mr. President.”

The motion was put by the Chair and carried, S.B. No. 8, S.D. 2, entitled: “A BILL FOR AN ACT RELATING TO INCOME TAX CREDITS,” having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

ADVISE AND CONSENT

Stand. Com. Rep. No. 16 (Gov. Msg. No. 17):

Senator Matsuura moved that Stand. Com. Rep. No. 16 be received and placed on file, seconded by Senator Buen and carried.

Senator Matsuura then moved that the Senate advise and consent to the nomination of WARREN G. HAIGHT to the Policy Advisory Board for Elder Affairs, term to expire June 30, 2005, seconded by Senator Buen.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 17 (Gov. Msg. No. 19):

Senator Nakata moved that Stand. Com. Rep. No. 17 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Nakata then moved that the Senate advise and consent to the nominations of JULIE K. PRICE and STEVETTE K. SANTIAGO to the Hawai'i Public Employees Health Fund, terms to expire June 30, 2005, seconded by Senator Chumbley.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 18 (Gov. Msg. No. 26):

Senator Nakata moved that Stand. Com. Rep. No. 18 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Nakata then moved that the Senate advise and consent to the nominations to the Hawai'i Workforce Development Council of the following:

JEFF BLOOM and DARREL T. TAJIMA, terms to expire June 30, 2004; and

CHRISTINE C. MCCOLGAN, term to expire June 30, 2005,
seconded by Senator Chumbley.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 19 (Gov. Msg. No. 15):

Senator Matsunaga moved that Stand. Com. Rep. No. 19 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Matsunaga then moved that the Senate advise and consent to the nomination of WAI HOA LOW, D.AC., to the Board of Acupuncture, term to expire June 30, 2004, seconded by Senator Chumbley.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 20 (Gov. Msg. No. 18):

Senator Matsunaga moved that Stand. Com. Rep. No. 20 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Matsunaga then moved that the Senate advise and consent to the nomination of PAUL WILLIAM CONDRY to the Elevator Mechanics Licensing Board, term to expire June 30, 2002, seconded by Senator Chumbley.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 21 (Gov. Msg. No. 23):

Senator Matsunaga moved that Stand. Com. Rep. No. 21 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Matsunaga then moved that the Senate advise and consent to the nomination of NORMAN M. NOGUCHI to the Rental Housing Trust Fund Advisory Commission, term to expire June 30, 2005, seconded by Senator Chumbley.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 22 (Gov. Msg. No. 27):

Senator Kawamoto moved that Stand. Com. Rep. No. 22 be received and placed on file, seconded by Senator Fukunaga and carried.

Senator Kawamoto then moved that the Senate advise and consent to the nomination of AARON S. FUJIOKA as Administrator of the State Procurement Office, term to expire October 15, 2005, seconded by Senator Fukunaga.

Senator Kawamoto rose to speak in favor of the nominee and said:

“Mr. President, I rise to speak in favor of Gov. Msg. No. 27.

“Mr. President, Aaron S. Fujioka currently serves as Assistant Administrator of the State Procurement Office. For the last four years Mr. Fujioka has also served as procurement manager for Health and Human Services procurement projects. Prior to signing on with the Procurement Office, Mr. Fujioka served for over eight years as a planner for the Office of Community Services. After receiving about 29 testimonies in support and no negative testimony, your Committee finds that the nominee has a long history of dedicated public service.

“Your Committee further finds that the nominee has ambitious goals for the State Procurement Office to continue to build public confidence in the openness and professionalism of the procurement process, to further strengthen the process, to improve and refine the provisions of the Hawaii Revised Statutes relating to procurement. Your Committee finds that the nominee will work hard with dedication and compassion and administer all functions related to the procurement process. Your Committee further finds that the nominee has been appointed based upon his credentials, integrity and desire to make Hawaii better through his continued service with the State Procurement Office.

“I urge all my colleagues to vote ‘aye’ on this nominee. Thank you, Mr. President.”

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 23 (Gov. Msg. No. 16):

Senator Sakamoto moved that Stand. Com. Rep. No. 23 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Sakamoto then moved that the Senate advise and consent to the nomination of MONA ABADIR to the State Foundation on Culture and the Arts Commission, term to expire June 30, 2002, seconded by Senator Chumbley.

Senator Sakamoto rose in support of the nominee and said:

“Mr. President, I rise in support of the nominee.

“Your Education Committee has received unanimous support for the nominee and found her qualified for the position for which she has been nominated.

“On Gov. Msg. No. 16, your Committee on Education found that Ms. Mona Abadir has the necessary qualifications to serve on the State Foundation on Culture and the Arts Commission. She is a successful businessperson who has exhibited a sincere passion for the arts. She is one of the three founders of Honu Group, Inc., a development and management company here in Hawaii and is also a recognized leader in the fields of retail, manufacturing, marketing, and development. Even with her hectic schedule of running a business, Ms. Abadir finds time and energy to contribute to several art organizations such as the Contemporary Museum, Hawaii Theatre, Academy of Arts, Bishop Museum, and the Kumu Kahua Theatre, just to name a few.

"Based on her credentials, experience and commitment, we find her worthy of serving on the State Foundation of Culture and the Arts Commission.

"I urge my colleagues to support the nominee. Thank you."

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 24 (Gov. Msg. No. 20):

Senator Sakamoto moved that Stand. Com. Rep. No. 24 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Sakamoto then moved that the Senate advise and consent to the nomination of ANNETTE A. NISHIKAWA to the Hawai'i Teacher Standards Board, term to expire June 30, 2004, seconded by Senator Chumbley.

Senator Sakamoto rose in support of the nominee and said:

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

"Your Education Committee has received unanimous support for the nominee and found her to be qualified for the position for which she has been nominated.

"A member of the Who's Who of Professional Educators, Annette A. Nishikawa is a certified teacher and school administrator with 30 years of continual advancement in the Hawaii public school system. She has served as a teacher and school administrator in the Central and Leeward Districts of Oahu and held a variety of leadership positions both as a teacher and administrator.

"Her accomplishments include establishing a variety of innovative, complex and school programs that range from special education, to technology, to parent advocacy, and school safety. Notable among her achievements is her dedication to the professional advancement and support of teachers.

"Her experience and commitment will be an asset to the Hawaii Teacher Standards Board, and I am honored to support her nomination.

"I urge my colleagues to support the nominee. Thank you."

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 25 (Gov. Msg. No. 21):

Senator Sakamoto moved that Stand. Com. Rep. No. 25 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Sakamoto then moved that the Senate advise and consent to the nominations to the Board of Regents, University of Hawai'i, of the following:

KATHLEEN K.S.L. THURSTON, term to expire June 30, 2003; and

PATRICIA Y. LEE, PH.D., term to expire June 30, 2005,

seconded by Senator Chumbley.

Senator Sakamoto rose in support of the nominees and said:

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

"Your Education Committee has received unanimous support for each of the nominees and found them qualified for the positions that they've been nominated for. I'm pleased to support the nominations of Patricia Y. Lee and Kathleen K.S.L. Thurston to the University of Hawaii Board of Regents.

"Patricia Y. Lee has been a partner with the law firm of Goodwill Anderson Quinn and Stifel since 1985. She received her doctorate in philosophy from Northwestern University and a master of arts degree from Columbia University, a bachelor of arts degree from the University of Hawaii, and a juris doctor degree from the William S. Richardson School of Law, and a certificate of honorable mention from the Universite De Paris and is listed as one of the 'Best Lawyers in America' and also 'Outstanding Women in America.' Her willingness to serve and her expressed commitment to excellence in higher education will be of great value to the University of Hawaii and our children.

"Mr. President, Kathleen Thurston is the owner/president of Thurston-Pacific, Inc., a construction company. She was the previous president/manager of Ideal Construction, a Hawaiian Homes commissioner, and a board member of the Bishop Museum. She has been the Chair of the Office of Hawaiian Affairs Native Hawaiian Revolving Loan Fund, and is active in numerous community and professional organizations. Ms. Thurston has received many professional construction and engineering awards and testimony indicated that she is a well-respected businesswoman who combines business acumen with a deep sense of social responsibility.

"I urge my colleagues to support these nominees. Thank you."

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 26 (Gov. Msg. No. 25):

Senator Sakamoto moved that Stand. Com. Rep. No. 26 be received and placed on file, seconded by Senator Chumbley and carried.

Senator Sakamoto then moved that the Senate advise and consent to the nomination of HERBERT A. SEGAWA to the Board of Directors, Research Corporation of the University of Hawaii, term to expire June 30, 2002, seconded by Senator Chumbley.

Senator Sakamoto rose in support of the nominee and said:

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

"Your Education Committee has received unanimous support for the nominee and found him to be qualified for the position for which he has been nominated.

"Mr. Herbert Segawa is a nominee to the Board of Directors for the Research Corporation of the University of Hawaii. Mr. Segawa has extensive business experience, specifically in the area of management, a position he has held with several

companies. He served in the House of Representatives from 1974 to 1984 and is currently a consultant with Clinical Laboratory. He has volunteered his time with various community organizations, such as the Hawaii Island Chamber of Commerce, the Hawaii Island Japanese Chamber of Commerce, the American Cancer Society, and is presently a deacon and moderator for the Kaumana Drive Baptist Church.

"Mr. Segawa has already served on the Board for the past seven years and has brought to the Board valuable experience and knowledge, particularly with regard to business and insurance matters. Based upon Mr. Segawa's experience and commitment to furthering research and training activities of the University of Hawaii, he is deserving of a position with the Research Corporation of the University of Hawaii Board of Directors.

"I urge my colleagues to support the nominee. Thank you."

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 27 (Gov. Msg. No. 22):

Senator Kanno moved that Stand. Com. Rep. No. 27 be received and placed on file, seconded by Senator Chun and carried.

Senator Kanno then moved that the Senate advise and consent to the nomination of PEGGY ROBERTSON to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, term to expire June 30, 2002, seconded by Senator Chun.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

Stand. Com. Rep. No. 28 (Gov. Msg. No. 24):

Senator Tam moved that Stand. Com. Rep. No. 28 be received and placed on file, seconded by Senator Ige and carried.

Senator Tam then moved that the Senate advise and consent to the nomination of ROBIN K. CAMPANIANO to the Stadium Authority, term to expire June 30, 2005, seconded by Senator Ige.

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

Ayes, 21. Noes, none. Excused, 4 (Ihara, Inouye, Matsuura, Menor).

At 10:44 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:08 o'clock p.m.

STANDING COMMITTEE REPORTS

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 29) recommending that H.B. No. 1, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and H.B. No. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, October 30, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 30) recommending that H.B. No. 9, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and H.B. No. 9, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, October 30, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 31) recommending that H.B. No. 14 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and H.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, October 30, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 32) recommending that H.B. No. 15 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and H.B. No. 15, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, October 30, 2001.

Senator Taniguchi, for the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 33) recommending that H.B. No. 16, H.D. 1, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Senator English, seconded by Senator Hemmings and carried, the report of the Committee was adopted and H.B. No. 16, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," passed Second Reading and was placed on the calendar for Third Reading on Tuesday, October 30, 2001.

At 12:09 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:18 o'clock p.m.

Senator Taniguchi, for the majority of the Committee on Ways and Means, presented a report (Stand. Com. Rep. No. 34) recommending that H.B. No. 17, pass Second Reading and be placed on the calendar for Third Reading.

Senator Hemmings, pursuant to Senate Rule 85, requested a waiver of Senate Rule 53, which requires floor amendments to be presented to the Clerk no later than 9:00 a.m. on the day of

the session at which the amendment is to be offered, and the Chair granted the waiver.

Senator Hemmings then offered an amendment (Floor Amendment No. 4 – See EXHIBIT “I”) to H.B. No. 17.

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

The Senate reconvened at 5:21 o’clock p.m.

Senator Hemmings moved that the amendment be adopted, seconded by Senator Chun.

Senator Hemmings rose in support and said:

“Mr. President, this is an amendment of H.B. No. 17, which is a companion to S.B. No. 17, which basically gives the Governor emergency powers. As we all know, this is a very controversial proposal which in the original form would have given the Governor broad, sweeping powers to deal anywhere, anytime, with anything. Many of us felt that would have been an abrogation of our responsibilities here in the Legislature.

“Therefore, this amendment address that issue and narrowly focuses on what the Governor can and cannot do:

1. It does include the Minority Leader of the House and Minority Leader of the Senate in consultation with the Governor and Majority Leaders on this issue on a periodic basis as required by the original bill;
2. It focuses in on the Governor’s right to waive, amend, or suspend rules only on the issues that previously have passed this body. Those are the 14 bills that address such things as grants-in-aid to provide for food, programs for housing, health insurance and unemployment compensation extension of benefits, filing thresholds for taxpayers, imposing general excise tax, reduction for service company tax, marketing, security, and those issues which were passed with prior legislation. It also focuses in on contracts at the airport, allowing the Governor to address the concessionaires’ problems in amending, waiving, or suspending it; and
3. The major point is it does have drop-dead date of April 30th, now, which clearly is within the time period that we’re still in Session, and if the opportunity avails itself that we could take definitive action to further amend or suspend or assist the Governor in doing what’s right, honest, and fair.

“I think there’s a recognition by this body that the original bill was much too broad and much too sweeping and gave the Governor, basically, a knife that he could pretty much do anything with at any time. And I must remind our colleagues that under the previous legislation, as it was proposed before this amendment, that the Council of Revenues was coming out Thursday with the new projections and if those projections are as dire as they could and probably will be, the Governor would have had a broad latitude in how to deal with this.

“This amendment will allow the Governor only to deal with those issues which we’ve already acted on in this body. And we all know that we will be back in Session soon in January to address the larger issues and I’m sure that the good Senator from Manoa, the Chairman of the Senate Ways and Means Committee, is already looking at ways that were going to have to reduce government spending.

“But the point is, these amendments severely amend the original legislation and focus in on just the legislation which we’ve already acted on. We’re all in agreement that we do have a special need. We are in an emergency condition and hopefully in the spirit of bipartisan cooperation this amendment will be accepted in the manner in which it’s offered.

“Thank you, Mr. President.”

The motion to adopt Floor Amendment No. 4 was put by the Chair and carried.

Senator Hemmings moved that Stand. Com. Rep. No. 34 be received and placed on file, seconded by Senator Chun and carried.

On motion by Senator English, seconded by Senator Hemmings and carried, H.B. No. 17, S.D. 1, entitled: “A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY,” passed Second Reading and was placed on the calendar for Third Reading on Wednesday, October 31, 2001.

Senator Slom rose on a point of personal privilege as follows:

“Mr. President, I rise on a brief personal point of privilege so that some colleagues may catch their planes.

“As my colleague, the Minority Floor Leader, just brought up, the issue about the Council of Revenues meeting on Thursday, you may recall that prior to this Session and during this Session it has been our point of view that it is more important for us, really, to look at the issues rather than to have handcuffs of a time frame. And I know that we’re supposed to be adjourned by Wednesday, at this point, although there may be a possibility of extending it. I think it would be very prudent to wait until those figures are actually out on Thursday for us still to be in Session Thursday and Friday so that, in fact, if there is something we need to do further, we can do that and take action.

“So for that reason and also for analysis of these amended bills, I think it would be incumbent upon the Senate and the House to agree that we extend as necessary to take care of these very important matters.

“Thank you, Mr. President.”

ADJOURNMENT

At 5:27 o’clock p.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 10:00 o’clock a.m., Tuesday, October 30, 2001.

Respectfully submitted,

Clerk of the Senate

Approved:

President of the Senate

EXHIBIT "F"

SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. 4

DATE: Oct 29 2001

TO: H.B. No. 17

SECTION 1. House Bill No. 17, Section 2, is amended by amending Section 2 as follows:

1. By amending subsection (a) to read:

"(a) Declaration of economic emergency. The governor may issue a proclamation declaring an economic emergency for the period from September 11, 2001, to April 30, 2002, if the governor finds that, during this time period, in addition to any determination that the slowdown of business activity in the State poses an imminent or present danger to the public health, safety, or welfare, there has been a two hundred per cent statewide increase in initial claims filed for unemployment benefits, other than claims resulting from a labor dispute, when compared with initial claims filed in the corresponding week of the preceding calendar year."

2. By amending subsection (c) to read:

"(c) Upon the declaration of an economic emergency, the governor shall convene an advisory committee composed of the president of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives. The governor, through the advisory committee, shall inform the legislature and the public on the exercise of emergency powers under this Act."

SECTION 2. House Bill No. 17, Section 3, is amended by amending subsection (a) to read as follows:

"(a) The governor may suspend, in whole or in part, any statute, rule, or order only to implement measures relating to:

- (1) Grant-in-aid programs to provide food for Hawaii's needy;
- (2) Programs to provide aid for persons exiting welfare after the maximum five years on November 30, 2001, for housing, childcare, clothing, and school supplies;
- (3) Programs of the housing and community development corporation of Hawaii that provide financial assistance to Hawaii's needy;
- (4) Establishment of a temporary health insurance program to be implemented by the department of human services;
- (5) The creation of a temporary state additional benefits program to provide extended unemployment insurance benefits;
- (6) Increasing filing thresholds for taxpayers filing withholding, general excise, use, transient accommodations, and rental motor vehicle and tour vehicle surcharge tax returns;
- (7) Imposing the general excise tax, rather than the public service company tax, on transportation service providers;
- (8) Implementation of an integrated marketing plan to market and promote the State of Hawaii as a visitor destination;
- (9) Marketing the safety of and increased security at state airports;
- (10) Strengthening security at state airports, harbors, and highways;
- (11) Transferring funds from the Hawaii tobacco settlement fund to the emergency budget and reserve fund as authorized by the third special session of the twenty-first legislature;
- (12) Establishment and implementation of an emergency environmental workforce to address environmental clearance and eradication services,

when the governor determines that strict compliance with any statute, rule, or order would prevent, hinder, or delay the governor's efforts to facilitate continuity of business activities and services, or when written evidence is submitted by the appropriate state department or agency showing that the health or living standards of a substantial number of individuals are immediately at risk requiring relief such as welfare assistance, unemployment compensation, or health insurance."

SECTION 3. House Bill No. 17 is amended by amending subsection (b) of section 3 to read as follows:

"(b) The governor shall provide public notice prior to the effective date whenever a statute, rule, or order is suspended in the same manner required for the publication of rules under section 4."

SECTION 4. House Bill No. 17 is amended by amending section 4 to read as follows:

"SECTION 4. Adoption of rules. The governor may adopt rules that are required for fair, just, nondiscriminatory, and orderly administration of the emergency powers granted in section 3 of this Act to provide immediate relief during the economic emergency period; provided that reasonable classifications, exceptions, and exemptions may be made and granted to effectuate the emergency powers. Chapter 91, Hawaii Revised Statutes, shall not apply to these rules. Rules authorized by this Act shall be adopted by the governor and become effective on a specified date. Prior to the effective date, the rules shall be published pursuant to section 1-28.5, Hawaii Revised Statutes, or in lieu of publication and when immediate adoption of rules is necessary, by radio or television broadcast, on an official state website on the Internet, or such other means as may be available; provided that the rules shall be published thereafter pursuant to section 1-28.5, Hawaii Revised Statutes, at the earliest practicable date."

SECTION 5. House Bill No. 17 is amended by amending subsection (a) of section 5 to read as follows:

"(a) The governor may suspend, waive, or defer any contract obligations owed to the State up to April 30, 2002, and upon such terms and conditions as shall be necessary to minimize losses that are attributable to the economic emergency. For the purposes of this section, the term "contracts" includes leases, including agricultural leases with the department of land and natural resources or department of agriculture; land licenses; land permits; easements; concessions, including airport concessions; and subsidies and grants that have been awarded, extended, or renewed pursuant to law and rules."

SECTION 6. House Bill No. 17 is amended by amending subsection (b)(1) of section 5 to read as follows:

- "(1) The person under contract with the State submits:
- (A) Written evidence proving the amount and the extent of any losses attributable to the economic emergency; and
 - (B) An accounting of any insurance or federal benefit or assistance received or anticipated due to the economic emergency; and"

SECTION 7. House Bill No. 17 is amended by amending subsection (b)(2) of section 5 to read as follows:

- "(2) The losses, at a minimum, must be at least a fifteen per cent reduction in the volume of business (including the volume of any business upon which the person under contract with the State must pay to the State rents, fees, or other amounts to the department or agency attributable to such volume of business) covered by the contract for a period of at least thirty days after September 10, 2001, computed on the average monthly gross income attributable to the business covered by the contract for the shorter of the following periods:

- (A) The six months just prior to September 11, 2001; or
- (B) As long as the person under contract with the State has had the contract with the State.

In computing the loss under paragraph (2), the person under contract shall appropriately increase the volume of business by any amounts reported in paragraph (1)(B). The written evidence required to be submitted to the department or agency by the person under contract with the State seeking relief under this paragraph must include at least a weekly submission of daily sales and activity data, clearly indicating sales and activity volume, the revenue received, derived, or realized from or attributable to the sales and activities, and such other sales and activity data deemed appropriate by the department or agency; and"

SECTION 8. House Bill No. 17 is amended by amending the first five lines of subsection (b)(3) of section 5 to read as follows:

- "(3) If the person under contract with the state department of transportation is an airline or air carrier, the person may qualify for the relief described in this section if the person satisfies paragraph (1) and, in lieu of paragraph (2), the following conditions:"

SECTION 9. House Bill No. 17 is amended by amending section 8 to read as follows:

"SECTION 8. Monthly reports to the legislature. The governor shall submit a monthly report to the legislature, or if the legislature is not in session, to its presiding officers, to keep the legislature apprised of all actions taken under this Act. The monthly reports shall include detailed information, by department or agency, on each action taken under this Act, including the reasons for such action, the names of all businesses and contractors benefiting by such actions, the benefit provided by any insurance or federal agency, amounts expended, and the source of funding for each expenditure."

SECTION 10. House Bill No. 17 is amended by inserting a new section to read as follows:

"SECTION 12. Section 171-13, Hawaii Revised Statutes, is amended to read as follows:

"**§171-13 Disposition of public lands.** Except as otherwise provided by law and subject to other provisions of this chapter, the board may:

- (1) Dispose of public land in fee simple, by lease, lease with option to purchase, license, or permit; and
- (2) Grant easement by direct negotiation or otherwise for particular purposes in perpetuity on such terms as may be set by the board, subject to reverter to the State upon termination or abandonment of the specific purpose for which it was granted, provided the sale price of such easement shall be determined pursuant to section 171-17(b).

No person shall be eligible to purchase or lease public lands, or to be granted a license, permit, or easement covering public lands, who has had during the five years preceding the date of disposition a previous sale, lease, license, permit, or easement covering public lands cancelled for failure to satisfy the terms and conditions thereof[-], unless such cancellation relates to a breach or default by the person in payments to any agency of the State due to losses in volume of business or monthly gross income suffered by the person during a period of economic emergency declared by the governor in accordance with chapter 209."

SECTION 11. House Bill No. 17 is amended by amending and renumbering section 12 to read as follows:

"SECTION 13. This Act shall take effect upon its approval and shall be repealed on April 30, 2002."

FIFTH DAY

Tuesday, October 30, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 10:11 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Norman Sakamoto, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Chun, Ihara and Menor who were excused.

The President announced that he had read and approved the Journal of the Fourth Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 44 and 45) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 44, transmitting H.C.R. No. 14, which was adopted in the House of Representatives on October 29, 2001, was placed on file.

By unanimous consent, H.C.R. No. 14, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE HAWAII STATE DIRECTOR OF TRANSPORTATION TO GRANT HAWAII-BASED SCHEDULED AIR CARRIERS HIGHEST PRIORITY ON AIRPORT FACILITIES' WAITING LISTS, AND TO MAKE LAND, HANGAR, AND TERMINAL SPACE IMMEDIATELY AVAILABLE TO SUPPORT ESSENTIAL AIR SERVICE OPERATIONS AT KAHULUI AIRPORT," was referred to the Committee on Transportation, Military Affairs, and Government Operations.

Hse. Com. No. 45, transmitting H.C.R. No. 15, which was adopted in the House of Representatives on October 29, 2001, was placed on file.

By unanimous consent, H.C.R. No. 15, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO LEASE SUBMERGED AND TIDAL LANDS OF THE ALA WAI AND HONOKOHAU SMALL BOAT HARBORS TO PRIVATE ENTITIES FOR COMMERCIAL, RECREATIONAL, EDUCATIONAL, AND RESEARCH PURPOSES," was referred jointly to the Committee on Water, Land, Energy, and Environment and the Committee on Economic Development and Technology.

SENATE CONCURRENT RESOLUTION

The following concurrent resolution (S.C.R. No. 16) was read by the Clerk and was adopted:

Senate Concurrent Resolution

No. 16 "SENATE CONCURRENT RESOLUTION RELATING TO RECESS DAYS FOR THE THIRD SPECIAL SESSION OF 2001."

Offered by: Senators Kawamoto, Slom.

On motion by Senator English, seconded by Senator Hemmings and carried, S.C.R. No. 16 was adopted.

ORDER OF THE DAY

THIRD READING

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

Senator Hanabusa moved that H.B. No. 1, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Buen.

Senator Hemmings rose to speak in favor of the measure with reservations and said:

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

"Mr. President, I just want to go on record once again with the point that we probably could have found a couple of more million dollars for this much needy group, especially in the purchase of service programs that always are much more cost effective than the government operated programs. Therefore, I support what we're doing but wish it could have been more.

"Thank you, Mr. President."

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

The motion was put by the Chair and carried, H.B. No. 1, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SOCIAL WELFARE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Chun, Ige, Ihara, Menor Taniguchi).

H.B. No. 9, H.D. 1:

Senator Hanabusa moved that H.B. No. 9, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Buen.

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

The motion was put by the Chair and carried, H.B. No. 9, H.D. 1, entitled: "A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Chun, Ige, Ihara, Menor Taniguchi).

H.B. No. 14:

Senator Hanabusa moved that H.B. No. 14, having been read throughout, pass Third Reading, seconded by Senator Buen.

Senator Kawamoto rose to speak in favor of the measure and stated:

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

"Mr. president, in this bill we have \$8 million for the University's West Oahu Campus. I hope that this \$8 million will lead to the completion of our 30-year dream that we've had

in the Leeward and Central areas to dedicate this school to our students out there. We have 70,000 kids out there going to school, and some day we'll have past 80,000 kids going to this school. And I hope that the Governor and the President of the University will take this \$8 million and proceed with their efforts towards putting the university there in 18 months.

"Thank you."

The motion was put by the Chair and carried, H.B. No. 14, entitled: "A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Chun, Ige, Ihara, Menor Taniguchi).

H.B. No. 15:

On motion by Senator Hanabusa, seconded by Senator Buen and carried, H.B. No. 15, entitled: "A BILL FOR AN ACT RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 20. Noes, none. Excused, 5 (Chun, Ige, Ihara, Menor Taniguchi).

H.B. No. 16, H.D. 1:

Senator Taniguchi moved that H.B. No. 16, H.D. 1, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

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

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

"Mr. President, in these emergency times we're dedicating ourselves to enhance the procurement and to speed up the process really to support the state economy, which is our state contractors, and to give jobs to our state residents. This bill will provide that.

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

Senator Sakamoto rose to support the measure also and said:

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

"Raising the limits on contracts from 100,000 to 250,000 would be a good thing to help speed projects along to get money into the economy quicker. One of the provisions in the bill deals with bonding requirements, and certainly jobs that are of that magnitude still need to be bonded. However, one of the concerns raised was about projects that are under \$25,000 – whether those indeed would need to be bonded, based on the wording of the bill. I think maybe the decision hasn't been made yet, but I don't believe it's the intent of this body to expand bonding requirements to the smaller projects but raise the limit on the size of projects but not create an impediment, especially for projects below \$25,000. Those should remain not requiring bonds.

"Thank you, Mr. President."

The motion was put by the Chair and carried, H.B. No. 16, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO

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

Ayes, 22. Noes, none. Excused, 3 (Chun, Ihara, Menor).

ADJOURNMENT

At 10:19 o'clock a.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 5:00 o'clock p.m., Wednesday, October 31, 2001.

SIXTH DAY

Wednesday, October 31, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 5:02 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Suzanne Chun Oakland, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senator Ihara who was excused.

The President announced that he had read and approved the Journal of the Fifth Day.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 46 to 55) were read by the Clerk and were placed on file:

Hse. Com. No. 46, returning S.C.R. No. 16, which was adopted in the House of Representatives on October 30, 2001.

Hse. Com. No. 47, returning S.B. No. 2, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 48, returning S.B. No. 3, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 49, returning S.B. No. 5, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 50, returning S.B. No. 6, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 51, returning S.B. No. 10, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 52, returning S.B. No. 11, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 53, returning S.B. No. 12, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 54, returning S.B. No. 13, which passed Third Reading in the House of Representatives on October 30, 2001.

Hse. Com. No. 55, returning S.B. No. 8, S.D. 2, which passed Third Reading in the House of Representatives on October 31, 2001.

ORDER OF THE DAY

THIRD READING

H.B. No. 17, S.D. 1:

Senator Taniguchi moved that H.B. No. 17, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Hanabusa.

Senator Hogue rose to speak in favor and said:

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

"I just want to say that I really appreciate the bipartisanship that was extended on the amendment that we discussed earlier in this week. I know that many of you received many, many e-mails opposing the Governor receiving any super-powers and that we really needed to do something. I appreciate the opportunity to work with you across the aisle as all of us did. I certainly hope that this is the beginning of us doing this many, many, many times in the future.

"Thank you very much."

Senator Slom rose to speak in support with reservations and said:

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

"We have had a long process. It's been a positive process, and I echo the words of the Minority Policy Leader. We thank the Majority Party in your leadership, Mr. President, and the initiatives that went forward. I think it demonstrated also that the leadership and the Senate really lived up to our responsibility and we've done the things that we should do, not being concerned necessarily about what the House or anyone else was going to do.

"Having said that, however, I still maintain that I have some difficulties with giving this power to any individual within the State. I make it clear again that it is not a personal thing with the current Governor. It would be with any chief executive. I would have the same reservations.

"We've just finished yet another 8 hours of hearings on the Felix investigating committee. And for the last three hearings, Mr. President, all we've heard have been departmental personnel coming before us saying that they don't know; they couldn't do; they couldn't act, because of the super-powers that were given by the Federal Court to the past Superintendent of Education. And I would remind my colleagues that the super-powers were to expire September 30, 2001. But guess what? They were extended indefinitely past that time.

"So my concern is that while we have made this, certainly, a better bill, it is something that I personally cannot cheer about or celebrate. I celebrate the process, but not the bill, and I still urge caution. And I'm sure that we will be vigilant in terms of now having bipartisan advice and consent with the Government.

"So thank you, Mr. President and my colleagues."

The motion was put by the Chair and carried, H.B. No. 17, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO ECONOMIC EMERGENCY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Ihara, Menor).

At 5:08 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 5:11 o'clock p.m.

ADJOURNMENT

At 5:12 o'clock p.m., on motion by Senator English, seconded by Senator Hemmings and carried, the Senate adjourned until 7:00 o'clock p.m., Friday, November 2, 2001.

SEVENTH DAY

Friday, November 2, 2001

The Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, convened at 7:06 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Bob Nakata, Hawaii State Senate, after which the Roll was called showing all Senators present with the exception of Senators Chumbley, Chun, English, Ihara, Kim and Matsuura who were excused.

The President announced that he had read and approved the Journal of the Sixth Day.

MESSAGES FROM THE GOVERNOR

Gov. Msg. No. 30, informing the Senate that on November 2, 2001, he signed the following bills of the Third Special Session into law:

House Bill No. 1 as Act 1, entitled: "RELATING TO SOCIAL WELFARE";

House Bill No. 9 as Act 2, entitled: "MAKING AN APPROPRIATION FOR THE IMMEDIATE IMPLEMENTATION OF AN INTEGRATED MARKETING PLAN TO MARKET AND PROMOTE THE STATE OF HAWAII AS A VISITOR DESTINATION";

House Bill No. 14 as Act 3, entitled: "RELATING TO CAPITAL IMPROVEMENT PROJECTS";

House Bill No. 15 as Act 4, entitled: "RELATING TO THE EMERGENCY ENVIRONMENTAL WORKFORCE";

House Bill No. 16 as Act 5, entitled: "RELATING TO PROCUREMENT";

Senate Bill No. 2 as Act 6, entitled: "RELATING TO TEMPORARY HEALTH INSURANCE FOR UNEMPLOYED PERSONS";

Senate Bill No. 3 as Act 7, entitled: "RELATING TO UNEMPLOYMENT";

Senate Bill No. 5 as Act 8, entitled: "RELATING TO FILING THRESHOLDS FOR CERTAIN TAXES";

Senate Bill No. 6 as Act 9, entitled: "RELATING TO TAXATION OF TRANSPORTATION SERVICE PROVIDERS";

Senate Bill No. 8 as Act 10, entitled: "RELATING TO INCOME TAX CREDITS";

Senate Bill No. 10 as Act 11, entitled: "MAKING AN APPROPRIATION FOR MARKETING AND PROMOTING THE SAFETY OF AND INCREASED SECURITY AT STATE AIRPORTS";

Senate Bill No. 11 as Act 12, entitled: "RELATING TO TRANSPORTATION";

Senate Bill No. 12 as Act 13, entitled: "RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND"; and

Senate Bill No. 13 as Act 14, entitled: "RELATING TO STATE FINANCE,"

was read by the Clerk and was placed on file.

HOUSE COMMUNICATION

Hse. Com. No. 56, transmitting H.C.R. No. 16, which was adopted in the House of Representatives on October 31, 2001, was read by the Clerk and was placed on file.

By unanimous consent, H.C.R. No. 16, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THAT THE U.S. POSTAL SERVICE ISSUE A POSTAGE STAMP COMMEMORATING THE HAWAIIAN ALOHA SHIRT," was referred to the Committee on Tourism and Intergovernmental Affairs.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 1 and 2) were read by the Clerk and were disposed of as follows:

Senate Resolution

No. 1 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SEVENTH DAY OF THE THIRD SPECIAL SESSION OF 2001."

Offered by: Senators Kawamoto, Slom.

On motion by Senator Kawamoto, seconded by Senator Hemmings and carried, S.R. No. 1 was adopted.

No. 2 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Kawamoto, Slom.

On motion by Senator Kawamoto, seconded by Senator Hemmings and carried, S.R. No. 2 was adopted.

At 7:10 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:27 o'clock p.m.

At this time, the President made the following closing remarks:

"Members, I just want to thank all of you for your hard work.

"This has got to be one of the most challenging Sessions for any Legislature in the past. For us to tackle these particular issues of the day has got to be monumental, and let me tell you, you all did a wonderful job.

"The economy really took a deep-six hit, but all of you came together and it was truly a bipartisan effort for us in the Senate. I'd like to thank the Minority for their part in actually helping us to formulate that legislative package. We really appreciate it.

"I think we're going to have, in this next Session, some really, really tough decisions to make, and the Session is right around the corner. Actually, this Special Session has prepared

us for this next go-around because it's truly going to be a tough Session.

"I'd like to commend all of you for coming together in these last two weeks to help formulate the package to help people, to help our communities, to help businesses, and especially those individuals who got laid off due to the terrorist attacks we had on 9/11.

"I look forward to working with all of you in the next Session, and I just wanted to thank you for a job well done. I appreciate it."

ADJOURNMENT

Senator Kawamoto moved that the Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, adjourn Sine Die, seconded by Senator Hemmings and carried.

At 8:29 o'clock p.m., the President rapped his gavel and declared the Senate of the Twenty-First Legislature of the State of Hawaii, Third Special Session of 2001, adjourned Sine Die.

**GOVERNOR'S MESSAGE RECEIVED AFTER THE ADJOURNMENT OF THE
THIRD SPECIAL SESSION OF THE LEGISLATURE SINE DIE**

Gov. Msg. No. 31, informing the Senate that on November 3, 2001, he signed into law House Bill No. 17 as Act 15 (Third Special Session of 2001), entitled: "RELATING TO ECONOMIC EMERGENCY."